



LIBRARIES

UNIVERSITY OF WISCONSIN-MADISON

Foreign relations of the United States diplomatic papers, 1938 (in five volumes). The British Commonwealth, Europe, Near East, and Africa. Volume II 1938

United States Department of State

Washington, D.C.: U.S. Government Printing Office, 1938

<https://digital.library.wisc.edu/1711.dl/G5OAT7XT7HRHX84>

As a work of the United States government, this material is in the public domain.

For information on re-use see:

<http://digital.library.wisc.edu/1711.dl/Copyright>

The libraries provide public access to a wide range of material, including online exhibits, digitized collections, archival finding aids, our catalog, online articles, and a growing range of materials in many media.

When possible, we provide rights information in catalog records, finding aids, and other metadata that accompanies collections or items. However, it is always the user's obligation to evaluate copyright and rights issues in light of their own use.

Foreign Relations of the United States

Diplomatic Papers

1938

(In Five Volumes)

Volume II

The British Commonwealth
Europe, Near East and Africa



United States
Government Printing Office
Washington : 1955

DEPARTMENT OF STATE PUBLICATION 5798

**For sale by the
Superintendent of Documents, U.S. Government Printing Office
Washington 25, D.C. - Price \$4.00 (Buckram)**

CONTENTS

| THE BRITISH COMMONWEALTH OF NATIONS : | Page |
|--|------|
| UNITED KINGDOM : | |
| Reciprocal trade agreement between the United States and the United Kingdom, signed November 17, 1938 | 1 |
| Conflicting American and British claims to various islands in the Pacific Ocean; question of use for trans-Pacific aviation | 77 |
| AUSTRALIA : | |
| Preliminary discussions respecting a trade agreement between the United States and Australia | 120 |
| CANADA : | |
| Reciprocal trade agreement between the United States and Canada, signed November 17, 1938 | 164 |
| Discussions respecting the St. Lawrence Waterway project | 177 |
| Convention between the United States and Canada providing for emergency regulation of level of Rainy Lake and of other boundary waters in the Rainy Lake watershed, signed September 15, 1938 | 183 |
| Reciprocal arrangement between the United States and Canada respecting admission to practice before patent offices, effected by exchange of notes signed December 3 and 28, 1937, and January 24, 1938 | 183 |
| Arrangement between the United States and Canada relating to issuance of certificates of competency or pilots licenses, effected by exchange of notes signed July 28, 1938 | 184 |
| Arrangement between the United States and Canada relating to certificates of airworthiness for export, effected by exchange of notes signed July 28, 1938 | 184 |
| Arrangement between the United States and Canada relating to air navigation, effected by exchange of notes signed July 28, 1938 . . | 184 |
| Agreement between the United States and Canada regarding radio communications between Alaska and British Columbia, effected by exchange of notes signed June 9, July 11 and 18, August 22, September 27, October 4, November 16, and December 20, 1938 . | 184 |
| Arrangement between the United States and Canada regarding radio broadcasting, effected by exchange of notes signed October 28 and December 10, 1938 | 184 |
| IRELAND : | |
| Preliminary discussions regarding possible negotiation of a trade agreement between the United States and Ireland | 185 |
| Representations to Ireland with respect to the sale of Irish sweepstakes tickets in the United States | 194 |

| EUROPE : | Page |
|--|------|
| AUSTRIA : | |
| Annexation of Austria by Germany | 203 |
| Problems arising from the annexation of Austria by Germany | 203 |
| BELGIUM : | |
| Preliminary discussions respecting a supplementary trade agreement between the United States and Belgium | 204 |
| CZECHOSLOVAKIA : | |
| The German-Czechoslovak crisis | 223 |
| Reciprocal trade agreement between the United States and Czechoslovakia, signed March 7, 1938 | 223 |
| Agreement between the United States and Czechoslovakia with respect to motion picture films, effected by exchange of notes signed May 18, 1938 | 231 |
| DENMARK : | |
| Efforts of the Department of State to secure equal opportunity for American commerce in Denmark | 237 |
| ESTONIA : | |
| Continuation in force of the Commercial Treaty of 1925; preliminary discussions regarding a possible trade agreement | 245 |
| FRANCE : | |
| Devaluation of the franc; maintenance of the American-British-French tripartite financial agreement | 256 |
| Efforts by the French Government to purchase airplanes and airplane parts in the United States | 297 |
| Status under French law of American citizens of French origin with respect to liability to military service in France | 314 |
| Efforts of the Governments of the United States and France to effect a reciprocal arrangement relative to claims arising from sequestration of property during World War I | 331 |
| Representations by the French Government against legislation permitting use of certain French wine names by American producers | 343 |
| Citizenship status of children born in the United States to fathers who at the time were French consular officers | 348 |
| GERMANY : | |
| Persecution of Jews in Germany; representations by the United States regarding rights of American citizens, and the ordering of Ambassador Wilson to Washington for consultation | 355 |
| Unsatisfactory trade relations between the United States and Germany | 418 |
| Deterioration in relations between the United States and Germany; German representations against American criticism of Nazi officials and policies | 432 |
| Refusal of the United States to sell helium to the German Government for use in zeppelins | 457 |
| Attitude of the German Government with respect to participation of German nationals in the German-American Bund | 461 |

| | |
|--|------|
| EUROPE—Continued | Page |
| GERMANY—Continued | |
| Disagreement between the American and German Governments regarding interpretation of treaty provisions as affecting naturalization and dual nationality | 464 |
| Declaration by the German Government that inheritance claims of American citizens to estates of persons deceased in Germany will be transferred to beneficiaries | 479 |
| Problems arising from the annexation of Austria by Germany: | |
| I. Refusal of Germany to assume the obligation of the Austrian indebtedness | 483 |
| II. Representations by the German Government regarding the removal of Austria from the list of states enjoying tariff concessions on the basis of Trade Agreements Act. | 502 |
| III. Informal representations to the German Government with regard to the treatment of United States citizens in Vienna. | 506 |
| GREECE: | |
| Provisional commercial agreement between the United States and Greece, signed November 15, 1938. | 516 |
| HUNGARY: | |
| Proposal of Hungarian Government for a new debt settlement agreement with the United States. | 553 |
| ITALY: | |
| Unsatisfactory trade relations between the United States and Italy. | 557 |
| Persecution of Jews in Italy; representations by the United States with regard to discrimination between American citizens. | 582 |
| NETHERLANDS: | |
| Negotiations between the United States and The Netherlands for the conclusion of a convention for the prevention of double taxation. | 607 |
| Convention between the United States and The Netherlands for the arbitration of a difference relating to payment for certain requisitioned military supplies, signed March 18, 1938. | 616 |
| NORWAY: | |
| Preliminary discussions respecting a trade agreement between the United States and Norway. | 619 |
| Supplementary extradition treaty between the United States and Norway, signed February 1, 1938 | 634 |
| POLAND: | |
| Discrimination against American bondholders in connection with partial defaults and suspensions of payments on various Polish obligations | 635 |
| Anti-Semitism in Poland and consideration of Jewish emigration as a possible solution | 647 |
| PORTUGAL: | |
| Preliminary discussions respecting a trade agreement between the United States and Portugal | 659 |

| EUROPE—Continued | Page |
|---|------------|
| RUMANIA : | |
| Anti-Semitism in Rumania and consideration of Jewish emigration as a possible solution | 672 |
| SPAIN : | |
| The Spanish Civil War | 685 |
| SWEDEN : | |
| Arrangement between the United States and Sweden for relief from double income tax on shipping profits, effected by exchange of notes signed March 31, 1938 | 686 |
| UNION OF SOVIET SOCIALIST REPUBLICS | 687 |
| YUGOSLAVIA : | |
| Proposals for the regulation of commercial relations between the United States and Yugoslavia | 688 |
| THE NEAR EAST AND AFRICA : | |
| EGYPT : | |
| Request by Egyptian Government for a reduction of the United States tariff rate on long-staple cotton | 705 |
| ETHIOPIA : | |
| Repressive measures by the Italian authorities against foreign mis- sionary activities in Ethiopia | 710 |
| Continued non-recognition by the United States of the Italian an- nexation of Ethiopia | 723 |
| IRAN : | |
| Resumption of Iranian diplomatic representation in the United States . | 727 |
| Cancellation by the Seaboard Oil Company of its oil concessions in Iran and Afghanistan | 752 |
| Resumption of preliminary discussions for a trade agreement be- tween the United States and Iran | 757 |
| IRAQ : | |
| Treaty of commerce and navigation between the United States and Iraq, signed December 3, 1938 | 763 |
| LIBERIA : | |
| Failure of Dutch concern (NEEP) to obtain mining concession in Liberia; American interest in developing Liberian iron resources . | 770 |
| Courtesy visit of the U. S. S. <i>Boise</i> to Liberia, October 29 to November 3, 1938 | 817 |
| Informal proposals for guaranteeing the political and territorial in- tegrity of Liberia | 836 |
| Treaty of friendship, commerce and navigation between the United States and Liberia, signed August 8, 1938 | 842 |
| Consular convention between the United States and Liberia, signed October 7, 1938 | 845 |
| MOROCCO : | |
| Proposed abolition of capitulatory rights of the United States in the French Zone of Morocco | 846 |

THE NEAR EAST AND AFRICA—Continued

Page

PALESTINE:

Arab revolt in Palestine; British abandonment of partition proposals;
interest of the United States in a settlement of the Palestine
question 889

SYRIA AND THE LEBANON:

Negotiations between the United States and France regarding possible
termination of French mandate over Syria and the Lebanon . . . 1003
Protection of American rights and interests in the Sanjak of
Alexandretta 1031
Attitude of the Department of State regarding the restriction of mis-
sionary activities in Syria by the French High Commission . . . 1043

TANGANYIKA TERRITORY:

Assent of the United States to alterations in the frontiers between the
mandated territory of Tanganyika and the Portuguese colony of
Mozambique 1047

TURKEY:

Negotiations respecting a trade agreement between the United States
and Turkey 1052
Proposed agreement between the United States and Turkey regarding
the status of certain naturalized American citizens natives of
territory detached from Turkey by the Treaty of Lausanne . . . 1101

INDEX 1125

BRITISH COMMONWEALTH OF NATIONS
UNITED KINGDOM

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES
AND THE UNITED KINGDOM, SIGNED NOVEMBER 17, 1938¹

611.4131/906

*Memorandum of Conversation, by Robert M. Carr of the
Division of Trade Agreements*

[WASHINGTON,] January 2, 1938.

Participants: Department of State: Messrs. Hawkins, Deimel and Carr.
Tariff Commission: Messrs. Fox, Mark Smith and Lane.
British Embassy: Messrs. Chalkley and Leach.

Mr. Hawkins stated that this Government would be prepared to include Newfoundland and the British Colonial Empire in the scope of trade-agreement negotiations with the United Kingdom and to include in the list of products for consideration to be published, products of particular interest to Newfoundland and the Colonies provided that the United Kingdom would be prepared to consider the granting of concessions in Newfoundland and the Colonies on products of particular interest to the United States. Mr. Chalkley replied that he strongly believed that his Government was prepared to proceed on that basis and that he would immediately seek assurances from London to that effect. He stated, however, that it would be desired to cover Newfoundland and the Colonies in the proposed agreement between the United States and the United Kingdom and not to conclude a separate agreement in respect thereof.

Mr. Hawkins stated that he would give Mr. Chalkley as soon as possible, with a view to publication, a list of products on which the United States would consider granting concessions to Newfoundland and the Colonies. It was agreed that if the desired assurances from London were received in time, the announcement of intended negotiations in respect of Newfoundland and the Colonies would be included as a part of the public notice of intention to negotiate a trade agreement with the United Kingdom.

¹ For previous correspondence, see *Foreign Relations*, 1937, vol. II, pp. 1 ff.

611.4131/691

The British Ambassador (Lindsay) to the Secretary of State

WASHINGTON, January 5, 1938.

MY DEAR MR. SECRETARY: During the discussions which have been proceeding between the State Department and this Embassy regarding the inclusion of Newfoundland and the British Colonial Empire in the forthcoming announcement of intention to negotiate a Trade Agreement with the United Kingdom we were asked whether the United States could count on reciprocal treatment if the announcement included a list of products on which the United States would consider granting concessions to Newfoundland and the British Colonial Empire.

I have pleasure in informing you that I have received a telegram from the Secretary of State for Foreign Affairs² authorising me to assure the United States Government that reciprocal consideration will be given to any United States requests for concessions relating to Newfoundland and the British Colonial Empire and that this includes of course the assurance that Mr. Eden's declaration in September last at Geneva is valid vis-à-vis the United States.

The full text of Mr. Eden's declaration at Geneva on September 20th, 1937, is no doubt available in the State Department but I enclose the relevant extract for your convenience.³

Believe me [etc.]

R. C. LINDSAY

611.4131/7261

Memorandum by Mr. John R. Minter of the Division of European Affairs

[WASHINGTON,] January 11, 1938.

It will be noted that the attached list of colonies and dependencies which accompanied the Department's press release of January 7, 1938,⁴ concerning the United Kingdom trade agreement, carries a footnote

² Anthony Eden.

³ Extract not printed. In his speech Mr. Eden had asserted that the United Kingdom was ready to enter discussion with any powers which might approach it for abatement of particular preferences in non-self-governing colonial territories where these could be shown to place undue restriction on international trade. For full text of speech, see League of Nations, *Official Journal*, Special Supp. No. 169, p. 62.

⁴ For list of colonies and dependencies and text of public notice of intention to negotiate a trade agreement with the Government of the United Kingdom and with that Government on behalf of Newfoundland and the British Colonial Empire, and for list of products on which the United States agreed to consider granting concessions, see Department of State, *Press Releases*, January 8, 1938, pp. 45 ff.

to the effect that this list was supplied by the Government of the United Kingdom.

In the course of preparing the press release we informed the British Embassy that we desired to hand out such a list and requested that we be given suggestions as to which published list we should follow. Mr. Chalkley did not have faith in the accuracy of any of the published lists available to us and agreed to ask London for such a list. The same was received by him by telegraph and transmitted to us by letter, dated January 5 [6], 1938.⁵

When the question of responsibility for the appearance of the Falkland Islands in this list came up, I telephoned Mr. Chalkley and, without reference to the Falkland Islands, told him that the Department felt obliged to attribute this list to some recognized authority. Without hesitation he said that we could state with a footnote that it could be attributed to the Government of the United Kingdom.

It was felt in the Department that this method of handling the matter would effectively dispose of any suggestion that the Government of the United States thereby actually or tacitly recognized British sovereignty over the Falkland Islands, and an understanding was reached by all that any inquiries by the press or otherwise would be met with the statement that this Government assumed no responsibility for the accuracy of this list.

841.4061 Motion Pictures/91 : Telegram

*The Secretary of State to the Chargé in the United Kingdom
(Johnson)*

WASHINGTON, January 12, 1938—2 p. m.

13. Mr. Will Hays⁶ has, at our request, submitted a list of what the Industry considers would approximate the minimum needs of the Industry in so far as the pending British legislation is concerned. The list does not however represent the treatment which the Industry feels it is justified in expecting. The list is as follows:

(1) The requirement of the quota of British films to be limited to a percentage of the number, not the total footage, of foreign feature (long) films for both renters and exhibitors. Such percentage for the first year of the new Quota Act (April 1, 1938) should be 10 percent and under no circumstances to exceed 12½ percent, and to be rateably decreased each year thereafter until completely eliminated.

(2) The quota requirement for renters not to exceed the quota requirement for exhibitors.

⁵ Not printed.

⁶ President, Motion Picture Producers and Distributors of America, Inc.

(3) Each quota film to be available for use by both renter and exhibitor for quota requirements.

(4) The cost test for all quota films to be determined upon a cost-per-foot basis; and there is to be no Viewing Test or other quality test except that based on cost-per-foot basis.

(5) The following credits for renters' and for exhibitors' quotas to be given:

1. Credit for labor costs when the amount expended is £1 per foot.
2. Credits for labor costs when the amount expended is £3 per foot.
3. Credits for labor costs when the amount expended is £4 or more.

(6) One quota credit to be given for each British nonquota film acquired for distribution in any one country foreign to the British Empire, for not less than £10,000.

(7) One quota credit in addition to the renter's multiple credit provided for in (5) above to be given the renter for each quota film produced or acquired for world distribution and costing not less than £4 per foot in labor costs.

(8) Quota credits to be freely transferable.

(9) A restatement of the definition of a British film to be made to permit the employment of a larger percentage of non-British technical employees until such time as there are readily available for employment in the production of quota films a sufficient number of trained and experienced technicians of British citizenship. Accordingly, the cost of at least four non-British technicians in accepted categories to be deducted from the total cost of a quota film before computing the 75 percent British and 25 percent other foreign categories, this being an extension of the present terms of subsection 1, clause 25 of the Quota Bill.

(10) The quota reduction granted exhibitors under the present Act until the expiration thereof to be granted renters, or the current Act to be extended for a year from the date now provided for its expiration.

(11) There is to be no "Control Commission". The new Quota Act to provide that no revisions may be made by any board, commission, or committee which will result in any increase in the number of quota films required, or in any increase in the prescribed amount of labor costs, or in the minimum sum payable for foreign rights of any quota film.

(12) There should be no quota for short films, but if there be one, it should be equal for exhibitors and for renters without any quality tests.

(13) For offenses under the new Quota Act for which an exhibitor is equally at fault with a renter, both the exhibitor and the renter to be responsible.

(14) The definition of British films to include the statement that if the films are photographed, excepting background shots, in His Majesty's dominions, such films to be treated as British films.

Please report by telegram your comments on each of these points and your own estimate of the possibility that the ultimate legislation will conform to the above points.

HULL

841.4061 Motion Pictures/94 : Telegram

The Chargé in the United Kingdom (Johnson) to the Secretary of State

LONDON, January 13, 1938—8 p. m.
[Received January 13—5:52 p. m.]

28. Embassy's 752, December 4, 1 p. m.⁷ The following handed to me this evening:

“Memorandum

His Majesty's Government have given careful consideration to the terms of the memorandum on the subject of cinematograph films legislation in the United Kingdom which was handed by the United States Chargé d'Affaires to Sir R. Vansittart⁸ on the 3rd December and to the oral communication which he made at the same time.

His Majesty's Government have never considered the position and influence of the United Kingdom film industry as primarily an industrial question, but rather as a cultural question; they feel it essential, as a matter of national policy, that cinema-goers in the United Kingdom should be given an opportunity of seeing some proportion of films in which they can expect to have portrayed the manners and life of their own country. It was for this purpose that the Cinematograph Films Act, 1927, was passed. That legislation is due to expire in March in this year, and, unless further legislation is passed before that date, no protection would be afforded to this instrument of national culture beyond a trifling import duty which has no real effect. His Majesty's Government would find it impossible, therefore, to agree to any suggestion that the cinematograph films bill now before Parliament should be withdrawn.

In drafting their legislation, His Majesty's Government have taken all practicable steps to ensure that, consistent with the primary purpose of the proposed legislation, i. e. the maintenance of a British film industry, no hardship should result to any class of persons carrying on business in this country and no unnecessary impediment should be placed in the way of trade with other countries. It was for this reason that they found themselves unable to accept certain of the recommendations for future legislation made by Lord Moyne's committee⁹ which reported at the end of 1936. In the discussions following the publication of this report, they have had the advantage of continuous

⁷ Not printed; but see telegram No. 468, November 29, 1937, to the Chargé in the United Kingdom, *Foreign Relations*, 1937, vol. II, p. 89.

⁸ British Permanent Under Secretary of State for Foreign Affairs.

⁹ British Cinematograph Films Act Committee.

consultation with a representative of the Motion Picture Producers and Distributors of America and with the principal renters of American films in this country; and it has been found possible to include in the bill, as presented to Parliament, certain of the suggestions which have been made in the course of these consultations. Since the bill was printed, further representations have been received from the American renters; these are being carefully considered and it is hoped that in certain respects it may be possible to meet them before the bill becomes law.

It should also be appreciated that the immediate effect of the new legislation will not be, on the whole, to impose new burdens on the renters of foreign films. At present any such renter is obliged to acquire a quota of at least 20 percent of British films, but for the first year of the new legislation, as from the first April next, he will have to acquire only 15 percent of British long films and a smaller percentage of British short films.

His Majesty's Government observe that the memorandum under reference speaks of 'irrevocable legislation'. While, as already explained, they cannot contemplate the withdrawal of the proposals now before Parliament or indeed their modification in principle, they would point out that the bill in its present form does not prescribe a rigid scale of quotas which must be adhered to in all circumstances. Machinery is provided which will act as a safeguard against the possibility of the fixing of quotas at such a level as to be a hardship to any section of the trade, including the renters."

Your 13, January 12, 2 p. m., received and will be answered as soon as possible.

JOHNSON

841.4061 Motion Pictures/96 : Telegram

The Chargé in the United Kingdom (Johnson) to the Secretary of State

LONDON, January 18, 1938—7 p. m.

[Received 8:25 p. m.]

40. We have discussed in confidence with both Allport¹⁰ and Sir William Brown¹¹ the points raised in the Department's 13, January 12, 2 p. m. We have undertaken not to tell the American industry of our conversation with Brown. The numbers of the following paragraphs correspond to the numbered paragraphs of the Department's 13.

1(a). It is not clear to us why in fact a quota based on footage rather than number of films would be particularly burdensome to the American interests. It is true, however, that if the British acceded to the industry's request the total renters' quota would be reduced by an estimated seven or eight films.

¹⁰ F. W. Allport, United States film representative in the United Kingdom.

¹¹ Permanent Under Secretary of the British Board of Trade.

The Board of Trade is unwilling to adopt a number basis. However, the specified length of feature films may be cut down, the figure to be possibly, 6,800 feet.

1(b). It must be remembered that the American industry, apart from expressing its disapproval of any quota, has not in the past pressed for a reduction in the quota schedule. That means that it would be next to impossible for Stanley¹² to reduce the quota figures once they have been written into the bill. Allport has concentrated on gaining concessions on other points, e. g., multiple credit, reciprocity, et cetera, which would have the practical effect of substantially reducing quota requirements. However, since the Board of Trade has not been willing to meet the industry's request in full, the Embassy feels that the industry would be justified in asking for a 15 per cent quota throughout the life of the act, and that it would be well treated if it got this figure.

When questioned as to whether the Board of Trade would give any assurances that the quota would not be raised progressively during the life of the act above some specified figure as 15 per cent, Brown remarked that he felt that this was properly a subject for negotiations and could be taken up by Overton¹³ in the conversations at Washington. We got the definite impression that the Board of Trade would be willing to hold the film quota at 15 per cent for features and 10 per cent for shorts during the life of the trade agreement. We were given to understand that there was no possibility of persuading Mr. Stanley to reduce the quota to 12½ per cent or to obtain a progressive yearly reduction. After all, as Brown pointed out, the maintenance of a quota is the essence of the British scheme.

2. This request seems justified since an exhibitors' quota smaller than a renters' quota operates to give a preference to nonquota pictures.

The Board of Trade has included this provision as a sop to the exhibitors and we were informed that there is a good deal of Parliamentary sentiment in favor of retaining it.

3. Stanley's "double quota" plan, which includes the principle of a viewing test, is considered to be detrimental to American interests. If this plan is adopted it so alters the setup that the whole quota position will have to be reexamined.

The plan is reported to be unpopular with all interested groups, i. e., British producers and labor; British exhibitors; renters (preponderantly American). Brown could not definitely say that this plan would be dropped but we gained the impression that it might

¹² Oliver Stanley, President of the British Board of Trade.

¹³ A. E. Overton, chief of the British Trade Delegation to the United States.

be. We have no means of knowing what might be substituted therefor.

4. The cost-per-foot basis has been accepted by the Board of Trade (see paragraph 1, page 4, despatch No. 3712, December 28, 1937¹⁴).

The principle of a viewing test was so strongly opposed by Mr. Stanley in committee that it was defeated (see paragraph 3, page 4, despatch 3712). In spite of this he is reviving this objectionable principle in his new plan for tactical political reasons, according to Brown. This inconsistency gives further grounds for belief that he may ultimately abandon the double quota plan.

5. The multiple credit principle has been accepted by the Board of Trade as requested by the trade (see paragraph 2, page 4, despatch 3712). This is Mr. Stanley's own proposal but was linked in his mind with the double quota plan and offered as a kind of compensation for it.

6. The present bill provides for a 20,000 pound minimum while the industry asks for a 10,000 pound minimum. We have grounds for belief that both sides could be persuaded to accept a compromise at 15,000 pounds.

7. The trade's desire to get extra quota credit for expensive pictures is understandable but surely is not vital to its welfare. This is one more method of scaling down the basic quota requirement.

This idea was new to Brown who asked for time to consider it.

8. This request does not seem justified as it strikes at the core of the British legislation. We understand in confidence that Allport has recommended its withdrawal.

9. This subject was discussed under paragraph 4, page 5, despatch No. 3712. The Embassy feels that the request is not unjustified.

From Mr. Stanley's point of view this request will probably be most difficult to grant. Objection in Parliament to the employment of more foreigners cuts directly across party lines and has wide popular support. Brown insisted that the cost of two non-British technicians was the maximum number which could be deducted. He intimated, however, that the 25% figure for other foreign categories might stand instead of the suggested 15% figure.

10(a). This request seems justified to the Embassy since a higher quota for renters is a discrimination against American interests.

Brown claims that it is absolutely impossible to alter this provision. He also stated that the principal American companies have fulfilled their quotas for the current year and that Anglo-American minor producers who have delayed fulfilling their quota requirements in the hope of evading them are affected.

¹⁴ Not printed.

10(b). It is the Embassy's impression that both British and American film interests prefer the old act to the new.

It would seem hardly possible however for Mr. Stanley to withdraw his film bill at this late stage. Brown says it is politically out of the question.

11. It is the Embassy's opinion, confirmed by Brown, that the idea of a control commission is dead.

The question of quota increases during the life of the act has been discussed above under paragraph 1(b). The Board of Trade, of course, must always retain the right to recommend to Parliament the regulation of any industry.

12. The Embassy agrees that it would be better to have no quota for short films on principle and that if there should be one it should be equal for exhibitors and renters. In fact however if feature films are to be put under quota, it would be in the interest of the American renters that desirous subjects should also be under quota. No quality test for short films is proposed under the bill.

Brown insisted that the quota for short subjects must be maintained.

13. This seems a minor question. The discrimination against American interests is believed to be more apparent than real.

Brown maintains that this provision cannot be dropped and denied that it injured American interests in any way.

14. This question was touched on in paragraph 7, page 6, despatch 3712. The Board of Trade will propose that pictures made in the dominions should qualify for exhibitors' but not renters' quota. It argues that it is contrary to reason to permit films of questionable quality produced in the dominions to satisfy the British renters' quota.

We have the impression from several sources, an impression cautiously confirmed by Sir William Brown today, that whether rightly or wrongly Mr. Stanley considers himself to be in a tight political spot as the sponsor of this unpopular bill. If it appears various proposals are disliked by different parliamentary groups for different reasons and Mr. Stanley consequently gives the impression of being unusually receptive to suggestions from any quarter, it would be a mistake to underestimate the political influence of those groups whose interest in the films bill is based on their concern at the cultural influence of films. Many of these are individuals well known to the public who are both articulate and aggressive and not particularly interested in the purely trade aspect of the film problem.

A further approach to the Foreign Office under instructions might influence the vacillating Stanley. If, however, such renewed American representations received publicity we believe that Stanley's present difficulties would be greatly increased.

JOHNSON

841.4061 Motion Pictures/96 : Telegram

*The Secretary of State to the Chargé in the United Kingdom
(Johnson)*

WASHINGTON, January 31, 1938—9 p. m.

42. Your 40, January 18, 7 p. m. The film legislation as now proposed is in many important respects unsatisfactory to the American industry and to us. Furthermore it would appear that the British intend to put this legislation through Parliament early in February. We are now on the eve of trade agreement negotiations and the British Government cannot ignore the fact that motion pictures will necessarily be an important item of discussion during these negotiations. We could not accept as valid a refusal to take action based on the recent adoption of legislation in Great Britain. It seems to us that there would be only two satisfactory alternatives in this matter: (1) if any legislation is adopted prior to the trade agreement negotiations, such legislation should come reasonably within the limits of our trade agreement demands or (2) the enactment of new legislation should be delayed until such time as to afford full opportunity for discussion between the two trade agreement delegations or preferably by Ambassador Kennedy with the appropriate British authorities in London.

We understand the political considerations which the British Government must necessarily give to this question and also the importance which the British attach to the whole film problem. At the same time we expect the British to realize and recognize the importance which we attach to a satisfactory solution of this question and to the elimination of excessive and unreasonable barriers to commerce in this commodity.

It had been our expectation that Ambassador Kennedy would have arrived in London and the British delegation would have arrived in Washington in time for a full discussion of this whole question. As you know Ambassador Kennedy was obliged to postpone his sailing and it was necessary to delay the arrival here of the British delegation. The interim between Ambassador Kennedy's arrival and the date of the expiration of the existing legislation would hardly afford sufficient opportunity for a full exchange of views between the two governments. Ambassador Kennedy was formerly in the motion picture business, and is unusually well qualified and informed with regard to this problem and film problems in general. He is convinced that with sufficient opportunity he can arrive at an understanding which would be acceptable both to the British Government and to the American industry, and is prepared to take up the problem as soon as he has been officially received.

In order that Ambassador Kennedy may have sufficient time to arrive at an understanding with the British it is suggested that the British might enact interim legislation extending the expiration date of existing legislation by say 60 or 90 days. Will you, therefore, take up this matter urgently with the appropriate British authorities and endeavor to work out with them a solution of the time element.

Ambassador Kennedy saw Ambassador Lindsay this afternoon and discussed with him the possibility of delay; Lindsay seemed favorably disposed.

HULL

841.4061 Motion Pictures/98: Telegram

The Chargé in the United Kingdom (Johnson) to the Secretary of State

LONDON, February 3, 1938—5 p. m.
[Received February 3—1:35 p. m.]

90. Your 42, January 31, 9 p. m. I saw Sir Alexander Cadogan¹⁵ yesterday afternoon at my request and presented to him as strongly as I could our views in regard to the impending film legislation. I was closely guided in my remarks by the Department's telegram and left with the Under Secretary a memorandum statement of those views. In talking to him I pointed out that the British representatives in Washington had many months ago been clearly told by our people that the question of films would be brought up in the trade negotiations and that I did not see how my Government could accept as valid a refusal on the part of the British to take appropriate action within the scope of the trade agreement by reason of recently adopted legislation in Great Britain. I endeavored to emphasize the importance of the time factor and the suggestion that, if possible, the enactment of this new legislation could be delayed so as to afford full opportunity for discussion between the two trade agreement delegations or by Ambassador Kennedy with the appropriate British authorities in London. I told Cadogan that the question was one of extreme interest to my Government and that I felt it most unfortunate that any element of jeopardy should be [enter?] so comprehensive an issue as our trade agreement negotiations through failure to recognize the importance which the United States attaches to a satisfactory solution of the film problem. I reminded him that various provisions of films bill had been discussed by the Embassy with Sir William Brown and other officials of the Board of Trade but that it seemed to me that the matter was now very largely in the hands of the political head of

¹⁵ British Deputy Under Secretary of State for Foreign Affairs.

the Board of Trade, Mr. Oliver Stanley. I suggested to him that, provided the Foreign Office had no objection, it might be useful if I could have a talk with Stanley. Cadogan said that he would be very glad to transmit my memorandum to the Board of Trade and would let me know whether the meeting could be arranged.

JOHNSON

841.4061 Motion Pictures/100: Telegram

The Secretary of State to the Chargé in the United Kingdom
(Johnson)

WASHINGTON, February 4, 1938—1 p. m.

55. Your 40, January 18, 7 p. m. In a separate telegram¹⁶ we have taken up the general question of film legislation and its relation to the trade agreement negotiations. The following comments with regard to the industry's 14 points are submitted for your information only:

(1) The quota requirement on a footage basis tends to complicate compliance with the requirement and has in practice obliged American companies to produce footage in excess of the quota requirement. To us this seems to be a very reasonable request and one which the British could easily meet.

The request for progressive decrease in the quota represents a compromise from a request for immediate suppression of quantitative restrictions. While we recognize that the complete elimination of a quota would be difficult if not impossible for the British, we nevertheless feel that if a quota is necessary it should be kept at a low point; say 10 percent. Judging from the comments in your telegram the British trade agreement delegation once it arrives in Washington will have no authority in respect of motion pictures other than to bind such initial quota as may be adopted in the legislation now under consideration.

(2) It is quite unreasonable, except perhaps for a temporary initial period, to impose a quota requirement for renters in excess of the quota requirement for exhibitors. Such a requirement could easily result in the forced production of motion pictures for which there would be no market in Great Britain.

(3) The objections to the "Double Quota" plan are too obvious to need comment. We hope that as suggested in your telegram the plan will be dropped and of course that there will be no substitute for it.

¹⁶ Telegram No. 42, January 31, 9 p. m., to the Chargé in the United Kingdom, p. 10.

(4) We think that the viewing test is objectionable and we agree with the industry that there should be no other quality test except that based on cost per foot.

(5) It would seem that this point is by way of being worked out satisfactorily between the Board of Trade and the industry.

(6) This point seems to be on the way to solution.

(7) If the British are really interested in obtaining improved production and improved pictures it would seem to be in their interest to give quota recognition to the more expensive and thus higher quality pictures. They have apparently given recognition to this point in part under (5) above.

(8) We do not see why as suggested by you in your telegram that this request strikes at the core of the British legislation. If the purpose of the British legislation is to reserve a share of the market for British production it would seem that so long as our industry as a whole conformed to that share requirement the purpose of the British legislation would be fully maintained. It would hardly seem necessary for each individual company to purchase or produce the required quota so long as the whole of the competing industry meets the requirement.

(9) It is the position of the American industry that there are not enough sufficiently qualified technicians and other qualified personnel now available in Great Britain so that American interests can produce quality pictures. Really qualified technicians in Great Britain are apparently under contract to the big British producing companies. Therefore, if the British are seeking to build up the quality of pictures produced in Great Britain there should be liberalization on this point.

(10) Any comments on this point would be the same as those made in paragraph numbered (2) above. We certainly do not see why Brown should claim that it is impossible to alter this provision.

(11) We are naturally glad to learn that the idea of a "Control Commission" is dead.

(12) The industry's opposition to a quota on short films has been explained as being based on the fact that short films and newsreels are not in themselves commercially profitable and are in fact produced almost solely because of necessity of furnishing exhibitors with a complete program. The feature films are almost always shown in conjunction with these shorter films which are needed to fill out the program.

(13) While this point is one of lesser importance it does seem unreasonable to expect only one party to an offense should be subject to a penalty.

(14) This point is likewise of lesser importance but nevertheless the position of the American interests seems reasonable.

We repeat that the foregoing comments are submitted only for your information at this time. Any further action which we might suggest in connection with this problem must necessarily depend on the British answer to this proposal made in our No. 42 January 31, 9 p. m.

HULL

841.4061 Motion Pictures/98: Telegram

*The Secretary of State to the Chargé in the United Kingdom
(Johnson)*

WASHINGTON, February 5, 1938—5 p. m.

58. Your 90, February 3, 5 p. m. Press as strongly as possible for an acceptance of our suggestion for a brief delay, a procedure which seems to us the only way of dealing in a satisfactory manner with this difficult question, to which, it must be impressed upon the British, we attach the highest importance. Telegraph immediately the result of your conversation.

HULL

841.4061 Motion Pictures/101: Telegram

*The Chargé in the United Kingdom (Johnson) to the Secretary
of State*

LONDON, February 8, 1938—7 p. m.
[Received February 8—2:35 p. m.]

112. Your 58, February 5, 5 p. m. I made further representations at the Foreign Office yesterday in terms as strong as I could, pressing for a favorable reply to my memorandum and representations of February 2 (see Embassy's 90, February 3, 5 p. m.). In particular I pointed out the question of principle involved, namely that the proposed trade agreement envisaged a lessening of restrictions and that the films bill on the very eve of these negotiations actually imposes additional restrictions on an important American commodity. I inquired whether the question of this issue of principle had been brought to the attention of the Prime Minister.¹⁷

I was told that a reply to the memorandum of February 2 was on its way to us and that my further representations would be conveyed to the appropriate quarters. This reply has not been received nor

¹⁷ Neville Chamberlain.

any answer to my suggestion for an interview with Mr. Stanley. If no reply is received by tomorrow afternoon I will make further inquiry.

JOHNSON

841.4061 Motion Pictures/107

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] February 9, 1938.

The British Ambassador came to see me this afternoon. He asked whether I was familiar with Mr. Kennedy's call last week during which Mr. Kennedy had suggested that the passage of new British film legislation be delayed until he had a chance to discuss with Mr. Oliver Stanley and other British authorities the possibilities of working out a more satisfactory solution. He, Sir Ronald Lindsay, had cabled urging that this proposition be accepted. He always had the mental reservation that acceptance might be impossible for technical reasons and now to his regret he found that this was the case. It seems that Parliamentary procedure is so rigid that it is not possible at this late date to change the plans agreed upon. The schedule of legislation has been laid out, time has been allocated, et cetera. Nor was the suggestion of passing interim legislation prolonging the *status quo* for a short time a feasible one.

On the other hand, although it was not possible to meet our request for deferring legislation, some of the points brought up by Mr. Kennedy would be met by the introduction of amendments at the "report" stage.

I told Sir Ronald that I was exceedingly disappointed at the message he had just given me and that I knew my principals would feel so too. I certainly was not qualified to discuss any of the technical issues involved. I had been hoping, however, that a procedure had been found which would enable the two Governments to work out a solution of the film problem in its relation to the trade agreement talks about to begin. As matters now stood, Britain was passing legislation which not only impaired the position of our moving picture interests in Great Britain but was effectively removing this problem from trade discussions. We had mentioned to Chalkley and others last summer and again subsequently, in fact we had emphasized the point, that we considered motion pictures which were our largest non-agricultural export to Great Britain to fall within the purview of these talks. Quite frankly we had not felt that our point of view was given the consideration it deserved. Sir Ronald replied that everybody had known for ten years that the present legislation

would expire at the end of March and must be replaced by new legislation and that thus no new factor had been introduced. Furthermore, he said that in many ways the situation of the American films would be improved inasmuch as the quota to start with would be reduced from 20 to 15% although it might later be raised to 30%. "Think of that", he said, with considerable sarcasm, "think of Great Britain asking to reserve for itself 30% of the output in a great cultural product". I told him that I could not argue as to the ways in which the new bill changed the position of things but that all experts who had worked on the problem felt that it did mark a deterioration in the treatment accorded our film interests. He replied that of course the industry would make out that it was seriously injured whether or not the facts bore this out; as a matter of fact, the industry had taken vast sums of money out of Great Britain and should not complain because the public was now insisting on the creation of local film industry. He went into a long argument on the reason why one could not make a comparison between items of trade having a cultural interest and other items of purely mercantile value. I told him that I had heard of these arguments for many years but I thought they had scant validity.

I said that I would of course report what he said to Mr. Hull, and would also tell Mr. Kennedy. I was afraid, however, that it would cause real disappointment and might even leave an after-taste. Unquestionably it would be felt to alter the picture as we saw it on the eve of entering into negotiations. I obviously could not be more specific, but the effective removal from any possible inter-governmental discussions of our principal non-agricultural export must in the nature of things affect our attitude toward some of their exports to us.

He shrugged his shoulders and said "it was too bad".

PIERREPONT MOFFAT

841.4061 Motion Pictures/103 : Telegram

The Chargé in the United Kingdom (Johnson) to the Secretary of State

LONDON, February 10, 1938—7 p. m.
[Received February 10—4: 52 p. m.]

118. My 116, February 9, 6 p. m.¹⁸ The information conveyed to me yesterday by an official of the Foreign Office that the reply to our memorandum of February 2 and oral representations of February 7¹⁹ would be made through the British Ambassador in Washington was,

¹⁸ Not printed.

¹⁹ See telegram No. 112, February 8, 7 p. m., from the Chargé in the United Kingdom, p. 14.

I was told today, an error on the part of the official. The information which has been conveyed to Sir Ronald Lindsay was in reply to an approach made to him on the matter by Ambassador Kennedy. The official with whom I talked this afternoon informed me that our memorandum and oral representations had been conveyed directly to the President of the Board of Trade by Mr. Eden and that they had received full consideration in the highest quarters. In giving me the memorandum reply dated today and quoted in full below, the official took occasion to emphasize the importance of avoiding publicity of the fact that representations had been made to the British Government in regard to the changes. He said that it would cause serious difficulties in Parliament. The official referred to the real importance which is attached by the British Government to the cultural aspects of the films question.

"The following explanations are offered in response to the suggestion of the United States Government that definitive enactment of British film legislation should be delayed.

Existing legislation begins to expire at the end of March and cannot, for technical reasons, be extended beyond that date. The new bill must become law by then to avoid complete confusion which would otherwise exist in all sections of the industry. The bill has to go through further stages in the Commons and to pass through all its stages in the House of Lords. Its progress through Parliament cannot therefore be delayed.

In all proposals relating to the bill, His Majesty's Government will continue to make every effort to ensure that its provisions are favorable to all sections of the industry. It will be appreciated, however, that it might have effects quite contrary to those which the United States Government desire if amendments were proposed to Parliament solely on the ground that they would be of advantage to United States renters or are advocated by the United States Government.

His Majesty's Government have fully in mind, however, the points which have been put forward on behalf of the renters of United States films. The Government intend, subject to the over-riding authority of Parliament, to secure certain amendments during later stages in the progress of the bill which it is thought will go a long way towards meeting the more important wishes of the United States renters. It will be proposed that a film of which the labor costs amount to £30,000 shall count three times for renters' quota for the renter who distributes it in the United Kingdom or twice for renters' quota for the renter who acquires foreign rights.

It will also be proposed that the minimum price to be paid for the foreign costs of films of which the labor costs are more than £22,500 and less than £30,000 shall be reduced to £15,000.

With regard to the employment of foreign personnel, it will be proposed that for films with labor costs of £22,500 it will be permissible to exclude payments to two foreign subjects (of whom at least one must be an actor or actress) from the calculation of the requirement of British labor. It will be understood that there is great pressure for increased employment of British labor in film production and grave unemployment among all grades of studio workers. In cases in which

two foreign subjects are excluded from the calculation referred to above, an increase to 80 in the British percentage of other labor will be necessary.

Some concern has been expressed about the inclusion in the bill of provisions for importations, at some later date, a viewing test on films which have passed the cost test. It should be understood, however, that general powers to institute such tests would only be taken after full enquiry had shown that a number of films which had satisfied the cost test had been found to be quite unsuitable for purposes of entertainment. It seems therefore impossible that it will ever be necessary to ask Parliament for such powers, and, in any event, they could only be obtained after a long investigation; followed by a discussion by Parliament; and would not operate until after the expiry of the period of grace allowed for in the bill. Moreover, the provision would even then only apply to individual films against which complaints were made which the Board of Trade considered were *prima facie* reasonable.

The question of the minimum labor costs of £7,500 for renters' quota long films has also been raised. The limits within which this sum might be varied are to be removed in order that the Films Council may, if they find it desirable, recommend a larger variation. This has been done to meet the representations that a minimum of £7,500 even if reduced by the amount permitted in the bill as at present drafted may be too high for films of medium length, say 4,000 to 5,000 feet.

The foregoing particulars regarding the position are conveyed to the United States Government for their confidential information and it should be appreciated that it would be extremely embarrassing if news of the above-mentioned proposals reached either the industry here or the press before the President of the Board of Trade has had an opportunity to mention them either in the Standing Committee of the House of Commons or in the House of Commons on the report stage of the bill."

JOHNSON

841.4061 Motion Pictures/106b: Telegram

*The Secretary of State to the Chargé in the United Kingdom
(Johnson)*

WASHINGTON, February 15, 1938—8 p. m.

69. Your 118, February 10, 7 p. m. Please present the following note to the Foreign Office:

"On numerous occasions since July 1937 the British Government has been informed that my Government attaches great importance to the British restrictions affecting American motion pictures and that the treatment of American motion pictures in Great Britain would of necessity be a subject for inclusion in the forthcoming trade agreement negotiations. It had therefore been hoped that the British Government would avoid taking any definite action on the proposed film legislation until the two Governments could have an opportunity for a full and frank discussion of this whole question. On February 2

my Government made the direct suggestion that action be held in abeyance possibly by the enactment of interim legislation until the arrival in London of Ambassador Kennedy, who could, immediately following his official reception, enter into discussions with the appropriate British authorities. My Government felt that because of Mr. Kennedy's experience in and intimate knowledge of the motion picture business this suggestion offered a real possibility of a satisfactory solution of this question in conjunction with the trade agreement negotiations. Accordingly, it is greatly regretted that the British Government could not see its way clear to accept this suggestion.

In its memorandum of February 9 the British Government pointed out that it "intends, subject to the overriding authority of Parliament, to secure certain amendments during later stages of the progress of the bill which it is thought will go a long way towards meeting the important wishes of the United States renters." The amendments suggested in the memorandum of February 9 do not, however, cover the entire scope of the points which my Government considers important. My Government considers that in order that it may be satisfactory, the pending legislation should be so drawn as to take into consideration the following points:

(Here quote a paraphrase of the 14 points listed in the Department's No. 13, January 12, 2 p. m.)

In its preparation for the forthcoming trade agreement negotiations, my Government has given careful study and consideration to the motion picture question, and considers that the foregoing 14 points are reasonable and fair. Since the British Government finds that it cannot delay the enactment of the proposed legislation until after full opportunity has been had for discussion of this question during the trade agreement negotiations, my Government feels that the legislation to be enacted should be so drawn as to meet adequately the foregoing points.

I am confident that the British Government will understand that an alteration to the disadvantage of the United States on the very eve of trade agreement negotiations in the status of so important a product as motion pictures could hardly fail to affect the attitude of my Government toward concessions to be offered certain important British exports to the United States."

HULL

611.4131/1205 : Telegram

*The Secretary of State to the Chargé in the United Kingdom
(Johnson)*

WASHINGTON, March 7, 1938—7 p. m.

97. Your 183, March 4, 3 p. m.²⁰ Our first conversations with the British delegation²¹ dealt with the general provisions and with a

²⁰ Not printed; in this telegram the Chargé asked to be kept currently informed on trade agreement negotiations.

²¹ The British delegation arrived in Washington on February 23, 1938. It consisted of the British Ambassador, Sir Ronald Lindsay, and A. E. Overton, Second Secretary of the Board of Trade, assisted by W. E. H. Rhydderch, N. E. Archer, F. Grant, J. A. Stirling, and G. L. Watkinson; and by H. O. Chalkley, Commercial Counselor of the British Embassy, as adviser to the delegation.

formula which we proposed regarding concessions to the United States in the British Colonial Empire. Copies of the general provisions and the Colonial formula which we handed the British delegation are being sent to you by mail. After listening to our explanation of these documents the British delegation stated that they would communicate with London and discuss these questions in detail after receiving instructions.

We are now having daily meetings with the British delegation on Schedules 1 and 2, with the view to obtaining clarification of our respective requests, determining where subclassifications or value brackets are necessary, and finding out in general the emphasis which each side places on particular concessions. We have informed the British delegation that pending the conclusion of the oral hearings which start on March 14 we are not in a position to discuss proposed rates of duty on imports into the United States from the United Kingdom. The conversations have not yet proceeded to a point where it is possible to form much of an estimate of how far the United Kingdom is prepared to go in these negotiations.

We plan to send you periodic telegrams on the course of the negotiations and to keep you as fully and currently informed as possible. We shall of course send you copies of any documents exchanged between the delegations.

HULL

841.4061 Motion Pictures/113: Telegram

*The Ambassador in the United Kingdom (Kennedy) to the
Secretary of State*

LONDON, March 11, 1938—1 p. m.
[Received March 11—8:45 a. m.]

201. Embassy's 158, February 24, 4 p. m.²³ Amendments to the films bill providing for triple credit and reciprocity credit will be moved by Lord Swinton in House of Lords March 14. The language has been somewhat changed in order to meet some of the objections made by exhibitors groups in House of Commons. Although the new amendments are not so favorable to American interests as those withdrawn in the House of Commons, nevertheless, they do incorporate in the legislation the triple credit provision much desired by American distributors.

²³ Not printed; it reported that in the House of Commons on February 24 the Government had withdrawn amendments to the films bill providing for triple credit and reciprocity credit in order to prevent an adverse vote (841.4061 Motion-Pictures/109).

Inasmuch as there are likely to be changes in the language of the amendments finally accepted by the Lords, we will cable a full report only after their adoption.

KENNEDY

841.4061 Motion Pictures/113 : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, March 12, 1938—4 p. m.

108. Your 201, March 11, 1 p. m. and various mail despatches. From Hawkins²⁴ and Hickerson.²⁵ At one of our first meetings with Overton we discussed with him at considerable length the situation created by the proposed film legislation in the United Kingdom. Our comments followed the general line taken in our telegrams on this subject to the Embassy. We stressed the fact that while we realized that the present film legislation will expire at the end of March, the passage of new legislation placing such obstacles as appear to be contemplated against our most important non-agricultural export at this time is nothing short of deplorable. We went on to say that probably after he left London our Embassy sent a note to the British Government²⁶ setting forth in detail our position on this whole matter, and that we earnestly hoped that amendments would be introduced which would meet substantially our requests. We added that otherwise our attitude toward concessions to the United Kingdom would necessarily be affected.

Overton's comments were approximately those which we have heard in the past from the Board of Trade. He said that he knew nothing of our note but he felt sure that the British Government would go as far as it possibly could to meet our point of view. He stressed the enormous difficulties and diversity of interests in connection with the whole question.

Since that conversation, we have made references to the film matter on various occasions in our discussions of other products. We intend to press this question strongly here but we desire to correlate our activities with those of the Embassy. We shall, of course, bear in mind the suggestions which were made to us orally here. We should appreciate it if you would telegraph us a brief estimate of the extent to which the British have, by amendments, met, or intend to meet,

²⁴ Harry C. Hawkins, Chief of the Division of Trade Agreements.

²⁵ John D. Hickerson, Assistant Chief of the Division of European Affairs.

²⁶ See telegram No. 69, February 15, 8 p. m., to the Chargé in the United Kingdom, p. 18.

our point of view as set forth in the 14 points. We should also be grateful for any recommendations which you give us as to the line of action which we should take at this end. In general, if it is agreeable to you, we should like to reverse the usual procedure and have you instruct us. [Hawkins and Hickerson.]

HULL

841.4061 Motion Pictures/114: Telegram

*The Ambassador in the United Kingdom (Kennedy) to the
Secretary of State*

LONDON, March 14, 1938—6 p. m.
[Received March 14—4: 30 p. m.]

211. Your No. 108, March 12, 4 p. m.

1. The 14 points in your No. 12 [13] of January 12, 2 p. m. have been met in the bill now before the House of Lords to the following extent:

(a) Point 2, exhibitors' quota increased to 12½% for the first year and is now only slightly below renters' quota of 15%;

(b) Point 4, cost test is now the basis of quota determination. Viewing test may not be applied until 12 months have elapsed and until complicated legal formalities have been complied with, making it improbable that it will ever be applied;

(c) Point 5, first two requests substantially met in present bill, third request is being met in pending amendment;

(d) Point 7, reciprocity is provided for by pending amendment;

(e) Point 9, two non-British personnel are provided for instead of the four requested;

(g) [f] Point 11, met in full.

2. Lately, when Stanley appreciated that certain provisions favorable to American renters would meet determined opposition in Parliament, he has met the situation by asking for discretionary and revisionary powers for the Board of Trade. Thus the bases for quotas (affecting Hays' points 1, 2, 4, 5, 6 and 12) may in future be revised.

3. Because the Board of Trade will have considerable latitude in fixing quotas, rates of payment, et cetera, it may be possible to work out some sort of an understanding with the British Government concerning the future administration of the bill in so far as American interests are affected.

4. In general, the bill does not solve the central problems it set out to solve. It is not too much to expect that, after being administered for a while, many changes may be found advisable or necessary and that new films legislation may be required after a year or two. In our opinion, the bill as it stands, with the addition of the triple credit and reciprocity credit amendments would not be unfair to American

interests and would permit them to carry on their business in Great Britain without substantial loss of revenue.

5. I have asked our experts to answer the foregoing technical points of your telegram and the answers to the points are theirs. In my opinion the triple credit and reciprocity credit amendments should certainly be granted; if they are, my whole opinion of the bill would be that we have a reasonable bill from any American point of view but not so reasonable that we definitely should not consider that we have made substantial concessions to the British point of view. We therefore have certainly gained for ourselves a credit to be used on the trade agreement.

As I told you in Washington it is perfectly easy to work out a plan here that is not unreasonable for the film industry as an industry but at the same time it ought to be definitely understood that in our agreement to accept this bill we have made great concessions to be credited us in the rest of the negotiations. I have made this point in America and I am sure this will be understood.

I have just finished an hour's talk with Stanley. He has agreed to fight for the reciprocity agreement and triple credit and I have talked with Halifax²⁷ and Cadogan for support. Stanley finally said after discussion that he will rise or fall on the agreement and I think he is prepared to resign if they do not give it to him. He feels, however, that sending these messages along at such a late hour has made it impossible to work out the plans of the State Department; if it had been done early last summer he might have been able to get more concessions for the United States.

Regarding paragraph that credit should be given on the trade treaty considering the concessions that have been made on the film bill, he said that the House of Commons feels that he has made altogether too many concessions to the American point of view as it is and to come back at a later date and say that concessions may have to be made on "apples" or anything else to the Americans since the Americans made concessions to the British on films, would create an uproar in the House of Commons to the effect that too many concessions have already been made in the present film bill.

I said that unfortunately that was not the argument I felt should be considered; that if we adopted the same tactics towards the insurance business in the United States we would have just as many arguments that we were not doing as well as the British, and they would get the same answer they made to us in the film industry.

I do not see anything concrete that they will give us now as a credit and they will fight not to give us anything to the bitter end.

²⁷ British Lord President of the Privy Council.

My own idea, however, is that we can not do anything about the film bill; inclined to hope that he is able to get as much as he said he was willing to get us today and then try and bring to his attention at a later date some satisfaction for our side on some disputed trade agreement point.

If we get what he is trying to get in the film bill you have not done a bad job for the industry.

KENNEDY

841.4061 Motion Pictures/114 : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, March 15, 1938—6 p. m.

113. From Hawkins and Hickerson. Many thanks for your excellent and helpful telegram no. 211, March 14, 6 p. m.

Hays telephoned this morning that a surprise amendment was introduced in the House of Lords today by Lord Moyne, and passed, raising the percentage for the renters' quota from 15 percent to 20 percent for the first 2 years. We know that it is unnecessary for us to tell you that this amendment would completely ruin the whole situation. We hope that you will at once see Stanley, Halifax and, if necessary, the Prime Minister and urge in the strongest terms possible that this amendment be deleted. We are taking this up along similar lines with Overton. [Hawkins and Hickerson.]

HULL

841.4061 Motion Pictures/117 : Telegram

*The Ambassador in the United Kingdom (Kennedy) to the
Secretary of State*

LONDON, March 16, 1938—6 p. m.

[Received March 16—4 p. m.]

221. Your 113 of March 15, 6 p. m. Everything feasible is being done here. As reported in my 211 of March 12 [14], 4 [6] p. m., I have already taken up the films question with Halifax, Stanley, and Cadogan. The British Cabinet is well aware of the effect Lord Moyne's amendment would have on American opinion and there is nothing to be gained by further protests on our part. I have, however, discussed the matter with Stanley and will continue to press him to act in the House of Commons. A reference to the reports of the sessions of the Stand-

ing Committee will show that Stanley has consistently held that a 15 per cent renters' quota in 1938 was reasonable and he still feels so. He may be able to persuade the Commons to readopt the 15 per cent figure,²⁸ but Parliament has got out of hand on this particular subject. The British have lost money on this industry and see it flowing to the Americans. On this basis you do not have to know much about the subject to make a convincing argument against any concession to the American industry.

I presume Hays informed you that the House of Lords also adopted the two amendments favorable to American interests providing for reciprocity credit and triple credit.

KENNEDY

611.4131/1404a : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, April 9, 1938—1 p. m.

143. In our discussions with the British Trade Delegation, we have gone over both schedules for the purpose of determining whether subclassifications or value brackets are necessary and what amount of emphasis each side places on particular products. There has been no discussion as yet of amounts of duty reduction which we may be able to offer British goods nor of British reductions on American goods other than those included on our "Must List." The Embassy has a copy of this List²⁹ and of the text of the British offers of November 5th last.³⁰

We are having a great deal of discussion regarding lumber but no satisfactory solution is as yet in sight. The British Government refuses to subclassify Douglas Fir specifically and Canada will apparently block any material reduction unless the reduction is restricted to Douglas Fir and Southern Pine on the ground that Baltic timber would obtain the major benefit. Our lumber industry insists that nothing short of parity with Canada will do them any good. It is perhaps too early to comment on the British attitude toward other products on which we are seeking concessions.

²⁸ On March 28, 1938, the House of Commons restored the renters' quota for long films to 15 percent for the first year of the Act. It also retained the triple quota and reciprocity credit provisions put in by the House of Lords. The bill was accepted by the House of Lords on March 30, 1938.

²⁹ See "American Statement Regarding Concessions," November 16, 1936, *Foreign Relations*, 1936, vol. I, p. 699.

³⁰ *Ibid.*, 1937, vol. II, p. 78.

Beginning Monday next the Trade Agreements Committee will take up both schedules and submit definitive recommendations on them. We hope to complete that task next week. After that, things should move more rapidly.

Some progress has been made on the general provisions but much remains to be done.

HULL

611.4131/1405 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, April 11, 1938—4 p. m.
[Received April 11—11:35 a. m.]

295. Department's 143, April 9, 1 p. m. A member of my staff was the guest at luncheon today of the senior Board of Trade official who handles the American trade agreement requests. The latter brought up the question of a concession on Douglas fir and enumerated the difficulties inherent in the situation. In reply the Department's position that concession on Douglas fir was indispensable was reiterated and emphasized.

The impression was gained that the Board of Trade was sounding us out. It is awaiting a further report from Overton before "making up its mind" but the effect upon the Scandinavian countries of a concession to us is being weighed.

KENNEDY

841.4061 Motion Pictures/129a : Telegram

The Acting Secretary of State to the Ambassador in the United Kingdom (Kennedy)

WASHINGTON, April 25, 1938—8 p. m.

172. From Hawkins and Hickerson. We hope to hand the British Trade Delegation tomorrow a draft Trade Agreement. As regards motion pictures, we intend to state that our proposals will be transmitted at a later date. We have discussed the whole question at various times with the British Delegation but in general terms and for the purpose of emphasizing the great importance which we place on satisfactory treatment for this important American industry. We should be glad to have your views regarding the specific proposals on this subject that should be made for inclusion in the Agreement. [Hawkins and Hickerson.]

WELLES

841.4061 Motion Pictures/139: Telegram

*The Ambassador in the United Kingdom (Kennedy) to the Secretary of State*LONDON, April 26, 1938—6 p. m.
[Received April 26—3:35 p. m.]

340. Your 172, April 25, 8 p. m. I agree with your proposal to separate the motion picture question from the rest of the trade agreement items. I suggest that you might use the same formula as in the Czech agreement³¹ and negotiate an entirely separate instrument relating to films alone.

It is my opinion that it will be unwise as well as useless to attempt to persuade the British to alter existing legislation. However, under the Act considerable discretionary powers are left in the hands of the Board of Trade. These powers were fully described in enclosure to despatch No. 140 of April 4, 1938.³² If all these powers were exercised in favor of the American industry it would benefit greatly.

Hence, it is suggested that in any negotiations the list of variables be made the basis of the United States proposals. Of particular importance would be to secure assurances that the Board of Trade will take action (1) to prevent the renters' quota from exceeding 20%, (2) to reduce reciprocity costs to a figure which would permit American producers to take advantage of the reciprocity provisions, (3) to remove the present limitation on the use of triple credit pictures; and that the Board of Trade will not take action with a view to (4) increasing the cost test and (5) putting into operation the viewing test.

I repeat that these are the most we could ask for under present conditions. Do not lose sight of the fact that when you come to some items in the trade agreement on which you cannot agree, some credit must be asked for in return for concessions we have already made on the films bill. I have already discussed this with Stanley.

KENNEDY

611.4131/1494a

The Department of State to the British Trade Delegation

MEMORANDUM

[WASHINGTON,] April 26, 1938.

There are attached:³³

- (1) The draft text of a proposed agreement, including general provisions and four schedules.
- (2) A memorandum of comment upon the draft general provisions.

³¹ See pp. 223 ff.³² Not printed.³³ Enclosures not printed.

Enclosure No. 1 has been set up as a draft text so far as it is practicable to present the proposals in that form at the present time, and it is presented subject to the following comment:

Schedule II:³⁴ The requests cover the entire tariff items indicated by the Newfoundland tariff item numbers. The descriptions of the items, which for the most part are not complete, are given merely for convenience of reference. It is noted that tariff items M-1041 and M-1044 appearing in Schedule II, Part A, and items M-1006, M-1007, M-1014, M-1015, M-1039, M-1042, M-1063 appearing in Schedule II, Part B, are included in the Newfoundland tariff in a schedule of "Special Rates for Approved Manufactures." It is proposed that the tariff treatment specified in Schedule II for the articles included in the above-mentioned tariff items should in no circumstances be less favorable than that specified.

Schedule IV:³⁵ The descriptions of articles included in this Schedule, as well as the comment set forth in certain places under the column headed "Rate of Duty", are provided for working purposes. The text of this Schedule is based upon the wording of the tariff schedules published in connection with the public notice³⁶ of intention to negotiate the trade agreement, but is subject to such revisions as may be found appropriate or necessary for customs administrative purposes or for completing the definition or delimitation of the concessions proposed.

With respect to the entire contents of the draft text, it is necessary to make a general reservation to cover errors and omissions which have not yet been detected due to incomplete check. The entire text is being checked, and any necessary changes will be indicated as soon as possible.

841.4061 Motion Pictures/139 : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, May 3, 1938—5 p. m.

190. Your 340, April 26, 6 p. m. You are requested to initiate conversations with the appropriate British authorities at the earliest convenient date looking to the conclusion of an understanding between the two countries regarding the treatment to be accorded American motion picture films and the American motion picture industry in the United Kingdom. I hope that your negotiations can begin at once and thus be conducted simultaneously with the Trade Agreement

³⁴ Schedule II pertains only to articles from the United States imported into Newfoundland.

³⁵ Schedule IV pertains to articles imported into the United States from the United Kingdom.

³⁶ Department of State, *Press Releases*, January 8, 1938, p. 45.

negotiations. As you know, we regard a satisfactory arrangement respecting motion pictures as an important part of the Trade Agreement negotiations. There are two reasons why it seems preferable for the motion picture negotiations to take place in London: first, your wide and detailed knowledge of the motion picture industry; and second, the fact that the British Trade Delegation here appears to have little information regarding the new film legislation and no authority to deal with the question other than to transmit our views to the responsible British Ministers in London.

If you are able to reach a satisfactory agreement, its terms might well be included in the text of the proposed Trade Agreement. Although we prefer this, it could, alternatively, take the form of an exchange of notes to be effected in London on the day of signature here of the Trade Agreement. This question can, of course, be settled later.

I have few specific suggestions at this time as to the substance of the proposed arrangements. Would it not be well to ask that the renters' quota be bound at 15%? You will recall that our original request on motion picture films, transmitted to the British last September with our Trade Agreement desiderata, was to abolish the renters' quota and to bind existing import duties. The general approach set forth in your 340 seems to be a sound one. I hope that you will work out with Stanley the most favorable draft arrangement which you can obtain. You may, of course, consult with us by telegraph at any time.

HULL

841.4061 Motion Pictures/140 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, May 5, 1938—5 p. m.

[Received May 5—12:42 p. m.]

373. Your 190 of May 3, 5 p. m. Stanley is ill and I will be unable to see him for at least 10 days. In the meantime, we will carry on preliminary conversations with Board of Trade officials.

I hope the Department realizes there is not much chance of getting anything like a comprehensive agreement. It is not politically possible for the Government to have the Films Act changed so soon after enactment. Under that Act the Board of Trade is bound to consult the Films Council before making certain decisions and therefore it may not be legally possible for them in such cases to bind themselves in advance by executive agreement. Also the Act provides for a minimum renters' quota of 20% after the first year. Thus, the field of possible negotiation is narrow.

KENNEDY

611.4131/1548½

The British Trade Delegation to the Department of State

1. The detailed proposals contained in the document which the United States representatives handed to the United Kingdom Delegation on the 26th April have been examined in so far as they concern import duties on United Kingdom goods. The United Kingdom Delegation are examining the other matters covered by the United States proposals.

2. All the interchanges made during the informal discussions leading up to the formal announcement of negotiations led the United Kingdom Government to believe that the United States Government contemplated radical reductions in the United States tariffs over the whole range of goods of which the United Kingdom is the principal source of supply. Nothing less could, in the opinion of the United Kingdom Delegation, lead to a substantial expansion of the market for United Kingdom products. Moreover, it was stated in the United States memorandum of the 4th June, 1937,³⁷ that out of reductions of duty on United Kingdom trade amounting to \$43,117,000 on the basis of 1935 figures reductions of duties of between 40 per cent. and 50 per cent. appeared feasible in respect of United Kingdom trade to the value of practically \$20 million, i. e., 46.2 per cent. of the total. This document confirmed the United Kingdom Government's belief that the United States Government contemplated concessions on a really important scale.

3. The United Kingdom Delegation consider as altogether inadequate the reductions of duty offered on many important classes of United Kingdom goods. In particular, the Delegation have made it clear in the course of recent discussions that they attach as much importance to textiles (particularly cottons and woollens) as the United States attach to agricultural products. They have, therefore, examined with special interest the proposals on the textile items.

4. As the United States representatives are aware, the United Kingdom cotton industry is largely dependent on export markets. It has suffered intensely from the contraction of those markets. Its exports to the United States have fallen to 13 million square yards in 1936, compared with an internal production in the United States of some 6,000-7,000 million square yards. In the case of countable cotton cloth, in regard to which the United Kingdom Delegation note that the United States proposals are marked "tentative in part", those proposals offer no relief at all from the duties affecting more than 40 per cent. of the total value imported from the United Kingdom in 1936. The incidence of the present duties in that year on British

³⁷ *Foreign Relations*, 1937, vol. II, p. 37.

cloth averaged 43 per cent. ad valorem and the effect of the proposals would be to reduce this figure to 38 per cent (i. e., by one-eighth). Only a trifling increase in trade could be expected to result from such concessions. This offer is all the more unsatisfactory because the requests submitted by the United Kingdom were so drawn as to confine the benefit of tariff reductions to goods of types of which the imports come almost entirely from the United Kingdom. Moreover, no reduction is offered in the 60 per cent. duty at present levied on lace curtains or in the 37½ per cent. duty on cotton clothing and wearing apparel.

5. Woollen manufactures are, from the commercial point of view, even more important than cotton manufactures and here the United States proposals are equally unacceptable. The trade covered by paragraph 1109(a) is of great importance to the United Kingdom, the value in 1936 being over \$6 millions. The average incidence of the duties under this paragraph in 1936 was approximately 88 per cent. ad valorem and the effect of the United States proposals is to reduce this figure to about 75 per cent. (i. e., a reduction of about 15 per cent.). Even if the specific (compensatory) part of the duty is ignored the proposed reduction amounts to only 19 per cent. Moreover, it is observed that the United States proposals contain no reference to the statement made in the United States memorandum of 4th June that if the existing duties on the raw or semi-manufactured products which serve as the basis for the specific (compensatory) rates should be subsequently reduced, it would be feasible to make corresponding adjustments in the specific rates and that consideration would be given to the inclusion in an agreement of a provision to this effect. Such a provision is essential. The following table illustrates the effects of the proposed concessions on a few of the important items in the woolen schedule.

| Commodity. | Ad val. incidence of present duties.* | Ad val. incidence of proposed duties.* | Percentage reduction of duty. |
|---|---------------------------------------|--|-------------------------------|
| Woven fabrics, weighing more than 4 oz. per sq. yard, wholly or in chief value of wool. | % | % | |
| (a) including specific duty..... | 88 | 75 | 15 |
| (b) excluding specific duty..... | 56 | 45 | 20 |
| Wool wearing apparel (except hats and hat bodies) not knit or crocheted: | | | |
| Valued not more than \$4 per lb. | | | |
| (a) including specific duty..... | 58 | 48 | 17 |
| (b) excluding specific duty..... | 45 | 35 | 22 |
| Wool blankets | | | |
| (a) including specific duty..... | 94 | No offer | |
| (b) excluding specific duty..... | 36 | | |

*The ad valorem incidence of the specific part of the duties is based on values of imports from the United Kingdom in 1936.

It is true that substantial reductions are offered on woollen wastes but, for the reasons explained in the course of the recent discussions with the United States representatives, the United Kingdom Delegation can regard this offer as only of minor importance.

6. It is not the purpose of this memorandum to set out all the items on which the United States proposals are inadequate, but the following table illustrates some of the other more important items.

| Commodity. | Ad val. incidence of present duty. | Ad val. incidence of proposed duty. | Percentage reduction of duty. |
|--|---------------------------------------|--|----------------------------------|
| | % | % | |
| China clay..... | 25* | 20* | 20 |
| Table etc. earthenware, decorated..... | 57* | 42* | 26 |
| Bone china— | | | |
| Plain..... | 61* | 50 | 18 |
| Decorated..... | 71* | 55 | 22 |
| Silver plated ware on copper..... | 50 | No offer | |
| Sterling silver ware..... | 65 | 55 | 15 |
| Linen towels (not over 120 threads to the square inch)..... | 55 | No offer | |
| Machine made nets and nettings of— | | | |
| Cotton..... | 90 | 65 | 28 |
| Rayon..... | 65 | 65 | Binding |
| Silk..... | 65 | 65 | Binding |
| Flouncings, quillings and all-overs.... | Mainly 90 | No offer | |

*Ad valorem incidence has been calculated on average values of imports from the United Kingdom in 1936.

As regards the proposals affecting the products of the lace and net industry, it is necessary to bear in mind that the United States declined to include in the published list of items of possible concessions the Levers laces on which the duty is 90 per cent. ad valorem. This has given rise to serious criticism. In general, it is calculated that actual reductions of 40 per cent. or more in the duties on United Kingdom goods would apply to only about one quarter of the United Kingdom trade in 1936 on which reductions of the present duties are possible under the Trade Agreements Act.⁸⁸

7. The United Kingdom Delegation are convinced (and they feel confident that the United States will share this view) that only harm would result from an agreement which could not justly be represented to public opinion in the countries concerned as fair and equitable. So far as the United Kingdom is concerned, the task of His Majesty's Government will not be made easier by the lack of balance in the visible trade between the two countries, which has become even more

⁸⁸ Trade Agreements Act of June 12, 1934; 48 Stat. 943. The Act was extended by a Joint Resolution approved March 1, 1937; 50 Stat. 24.

marked in the first quarter of this year.* These facts are well known and are attributed largely to the height of the United States import duties. It is therefore essential that the concessions given by the United States should be such as to afford the opportunity for an important increase in United Kingdom trade. For their part the United Kingdom Government have done their utmost to meet the "essential" requests of the United States Government in advance of the negotiations, in spite of their dislike of this procedure. As it was impossible to meet all these requests, they made an important alternative offer of entry free of duty for wheat. In the same spirit, the United Kingdom Delegation have indicated the possibility of concessions on a wide range of important United States industrial products, as part of a satisfactory agreement. The United Kingdom Delegation cannot regard the concessions offered in return as calculated to achieve such an agreement. They must urge the United States representatives to revise their offer and they are ready to enter into immediate discussions with the United States representatives for this purpose.

[WASHINGTON,] May 6, 1938.

841.4061 Motion Pictures/143: Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, June 2, 1938—10 p. m.

[Received June 2—5 p. m.]

477. The Department's No. 190, May 3, 5 p. m. Conversations with the Board of Trade convince me that the British Government, because of the Films Act, cannot give us assurances which would be of any value to the motion picture industry. I recommend therefore that conversations on this topic be dropped.

The question of import duties on motion picture films remains to be considered. I wish to point out that a duty concession on films would be of small practical benefit to the motion picture industry although it might benefit suppliers of celluloid and photographic apparatus. I do not feel that a reduction in the duty of "blank film, exposed positives, exposed negatives, and other photographic and

* Imports into the United States from the United Kingdom fell as follows:—

| | \$ millions. |
|--|--------------|
| 1st quarter 1937 | 58.9 |
| 1st quarter 1938 | 27.3 |
| whereas exports to the United Kingdom increased as follows:— | |
| 1st quarter 1937 | 108.3 |
| 1st quarter 1938 | 153.5 |

[Footnote in the original.]

cinematographic appliances" would balance the concession denied us on renters' quota, and in my opinion the British should compensate us by giving us substantial concessions in other commodities. I therefore suggest that in the trade agreement negotiations the Department should handle this duty question in Washington as any other commodity.

KENNEDY

611.003/3822a

*The Department of State to the British Trade Delegation*³⁹

MEMORANDUM

While tariff specialization is in general undesirable, it is frequently impossible in fixing tariff rates to avoid classifications providing for differences in treatment between products which have a certain degree of similarity. This is particularly true in the case of conventional rates, since the establishment of such classifications may be the only practicable way of providing for desirable duty reductions.

The compatibility of specialized tariff classifications with the principle of most-favored-nation treatment depends essentially upon the reasonableness of the classifications. While it would be possible, by example, to indicate certain types of classifications which are clearly unreasonable and unjustly discriminatory, it is impossible to lay down any single criterion which may be used in determining whether goods are sufficiently similar to warrant identical customs treatment.

It is not possible, for example, to judge the similarity of goods solely by the uses for which they may be employed. Such a criterion would require the granting of identical treatment to goods which are intrinsically different in their physical characteristics and would go far beyond the purpose of the most-favored-nation assurance. The use which may be made of a product does not provide a reliable basis for determining similarity for customs purposes even in the case of products which are generically similar. It could not be reasonably urged, for example, that the most-favored-nation clause requires that all fish be subjected to the same rate of duty, despite the fact of their basic similarity both as to physical characteristics and use. The purpose of the clause is to assure equality of treatment to goods which are specifically similar.

Distinction between natural products of different species is a well-recognized form of customs classification. While it is possible to visualize the use of such a type of classification, based upon minor and unessential physical differences, for the purpose of establishing unfair

³⁹ Handed to the delegation by Mr. Hawkins on June 14, 1938.

discriminations, classifications of this nature are not per se inconsistent with the principle of equality of treatment. In fact, when they follow well-recognized popular or trade distinctions, they can be far more clearly justified than classifications based upon such widely-used criteria as value or weight. While classifications of the latter kind can in many cases be justified as to the range which they include, the exact point chosen for delimiting the classification must, as a rule, necessarily be arbitrary and hence discriminatory between essentially similar products falling on either side of the borderline. Such inequalities can be justified only by the reasonableness and purpose of the classification broadly considered.

The foregoing statement is in general accord with the views which have been stated by the Economic Committee of the League of Nations regarding the meaning of the term "like" or "similar" products as used in the most-favored-nation clause. The Committee has concluded that it is impossible to find a precise formula for determining the similarity of goods which could be applied to all cases. Furthermore, the Committee has pointed out that specialized classifications may in certain cases be in the interest of international traffic, "since they sometimes offer a very valuable means of enabling the products of a given country to obtain reductions of duties or customs facilities which could not be granted if they had to be extended to larger categories of goods."

611.4131/1661

The British Embassy to the Department of State

The United States requests for concessions on specified types of softwood have given rise to the question whether it would be justifiable to differentiate for duty purposes between the species normally imported into the United Kingdom from the United States and the species which are commonly imported from other sources. Consideration has been given to this question and to the memorandum on tariff specialisation which Mr. Hawkins handed to Mr. Overton on the 13th [14th] June. The decision has been reached that it is impossible, in view of the United Kingdom Government's most-favoured-nation undertakings, to give a concession on Douglas fir without extending it to Baltic and Scandinavian softwoods. There is, further, no possibility that Scandinavian and Baltic countries would agree to waive their rights and to allow United States timber to be given a preference over their own.

In view of the importance which the United States Government are understood to attach to this matter, the United Kingdom Government

desire their Delegation to explain the principles upon which this decision has been reached.

It is agreed that, as stated in Mr. Hawkins' memorandum, it is impossible to lay down any single criterion which may be used in determining whether goods are sufficiently similar to warrant identical Customs treatment. Nevertheless, it is clear that what matters for purposes of commercial agreements is not whether goods can be distinguished by some scientific or other means, but whether the goods are different for commercial purposes in the market of the importing country. For example, white cows can be distinguished from brown cows with ease and certainty, but a customs differentiation on this basis would be indefensible unless in some country—perhaps in connection with religious ceremonies—brown cows and white cows were used for different purposes. This case seems to border almost exactly on the case of lumber.

On the other hand, it cannot be agreed that distinctions by value or weight are necessarily less easily justified than other distinctions. The grounds upon which distinction by value can be defended are clearly set out in Mr. Hawkins' memorandum; the question is whether any particular distinction by value is justified broadly by a corresponding distinction between the goods, particularly as regards competition one with the other. The fact that border line cases arise does not affect the general principle, but it does set limits to the amount of subdivision which is justifiable.

It is essential also to consider what answer the United Kingdom Government would have returned at the time when they were making most-favoured-nation agreements with Scandinavian and Baltic countries if they had asked whether most-favoured-nation rights were intended to give their softwoods equality of treatment with similar woods from the United States. The answer would certainly have been in the affirmative. If now the United Kingdom Government were to make this differentiation there could be no doubt that the countries concerned would justifiably accuse them of having broken faith and would be able with every hope of success to take them to the Hague Court. Moreover, if a similar infraction of the rights of the United Kingdom Government were to take place, they would certainly consider taking the same action.

The United States Government will recognise that a very important question of principle is involved and that the present attitude of the United Kingdom Government is that which they have consistently adopted over a long period of time. The United Kingdom Government feel sure that nothing could be further from the desire of the United States Government than to press them to commit a breach

of what they regard as their most-favoured-nation obligations and thus to cast still further doubt upon the sanctity of international obligations.

[WASHINGTON,] July 5, 1938.

611.4131/1661

*Memorandum by the Secretary of State of a Conversation With the
British Ambassador (Lindsay)*

[WASHINGTON,] July 7, 1938.

The British Ambassador called and insisted that his Government could not agree to the lumber tariff concession of five percent asked by this Government in connection with the trade agreement negotiations. His plea was that it would let in similar Baltic lumber and that no classification could consistently or conscientiously be made by his Government that would exclude it from the benefits of the proposed concession. I said that all tariff laws contain just such detailed classifications in one respect or another, and that I had not before heard any complaint about any strain on governmental conscience. I then added that, since Great Britain and her housebuilders would be the beneficiaries of the proposed tariff reduction, I could see no theory on which that Government might object unless she did so in behalf of Canada, and that I had not yet heard of the conscience of Canada having come under any strain. The Ambassador really offered no arguments. I went on to say that homebuilders, especially in this country, and, I imagined, in Great Britain as well, would be immensely interested in the news that we had reduced the cost of this world material for house construction, but that, if we should allow a little group of timber barons in British Columbia, Oregon and Washington, working from the same or different viewpoints, to knock this lumber proposal out of the agreement, it would be a severe reflection on both of our Governments, as I saw it. I said that both of our countries had always had free lumber until recently, and that both are suffering injuries because of the present tariff burdens; that I felt obliged very earnestly to request and urge that, in these circumstances, our two Governments again confer among their experts and leave nothing undone in their efforts to clear up this lumber matter satisfactorily; that only five percent of it is economic, while the other ninety-five percent is more or less political or psychological, and that this was all the more reason for our two Governments not to allow themselves to be driven away from the entire proposal by the special interests of a few lumber barons. The Ambassador said that he would see what could be done in this regard.

C[ORDELL] H[ULL]

611.4131/1668 : Telegram

*The Ambassador in the United Kingdom (Kennedy) to the Secretary of State*LONDON, July 14, 1938—7 p. m.
[Received July 14—2:34 p. m.]

636. Had dinner with Oliver Stanley last night. He said he understood trade agreement was fairly well settled with the exception of five or six points. I said I have not been so advised.

Everybody is planning to get out of town by the 29th of July. Is there anything I can do on this?

KENNEDY

611.4131/1668 : Telegram

The Secretary of State to the Ambassador in the United Kingdom (Kennedy)

WASHINGTON, July 18, 1938—3 p. m.

366. Your 636, June 14, 7 p. m. Stanley's conception of the progress of the negotiations differs very materially from our own. The general situation as regards schedules remains as set forth in my 320 of July 2 last.⁴⁰ Note particularly last paragraph of that telegram. The only additional development has been the receipt of a memorandum from the British stating that they will not subclassify lumber.⁴¹ As you know, we did not request subclassification but free entry on the species of lumber of which the United States is the principal foreign supplier but, as a practical matter, we recognize that it would be almost impossible for the United Kingdom to meet our request without subclassification.

I plan to remain in Washington constantly in order that I may be in direct touch at all times with these negotiations.

HULL

611.4131/1681 : Telegram

The Secretary of State to the Ambassador in the United Kingdom (Kennedy)

WASHINGTON, July 22, 1938—6 p. m.

379. Your 664, July 21, 7 p. m.⁴² I do not know to what extent the Prime Minister⁴³ has been able to follow the details of our trade

⁴⁰ Not printed; Secretary Hull reported that the British Trade Delegation had made additional offers of concessions on some American industrial products, and that they were still studying American requests on agricultural products and lumber (611.4131/1625a).

⁴¹ Memorandum of July 5, p. 35.

⁴² Not printed; in this telegram Ambassador Kennedy suggested that he be authorized to state to the British Prime Minister the final position of the United States on the trade agreement.

⁴³ Neville Chamberlain.

agreement negotiations; I know, of course, that he has had a large number of other important matters before him and that the demands upon his time have been heavy. I feel that you should see the Prime Minister at once about the present status of the negotiations. I look to you to present the following views to him clearly and firmly but in such a manner as not to cause him to feel that my comments are in any sense critical of him.

We have tried hard to make our position on our various requests for concessions perfectly clear to the British Delegation.

It is important that the Cabinet in reaching its decision be under no misapprehension in regard to our position. We wish to conclude a satisfactory agreement as soon as possible but any agreement which we sign must be a satisfactory one. This means that the British offers should meet substantially our requests as outlined to the British Delegation. We will not give up requests which we regard as fair and essential to conclude an agreement by the end of next week; nor are we prepared to acquiesce in the suspension of the negotiations for a period of weeks until we are certain that the Prime Minister understands the dangers inherent in such a course and the clear fact that the United Kingdom must assume the responsibility for the delay. If a satisfactory agreement cannot be achieved, I feel strongly that our two Governments owe it to their people to determine this as soon as possible and make this unpleasant fact known publicly.

There has already been criticism in this country, and perhaps in the United Kingdom, that the negotiations have been unduly protracted, that the delay has caused uncertainty in business circles and thus has to some extent retarded an upswing in trade and industry. Should there be a suspension of the negotiations for 6 weeks to enable the British Ministers to take their holidays, this criticism would, of course, become intensified.

As I informed you in my No. 366 of July 18, 3 p. m., I plan to remain in Washington as long as necessary to be in direct and active touch with these negotiations.

HULL

611.4131/1681 : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, July 25, 1938—6 p. m.

387. My telegram no. 379 of July 22, 2 [6] p. m., and our telephone conversations of yesterday and today.⁴⁴ When you see the Prime Minister, I hope that you will stress the fact, as I pointed out over

⁴⁴ Memoranda of trans-Atlantic telephone conversations not printed.

the telephone yesterday, that we earnestly desire an agreement that is fair alike to both countries, and our whole policy and purpose has been to achieve such an agreement. This is illustrated by the attitude which we have taken since the efforts to negotiate a trade agreement began. In formulating our original offers we were all impressed with the tremendous importance of these negotiations and the paramount need of making the agreement a real one. Our offers reflected the atmosphere in which they were drawn up. We considered them comprehensive and valuable and fully expected that the British would be impressed with them. However, when the British expressed dissatisfaction with a considerable number of our proposals, we painstakingly reviewed every item in question with the determination to do everything we safely could to meet the British viewpoint. The result was that our negotiators agreed, conditionally upon our requests being substantially met, to recommend certain very material improvements in our already liberal offers.

This disposition on our part to contribute our full share toward a really satisfactory agreement has been, in our opinion at least, in marked contrast to the attitude thus far displayed by the British. Limited improvements here and there have been obtained after much argument and waiting. But as regards our main requests, such as those relating to the important agricultural items on our so-called "must list", we have thus far argued and waited in vain. On none of the important items on that list has there been any improvement since the negotiations were announced, although at the time of that announcement we made it clear that the concessions indicated by the British up to that time, while sufficient for announcement, were not sufficient for an agreement, and that material improvement would have to be made. The British acquiesced in the announcement with the knowledge of, and what we regarded as tacit consent to, the condition above stated.

It is true that their negotiators have indicated that the question of improving their offers has been under consideration and, notwithstanding the obvious desirability of concluding these negotiations as soon as possible, we are not impatient merely because of the delay. We are ready to take as much time as may be necessary to get a really good agreement. What does concern us are certain indications from the British negotiators that only moderate improvements on a few items can be expected. This explains our desire that before the Cabinet commits itself to a position it be fully alive to the need of materially improving the British offers. It is necessary that the Cabinet realize that moderate improvements on a few items are not sufficient to balance the extended concessions which we on our side are prepared to make. It must be evident to the British

that our whole program for international cooperation in the reduction of trade barriers could not survive an obviously one-sided agreement.

As I told you yesterday, I wish you would say to the Prime Minister that we seek this agreement, and we hope that the British seek this agreement, not primarily for the dollars and cents immediately involved, valuable as that is and without in the slightest degree minimizing that side of the trade agreement. We seek it primarily as a powerful initiative to help rectify the present unstable political and economic situation everywhere. In our judgment, no single act would contribute so much to quieting the threats to world political and economic stability, not only in Europe but in other parts of the world, as the announcement that these two great countries have come together with a broad, basic trade arrangement which might well be regarded as a foundation for a restored structure of world order. That is the big objective as we see it, and unless we can get Mr. Chamberlain and the British Government to accept this view and to approach this problem on a broader front, it might well be charged in Germany, Italy, Japan, and other countries that our two countries are utterly incapable of sitting down and making simple, mutually profitable trade arrangements with each other. I have not the slightest doubt that these negotiations are being watched by those countries to see whether we are capable of working out an agreement that is really worth while, and I think that it would greatly harm not only our two countries but also the whole outlook for peace and economic improvement if we, after months of haggling, should turn out a little, narrow, picayunish trade agreement.

We have in this country, and I assume that the British Government faces a similar problem, vested and other interests which for selfish reasons are opposing this effort to conclude a broad and comprehensive trade agreement. We are convinced that this petty, one-sided, selfish attitude is wholly wrong, not only from the broader standpoint, but also because we are certain that a broad comprehensive agreement would actually benefit these interests which seem most to fear it. In the face of this unprecedented opportunity which our two Governments now have to make a real and lasting contribution to world peace and economic stability, it would be tragic indeed if either of our Governments allowed itself to be diverted from this broad objective by selfish, local objections. Should this opportunity be lost, I am convinced that despite all some of us could do to prevent it, it would result in the American people turning this country in the other direction and moving definitely toward political and economic isolation.

I was glad to learn from our telephone conversation today of Stanley's statement to you that the British Government will make its

offers to us at an early date. I was likewise pleased to learn that Stanley has made arrangements to prevent a suspension of the discussions after the British ministers leave London at the end of this week.

HULL

611.4131/1704½

Memorandum of Conversation, by the Chief of the Division of Trade Agreements (Hawkins)

[WASHINGTON,] July 26, 1938.

In response to an indication from Mr. Overton that he would like to discuss the status of the trade-agreement negotiations on a purely informal basis, I had lunch with him today and the various aspects of the matter were gone into rather fully.

Mr. Overton remarked that, while he had put all of our arguments before his principals in London in order that they might have our viewpoint fully in mind in considering their forthcoming offers, he did not anticipate any great improvements in the offers already made. He stated that he felt the British had gone just about the limit and expressed the hope that we would not press them into taking action which would have the result of causing real injury to British interests. He said that an agreement which resulted in injury rather than benefit to them would not be advantageous even from our own standpoint; that an agreement to be useful must be fair and advantageous to both sides and not disadvantageous to either.

I replied that I entirely agreed with the view which he expressed; that we on our side definitely did not want to obtain undue advantages or to have an agreement which proved to be one-sided to the disadvantage of either party. I said, however, that the real question is whether our requests are in fact excessive in view of what we are offering. I said that I had within the last few days looked into the whole situation again and had arrived at the definite conclusion that if the British Government did not substantially meet our outstanding requests and we maintained the offers already indicated, the agreement would be definitely one-sided in favor of the British and would not represent a fair balance of advantage; that if Mr. Overton would examine the situation impartially he could not fail to agree with this. In brief, I subscribed fully to Mr. Overton's view that the agreement must be a fair one and that neither must seek undue advantage; that the reason we feel the British should substantially meet our requests is to prevent just this.

Mr. Overton replied that there is obviously a difference of opinion as to what represents a fair and equitable adjustment. He then went on to say that he thought the British problem was in some respects more difficult than ours. He said the manner in which the British tariff is being built up has a good deal of support throughout England and that any drastic steps to tear down the newly erected tariff rates would meet with a good deal of disfavor. In contrast to this he said that it is part of Secretary Hull's basic policy to bring about a moderation of the excessive tariffs built up by previous administrations and that what we do in the trade agreement merely represents a step in the direction which is considered desirable anyway. I pointed out to Mr. Overton that even if his statement of the Secretary's basic policy is correct, the surest way to defeat everything he is trying to do would be to sign a one-sided agreement. The whole trade-agreements program would not survive the signing of such an agreement with as important a country as Great Britain. This remark brought the discussion to its starting point, namely, to the question as to what constitutes a fair and equitable agreement.

Mr. Overton then stated that it is not to be expected that his Government would fully meet every one of our important requests. I told him that in that case the only suggestion I could make would be that any such deficiency be compensated for by improved offers on other items; that the desideratum offered should represent in general the substantial equivalent of our requests. In the case of some of the items, however, he would realize that it would be very difficult to compensate for failure to grant the concessions which we asked.

Mr. Overton said that the Cabinet is meeting tomorrow on the question of the offer to be made to us, a subcommittee of the Cabinet having prepared a report and recommendations for consideration. He expects that he will be informed of the Cabinet's decision about Thursday. He emphasized that in reaching its decision, the Cabinet will have before it all of the arguments which we have presented to him and which he in turn had transmitted to London. He said again, however, that he did not expect much improvement in the British offers.

In the course of the discussion Mr. Overton referred to the sacrifices which the British are making in consequence of the modification of their preferences in the Colonies and in Canada. In the latter connection, he referred to our request for the abolition of the preference on anthracite coal. He said that this was a particularly difficult question for them in view of the situation of the British coal mining industry. I replied that it was equally difficult from our

standpoint; that in view of the situation of our coal mining industry some kind of arrangement would have to be worked out.

I referred in the course of the conversation to the fact that the British answer⁴⁵ to our proposal on lumber was causing us a good deal of concern and that there seemed to be no solution in sight. I said that it is absolutely essential that some solution of this problem be found. Apparently the British have no solution in mind other than the specific duty which they have already suggested. Mr. Overton did indicate, however, that the specific duty might be considerably lower than the 28 shillings per standard which they had previously mentioned. He mentioned the figure of 21 shillings.

611.4131/1698 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, July 26, 1938—5 p. m.
[Received July 26—2:08 p. m.]

678. Department's 387, July 25, 6 p. m. I saw Oliver Stanley this morning and I have just lunched with the Prime Minister.

I am quite convinced that the Prime Minister is definitely moved by your argument on the broad aspect of the trade agreement and the matter is being taken up at the Cabinet meeting on Wednesday night or Thursday, at which time Stanley will be given authority to close the deal and certain concessions will be made on the subject under dispute.

I am sure there is very little prospect of anything being done on lumber, in line with his memorandum which he says was presented to you personally by Ronald Lindsay, which he feels is an answer that will satisfy you. With reference to tobacco, no concession can be made before 1942 but it may be possible to make some kind of statement that will give us some hope and will prevent other countries from extra planting.

On all the other subjects I think there will be some concessions. Whether they will be satisfactory to you I do not know. I am convinced that Chamberlain will tell the Cabinet he agrees with your policy and they must make a deal if it is humanly possible. I stressed the point that it is not going to do anybody any good to appear to have driven a smart bargain. I therefore think they will honestly make what in their opinion at least are all the concessions they can make. So when it is it [*sic*] should go forward to you the end of the week.

⁴⁵ See memorandum of July 5, p. 35.

I think the talks have done a great deal of good and I think Chamberlain had a discussion with Stanley last night on the whole subject and urged him to do everything possible. Now, what he thinks possible and what we think possible is of course liable to be very different.

Stanley will get formal approval of the Cabinet, if an agreement can be reached, to sign it without calling the Cabinet together. The Prime Minister is leaving this week for Scotland in an out-of-the-way place and does not expect to come back until September unless some international situation comes up. Stanley on the other hand will come back whenever it is necessary.

With your approval I am hoping to go away about Tuesday or Wednesday of next week to join my family in Cannes. I have arranged to be able to fly back in 5 hours if situation arises that makes it necessary for me to be in London.

Chamberlain will make statement in Parliament this afternoon saying in substance the agreement is still being negotiated and that he is hopeful that it will be signed.

Anything else I can do?

KENNEDY

611.4131/1710

The Department of State to the British Embassy

MEMORANDUM

It is stated in the memorandum received from the British Ambassador, dated July 5, 1938, in which reference is made to the personal memorandum handed by Mr. Hawkins to Mr. Overton on June 13 [14], 1938 in regard to tariff specialization, that the United States requests for concessions on specified types of softwood have given rise to the question whether it would be justifiable to differentiate for duty purposes between the species normally imported into the United Kingdom from the United States and the species which are commonly imported from other sources. The American request is, of course, limited to types of lumber of which the United States is the principal foreign supplier for the British market. It should not be inferred from this request, however, that the United States is asking that more favorable tariff treatment be accorded to its softwood lumber than to that imported into the United Kingdom from other countries, namely, the Baltic countries. The United States is seeking to obtain merely the same treatment for its softwood as is accorded to the same type of Canadian softwood, chiefly Douglas fir, in order that it might regain, at least partly, the share of the United Kingdom market for Douglas fir which it lost as a result of the tariff preference on lumber given by

the United Kingdom to Canada. It is presumed that the objective of the American request is clearly understood by the Government of the United Kingdom and that the difficulties involved in this connection do not arise from a misunderstanding of the nature of the American request.

The problem under consideration arises from Empire preference, and its solution extends beyond the scope of merely Anglo-American relations. However, inasmuch as the granting of the American request on lumber is vital to the conclusion of a trade agreement between the United States and the United Kingdom, the United States must urge that the problem be viewed in broad perspective and that technical considerations not be permitted to stand in the way of a solution.

It is understood that, although the American request would not preclude extension by the United Kingdom of the benefits of a concession on American Douglas fir lumber to softwood lumber imported into the United Kingdom from all countries, especially the Baltic countries, the United Kingdom would be opposed to taking such action for reasons involving customs revenue and that Canada would also be opposed to such action since it is not prepared to relinquish entirely the advantages in the United Kingdom market which Canadian Douglas fir has over Baltic softwood as a result of the tariff preference guaranteed to it in respect of lumber. On the other hand, it is claimed that unless the softwood lumber of the Baltic countries as well as of other countries was accorded the same treatment as American Douglas fir, the United Kingdom would be in the position of violating its most-favored-nation obligations. In other words, as has been previously pointed out, the problem is in part one of tariff specialization.

It is not believed, however, that the question should be regarded from the point of view of narrow, technical considerations. Emphasis should be given, rather, to the broader point of view of the Economic Committee of the League of Nations which has pointed out that specialized classifications may in certain cases be in the interest of international traffic, "since they sometimes offer a very valuable means of enabling the products of a given country to obtain reductions of duties or customs facilities which would not be granted if they had to be extended to larger categories of goods". The American proposal in respect of lumber is a case in point. Under this proposal, international trade in lumber would be improved and all countries concerned would benefit. The opportunities for the sale of Canadian lumber in the American market would be increased. American exporters would have an opportunity to regain their fair share of the lumber market of the United Kingdom. The market in the United Kingdom for Baltic lumber would not be seriously affected,

for the effect of the proposal in this regard would be merely to substitute American Douglas fir for some of the Canadian Douglas fir now sold in the United Kingdom. Since most of the Douglas fir now imported into the United Kingdom, being of Canadian origin, is free of duty, there is no reason to believe that the extension of free entry to American Douglas fir would result in an increase of the British demand for Douglas fir at the expense of Baltic softwood.

Moreover, if the United Kingdom should offer, as a part of the plan, a reduction of the duty on the lumber of the Baltic countries, the latter not only would not lose anything, but would benefit from the lower duty and the resulting smaller preference for Douglas fir.

The proposal of the United States in respect of lumber offers possibilities for solving in a large measure existing difficulties, involving not only the United States and the United Kingdom, but other countries as well, which have arisen from an artificial diversion of trade in lumber from its normal, economic channels. It is believed therefore that the proposal, affording an opportunity to establish that trade on a more equitable and more freely competitive basis, is compatible fundamentally with the objective of the most-favored-nation principle.

In view of the above considerations, it is requested that the question regarding the United States request in respect of lumber be reconsidered and that an effort be made to find a solution of the difficulties involved.

[WASHINGTON,] July 27, 1938.

611.4131/1706a : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, July 27, 1938—7 p. m.

395. Following is the text of a memorandum on lumber which I handed to the British Ambassador today.

[Here follows text of memorandum printed *supra*.]

You will recall that our proposal involved retaining the 50 percent reduction in our duty and excise tax on Canadian lumber as provided in the existing trade agreement,⁴⁶ a reduction from 10 percent to 5 percent in the United Kingdom duty on Douglas fir and certain other American softwoods, and free entry on these American softwoods if and when the remainder of our excise tax on Canadian lumber is

⁴⁶ For text of trade agreement between the United States and Canada, signed November 15, 1935, see Department of State Executive Agreement Series No. 91, or 49 Stat. 3960; for correspondence, see *Foreign Relations*, 1935, vol. II, pp. 18 ff.

removed. In connection with this arrangement it was understood that the United Kingdom, in order to meet any objections the Baltic countries might have to the better treatment accorded our species of lumber as compared with theirs, would offer them a reduction on Baltic softwoods from 10 percent to 7½ percent. I told the Ambassador that the foregoing proposal seemed to be the only satisfactory solution of a difficult problem and urged that his Government carefully reconsider it. The Ambassador expressed surprise that I should suggest any measure inconsistent with the most-favored-nation principle. I replied that we are not doing so and called his attention to the fact that the object of what we are proposing is to free lumber from the uneconomic restrictions which have been imposed on it in the United States and the United Kingdom.

Grady⁴⁷ mentioned over the telephone this morning that the United Kingdom authorities are disposed to accept any solution of the problem which is agreeable to the Canadians. The proposal outlined above not only is agreeable to the Canadians but according to our understanding is strongly advocated by them.

HULL

611.4131/1725

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

[WASHINGTON,] July 29, 1938.

The British Ambassador called at my request this afternoon. He said that it gave him a great deal of pleasure to tell me that he had last night received a telegram from his Government stating that the British Cabinet had passed upon the American trade agreement requests at its last meeting on Wednesday⁴⁸ and that the decisions reached by the British Cabinet made him feel very satisfied since they conceded practically everything that the British delegation here had had any hope of obtaining. He said he felt very much "elated", and I inquired whether he thought we would feel equally "elated". The Ambassador said that that of course was a different matter and that he was afraid not. I asked him whether the decision reached by the British Cabinet included the concession for Douglas fir lumber from the United States as requested by this Government. He said that it did not. I remarked that I was sorry to hear that since, as he undoubtedly knew from his conversations with the Secretary of State,

⁴⁷ Henry F. Grady, Chairman of the Committee for Reciprocity Information and Vice Chairman of the U.S. Tariff Commission.

⁴⁸ July 27.

this Government attributed fundamental importance to that item. The Ambassador said that it was a question of principle with his Government and that they felt that specialization in tariff schedules to such an extent as to distinguish between Douglas fir and fir from the Baltic Republics would vitiate the principle of the most-favored-nation treatment and result in a glaring injustice to the Baltic countries with which Great Britain is on the most friendly terms. I said that, as the Ambassador knew, I was not familiar with the negotiations on the trade agreement, nor was I familiar with the technical aspects of these questions, but that it seemed to me very clear that if this Government in the course of negotiations had adopted the attitude of the British Government, it would have been quite impossible for this Government to offer any concessions to Great Britain for its textiles and other manufactures regarded by the British as of great importance and that the result would then have been that many of the concessions of real importance offered to the British would have resulted in competition for British products, which would have destroyed the value of the concessions made. The Ambassador said that he realized this fully after his talk with the Secretary of State a few days ago but that it was a question of how far one could legitimately specialize and repeated that with his Government it was a question of principle.

S[UMNER] W[ELLES]

611.4131/1722

Memorandum of Conversation, by the Secretary of State

[Extract]

[WASHINGTON,] August 1, 1938.

The British Ambassador called on his own request. . . .

The Ambassador then said that he called to discuss generally the trade negotiations between our two Governments, adding that it would hardly be desirable for us to undertake a discussion of details since that had best be left to the experts. He expressed the hope that his Government, after the fullest consideration by the Cabinet last week, had made far-reaching proposals and concessions and that he hoped that we would now cooperate in order to terminate the negotiations at the earliest possible date, without any elaborate differences to be further thrashed out. I replied to the Ambassador that we ourselves were mindful of the importance and the urgency for an early agreement; that to that end it is the policy of my Government at this stage to refrain from insisting on many requests for concessions, which the British Government thus far has not seen

fit to grant, but only to make such further requests as we feel absolutely and unconditionally obliged to make, confining them to as few concrete instances as possible. I went on to emphasize the absolute necessity for reasonable agricultural concessions by the British Government. I stated that we appreciated the spirit in which the British had dealt with our requests up to a certain point, but that we were simply obliged to bring a number of unfulfilled requests further to the attention of his Government, and that we would omit every request at all consistent and possible to omit in the interest of an early agreement.

C[ORDELL] H[HULL]

611.4131/1736a : Telegram

The Secretary of State to the Ambassador in the United Kingdom (Kennedy)

WASHINGTON, August 12, 1938—7 p. m.

444. My No. 395, July 27, 7 p. m. Will you ascertain from Brown and advise us promptly (a) whether the British refusal of our proposal on lumber must definitely be regarded as final, and (b) whether the British Government's position on the legal question of reclassifying Douglas fir has been communicated to or is known to any of the lumber exporting countries having most-favored-nation rights. A solution to this problem is essential to the conclusion of the trade agreement. The more we study the problem the more we are impressed with the fact that there is no satisfactory alternative to our proposal.

HULL

611.4131/1738 : Telegram

The Chargé in the United Kingdom (Johnson) to the Secretary of State

LONDON, August 15, 1938—1 p. m.
[Received August 15—10:30 a. m.]

764. Embassy's 758, August 13, 1 p. m.⁴⁹ This morning Brown told us that the Department's latest proposals on lumber gave him grounds for hope that a solution of this question was possible. If the Scandinavian countries, particularly Sweden could be made to accept the Department's contention that this proposal would increase the exports of their lumber he saw no reason for not agreeing to that proposal. He had not yet taken the matter up with the Scandinavian countries but is planning to sound them out in the near future.

⁴⁹ Not printed.

He stated that Swedes having got wind of the earlier United States proposition outlined in the Department's 395, July 27, 7 p. m., approached him on the question. After some discussion the Swedish Government categorically refused to accept the position taken by the Department. He said that the Finns likewise were aware of the Department's proposal but did not indicate that the matter had been discussed with them. It is assumed from what he said that the Swedish Government, and perhaps the Finnish Government, is aware of the British position on most-favored-nation treatment on imports of soft lumber including Douglas fir.

In view of my telephone conversation yesterday with Hickerson⁵⁰ we did not approach Brown on the basis of the Department's 444, August 12, 7 p. m.

JOHNSON

611.4131/1753

Memorandum of Conversation, by the Secretary of State

[WASHINGTON,] August 19, 1938.

The British Ambassador called at his own request. He said that he came in to urge upon me the great importance of immediate agreement in connection with the British-American trade agreement negotiations, emphasizing his views by citing the delicate and dangerous conditions in Europe and other parts of the world. I replied that having almost worn myself out for more than three and one-half years urging the British Government to enter into a reciprocal trade agreement with this Government, the Ambassador could well imagine my anxiety for the earliest possible conclusion of these negotiations and a mutually desirable agreement. I then said that with all emphasis I must repeat to the Ambassador that we have been conducting these negotiations on the same identical basis that we conducted the 17 agreements heretofore entered into with other governments; that this meant a mutually profitable trading arrangement based on the principle of equality; that I had called in my experts at the outset and strongly insisted that they strive solely for an equally and mutually desirable and profitable trade arrangement; that I have closely observed developments and that my experts are deeply sincere in their present insistence that the proposed agreement is not yet fairly balanced between our two countries. Even then, I said that I instructed them to omit further presentation of 30 or 40 proposed demands for concessions from the British Government and only to

⁵⁰ No record of telephone conversation found in Department files.

present those which they felt absolutely obliged to insist on as a matter of plain justice to this country; that these comprised lumber, rice—or lard in the alternative, tobacco, and hams. I said that we have been negotiating amidst every sort of difficulty and impediment, but that we are steadily going forward with this program, coupled with the broader program I have been announcing in recent speeches⁵¹ since the Buenos Aires Conference; that the withholding of concessions on the four commodities just mentioned would inevitably result in sweeping attacks on the agreement and on the whole policy of reciprocity and peace clear across the country, from the Ohio River to the Pacific Ocean, which area comprises the corn and hog belt and, farther west, the lumber belt; that this Government simply cannot abandon its insistence on some recognition for that vast area in addition to what is offered. When I emphasized the lard proposition, the Ambassador said that there was a terrific controversy in the British Cabinet about reducing the 10% Empire preferential rate to 5%. I replied that that must explain the British indisposition to grant the four final concessions we are asking; that if the great British Cabinet would have a serious controversy about reducing the duty of 10% on lard to 5%, much as free lard would help the British people, I could begin to understand how on some other theory the British Cabinet has been indifferent to our strong claims for concessions on these four commodities mentioned by me. I then said that I must admit my great and growing concern in regard to the failure of the British Government thus far to make a single utterance in support of the broad program of reciprocal trade and peace based on mutually profitable commerce and equality of treatment; that I had been wondering whether there is not a real connection between this lack of support by the British Government, in Europe as well as elsewhere, of the philosophy and the spirit and the letter of this wholesome peace-making program of trade restoration and their apparent indisposition to grant what is to that country the paltry concession on these commodities as requested by this Government. The Ambassador seemed a little surprised and a little at a loss to make any really responsive reply. I reminded him of the British practice relating to clearing agreements, compensation arrangements, quota devices, etc., all based on discrimination rules. Finally, I again emphasized the growing world dangers and the tremendous influence for both peace and economic stability, especially in Europe, which in my judgment, would immediately follow a model trade agreement between our two great nations, and then added that I must make the most earnest possible personal appeal to the British Ambassador to

⁵¹ For radio address of August 16 on international relations and foreign policy of the United States, see Department of State. *Press Releases*, August 20, 1938, p. 117.

go back to his Government and, if he possibly could do so, urge it to grant these four concessions in order that the trade agreement might be brought to an early and immediate conclusion. I elaborated and emphasized this appeal. The Ambassador made no particular objection but went out leaving the impression that he might decide to take this step.

CORDELL HULL

611.4131/1754 : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, August 31, 1938—2 p. m.

490. Your 836, August 30, 10 a. m.⁵² We have given the British a tentative draft of the complete agreement, copies of which have been sent to you in the last pouch. The draft indicates by parentheses in Schedule I the points of disagreement in respect of our requests. From our standpoint, early signature depends primarily on a satisfactory answer to our proposals on a short list of agricultural products and lumber, as indicated in the draft. We may at a later time want you to take up these points with Stanley or his superiors.

HULL

611.4131/1776

*Memorandum of Conversation, by the Assistant Secretary of State
(Sayre)*

[WASHINGTON,] September 9, 1938.

The British Ambassador came in to see me at four o'clock this afternoon. He said that he was not acting under any instructions but merely dropped in to see me upon my return to Washington. After a few pleasant remarks, he asked what my feeling is with regard to the British trade agreement.

I replied that I was very much concerned about it. I said that I felt alarmed at the small amount of progress which has been made during the past month and that I felt much discouraged about the agreement. I went on to say that at such a time, when war was threatening and Germany was pounding at our gates, it seemed to me tragic that we had not been able to reach and sign an agreement. I went on to say that I felt disappointed that apparently the negotiations were descending too much into a horse-trade, and that to think of pounds, shillings and pence, when the whole future of the

⁵² Not printed.

world is at stake, seemed to me lamentable. I went on to say that it seemed to me the time had come when the agreement must be forced through or else we must face failure. I said that I wished I could see some way of lifting the negotiations out of the realm of horse-trading and looking at them instead in the light of the world situation. I said that failure would be the greatest comfort to Germany that she could have.

The Ambassador whole-heartedly agreed with all that I said. I asked the Ambassador whether he could see any practical way for doing this. He was unable to suggest any. I said "What would be the effect if Secretary Hull talked on the telephone to Mr. Chamberlain?" The Ambassador replied: "Oh, don't do that. The Foreign Office never does business that way. I do not think it would do any good."

When the Ambassador inquired why we could not bring the agreement to a state of finality forthwith, I replied that we are forced to be realists about the matter. I said it is not a case of mere desires but of practical possibilities. I said that I might desire a return by the United States to the full Underwood tariff duties⁵³ but that if I seriously proposed such a course of action I would be thrown out of the window. I said that Secretary Hull and the rest of us are sincerely desirous of reducing trade barriers as far as it is practicable to do so, but that no matter what our desires may be, there is a practical line beyond which we cannot step.

I went on to give, as an instance, the case of lumber. I said that in making concessions to the United Kingdom on textiles we knew that we would have New England ranged against us and that unless we could obtain the political support of the Northwest we must face the possibility of all our efforts being overthrown by hostile action in the next Congress. It was for this reason that we considered lumber a *sine qua non* for the agreement. No matter what our desires might be, we could not support our trade agreements program without the lumber concession.

I also spoke about rice and lard. I said that without the support of our agricultural groups we were in danger of being overthrown and that the present agricultural concessions which the United Kingdom has offered are so weak that it is questionable whether we can be assured of their support.

I went on to say that we are not so very far apart. If the British Government can give us the lumber concession and can also do more for us on rice and lard, I personally thought a way could be found to close up the agreement.

⁵³ Tariff Act of 1913; 38 Stat. 114.

I also spoke briefly about the automobile situation. The Ambassador said very decidedly that he believed that Great Britain had gone as far as it possibly could. "We have reached our limit", he said, "and I do not honestly believe my Government will go any further."

I again adverted to lumber. The Ambassador said that the lumber situation was not an economic consideration but rather a matter of conscience in living up to most-favored-nation promises given to the Baltic countries. I said that our men are now at work seeking to find a formula which would satisfy the British conscience and that I hoped with all my heart that they could find one which the British Government would accept. I added again, in rather measured words, that I felt the lumber concession to be a *sine qua non* for the agreement.

The Ambassador said that if the United States Government should say to the British: "Satisfy us on this one concession and we will sign the agreement", the British Government might be induced to do so. But, he added, if the American Government says: "Give us *a, b, and c*", i. e., several concessions, he felt that the reply of the British Government must be "no".

The Ambassador also spoke about the drop in value of the pound sterling, saying that one of the reasons for this was the heavy British imports from the United States. I replied that since he mentioned the matter, I ought to tell him in confidence that the Treasury Department had spoken about the drop in the pound sterling and of its fears that the drop would be increased. I said that some over in the Treasury had suggested that the entire list of concessions should be revised in the light of the pound depreciation. Sir Ronald's reply was that that would be the end of the agreement.

The conversation throughout was exceedingly informal and pleasant. The Ambassador did not disagree with any of the things which I said and reiterated his strong desire to get the agreement signed at the earliest possible moment.

F. B. SAYRE

611.4131/1789

*Memorandum of Conversation, by the Assistant Secretary of State
(Sayre)*

[WASHINGTON,] September 16, 1938.

Participants: The Honorable Sir Ronald Lindsay, Ambassador from
Great Britain;
Mr. Francis B. Sayre;
Mr. Harry C. Hawkins.

The British Ambassador called to see me at his request at twelve o'clock. After a few remarks about the present tense international

situation, the Ambassador asked whether there were any new developments in connection with the trade agreement. I replied that there were no new developments and that we were waiting to get the British reply to the proposal recently given to Mr. Overton with respect to the lumber formula. I made it clear to the Ambassador that until we received the British reply, since their reply constituted so essential a part of their position, it would not be possible for us to bring the British proposals up for consideration to the Cabinet and the President. I stressed the point that much would depend upon the British reply with respect to this very essential problem of lumber.

In commenting upon the lumber formula, I added that our proposal was not satisfactory from our viewpoint and that the only satisfactory solution would be the one first proposed, which depended upon a sub-classification of lumber by species. I said, however, that inasmuch as the British Government declared itself unable to accept the first formula, our effort has been to adjust ourselves to the British position even though by a formula not altogether satisfactory.

I went on to express my concern as to the trade agreement. I said that I did not know how the President and the Cabinet would react to the present British proposals, and I felt worried as to the outcome. I said that Secretary Wallace⁵⁴ felt quite distinctly that there must be an improvement in the British position with regard to agricultural concessions. I said that others also felt concern over some of the other items.

In conclusion, I told the British Ambassador that we would not lose an hour in placing his Government's proposals before the President as soon as we received the British reply on lumber. I asked him if he could give us any indication as to when the British reply might be forthcoming. He said he had no idea,—particularly in view of the tense international situation which confronts London. He also remarked with reference to my comment on the unsatisfactory character of the British concessions, that in formulating any requests for improvements, we should bear in mind that any improvements requiring further consultation with the dominions would be out of the question.

F. B. SAYRE

740.00/480

Memorandum of Conversation, by the Secretary of State

[WASHINGTON,] September 28, 1938.

The British Ambassador came in at my request. He had previously gone to the European Division to deliver a copy of the communication

⁵⁴ Henry Wallace, Secretary of Agriculture.

of Prime Minister Chamberlain to Mr. Hitler and also copy of his communication to Mr. Mussolini.⁵⁵

I first thanked the Ambassador for the courtesy of his Government in acquainting us with the substance of these two communications. I then said I had called him in to say that in the awful event of war, which looked very threatening at that moment, I wanted his Government to know that this Government and nation would have no policy or purpose to displace and supplant existing, established, British trade in various parts of the world; that whatever we might do in the way of securing the trade of numerous other countries I might mention, we would have no purpose to displace British trade by taking advantage of its disadvantages due to the war and Great Britain's participation in it. The Ambassador seemed very much moved by this statement and expressed his deep appreciation.

C[ORDELL] H[ULL]

611.4131/1807a

The Secretary of State to the British Ambassador (Lindsay)

ATLANTIC CITY, N. J., October 5, 1938.

MY DEAR MR. AMBASSADOR: Some time ago our delegation in the trade-agreement negotiations placed before me the latest offers of your Government on all products other than lumber. At my request, our delegation redoubled its efforts to work out proposals dealing with lumber in order that I could consider the picture as a whole and determine whether, in my judgment, a trade agreement between our countries can be reached. The lumber proposals have now been drafted, and the whole situation has been carefully considered. I am thus in a position to state to you my conclusions.

I am sure that you would wish me to be completely frank. I am not prepared to sign an agreement which does not include more comprehensive concessions on the part of your Government. The position taken by your Government regarding Empire commitments seriously limits the possibilities for improving that part of the agreement. Nevertheless, there are several instances, as indicated in the attached memorandum,⁵⁶ in which improvements not involving further Empire consultation should be possible. In my opinion, these improvements are indispensable to us in obtaining popular support for the agreement. I am prepared to sign an agreement which includes the changes suggested in this memorandum.

⁵⁵ See *Documents on British Foreign Policy, 1919-1939*, 3d ser., vol. II, p. 587, docs. Nos. 1158 and 1159.

⁵⁶ Not printed. For summary of concessions requested, see telegram No. 612, October 8, 6 p. m., to the Ambassador in the United Kingdom, p. 60.

You will observe from the memorandum that I have also reviewed Schedule IV and that with a view to making the agreement more attractive to your Government, I am prepared to make a number of additional offers for British goods entering the United States. These improvements are also dealt with in detail in the attached memorandum.

I am [etc.]

CORDELL HULL

611.4131/1807

*Memorandum of Conversation, by the Assistant Secretary of State
(Sayre)*

[WASHINGTON,] October 6, 1938.

Participants: Sir Ronald Lindsay, British Ambassador,
Mr. A. E. Overton,
Mr. Sayre.

The British Ambassador and Mr. Overton came in to see me at my request at 4:30 this afternoon in order to receive our reply to the British proposals in connection with the trade agreement. I handed to the Ambassador the letter from Secretary Hull dated October 5, 1938,⁵⁷ the memorandum explaining the draft trade agreement, and the proposed draft trade agreement.⁵⁸ I wished to avoid discussing with them any specific commodities for I feared that by stressing the importance of some, they might gain the impression that they could safely refuse concessions on others. I therefore suggested that they would want to read the memorandum and draft trade agreement at their leisure. Consequently they did not read these in my office.

I did, however, in a very general way, outline the situation. I said that after learning the British position with respect to lumber, I had discussed the trade agreement with the President and with Secretary Hull. Both of them felt strongly, as I did, that it would be impossible to support the trade agreement unless the British agricultural concessions to us were strengthened. I said that our problem had been to find ways and means of doing this which would not require new consultation with the Dominions and which would not make the proposals impossible of acceptance by the United Kingdom. I went on to say that I thought we had finally found formulas and drafted a proposed agreement which was eminently fair to both sides and which each would find it possible to sign.

The only commodity which I mentioned was tobacco. I said confidentially that Secretary Hull felt very strongly about this commodity

⁵⁷ *Supra.*

⁵⁸ Neither printed.

and felt it unfair, in view of the great volume of Anglo-American trade in tobacco, in view of the fact that it is not produced in the United Kingdom, and in view of the very high preference maintained in the British market, that the British were unwilling to give a substantial concession. I added that Secretary Hull yielded to the formula proposed with great reluctance.

I added that I had spent all of yesterday in Atlantic City with Secretary Hull going over the trade agreement items and, with him, putting our memorandum into final shape.

I said that my Government had receded on a number of important points so as to make agreement possible. Further than this, because it is necessary to have a strengthened list of agricultural concessions and in order to make agreement possible, my Government had proposed granting new concessions to the United Kingdom in a number of important items, including wool fabrics and wool hosiery.

I also handed to the Ambassador the letter dated October 5 [6], 1938, signed by Secretary Hull, concerning the preference on coal entering Canada.⁵⁹

The Ambassador, glancing cursorily at the coal letter and at several pages in the memorandum, seemed very grave and worried. Nothing further was said.

F. B. SAYRE

611.4131/1805 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, October 7, 1938—7 p. m.

[Received October 7—4: 15 p. m.]

1141. I have had two unofficial talks with Oliver Stanley—last night and today—and, of course, the trade agreement was the subject most discussed. I have no doubt whatever that Stanley is definitely against the trade agreement as is all of the British Cabinet with the exception of Chamberlain.

The last demands which have just arrived, Stanley believes are just the last drop in the bucket. He feels that he has got concessions from practically everybody in order to make this deal and he feels that not only will Parliament regard it as a complete sell out but he believes that it will accentuate the already bad balance of trade existing between the United States and Great Britain.

To add to the difficulties J. M. Keynes, the economist, in a letter to the *Times* today pointing out the bad trade balances, says that it is

⁵⁹ *Post*, p. 174.

becoming more and more apparent that England should only buy where they can sell and that barter doubtless must be considered strongly by the Government.

Against all of this we have Chamberlain but with the growing feeling against the agreement I think we need to move reasonably quickly. Stanley and his group will want to turn down all of your last demands. If you can give me some inside advice as to what you will take to settle I will go to work on it. I cannot find out yet whether Keynes' letter is a plant and whether it is the beginning of propaganda against the agreement, but I think we must be very alert here. Have you any suggestions?

KENNEDY

611.4131/1805 : Telegram

The Acting Secretary of State to the Ambassador in the United Kingdom (Kennedy)

WASHINGTON, October 8, 1938—6 p. m.

612. Your 1141, October 7, 7 p. m. Late Thursday afternoon⁶⁰ the following letter from the Secretary was handed to the British Ambassador:

[Here follows text of letter dated October 5, printed on page 57.]

Enclosed with that letter was a complete draft trade agreement, with a memorandum 36 pages in length⁶¹ commenting in detail on the points in the agreement still in dispute.

We offered in this draft agreement additional concessions to the United Kingdom on a number of important products, including wool fabrics and unbleached cotton cloth. Some of the American products for which improvements are requested are as follows: (1) Lard—free entry; (2) tobacco—reduction of marginal preference by one shilling in 1942 subject to approval of the British Cabinet and Parliament; (3) lumber—detailed proposals which had already been accepted in principle by the British and Canadian Governments; (4) plywood—reduction to 5 percent on plywood faced with soft wood; (5) corn—rebinding free entry (the British Delegation had indicated to us informally that this request would cause no difficulty); (6) wheat flour—bind present duty with commitment on part of U. K. to agree to give sympathetic consideration to any improvement in treatment which Australia may later agree to (the full marginal preference is bound to Australia); (7) electric motors weighing 80 pounds or less each—reduction to 15 percent; (8) 4-bank portable typewriters—reduction corresponding to offer on 3-bank machines; (9) motor cars—

⁶⁰ October 6.

⁶¹ Neither printed.

binding of existing duty on cars 20 horsepower or more (the British offer had been to bind cars of 25 horsepower or more, but this would leave out a substantial part of the American trade.

Copies of the above-mentioned documents are being sent to you by mail. Full information is given in the memorandum. We believe it best to await the British reply to our proposals without any further approach to them at this time. After you receive the papers which are en route to you we may desire to request you to take up at a later date certain points with Stanley or the Prime Minister.

WELLES

611.4131/1843

Memorandum of Conversation, by the Chief of the Division of Trade Agreements (Hawkins)

[WASHINGTON,] October 8, 1938.

Participants: The Honorable Sir Ronald Lindsay, British Ambassador;
Mr. A. E. Overton, British Trade Delegation;
Sir Owen Chalkley, Commercial Counselor of Embassy;
Mr. Harry C. Hawkins.

At the invitation of the British Ambassador, Mr. Sayre accompanied by Mr. Hawkins called at the Embassy this afternoon. Messrs. Overton and Chalkley were with the Ambassador.

The Ambassador referred to our latest communications regarding the trade agreement, which, he said, were being given careful study here and in London. He stated that a summary of the main points in our memorandum of October 6, and the text of the Secretary's letter of that date,^{61a} had been transmitted to London by telegraph and that the authorities in London had discussed these matters with the Ambassador by telephone.

Sir Ronald said that he first wanted to inquire whether our latest requests were to be regarded as in the nature of an ultimatum; whether we really intended to insist upon the granting of 100 percent of the concessions indicated, or to what extent they might be subject to some modification. Mr. Sayre replied that there was no such thing as an ultimatum between friends; but that, as the Secretary had stated in his letter, the concessions requested were, after most careful consideration, regarded as indispensable if we are to obtain public support for the agreement in this country.

^{61a} Letter of October 5, p. 57.

The Ambassador asked whether there could be any change in the wording of any formula. Mr. Sayre replied that it is the substance of our requests which is indispensable. The Ambassador indicated that the British probably would want to make some change in our formula on tobacco, but did not indicate the nature of the change.

The Ambassador then inquired whether it would not be sufficient if the British met our requests on tobacco, lard and lumber. Mr. Sayre replied in the negative, pointing out that other products were involved as stated in our memorandum of October 6. In reply to a specific question by the Ambassador whether our request on flour is really an important desideratum, Mr. Sayre replied in the affirmative. At this point, Mr. Overton remarked that the granting of our request for a binding of the duty on flour would seem to have been rendered impossible because of our subsidy on flour exports; that it would hardly be possible to bind a duty against increase at the time when a subsidy is being paid and under the terms of the agreement a countervailing duty might be imposed. It was pointed out to him that it does not seem to follow that the ordinary customs duty should not be bound merely because a special duty imposed to meet a special condition is provided for in the agreement.

The Ambassador indicated that he expected to have instructions as to the reply to be given to our proposals before the end of next week. He said that he feared that this reply would be unfavorable, in which case it might be desirable for him and Overton to go to London and see what they could do to persuade the British Government to meet our requests. He asked whether in such a contingency we thought this would be desirable. Mr. Sayre replied that we did not now have any opinion on this point, and that, in any event, it seems unnecessary to attempt to reach a decision until the contingency referred to by the Ambassador arises. Mr. Sayre expressed the hope that the British reply would be favorable, and that the contingency would not arise.

611.4131/1844

Memorandum of Conversation, by the Chief of the Division of Trade Agreements (Hawkins)

[WASHINGTON,] October 11, 1938.

Participants: The Honorable Sir Ronald Lindsay, British Ambassador;
Mr. A. E. Overton, British Trade Delegation;
Mr. Francis B. Sayre; and
Mr. Harry C. Hawkins.

The Ambassador said that he was apprehensive lest the decision of his Government regarding our list of requests for concessions in

the trade agreement should be unfavorable. In particular he was concerned with the formula on tobacco. He said that this formula in fact imposed a definite obligation on his Government to reduce the preference by one shilling in 1942; in other words, that there is in fact no material distinction between the moral commitment which we seek and the outright legal commitment of a future government. He also said that it would make it easier to accept the formula if we did not specify the amount by which the preference is to be reduced. Mr. Sayre replied that the problem was to go as far as possible in creating a presumption that the preference would be reduced in 1942 without actually imposing a legal commitment on a future government. He said that the proposed formula meets these requirements. However, we would be glad to consider any formula which accomplished the same object equally well. In regard to specifying the amount of the reduction, he said that this is a necessary element in the formula in that the amount specified could not be less than one shilling.

The Ambassador also made the point that some question exists as to how the British Government should be described. The reference to the Cabinet creates some difficulty because the Cabinet has no exact legal status.

Mr. Overton interjected the comment that the reason they were trying to find some way of making our proposals more acceptable is that the attitude in London toward our proposals, as indicated by advices they have received, is very discouraging indeed.

The Ambassador then outlined his conception of the time table as nearly as he can construct it on the basis of the information he has on hand. He said that a subcommittee of the Cabinet is to meet to consider our proposal tomorrow (October 12), and presumably formulate its recommendations. Our long memorandum and the draft agreement will arrive in London about the end of this week and will be distributed to the various ministries concerned where it will be carefully analyzed in preparation for the discussion of the subject in the meeting of the full Cabinet which will take place the following Wednesday (October 19). On this basis, we might expect the definitive reply of the British Government by the end of next week (October 22). The Ambassador emphasized that this was the very earliest date on which a reply can be expected unless, he said, the subcommittee of the Cabinet "goes off the deep end" and sends instructions to the delegation here without going to the full Cabinet.

The Ambassador then raised the question whether it would not be possible to go ahead and discuss the considerable number of technical details that have to be straightened out. He said he did not understand why we were unwilling to do so. It was explained to him that the reason was merely that the two delegations were so far

apart on a number of important questions of substance that it hardly seemed worthwhile to be discussing technical details until the important questions of substance were settled. However, the Ambassador was informed that there was no compelling reason for not going ahead and clearing up technical details, and that if he so desired, we would be glad to go forward with this work. Whereupon, Mr. Overton said that they would give us a memorandum by about the end of this week indicating where their views on the technical points differed from the position taken by us in the draft recently submitted to them.

611.4131/1845

*Memorandum of Conversation, by the Assistant Chief of the
Division of European Affairs (Hickerson)*

[WASHINGTON,] October 18, 1938.

Mr. Overton of the British Trade Delegation came in to see Mr. Sayre by appointment at 3:30 this afternoon. He stated that he had, since his and the Ambassador's last conversation with Mr. Sayre, been trying to work out a tobacco formula which would be acceptable to both Governments. He stated that our present proposal constitutes a "moral commitment" which his Government will probably feel that it is unable to give in view of all the circumstances surrounding the tobacco preference. He stated that the attached tentative formula had been approved by the permanent officials of the interested governmental departments in London, but had not been passed upon by the Cabinet. He thereupon handed Mr. Sayre and Mr. Hickerson copies of the attached formula, and stated that he would be glad to have comment upon it.

After reading the formula Mr. Sayre stated that, as he had previously informed the Ambassador, we do not rule out changes in language in our draft formula so long as its substance is covered. He stated, however, that the present British draft falls considerably short of meeting the substance of our proposal. He went on to say that he could, of course, give only a preliminary reaction to this draft, but that it appeared to him that there was little hope that the Secretary and the President would consider it acceptable. He added that he hoped very much that on reconsideration the British Government would find it possible to accept the substance of our draft. He stated that he would, of course, if the British desired, place a British counter-draft before the Secretary and the President along with the British replies to our other proposals regarding the trade agreement, but that he would be less than frank if he did not point out that he felt that

the President and the Secretary would feel strongly that any proposal, to be acceptable to them, must cover the substance of our own proposal which is now before the British Government.

[Annex]

Tentative Tobacco Formula, October 17, 1938

In the course of the discussions leading to the Agreement signed this day, the United States Government have asked for a reduction in the preference accorded in the United Kingdom to Empire tobacco. The Government of the United Kingdom have recognised that this request is one to which the United States Government have attached much importance but they have been prevented from entertaining it by the existence of Agreements with several Governments within the British Empire which guarantee continuance of the present margin of preference until August, 1942.

The two Governments note that the increase in the importation into the United Kingdom of Empire tobacco in recent years has not led to a diminution in the importation of United States tobacco and the Government of the United Kingdom undertake that, if there is a material change in this position during the currency of this Agreement, they will be prepared before decisions are taken as to the level of the preference after August, 1942, to examine afresh the possibility of making some reduction in the margin of preference.

611.4131/1828 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, October 18, 1938—8 p. m.
[Received October 18—4:13 p. m.]

1206. Personal for the Secretary of State. I spent an hour with Stanley this morning discussing the trade agreement. It goes before the Cabinet early tomorrow morning. There is no question in my mind that while Stanley hopes an agreement can be worked out, he has made it very clear to his colleagues in the Cabinet that to grant any further concessions would make this agreement a farce as far as Great Britain is concerned. I arrived there today to give him an argument on the points that he had raised with your memorandum as a helpful factor but found to my amazement that your entire memorandum was contained in the document handed to the British, so there was little I could do since I had nothing new to contribute. It

strikes me that the tone of the last document you handed the British was definitely in the nature of an ultimatum and the British so regard it. Far be it from me to make any suggestions as to how those handling the trade agreement should avail themselves of the Ambassador's services, but it does seem to me that if they really want a trade agreement it might be well to have the man on the spot find out just how much further we could go without kicking the thing over.

I am getting through to the Prime Minister tonight to see what can be done with him before the Cabinet meets tomorrow morning. The influence of the Foreign Office is now definitely against the agreement I believe and I also think Halifax is convinced. Their entire argument they say is not political but that it is going to be a very bad agreement the way it is at present lined up and make worse the deplorable condition Great Britain finds itself in as far as trade is concerned.

I am confident that even if we can get something done when the Prime Minister gets back tonight you will not get everything asked for. As I have said to you over the telephone I am not in a position to judge the value of the agreement or the terms of it. I merely know what some people are likely to do in a game of cards when they are called. I am assuming naturally that you want to get this deal through if it is at all possible and my efforts are being directed to prevent a return ultimatum being sent back to you tomorrow.

KENNEDY

611.4131/1828: Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, October 18, 1938—midnight.

635. Your 1206, October 18, 8 p. m. I am glad to have your telegram regarding the situation with respect to the trade agreement. I cannot, of course, agree that the granting of our requests would make the agreement a farce from the British standpoint. On the contrary I feel that they are fair and reasonable. With this in mind I cabled you the information on the various points at issue in the hope that it would assist you in any discussions you might have with British officials. The arguments sent to you were obviously basically the same as those which we have used in our discussions with the British delegation here. I appreciate your interest in and efforts on behalf of the trade agreement and feel confident that you have impressed our viewpoint on the British authorities.

HULL

611.4131/1855

Memorandum of Conversation, by the Secretary of State

[WASHINGTON,] October 25, 1938.

The British Ambassador, accompanied by his trade expert, Mr. Overton, came in and handed to me the British reply⁶² on our recent last trade proposals. (These papers are somewhat lengthy and will be placed in the files.)

The Ambassador, without in precise language saying so, undertook to make me believe that this was at least virtually the last word on the part of his Government. He indicated that they were granting our requests in two instances. I did not pursue the details further but said that I was deeply disappointed.

I then said that, without in any sense being critical, I did feel that although we entered upon our negotiations with the British more cordially perhaps than in any other instance, we had experienced four times the difficulty in the negotiations than we had had in negotiating the other eighteen trade agreements. Mr. Overton said they too had had unusual difficulties. I replied that of course Empire Preference was a chief complication. Both of them agreed, and then the Ambassador said, very emphatically, that I must be prepared to see Empire Preference maintained in all the future. I replied that if the Empire and especially Great Britain could stand it, the United States could well stand it; that if they desired to pursue a seclusionist policy which would obstruct and reduce the sum total of world trade, thereby from year to year causing Great Britain increasingly to experience the enormous drawbacks and incalculable injuries of such course, that was up to the British Empire. I said that naturally we are opposed to any customs union of such destructive nature; that Germany, in the course of her policy of autarchy, is reported to be planning a customs union for herself and the Baltic and Danubian countries; that this is correspondingly destructive of the sum total of world trade; that, in my judgment, the difference between a course of autarchy in the world by the important nations and a course of liberal commercial policy and trade restoration is the difference between 12 to 15 million unemployed wage earners and their families and their permanent employment; that Britain and America would contribute their share to such unemployment and to a like extent increase their relief rolls permanently. I then added I would give almost any price to see a suitable trade agreement between our two countries—something I had often said—founded upon the idea that they both would then go forward in active and earnest support everywhere of a liberal commercial policy.

I repeatedly expressed my great disappointment at the attitude of the British Government towards our requests for concessions and

⁶² *Infra.*

added that I could not possibly understand their viewpoint; that most of our concessions would cause opposition to this Government on the theory that they created some sort of competition to American industry, while most of the British concessions were more or less non-competitive, and hence no political elements were materially involved. The Ambassador had little comment in reply. He, of course, is personally in harmony with liberal commercial policy.

After again expressing my strong disappointment, I said we would look over the British reports even though we could not possibly understand the viewpoint of the British Government as indicated by its reply; that we have had many rumors and reports to the effect the British Government really does not desire a trade agreement, and, of course, if it does not desire an agreement that explains all of our difficulties in attempting to carry on these negotiations; that if the British Government does not really desire an agreement it, of course, has a right to take that position. The Ambassador and Mr. Overton were quick to insist their Government did desire an agreement. The Ambassador took occasion to remark that he had devoted two years of work to this trade program, and I, referring to our difficulties with London, replied that it was a pity the Ambassador could not be two high officials at the same time. I said that if he could have been both here and in London in charge, our trade agreement would have been completed long since and the people of the two countries would ere this time have erected a monument in his honor. I then said that, of course, our only desire was to have an agreement we could to a fair extent defend in this country, and, much as we desired an agreement, we would not make any progress with our program of liberal commercial policy if in such desire we accepted proposals we could not defend successfully.

C[ORDELL] H[ULL]

611.4131/1850

The British Ambassador (Lindsay) to the Secretary of State

WASHINGTON, October 25, 1938.

DEAR MR. SECRETARY: Immediately on receiving your letter of the 6th [5th] October and the accompanying documents I referred them to my Government, and I am now instructed to forward to you the attached memorandum⁶³ setting out their decisions on the major points outstanding. It is for your Government to decide on this final offer as a whole.

I would particularly draw your attention to the fact that I am now authorised to offer free entry for lard, provided that this is the one

⁶³ Not printed.

outstanding concession which would enable your Government to conclude the proposed Agreement.

I venture to point out that, including the concessions now proposed, we have offered reductions amounting to $33\frac{1}{3}\%$ or more of the duties on the great bulk of the agricultural requests in the United States "essential" list and we are offering free entry in four cases (wheat, canned grapefruit, lard, and grapefruit and orange juices), the first three of which the United States regard as of outstanding importance. In fact the only items in this category on which we have been unable to meet requests for reductions of duty are dried prunes, apricots and raisins, and canned peaches, pears and apricots; on these we have offered consolidation of the existing duties together with an assurance of sympathetic consideration for any reductions which the United States Government may subsequently agree with the Dominions concerned.

In addition we have agreed to a large increase for three years in the United States quota for hams, and to maintain hams, cotton and maize on the free list.

On lumber, we are ready to meet in principle the latest United States requests in spite of the serious sacrifice of revenue and of the great administrative difficulties involved. We have gone as far as is possible on tobacco, and on doors and patent leather (the only remaining items on the "essential" list) we have made offers which substantially meet the requests made.

As regards the agreement as a whole, my Government were of course fully aware when they decided to enter on negotiations of the limitations on the power of the United States Government to reduce duties, but nevertheless when the time comes to defend the agreement in Parliament and in the country it will not be easy to explain why over the whole field of the agreement the United Kingdom reduced rates of duty are mostly down to 10 or 15 per cent. ad valorem, while the United States rates on many of the more important exports of the United Kingdom remain at 30 or 40 per cent. or more. The explanations will not be made easier by the state of the trade balance between the two countries.

Yours sincerely,

R. C. LINDSAY

611.4131/1855a : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, November 3, 1938—5 p. m.

675. Personal for the Ambassador. After careful consideration, I have decided, with the President's approval, to accept the pending

British offers (slightly modified in several respects) and to proceed forthwith to the signature of a trade agreement. We should, of course, like to have some further concessions from the British, but I have reached the conclusion that the present offers represent the ultimate limit to which the British are prepared to go without reopening our proposed concessions to the United Kingdom and without protracted delay. In reaching this decision, I have been influenced by your excellent telegraphic reports, particularly your comments about opposition to the agreement within the British Cabinet. Your reports and assistance have been of great value and I am deeply grateful to you.

The British Ambassador will be told of our decision tomorrow. In the meantime, our delegation is endeavoring to clear up with the British delegation by tonight outstanding differences in regard to details and technical questions. The mechanical task of preparing the agreement for signature is an enormous one, but we shall tell the British delegation that we hope that it will be possible for the agreement to be signed November 11 and to be made public November 14. Naturally all of this must be kept absolutely confidential.

HULL

611.4131/1855b: Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, November 3, 1938—10 p. m.

679. I have given careful consideration to the matters mentioned in our conversation tonight.⁶⁴ I have reached the conclusion that we have obtained from the British about all that can be obtained without further concessions in our tariff. I am not prepared to make such concessions. We have had various indications from the British delegation here that they are dissatisfied with our concessions, and yesterday a specific request for improvement was made on an important item. This request was immediately rejected. While it might be possible to obtain some improvements in the British concessions, I am certain that this would result in increased demands on us, and such additional concessions as might be obtained from the British would not warrant subjecting American industries to the risk of additional concessions on our side.

A further consideration is the growing dissatisfaction in business circles here over the delay and uncertainty in connection with these negotiations, which it is claimed is seriously detrimental to business.

⁶⁴ No record of this trans-Atlantic telephone conversation found in Department files.

Only today the press carries an open letter in this sense from the American Tariff League.

Moreover, I have been impressed by the comments in certain of your telegrams to the effect that there is a growing doubt in British official circles as to the desirability of this agreement. Even Stanley's statement yesterday⁶⁵ was not wholly reassuring.

In these circumstances I do not feel that such improvements in the British offers as might conceivably be obtained would warrant the delay and inevitable risk to these negotiations.

At the same time I appreciate the spirit which prompted your message and again thank you for your helpfulness and cooperation.

HULL

[For text of Reciprocal Trade Agreement between the United States and the United Kingdom signed at Washington November 17, 1938, and exchange of notes published with the agreement, see Department of State Executive Agreement Series No. 164, or 54 Stat. 1897. The following notes and minutes were not published.]

611.4131/1887½

The British Ambassador (Lindsay) to the Secretary of State

WASHINGTON, November 17, 1938.

YOUR EXCELLENCY: I have the honour to inform you, with reference to Article II of the Trade Agreement signed this day, that His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, will not, by reason of the said Article II alone, claim treatment of the kind therein provided for on the importation into the United States of America of coal, coke manufactured therefrom, or coal or coke briquettes, the produce or manufacture of any territory to which the Agreement applies on the part of His Majesty, so long as and in so far as existing law of the United States of America may prevent such treatment from being accorded to such products.

I have the honour [etc.]

R. C. LINDSAY

611.4131/1887½

The Secretary of State to the British Ambassador (Lindsay)

WASHINGTON, November 17, 1938.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of today's date in which you state, with reference to Article II

⁶⁵ Oliver Stanley in the House of Commons on November 1 had stated that he would welcome a new Anglo-American treaty but he also expressed some fears as to what its final form might be.

of the Trade Agreement signed this day, that His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, will not, by reason of the said Article II alone, claim treatment of the kind therein provided for on the importation into the United States of America of coal, coke manufactured therefrom, or coal or coke briquettes, the produce or manufacture of any territory to which the Agreement applies on the part of His Majesty, so long as and in so far as existing law of the United States of America may prevent such treatment from being accorded to such products.

I am pleased to have received Your Excellency's statement in the above sense.

Accept [etc.]

CORDELL HULL

611.4131/1887½

*Minutes of the Final Meeting of the Delegations of the
United States of America and the United Kingdom*

[WASHINGTON,] November 17, 1938.

With a view to recording the understanding which the Delegations of the United States of America and the United Kingdom reached with respect to certain provisions of the Trade Agreement signed today, the Minutes of the Final Meeting of the two Delegations have been drawn up as follows:

1. It was agreed that the mention of the provisions of the Trade Agreement relating to most-favored-nation treatment in the second sentence of Article I thereof is intended to refer to those Articles of the Agreement providing for most-favored-nation treatment as qualified by reservations included in other Articles of the Agreement.

2. It was agreed that the provisions of Article VIII of the Trade Agreement are understood to be subject, on the part of the United States of America, to the existing or future constitutional limitations on the authority of the Federal Government.

3. The United Kingdom Delegation assured the United States Delegation that no use would be made of the right to impose additional duties to countervail export bounties or subsidies, reserved in paragraph 2 of Article IX and paragraph 2 of Article X of the Trade Agreement, for the purpose of according preferences to any Empire country.

4. With reference to the second sentence of Article XII of the Trade Agreement, the United States Delegation furnished the United Kingdom Delegation with the following list of special duties which are required by existing laws of the United States of America to be imposed on imported goods under certain circumstances:

Additional duties on articles imported under an agreement in restraint of trade, levied under Section 802 of the Revenue Act of 1916⁶⁶ (U. S. Code, title 15, section 73) ;

Antidumping duties levied under the Antidumping Act of 1921 ;⁶⁷

Countervailing duties levied under Section 303 of the Tariff Act of 1930,⁶⁸ as amended ;

Additional duties for failure to mark imported articles or their containers to indicate the country of their origin, levied under Section 304 of the Tariff Act of 1930, as amended ;

Additional duties for undervaluation levied under Section 489 of the Tariff Act of 1930, as amended ;

Additional duties for false declaration of antiquity levied under Section 489 of the Tariff Act of 1930, as amended ;

Additional duties on unusual containers levied under Section 504 of the Tariff Act of 1930, as amended.

It was explained that this list was believed to include all of the principal charges not included within the meaning of the term "ordinary customs duties", to which articles enumerated and described in Schedule IV might be subject under the second sentence of Article XII, other than compensating taxes levied under the internal revenue laws of the United States of America.

5. It was agreed that, while the two High Contracting Parties reserved their freedom of action with respect to the matters mentioned in subparagraphs (a) and (b) of paragraph 1 of Article XVI of the Trade Agreement, it was understood that there would be no arbitrary discrimination under like circumstances and conditions by either High Contracting Party against articles originating in the territories of the other in favor of the like articles originating in any other foreign country.

6. It was agreed that the reservation in subparagraph (b) of paragraph 2 of Article XVI of the Trade Agreement regarding prohibitions and restrictions relating to the enforcement of police or revenue laws is understood to include, among other matters, measures relating to the enforcement of laws dealing with the infringement of patents, trade marks or copyright, or dealing with deceptive labelling or labelling to indicate ingredients, or dealing with counterfeit currency or coins.

7. It was agreed that the reservation in subparagraph (c) of paragraph 1 of Article XVI of the Trade Agreement regarding prohibitions or restrictions imposed by either High Contracting Party in pursuance of international agreements in force on the day of the signature of the Agreement is intended to refer only to measures adopted pursuant to obligations under the International Rubber

⁶⁶ 39 Stat. 756, 799.

⁶⁷ 42 Stat. 11.

⁶⁸ 46 Stat. 590, 687.

Regulation Agreement⁶⁹ and under the International Tea Agreement.

8. The United Kingdom Delegation assured the United States Delegation that they could see no prospect of the application to articles the growth, produce or manufacture of the United States of America specified in Schedule II of the Trade Agreement, of the provisions of subsection (8) of Section 10 of the Newfoundland Revenue Act of 1935 or of subsection (4) of Section 109 of the Newfoundland Customs and Excise Act of 1938.

9. It was agreed that it is intended that the reduction of the duty on patent leather for which provision is made in Schedule I of the Trade Agreement will be effected by amendment of the Section 6 of the Finance Act, 1934, by substituting 7½ percent for 15 percent of the value of the goods. The other provisions of the said section will remain unchanged, including those in the proviso to subsection (1). It is not the intention of the Government of the United Kingdom to alter the existing interpretation of "patent leather" adopted in administering the duty.

10. With reference to the note in Schedule I regarding the quota for hams, the United Kingdom Delegation informed the United States Delegation that the Danish and Polish Governments have agreed to waive their rights in order to make possible the separate quota for hams only on condition that, after the establishment of the United States quota of 500,000 cwts., that quota shall not be increased in any four-monthly period by more than 7½ percent above the quota in the same period of the preceding year.

11. The United Kingdom Delegation assured the United States Delegation that sympathetic consideration would be given, without compensation being requested, to such reductions in the existing import duties in the United Kingdom on dried prunes, dried raisins, canned apricots, canned peaches and canned pears as the Commonwealth of Australia and the Union of South Africa might be ready to accept as the result of discussions between the United States of America and those members of the British Commonwealth. It was understood that, although this assurance need not be treated as confidential, it would not be made generally public.

12. The United Kingdom Delegation assured the United States Delegation that the Government of the United Kingdom has no present intention of altering the existing ratio between the preferential and general rates of duty on silk stockings to the disadvantage of United States exporters.

13. The United States Delegation assured the United Kingdom Delegation that in the event of any reduction in the duty of 50 cents

⁶⁹ Signed at London, May 7, 1934; for text, see League of Nations Treaty Series, vol. CXCVI, p. 437.

per gallon on ale, porter, stout or beer, resulting from a Trade Agreement between the United States of America and another country, such reduction would not be confined to any one of the products in question but would be extended to all of them. It was understood that, although this assurance need not be treated as confidential, it would not be made generally public.

14. In response to repeated representations, the United States Delegation assured the United Kingdom Delegation that, in the event of amendments to the provisions of Section 602½ of the Revenue Act of 1934,⁷⁰ as amended, (imposing processing taxes on certain vegetable oils) being considered, the interest of the British colonies in the American market for vegetable oils will be borne in mind in formulating recommendations to the Congress.

15. The United States Delegation informed the United Kingdom Delegation that they would have no objection to the publication of the following as a statement made during the course of the negotiations of the Trade Agreement:

“With reference to certain questions regarding the policy of the United States Government in relation to exports of wheat and flour which have been raised during the course of the negotiation of the Trade Agreement between the United States of America and the United Kingdom, signed this day, under which provision is made for the entry free of duty of wheat imported into the United Kingdom from the United States, the United States Delegation made the following statement:

“The policy of the United States Government in relation to exports of wheat and flour has been determined by the existing world wheat situation and influenced by governmental policies elsewhere affecting the production, export and import of wheat. It is recognized that the restoration of equal treatment for United States wheat on importation into the United Kingdom is an important step towards the reestablishment of more normal trading conditions in the world wheat market. At the same time the United States Government through its wheat acreage adjustment program, which is intended to reduce the area of 81 million acres sown to wheat for harvest in 1938 to 55 million acres in 1939, is undertaking, independently, a significant and constructive contribution towards the solution of the world wheat problem.

“The United States Government has long held the view that the only sound way in which to find a solution of the problem of excess world wheat supplies is through international collaboration involving both wheat importing and wheat exporting countries. In view of its program of acreage reduction combined with assistance to producers and in the absence of any international arrangement for dealing effectively with the problem of adjusting world export supplies to world import requirements, the United States Government has had to proceed independently with measures to assure that too burdensome a surplus will not be ac-

⁷⁰ 48 Stat. 680, 763.

cumulated in the United States. This has necessitated a measure of governmental action in the export of wheat and compensatory assistance to exporters of flour. This policy is not designed to secure for United States wheat and flour a larger share of world import requirements than they enjoyed in previous years of normal wheat production in this country. Wheat is being marketed abroad through the regular trade channels in response to the demands of the market. The scheme of assistance to exporters of flour is not intended to do more than compensate exporters for such prejudice as they might suffer from any differences between the prices of wheat within the United States and in export markets resulting from the scheme of assistance to exporters of wheat.

“While in view of rapid changes in the policies of other wheat exporting countries it is not possible for the United States Government to give definite assurances as to future policy in relation to exports of wheat and flour, it is confidently expected that this policy taken together with the program of acreage adjustment already referred to will work in the direction of higher rather than lower prices in world markets.”

16. The representatives of the Department of State on the United States Delegation assured the United Kingdom Delegation that the Department of State would give sympathetic consideration to a British request that a recommendation be made to the Congress that the provisions of Section 309 of the Tariff Act of 1930 be amended to provide, on a basis of reciprocity, for an exemption from or drawback of customs duties and internal taxes for equipment of vessels engaged in foreign trade. They stated that they were in a position to make a similar statement on behalf of certain other government departments, but that it had not been possible as yet to secure a statement of the views of all of the Executive departments concerned.

17. It was agreed that the authorized officers of the British Embassy in Washington and of the American Embassy in London should be given reasonable facilities by the competent authorities to discuss with the officers of the appropriate Departments of the Government of the United States of America and the Government of the United Kingdom, respectively, matters arising from the application of the Trade Agreement or from the administration of laws and regulations affecting commerce between the countries concerned.

18. It was agreed that, while the texts of these minutes would not be published as such, there would be no objection to making the substance of them generally public, subject, however, to the restriction imposed with reference to paragraphs 11 and 13 by the last sentences of those paragraphs.

HARRY C. HAWKINS

Chief, Division of Trade Agreements,

Department of State, United States of America

A. E. OVERTON

Joint Second Secretary to H. M. Board of Trade

CONFLICTING AMERICAN AND BRITISH CLAIMS TO VARIOUS ISLANDS
IN THE PACIFIC OCEAN; ⁷¹ QUESTION OF USE FOR TRANS-PACIFIC
AVIATION

811.0141 Phoenix Group/31½

*Memorandum of Conversation, by the Chief of the Division of
European Affairs (Moffat)*

[WASHINGTON,] February 16, 1938.

Participants: The President,
Judge Moore,⁷²
Dr. Gruening,⁷³
Mr. Pierrepont Moffat.

The President said that he had sent for us in order to discuss ways and means of getting the use of a number of Islands in the Pacific. It was clear to him that the approach we had made last summer through Sir Ronald Lindsay ⁷⁴ was not producing any results. He thought that the time had come when we must bring Ambassador Kennedy ⁷⁵ into the picture. He had accordingly discussed the matter with Mr. Kennedy the night before last and had instructed him to take up very shortly after his arrival the whole subject with Mr. Neville Chamberlain ⁷⁶ personally. He was to point out that there were in the Pacific several hundreds, if not thousands, of islands; that both Britain and the United States had conflicting claims to many of these islands; that we saw nothing to be gained by entering into legalistic discussions as to the sovereignty of individual islands; that this would be a long drawn out process and possibly acrimonious; that both Great Britain and the United States had a common interest in all of these islands, namely to keep a third party out of the area, namely Japan. Mr. Kennedy was to explain that the President was not only interested but felt that a decision one way or the other must be reached very shortly. This decision could either be an amicable settlement based on joint use of the islands and a postponement of a determination of their final sovereignty, or else it could mean a race between the two countries with each government sending out settlers.

The President then reviewed the whole question of title to lands, which he said had gone through many phases. First the Pope had tried to allocate to Spain and Portugal sovereignty of all the unknown

⁷¹ Continued from *Foreign Relations*, 1937, vol. II, pp. 125-135.

⁷² R. Walton Moore, Counselor of the Department of State.

⁷³ Ernest H. Gruening, Director, Division of Territories and Island Possessions, Department of the Interior.

⁷⁴ British Ambassador in the United States.

⁷⁵ Joseph P. Kennedy, appointed Ambassador to the United Kingdom, January 17, 1938.

⁷⁶ British Prime Minister.

world. Next had grown up a system of claim to title through discovery. It gradually became evident to the world that discovery alone did not perfect title and occupancy became the criterion to title. At first occupancy was a rather haphazard affair. A party would go ashore, spend a day or a week, or a month, and then sail away claiming that the land in question had been occupied. In the President's opinion the only occupancy which had any validity was permanent occupancy and by that he meant bona fide occupancy and not merely the sending of "two men and a dog" to a given part of the world. But even permanent occupancy of one island when speaking of archipelagoes did not give a clear title to a whole group of islands.

With this background Mr. Kennedy was to inform Mr. Neville Chamberlain that unless we perceived a different attitude toward our perfectly reasonable suggestion for settlement of the status of islands under dispute, the President would sign an Executive Order placing under the jurisdiction of the United States Interior Department all islands not permanently occupied in the area generally situated between Samoa and Hawaii and he would furthermore send settlers to quantities of such unoccupied islands. He felt quite certain that the British would elect the former of the two courses.

Meanwhile, however, he said that we could not very well accept without counter move the action of the British in nullifying our standstill offer of last August 9⁷⁷ by sending settlers to Canton Island three weeks subsequently thereto and then declining to accept the proposal for a standstill as it affected the Phoenix group. He instructed Dr. Gruening to send settlers to Canton and Enderbury Islands by the next trip of the Government Cutter *Itasca* which sails from Hawaii on February 25. These settlers would reach the islands March 1st or 2nd, just about the time that Mr. Kennedy reaches London. Mr. Moffat pointed out that we would have to notify the British that our standstill offer no longer held good and that it was withdrawn. The President agreed but said that such a notice should be given Sir Ronald Lindsay only shortly before March 1st and at the same time we should tell him that settlers would reach Canton Island very shortly.

There ensued considerable discussion between the President and Dr. Gruening as to the type of men to be sent in the party, their attitude toward the British settlers already there, the question of radio communication, supplies, relief, et cetera.

The President next brought up the question of Palmyra Island which Dr. Gruening had recommended be made a national monument. Dr. Gruening explained the plans of the Navy to blast an approach through the corals and to make a large lagoon by joining together

⁷⁷ *Foreign Relations*, 1937, vol. II, p. 129.

three existing smaller lagoons. The work would be exceedingly expensive and the results would be unsatisfactory for naval purposes. The president agreed to issue an Executive Order making Palmyra Island a national monument and instructed Dr. Gruening to placard the Island with signs large enough to be read four miles out at sea attesting to this fact. The destruction of either animal, bird, or plant life would be an offense. Dr. Gruening pointed out that as it was not public domain but belonged to people in Hawaii we should have to purchase the Island. The President pointed out that this would require legislation but Dr. Gruening thought that he might be able to find a donor.

The President then suggested that we study the status of certain French Islands between Samoa and the Galápagos to which we also had claim. The hop from the Galápagos Islands to these French islands was 2,800 miles or only 600 miles more than the present San Francisco-Honolulu hop.

It was agreed that Judge Moore, Dr. Gruening and Mr. Moffat would discuss the whole problem in greater detail with Ambassador Kennedy on Thursday, February 17.

PIERREPONT MOFFAT

811.0141 Phoenix Group/32

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] March 1, 1938.

Participants: The British Ambassador,
Mr. Moore,
Mr. Moffat.

Mr. Moore said that he had requested Sir Ronald Lindsay to come down in order to discuss once again the question of the Pacific Islands. He reminded Sir Ronald that despite frequent conversations nothing had transpired since we made our standstill proposal on August 9 last. The Ambassador said that he was aware of this but the trouble lay in New Zealand, and that the only intimation that he had received from London quite a while back was to the effect that matters were moving very slowly. Mr. Moore pointed out that in the British note of October 20⁷⁸ they had specifically excepted Canton Island and the other islands of the Phoenix group from the discussion, and Mr. Moffat called attention to the fact that the settlers were sent to Canton some three weeks after our proposal for a standstill had been made.

⁷⁸ *Foreign Relations, 1937*, vol. II, p. 131.

Sir Ronald at once said that that was not quite fair as the expedition had been planned long in advance and the actual sailing date from New Zealand was of scant importance.

Sir Ronald then inquired whether or not we could withhold delivery of our note for another week or ten days while he telegraphed again. Mr. Moore replied that unfortunately we could not see our way to doing that, and handed the Ambassador the note.⁷⁹ Sir Ronald read it over and remarked that "taking an Atoll away from New Zealand was as difficult as taking butter out of a dog's mouth". He remarked that there were plenty of islands available and he hoped that this would not cause any bad feelings, but the New Zealanders were "sore as pups".

Mr. Moore pointed out that the President had had in the back of his mind an idea of joint occupancy. Sir Ronald said that he was well aware of that, and that it was just possible that some such proposal might be made. Mr. Moore asked if he had ever discussed the matter with the President. Sir Ronald said no, that he had seen him only twice since the matter arose and that he had not "been looking for trouble" by bringing it up, while the President had not raised the subject with him.

P[IERREPONT] M[OFFAT]

811.0141 Phoenix Group/32

The Secretary of State to the British Ambassador (Lindsay)

WASHINGTON, March 1, 1938.

EXCELLENCY: Your Excellency will recall that on August 9, 1937, this Government suggested that pending a discussion with the British Government as to title to Canton Island and certain other islands in the Pacific which are claimed by both the British and American Governments neither Government should undertake, or cite, any action from that point forward,—such as the establishment of settlers on the Islands,—which would render adjustment of the conflicting claims more difficult.

Approximately three weeks thereafter, while the American Government still considered itself bound by its proposals, the British Government sent settlers and equipment to Canton Island, and in its note of October 20, 1937, while accepting in principle the proposed standstill, nullified the effect of this acceptance by specifically excepting from the proposed discussion the Island of Canton and the Phoenix Group of islands. Since then, despite several conversations between officials of the Department and Your Excellency, the proviso excepting the

⁷⁹ *Infra.*

islands of the Phoenix Group from the discussion has never been withdrawn.

In the circumstances, the American Government is reluctantly obliged to conclude that the British Government is not willing to accept the method of settlement by means of a standstill during discussions as to the title to Canton Island and certain other islands in the Pacific, and is compelled to reiterate that it does not accept as binding upon it the British Order-in-Council of March 18, 1937, incorporating in the Gilbert and Ellice Islands Colony the Phoenix Group of islands. Further, it can not accept as a valid basis for a claim to any one island possession established by occupation subsequent to its note of August 9, 1937.

The American Government is still desirous of entering as soon as possible into discussions with the British Government as to the status and use of the Pacific Islands which both Governments claim. Meanwhile, however, as the British Government has chosen to support its claim by sending settlers to Canton Island, and possibly other islands in the Phoenix Group, the American Government feels free, pending the outcome of the discussions, to adopt similar measures.

Accept [etc.]

CORDELL HULL

811.0141 Phoenix Group/42

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] March 5, 1938.

The British Ambassador called to see me this morning and to read me a telegram from the Foreign Office, the first paragraph of which read as follows :

“Protest by State Department appears to be based almost entirely on assumption that occupation of Canton Island took place after the receipt of the United States note of August 9. As a matter of fact Canton Island was effectively occupied by a naval party on August 5.”

Sir Ronald said that he had taken exception to the same implication in our note, even though it had been so carefully expressed as not to be more than an implication. The second expedition, which went out on August 27th, was merely to carry out the more formal action taken a little before. I replied that in that case I felt we could express some disappointment and surprise that the British Government had not informed us of this in commenting on our original proposal, rather than waiting until October 20th. He admitted that the matter had not been handled with the maximum of wisdom, but claimed that neither side had the monopoly in this respect.

He then went on to say that the Foreign Office would forward shortly some proposals which it was hoped would serve as a basis for satisfactory and friendly settlement of the whole issue, and asked that the State Department realize that the delay was due to the necessity of consulting the Dominions, et cetera.

He asked how matters were developing.

I told him that the President had issued an Executive Order March 3rd putting Canton and Enderbury Islands under the jurisdiction of the Interior Department for administrative purposes.⁸⁰ I also told him that we were sending a party of settlers to the Islands, who would arrive there very shortly. He asked what they would do. I said that they would raise the American Flag, but they were under strict orders not to touch the British Flag or to protest the British presence in any way. They had definite orders that they were not "to fight out title" on the spot but were to have the pleasantest possible relationships on the Island and leave it to London and Washington to discuss the matter if need be.

Sir Ronald said that he wanted to get a message to Canton Island right away in order that the New Zealanders or Australians on Canton Island would merely make a *pro forma* protest and then adopt the same attitude.

I explained that we were going to do our very best to keep the publicity away from any angle of acrimony or dispute. What we were anxious to do was to put ourselves on a complete parity while the discussions continued. I also pointed out that we had a great similarity of interests in the South Seas in that, although we ourselves had conflicting claims, we both had an interest in keeping a third power out of the general region.

In leaving Sir Ronald said that as a matter of form he felt that he must make a formal protest to this degree, namely, to inform the American Government on behalf of the British Government that the occupation by our settlers on Canton and Enderbury Islands will not change the juridical position of British rights. I told him that in taking note of this formal protest I must point out that we had already made a similar formalization in notifying them that their action did not change the juridical position of our rights; I felt that we were once again in a position of parity.

He took the whole conversation seriously, but by no means tragically, and indicated that we both had a definite interest in minimizing any implications that might arise.

P[IERREPONT] M[OFFAT]

⁸⁰ *Federal Register*, 1938, vol. 3, p. 525.

811.0141 Phoenix Group/38½

*Memorandum by the Chief of the Division of Current Information
(McDermott) of White House Press Conference, March 7, 1938*

Mr. Early⁸¹ said informally to the newspapermen (1) that the first claim to title over undiscovered territory rests on discovery; (2) many islands in the Pacific were first discovered by American flagships; (3) the United States has always held that mere discovery does not give final title. That if it is not followed up by reasonable occupation it is insufficient; (4) in regard to the islands in question, of which there are many, the United States is assuming the right to occupy either because of *a*) discovery, *b*) former occupation, *c*) failure of any other nation to occupy or *d*) a combination of the above three.

The sole reason for the action (occupation) is commercial aviation. It has nothing whatever to do with war or war plans.

The matter undoubtedly will be adjusted amicably.

M. J. McDERMOTT

811.0141 Phoenix Group/43

The British Ambassador (Lindsay) to the Secretary of State

No. 76

WASHINGTON, March 8, 1938.

SIR: I have the honour to inform you that I have acquainted His Majesty's Government in the United Kingdom with the contents of your note of the 1st March regarding the ownership of certain Pacific islands and that I have also reported the communication which Mr. Pierrepont Moffat was so good as to make to me on the 5th March to the effect that the President of the United States had signed an Executive Order placing Canton and Enderbury Islands for administrative purposes under the United States Department of the Interior and that a party had been sent to the islands to effect a landing and to hoist the United States flag.

I have now been instructed to inform you that His Majesty's Government in the United Kingdom much regret that this action should have been taken without awaiting their proposals⁸² which, it is their hope, will serve as a basis for ending an unfortunate controversy in a manner designed to preserve intact the real interests of all parties concerned, whilst rendering of less importance the vexed question of conflicting claims to ownership of various islands in the Southern Pacific.

⁸¹ Stephen Early, Secretary to the President.

⁸² Marginal note on the original: "No indication that proposals were even contemplated before last Saturday. P[ierrepont] M[offat]."

I am to add that His Majesty's Government in the United Kingdom cannot regard the present decision of the United States Government as in any way affecting the juridical situation and that they maintain all their rights to the Phoenix Islands including Canton and Enderbury Islands. They earnestly hope however that no further difficulties will arise pending the receipt of their proposals.

I have [etc.]

R. C. LINDSAY

811.0141 Phoenix Group/39 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, March 11, 1938—6 p. m.

[Received March 11—2:09 p. m.]

203. My 194, March 9, 5 p. m.⁸³ I discussed the question with the Foreign Secretary⁸⁴ yesterday afternoon in line with the President's oral instructions. He was interested and said that our plan appeared simple and more feasible to him than the one the British have proposed. He said he would have to take the matter up with the Prime Minister however and after he had done this he would get in touch with me again.

KENNEDY

811.0141 Phoenix Group/60 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, March 30, 1938—6 p. m.

[Received 6:30 p. m.]

265. My 203, March 11, 6 p. m. The following memorandum was handed to me by Lord Halifax today.

"On the 10th March the United States conveyed to His Majesty's principal Secretary of State for Foreign Affairs a personal message from President Roosevelt to the Prime Minister proposing that the United States of America and the United Kingdom should occupy and hold Canton and Enderbury Islands in the Western Pacific as a joint trust for a period of 25 to 50 years, during which time the two Islands will be administered under joint control with equal facilities for each party.

⁸³ Not printed.

⁸⁴ Viscount Halifax, appointed British Secretary of State for Foreign Affairs, March 1, 1938.

2. After consultation with His Majesty's Governments in the Commonwealth of Australia and New Zealand, His Majesty's Government in the United Kingdom gladly accede in principle to this proposal and would welcome an early discussion with the United States Government for the purpose of drawing up a detailed scheme.

3. Whilst thus most ready to reciprocate the President's gesture of good will, His Majesty's Government in the United Kingdom wish to go further and to suggest that the time has come to find a solution to the whole problem of air communications in the Western Pacific, which is a common interest of all the Governments concerned. Indeed, at the very moment of the recent action with regard to Canton and Enderbury Islands, His Majesty's Government were on the point of submitting an offer, formulated with the concurrence of His Majesty's Governments in the Commonwealth of Australia and New Zealand, to grant, on the basis of complete reciprocity, full air facilities to United States nationals at any islands under their jurisdiction situated in the area likely to be served by a trans-Pacific air route. It is still desired to maintain this offer which the Governments concerned trust will commend itself to the United States Government, providing as it does for a concerted scheme for establishing equal air facilities on a route where conditions must indefinitely preclude the existence of competition between two services using different intermediate stopping places especially as they must in any case possess joint terminal facilities.

4. In the circumstances His Majesty's Government in the United Kingdom, the Commonwealth of Australia and New Zealand would suggest that, concurrently with the proposed discussion about the future status of Canton and Enderbury Islands, they should confer with the United States Government regarding the political and technical aspects of cooperative and reciprocal services by a British Commonwealth and a United States company across the Pacific for the purpose of defining the best possible route and agreeing upon a method of cooperation for this purpose.

5. There is one further aspect of the matter to which His Majesty's Government in the United Kingdom wish to draw attention. Interest has been taken in these uninhabited islands because of their importance as potential air bases. But they are also not without value for colonization purposes for the natives of the Western Pacific. There is serious overpopulation in the Gilbert and Ellice group, and last autumn natives from those Islands visited the Phoenix Islands, including Canton and Enderbury, with a view to investigating their suitability for colonization. The results of the investigation have been most promising, and definite plans for the colonization of the group, starting at an early date, had been submitted to the competent department of His Majesty's Government when the President's message was received. The proposals provide *inter alia* for the early despatch of an expedition to Canton for the purpose of planting the Island with a view to its permanent settlement by Gilbertese in a few years when a food supply is assured. There seems no reason why these proposals should in any way interfere either with the proposed future status for Canton or Enderbury or with any eventual general agreement on the lines suggested above. Indeed, the existence of some population on those Islands might be of value if an air base were to be established. It is

therefore hoped the United States Government will be able to agree that any arrangement designed to regulate the future status of the two Islands on the basis proposed by the President should provide for their eventual colonization from the Gilbert and Ellice Islands, and that they will also agree that there is no objection, pending discussion between the two Governments, to the despatch of a preliminary expedition to Canton Island for the purpose indicated above.

6. Finally, as the Republic of the United States are no doubt aware, the Pan-American Airways have recently asked His Majesty's Government in New Zealand to grant them permission to make a survey of islands administered by the New Zealand Government in the general vicinity of American Samoa, and have requested that, if any of these islands are found suitable for aviation purposes, they may be granted landing facilities thereon. It will be appreciated that any such arrangement would naturally fall within the scope of the proposals outlined above, and His Majesty's Government in New Zealand therefore propose to await the views of the United States Government before considering this request further.

7. His Majesty's Government in the United Kingdom desire to explain that the delay in putting forward these proposals at an earlier date has been solely due to the necessity not only of careful consultation between the competent authorities in the United Kingdom, but also with the Dominion Governments concerned. They feel, however, that it is important that little time should be lost in making an appropriate announcement to the public."

KENNEDY

811.0141 Phoenix Group/66

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] April 6, 1938.

Participants: The British Ambassador,
The Counselor of the State Department,
Mr. Pierrepont Moffat.

Sir Ronald Lindsay called this morning much perturbed over press reports that the Secretary of the Interior had given a license to the Pan-American Airways to use Canton Island as a base.⁸⁵ He said that he was very much afraid that this would complicate a final agreement between the two Governments as to the Islands and wondered whether it might not have been issued as a means of pressure to expedite a reply from the British Government to the President's proposal that the Islands be held as a joint trust. The Ambassador was assured that the permit had not been issued as a means of exerting

⁸⁵ Revocable license issued April 1, 1938, by Harold Ickes, Secretary of the Interior; information released to the Press the same day by the Department of the Interior.

pressure, but had been issued in order to enable Pan-American to make use of the Island. He was also assured that the permit was revocable on 30 days' notice. We saw ourselves confronted by two possible alternatives, either not to use the Island in any way during such period as discussions were in progress or for both to feel free to use it, without prejudice to any ultimate agreement to be reached. Of the two alternatives we very much preferred the latter. The Ambassador asked for a copy of the permit which Judge Moore agreed to send him.⁸⁶

Sir Ronald then said that speaking without instructions but according himself the luxury of thinking aloud, he felt he should tell us that he had many preoccupations as to the future. The British Government had been dealing with the Dominions for months and was just on the point of sending us a proposition,—he had even seen a first draft prepared in the Foreign Office,—when we had taken precipitate action by sending an expedition to the Island and had shortly thereafter made a proposition in the name of the President that the Islands be held by the two countries as a joint trust for from 25 to 50 years. He asked himself in whose favor the trust was being held, and the answer was inescapable that it was for the sole benefit of the two trustees. In other words, whether we liked it or not we were faced with the idea of a condominium. He thought that working out the details of a condominium would be exceedingly difficult and that carrying out any form of joint administration would be bound to produce trouble. Mr. Moffat inquired whether the Ambassador was suggesting a division of the Island, profiting by its curious geographic formation, so that the British, Australians and New Zealanders would administer one side and the Americans the other. Sir Ronald replied that he doubted whether such a solution would be practicable, instancing as a possible difficulty, a situation where one side of the Island would be wet and the other side dry. His mind had toyed with the idea of one of the four interested Powers accepting an administrative mandate from the others, possibly for a limited period with a system of rotation, but he was frank to admit that he saw difficulties even with this plan. He did not know how it would work out even in the matter of planting palms and eventually of settling the Island with natives. Perhaps he might be "seeing spooks" but having successfully passed the hurdle of differences of principle, he was anxious to avoid practical difficulties.

Judge Moore told the Ambassador that he had not yet had an opportunity of discussing the problem with the President. He was inclined to think that the difficulties might be solved by exchange of notes whereby the two Governments would agree that certain admin-

⁸⁶The copy was sent to the Ambassador under covering letter of April 7.

istrative measures should be observed and leave the application of these measures to the men on the spot, whom both countries would have the interest in keeping of a high caliber. The bigger question seemed to him to determine just how many Islands this principle of a joint trust should apply to. Sir Ronald indicated that the British Government was making an exceedingly generous offer in granting full reciprocal use of Pacific Islands for aviation purposes. Judge Moore pointed out that the British note was ambiguous but that we had been concerned lest they were asking for landing rights in Hawaii. This would raise all sorts of difficult problems bearing on our defense and on our relations with other Powers who might feel that we were discriminating against them. Sir Ronald replied that he was not quite sure what was the intention of his Government with regard to Hawaii; that he thought the spirit of the note dealt only with Islands enroute between New Zealand and Hawaii rather than with the terminals. On the other hand he admitted that the following sentence in the British note might be construed in the other sense:

“It is still desired to maintain this offer which the Governments concerned trust will commend itself to the United States Government, providing as it does for a concerted scheme for establishing equal air facilities on a route where conditions must indefinitely preclude the existence of competition between two services using different intermediate stopping places especially as they must in any case possess joint terminal facilities.”

P[IERREPONT] M[OFFAT]

811.0141 Phoenix Group/64 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, April 6, 1938—8 p. m.
[Received April 6—5:33 p. m.]

286. My 265, March 30, 6 p. m. When I saw Halifax today we talked about a message from Lindsay regarding Secretary Ickes' permission to the Pan American Company to land at Canton Island. Halifax feels that since His Majesty's Government has carried out a suggestion made by the President that the whole matter be put in trust for administration, this step is not one which is conducive to working out arrangements amicably. I think he is so advising Lindsay but he talked it over with me and said that since I had brought the matter up with him and he had pushed it through, he thought I

ought to know about this new development. I agreed with him and told him I would communicate with you at once and urge you to have the entire matter held up until final disposition is made of the President's suggestion.

KENNEDY

811.0141 Phoenix Group/64 : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, April 7, 1938—6 p. m.

140. Your 286, April 6, 8 p. m. Lindsay called at the Department yesterday obviously perturbed about Interior's license to Pan American Airways to use Canton Island as a base. We assured him that the license had not been issued as a means of asserting pressure but solely to enable Pan American to make use of the Island. The license was revocable. We saw ourselves confronted by two possible alternatives, either not to use the Island in any way during such period as discussions were in progress or for both the British and ourselves to feel free to use it, without prejudice to any ultimate agreement to be reached. Of the two alternatives we very much preferred the latter. We think we succeeded in allaying Lindsay's preoccupations.

We have not been able as yet to consult the President regarding the British note of March 30th. We had assumed that the President's proposal for a joint trust with equal facilities for each party related to all islands to which the two Governments had conflicting claims and not merely Canton and Enderbury, as was assumed in the British note. Furthermore, the British are now trying to tie up discussion of the administration of the Islands with a different question, namely, the establishment of non-competitive trans-Pacific air services possessing "joint terminal facilities". Are we right in the assumption that this is a proposal for British aviation to get into Hawaii?

Thus, if our general understanding is correct it would seem as though the British were asking us to postpone making any use of the Islands until final agreement is reached regarding their administration, and that such agreement in turn could not be reached until the much broader and more difficult subject of trans-Pacific aviation (possibly including a proposal regarding Hawaii) was also settled. This would in effect delay any use of the Islands for many weeks, not to say months, which was certainly not within the spirit of our original suggestions for joint use.

HULL

811.0141 Phoenix Group/70

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] April 11, 1938.

Sir Ronald Lindsay called this afternoon to present a further *Aide-Mémoire* on the subject of Canton and Enderbury Islands. This *Aide-Mémoire* made clear the following points:

- (1) that the British consider that their proposal for working out a British and an American noncompetitive trans-Pacific air service must definitely include Hawaii;
- (2) without actually making the request the note contained a strong expression of hope that Pan-American Airways meanwhile not make use of Canton Island under the license recently issued;
- (3) while discussions concerning Canton and Enderbury should be held between the United States and Great Britain alone, the discussions regarding trans-Pacific aviation should be participated in by the United States, Great Britain, Australia and New Zealand;
- (4) the British desire immediate publicity.

After reading the *Aide-Mémoire*, Sir Ronald Lindsay said that he was glad to see that many of the difficulties he had foreseen in our talk of last week had turned out to be "mere spooks". He now thought that the situation was greatly simplified and that we could make rapid progress.

I told him that one or two of the points in his note merited some preliminary comment.

In the first place it was clear from the *Aide-Mémoire* that we were faced with long negotiations and that a suggestion that Pan-American make no use of the islands for the present might in effect postpone their use of it for a considerable period. I reiterated that such installations as they planned at present on the islands, or for that matter the granting of the license itself, would in no way prejudice an eventual settlement. Pan-American understood clearly that whatever money they might expend on the islands was a business risk. The New Zealand Government had the right under the terms of the contract to cancel the present Pan-American-Honolulu-Auckland service for a variety of causes and if the Company should go ahead now and make use of Canton Island it would not alter their status in any way vis-à-vis the New Zealand Government. Sir Ronald said he supposed so but that London, while not acutely perturbed, nonetheless felt that Pan-American was "jumping the gun".

As far as the administration of the islands themselves was concerned I foresaw very little trouble in reaching an agreement, but as far as the aviation picture was concerned, the British were asking a very

great deal. Sir Ronald replied that they were only asking equality of treatment and said "Look at the map. If Great Britain can't use Hawaii it can't fly the Pacific. I hope very much that you will not take refuge behind the fiction that Hawaii is part of your mainland projected out into the ocean. The bitterness that has been aroused by your extending your coastwise laws to Hawaii is very real and should you do the same with aviation the bitterness would increase. Further, when Judge Moore intimated the other day his fears that Japan might enter the picture, I think you need be under no apprehensions as the Japanese would never even consider letting you fly over the Marianna Islands."

I told Sir Ronald that I was not sure that it was possible to separate the Pacific and talk about reciprocity in that area alone. Leaving aside the questions of defense, a concession to Great Britain in Hawaii would in effect be giving Great Britain the final link in a round-the-world service whereas in return Britain was offering us only a landing right in the Antipodes. In other words, treating the Pacific as an isolated area in which reciprocity would apply would enable them to touch all the territory on both Continents and merely give us a landing right in the Antipodes, with no place to go. Sir Ronald said he saw the point but thought it was entirely academic. Round-the-world services were a long, long way ahead. The British had not even completed the Australian-New Zealand link. They were certainly not yet ready to fly the Pacific. He hoped very much, however, that we would not prejudice the present for the sake of a distant future. I did not argue the matter further but added that in all fairness I should tell him that I thought the Hawaiian request was going to raise a problem which would be very difficult to solve.

I wondered, therefore, if it would not be better to discuss the two points, namely administration of the islands and trans-Pacific aviation separately.

All of this, however, was somewhat tentative as Judge Moore had not yet seen the President who took a strong personal interest in this matter. I apologized for our delay in answering to which he laughingly countered "it is not for the British to reproach you for any delay".

P[IERREPONT] M[OFFAT]

811.0141 Phoenix Group/69

The British Embassy to the Department of State

AIDE-MÉMOIRE

His Majesty's Government are of the opinion that the discussion of details regarding the question of the future administration of Canton

and Enderbury Islands, as also of the other matters dealt with in the memorandum which was handed to the United States Ambassador in London on the 31st March should await the direct conversations which they have proposed. In the meantime however, in order to clarify the position they desire that certain explanations of their attitude should reach the United States Government in advance.

(1) In referring in the above mentioned memorandum to "any island situated in the area likely to be served by a trans-Pacific air route" His Majesty's Government had in mind that full air facilities should be granted on a reciprocal basis to British and United States nationals at any island under British or United States jurisdiction at which intermediate landing facilities might be required for the purpose of air services operating across the Pacific between British or United States territories on either side. It was not the intention of His Majesty's Government to exclude from this arrangement any island under their jurisdiction at which intermediate landing facilities might be required.

(2) As regards Hawaii it was the hope of His Majesty's Government that this territory might be included in an arrangement for reciprocal facilities. They have envisaged that, apart from the position in the two islands, Canton and Enderbury, in regard to which some joint administration or régime is contemplated, each Government would in their own islands under their exclusive sovereignty grant equal facilities to the nationals and operating companies of the other. They assume that the United States Government would not wish to exclude Hawaii from application of this principle seeing that similar freedom is being offered in such intermediate British islands as may be necessary for trans-Pacific services with the single object of cooperation between the United States and the British Government concerned in securing prior rights of their own nationals in joint use of these facilities.

(3) While taking note of the assurance that the issue of a license to Pan American Airways is not intended to prejudice an eventual settlement, His Majesty's Government feel that it might be premature if the company were to incur expenditure on the preparation of a permanent air base at Canton Island until an opportunity has been afforded for joint discussion regarding the technical and operational aspects of the whole route on which His Majesty's Government are in a position to contribute such valuable information as a result of recent surveys.

(4) Australia and New Zealand are directly interested in the future of a trans-Pacific air route and they expect to participate in discussions on this subject but His Majesty's sovereignty over Canton and Enderbury Islands is exercised solely by His Majesty's Government in the United Kingdom and it will be for that Government and the United

States Government to exercise and determine the exact form which the joint trust over Canton and Enderbury Islands is to assume. It goes without saying that when accepting the President's proposal for a joint trust His Majesty's Government did not expect either party to forego their claim to sovereignty over the two islands and they are persuaded that when negotiations take place it will be possible to devise some simple system of administration which will safeguard the rights of United States and British nationals without recourse to any complex machinery.

In conclusion it is desired to emphasise the fact that His Majesty's Government's immediate concern is to arrive at an agreement in principle which will admit of a public announcement that early conversations are to take place; (1) between the United States Government and His Majesty's Government regarding the exercise of a joint trust over Canton and Enderbury Islands; and (2) between the four Governments concerned in regard to a future trans-Pacific air service.

WASHINGTON, April 11, 1938.

811.0141 Phoenix Group/71

Memorandum by President Roosevelt to the Secretary of State

WASHINGTON, April 12, 1938.

I have read your telegram of April seventh to Kennedy in regard to the Pacific Islands and it has my hearty approval.

Let me make the following clear: Our discussions in regard to the use of unoccupied Islands relates solely to them—and it relates not only to Canton and Enderbury but to any other unoccupied Islands we decide we want to use. That includes the unoccupied Islands of the Phoenix, Gilbert and Ellice groups and even smaller Islands south of them and east of them, the latter being, as I remember it, mostly under asserted French jurisdiction.

The question of the use of Hawaii by British transport planes and of New Zealand and Australia by American transport planes is a different subject.

F[RANKLIN] D. R[OSEVELT]

811.0141 Phoenix Group/73

Memorandum by the Chief of the Division of European Affairs (Moffat) to the Counselor of the Department of State (Moore)

[WASHINGTON,] April 13, 1938.

At your request I telephoned Sir Ronald Lindsay, and told him that I had made a report to you of our conversation of Monday afternoon.

I said that he had thrown out the most delicate of hints that New Zealand might be on the point of abrogating the Pan American contract. I explained that you and I had both hoped that we would not be confronted by a "surprise move" of this sort for the present,—certainly not during the next month or so while our different interested departments were busy working over the general subject, which was exceedingly complex. Sir Ronald said that he had not intended to convey this hint as at all an imminent possibility. On the contrary, the information he received was that New Zealand was taking rather a "statesmanlike attitude" and was accepting the situation for the present, knowing that of course under the terms of its contract, if circumstances later warranted it, they had the power to abrogate the contract. He reiterated that he thought we need be under no apprehension of a "surprise move" of the sort I had indicated.

P[IERREPONT] M[OFFAT]

811.0141 Phoenix Group/67: Telegram

*The Ambassador in the United Kingdom (Kennedy) to the
Secretary of State*

LONDON, April 14, 1938—9 p. m.
[Received April 14—4:20 p. m.]

314. Your 140, April 7, 6 p. m. This matter has been discussed informally at the Foreign Office, but not with Lord Halifax. The official said that a telegram fully explaining their original memorandum had been sent to Sir Ronald Lindsay for communication to the Department.

He also stated they had no intention of conveying the impression that they wished to make an agreement regarding the President's proposal in any way contingent upon an agreement being reached regarding trans-Pacific aviation. He said that they recognize that the President's proposal stands by itself but that it was obviously related to the subject of trans-Pacific aviation and that they would like at the time that the announcement is made of agreement between the two countries on the President's proposal to say that the two countries have also agreed to examine the question of trans-Pacific aviation. Regarding Hawaii, the official stated that they had not the remotest idea of offering any suggestion for joint control of any kind but that they hoped in the accomplishment of an agreement on trans-Pacific aviation to include landing facilities for British planes in Hawaii on the general basis of reciprocity. When I first talked with Lord Halifax he must have understood the proposal to refer only to Canton and Enderbury Islands. That at any rate is

how the record at the Foreign Office stands. The official remarked, however, that he understood Canton and Enderbury Islands were the only ones of any value for aviation purposes and that he personally would be glad to see Great Britain turn all of the other disputed ones over to the United States. I should not think that this discrepancy would cause any serious difficulty and, if necessary, I can take up with Lord Halifax the question of the "other" disputed islands.

If the additional explanations offered by Lindsay are not satisfactory I presume you will advise me by telegraph.

KENNEDY

811.0141 Phoenix Group/62½

The British Embassy to the Department of State

AIDE-MÉMOIRE

His Majesty's Government in the United Kingdom appreciate that as distinct from the exercise of a joint trust over Canton and Enderbury Islands which necessarily implies the eventual joint use of Canton Island as an air base, the elucidation of the general problem of air facilities elsewhere may take some time. In the former case the President of the United States has made a proposal which His Majesty's Government have accepted. In the latter case His Majesty's Governments in the United Kingdom, Australia, and New Zealand have invited the United States Government to confer with them regarding a future trans-Pacific air service, accompanying their invitation by an offer to accord (on a reciprocal basis) intermediate landing facilities on their islands. This offer the United States Government are apparently finding it somewhat difficult to reciprocate. But the present anomalous situation on Canton and Enderbury Islands has aroused international interest and it is likely, until it is regulated, to form a subject of comment in the United Kingdom both in the press and in Parliament. His Majesty's Government would therefore prefer if there is no other alternative, that they and the United States Government should forthwith announce their intentions with regard to the joint trust without awaiting a decision by the United States Government regarding the suggested conference for a trans-Pacific air service.

An announcement confined to the matter of the establishment of the joint trust over the two islands would however leave in suspense the much larger issue of air navigation facilities in the Pacific which His Majesty's Government's proposal was designed to solve. His Majesty's Government feel that the importance of dealing with this wider problem at the earliest possible moment should be emphasised both from the point of view of eliminating future causes of Anglo-

American differences of opinion, to which the development of trans-Pacific air navigation has given rise, and of securing the prior rights of United States and British nationals in the joint use of air facilities on islands which may before long become the object of Japanese aspirations.

In these circumstances His Majesty's Government would be glad to learn whether the United States Government agree that, without prejudice to their eventual attitude as regards the application of the principle of equality of air facilities, it should be announced simultaneously with the publication of the intentions of the United States Government and His Majesty's Government, regarding the joint trust, that the four governments concerned have agreed to hold a conference regarding a trans-Pacific air service.

WASHINGTON, April 15, 1938.

811.0141 Phoenix Group/79½

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] April 18, 1938.

Participants: The President,
Counselor of the State Department,
Admiral Leahy,
Dr. Gruening,
Mr. Pierrepont Moffat.

Judge Moore gave a brief account to the President of developments regarding the Pacific Islands during the past six weeks. It had become clear that the British were anxious to join in concurrent discussions the different subjects of the status of the Pacific Islands and the question of trans-Pacific aviation. The goal for which they were playing was landing rights in Hawaii. Army, Navy, Interior and State Departments all concurred that it would be a mistake to let any foreign country have landing rights in Hawaii, partly for reasons of national defense and partly because we would thereby be destroying our present monopoly of trans-Pacific flights. We recognized that the New Zealanders would probably cancel the present Pan American contract, but even this seemed preferable to surrendering our present tremendous advantage without an adequate *quid pro quo*. We also pointed out that the Pan American were giving a great amount of thought to continuing their flight to New Caledonia. For this Canton Island was the necessary key. In fact, of all the islands it seemed to be the most useful for aviation purposes. In that case, the President suggested that we let matters lie, for the present, with the British.

Meanwhile, he suggested that we might wish to propose to the French to swap landing rights in the Marquesas for landing rights in Pago Pago. This would enable us to develop a trans-Pacific air service that would run far south of Hawaii, and would not involve a single hop of more than 2,800 miles. He thought such a proposition had better be made by Bill Bullitt⁸⁷ in Paris rather than through the French Ambassador here. Meanwhile it should be kept very confidential, although the Geographer might look up the most useful islands in the Marquesas group for our purposes.

In response to a question from Judge Moore, the President said that he thought we should not be unduly definite with the British, though we might make it clear (a) that we did not desire to have concurrent discussions on the two points they raised; (b) that the question of landing rights in Hawaii presented serious difficulties; and (c) that the administrative arrangements we might come to with regard to Canton and Enderbury Islands were without prejudice to such claims as we might have to other islands in the Pacific which had not yet come under discussion.

PIERREPONT MOFFAT

811.0141 Phoenix Group/80a

The Department of State to the British Embassy

AIDE-MÉMOIRE

The Government of the United States has given careful consideration to the two *Aides-Mémoire* left at the Department of State by Sir Ronald Lindsay on April 11 and April 19 [15th?], 1938, supplementing the *Aide-Mémoire* handed to Mr. Kennedy by Lord Halifax at London on March 30, 1938, all relating to the status of Canton and Enderbury Islands in the Phoenix Group.

Before entering upon a discussion of the subject matter of the British *Aides-Mémoire*, it should be made clear, for the sake of the record, that the proposal of the American Government for the use in common of certain islands in the Pacific for purposes connected with international aviation and communication, did not relate exclusively to Canton and Enderbury Islands but to all those islands in the Pacific to which the two Governments have conflicting claims. However, the American Government is prepared, without prejudice to its claims to other islands in the Pacific, to confine the present discussions to a settlement of the status of Canton and Enderbury Islands.

⁸⁷ William C. Bullitt, Ambassador to France. At that time Mr. Bullitt was on leave in the United States.

The American Government believes that few if any practical difficulties are to be found in the way of setting up a régime for the use in common of Canton and Enderbury Islands for purposes connected with international aviation and communication for a specified period of time. This might be achieved by an exchange of identic notes setting forth that the two Governments, each believing that it has title to Canton and Enderbury Islands, have agreed to leave in suspense for twenty-five or fifty years the question of the ultimate ownership of the Islands and, meanwhile, to set up a régime which would provide for their use, with equal facilities for each party. The identic notes might continue that such administrative problems as are likely to arise could safely be left for solution to two of the occupants of the Islands, designated by their respective governments, and in case of disagreement, as each group has radio facilities, the question at issue could readily be referred to London and Washington for adjustment. Should it later develop that there is need for a more elaborate machinery of administration, the two Governments agree to enter into immediate discussion to the end that a more formal régime may be formulated.

With regard to the suggestion of the British Government that settlers from the Gilbert and Ellice Group of Islands might be landed on Canton and Enderbury Islands, and that palms might be planted at an early date in order to make possible this settlement, it is believed that conditions on Canton and Enderbury Islands, notably the limited area, which would obviate large scale planting, are not propitious for the maintenance of a large native population. The American Government accordingly suggests that the plans for planting and settlement, referred to in the British *Aide-Mémoire* of March 30, be abandoned.

The American Government has carefully considered the further suggestion contained in the British *Aides-Mémoire* that, concurrent with the discussions regarding the status of Canton and Enderbury Islands, discussions should take place between the Governments of the United States, the United Kingdom, Australia and New Zealand with regard to mutual facilities for a trans-Pacific air service. Inasmuch as it is the view of the American Government that the subject of the status of Canton and Enderbury Islands and the subject of trans-Pacific flying are two wholly separate matters, only indirectly related, it is felt that they should be considered separately and on their individual merits. The subject of trans-Pacific air service, indeed, raises so many problems for solution, which must be considered from so many different angles, that it may be some time before the American Government is in a position to formulate its stand or to reply, with any definiteness, to the British proposal.

Accordingly, it would not be possible to agree at this point to a public announcement of a decision to hold a conference for the consideration of Pacific air facilities.

Inasmuch as the British Government attaches importance to an early announcement of agreement with regard to the status of Canton and Enderbury Islands and has stated in its *Aide-Mémoire* of April 11 that "they would prefer, if there is no other alternative, that they and the United States Government should forthwith announce their intentions with regard to the joint trust without awaiting a decision by the United States Government regarding the suggested conference for a trans-Pacific air service", the American Government offers for consideration the following text for an announcement to be made simultaneously by the two Governments at a time mutually to be agreed upon:

"The Governments of the United States of America and of the United Kingdom of Great Britain, each believing that it has title to Canton and Enderbury Islands in the Phoenix Group of Islands, have agreed, without prejudice to the status of other islands in the Pacific to which they have conflicting claims, to leave in suspense, for a period of twenty-five to fifty years, the question of ultimate ownership of these two Islands and to set up a régime which would provide, meanwhile, for their use in common for purposes connected with international aviation and communication, with equal facilities for each party. This will be effected by means of an exchange of notes, the terms of which are now being considered."

WASHINGTON, April 28, 1938.

811.0141 Phoenix Group/81

Memorandum of Conversation, by the Chief of the Division of International Conferences (Southgate)

[WASHINGTON,] April 29, 1938.

Participants: Sir Ronald Lindsay, British Ambassador,
Mr. Moore,
Mr. Southgate.

Sir Ronald Lindsay called yesterday at Judge Moore's request and was handed the *Aide-Mémoire* dated April 28, 1938, concerning Canton and Enderbury Islands.

The Ambassador read the document carefully. His first comment was that he felt his Government would be disappointed at our failure to agree with them concerning the planting and subsequent population of Canton Island by natives from the Gilbert and Ellice Islands.

He inquired whether there was any reason for our attitude in this regard other than appeared in the note. Judge Moore said that he did not know the details but that he felt the Department of the Interior had had some objection. He said he would communicate with officials of the Department of the Interior and see if there was anything more he could tell the Ambassador on this point.

Otherwise the Ambassador made no particular comment concerning our proposals but left the impression that they were in general satisfactory. Before departing he expressed the opinion, however, that he felt the question of the population of Canton Island might have to be discussed further. Judge Moore said we would be glad to be informed of any additional views of the British Government in this regard.

R[ICHARD] S[OUTHGATE]

811.79690 Pan American Airways/141

*Memorandum by the Counselor of the Department of State (Moore)
to the Secretary of State*

[WASHINGTON,] May 20, 1938.

Since we saw you I have had a telephone talk with Sir Ronald Lindsay stating to him that we consider authorizing a small survey party of the Pan American Company with some equipment to go from Pago Pago to Canton Island on a Navy tug which is scheduled to sail early next week from Pago Pago, and that this is not with any thought of trying to create any evidence of American ownership of Canton but merely for the purpose of looking over the island and indicating where the location of the American aviation and radio facilities would be practicable, and it being understood that the final determination as to the use of the island by the two Governments will hereafter be mutually agreed. The Ambassador said that he understood what we had in mind and he offered no objection.

I did not mention to the Ambassador our understanding that the British have already arranged to have a naval vessel there, H. M. S. *Leith*.

Our definite understanding here has been for some time that the plan of enabling the Pan American people to go to Canton as indicated has had the approval of the Interior Department through Dr. Gruening, and of the Navy Department through Admiral Leahy.

The conversation was had with the British Ambassador immediately following the conversation with the Secretary at which Messrs. Moffat and Southgate and Moore were present, and Messrs. Moffat and Southgate were in my office while I talked with the British Ambassa-

dor and while I dictated the foregoing statement which has their approval.

R. W[ALTON] M[OORE]

811.0141 Phoenix Group/874

Memorandum of Conversation, by the Counselor of the Department of State (Moore)

[WASHINGTON,] May 21, 1938.

This morning Mr. Moffat informed me that the British Ambassador had phoned him withdrawing his statement made yesterday to the effect that he had no objection to a survey party going from Pago Pago to Canton Island. Thereupon I talked by telephone with the Ambassador who said he simply desired to reverse himself to the extent indicated, but he did not urge that the party should not go. I said to him, and he acquiesced, that nothing is intended to be done to interfere in any way with the friendly understanding that has been had, and that upon the basis of what has already occurred, it would seem very certain that the two Governments will make satisfactory arrangements for the use of the Island. I mentioned to him that one reason for the trip to Pago Pago is that we understand a British naval vessel is proceeding, or is about to proceed, to Canton for the purpose of the same kind of inspection of locations as the Americans intended to make.

Following my talk with the British Ambassador, at which time Mr. Moffat was in my office, he and I saw the Secretary, who had already said that the President does not object to the use of the Navy tug from Pago Pago to Canton and the Secretary indicated he did not consider that the Ambassador's statement had changed the situation.

The British Ambassador advised that he would be here Monday to discuss the matter.

R. WALTON MOORE

811.0141 Phoenix Group/90

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] May 23, 1938.

Participants: British Ambassador,
Judge Moore,
Mr. Moffat.

The British Ambassador called to leave two *Notes Verbales*⁸⁸ on the subject of the status of Canton and Enderbury Islands and of

⁸⁸ *Infra.*

trans-Pacific aviation. He said that similar notes were being handed to Mr. Kennedy in London today or tomorrow. One note was couched in usual Foreign Office style; the second note showed more heat than was usual in such a communication. The Ambassador, therefore, felt that it was up to him to explain the way minds were running in London. To review the circumstances he said that late last February, feeling annoyed at a not unreasonable British delay, the United States had secretly prepared an expedition to land on the Islands; that on March 1st Judge Moore had presented him a note clearly reserving all rights with respect to the Islands, but making no mention of an expedition. March 3rd or 4th the President had issued an Executive Order which was not published for two or three days, placing the Islands for administrative purposes under the Secretary of the Interior; that on March 5th the British Embassy was informed of the expedition; that March 7th or 8th the expedition landed despite the presence of a British Administrator and a flying British flag; that on March 10th as if to "consolidate the gains", Mr. Kennedy had proposed the idea of a joint trust; on March 30th this had been accepted. On April 1st the Department of Interior had issued a license to Pan-American Airways; since that time surveyors had been at work, houses built, the best sites for flying fields laid out, et cetera. The British Government felt that the United States was forgetting the idea of "joint" in the administration; that it was not consulting with London; that it was aiding and abetting Pan-American Airways in "jumping the gun"; in short that it had been a piece of "slick organization" by which the United States interests were to profit. The Ambassador then discussed some of the points in his notes and the assurances which he said would do much to allay this feeling.

Judge Moore replied that he considered Sir Ronald's statement to overlook the main fact which was that we had both agreed that the Island should be used by the two countries for aviation and communications with equal facilities for both. If there was anything in the license to Pan-American contrary to this as alleged by Sir Ronald this could be corrected. With regard to air facilities on the Island Mr. Moffat pointed out that there seemed some confusion in the British note as the two countries could either: (a) each stake out an airbase, dividing the good ground which was sufficient for both; or (b) that arrangements could be made for the British authorities to use the Pan-American airbase after making financial arrangements with the Company.

The question was to answer these British notes. Mr. Moffat stated that of course it would be very easy to dig up past history and to return the British arraignment in kind, but that he did not see that this would get us anywhere. Sir Ronald agreed. Judge Moore said that

he had satisfied himself that any court would recognize we had a better claim to title than the British. Sir Ronald said he had never examined the evidence of either countries but that the question of title did not arise. Judge Moore and Mr. Moffat both indicated that whereas some months back we had ample complaints against the British attitude we had nonetheless kept any undertone of acerbity out of our notes. Sir Ronald said this was true and admitted that the British communications showed "temper".

As to the communiqué which the British wanted issued at once, the question arose whether publication of as short a draft as that submitted by the British would not stir up the idea that negotiations were running into difficulties more than failing to publish any communiqué at all.

The Ambassador then came back to the question of planting and said that the problem of placing the surplus population from the Gilbert and Ellice Islands was very real. Judge Moore and Mr. Moffat indicated polite skepticism and the Ambassador promised to have the further "voluminous data" on this point submitted to Ambassador Kennedy.

Sir Ronald then called attention to the other Islands in the Pacific to which the two countries had conflicting claims. He said that the British authorities were determined that there should be no more "Canton Islands" and pointed out that they were willing to discuss other Islands in connection with trans-Pacific aviation. Upon being pressed, however, Sir Ronald agreed that this was really a separate subject.

He then went on to say that the big question was that of trans-Pacific aviation and made a strong plea for complete reciprocity including letting the British have landing rights in Hawaii. Judge Moore pointed out once again the great difficulties.

Summarizing the conversation, the British Ambassador renewed his description of the feeling in London that Great Britain had come out on the short end of the stick.

Judge Moore smilingly replied that although such was not the case it must be very rare that the British ever experienced such a feeling. Judge Moore went on to say that the notes struck him as the work of a junior who had worked up a case and somewhat lost his sense of proportion. The Ambassador replied that the assurances of Judge Moore that equal facilities were in fact intended should do much to allay the feeling in London he had described. Meanwhile he would do his best to keep the discussions on a routine basis with the problems of Canton and Enderbury Islands, other Islands, and trans-Pacific aviation separate and distinct. Meanwhile he hoped that we would hurry a reply to the two British communications.

811.0141 Phoenix Group/88

The British Embassy to the Department of State

AIDE-MÉMOIRE

His Majesty's Government have had before them the contents of the *Aide-Mémoire* regarding the status of Canton and Enderbury Islands which the Counsellor of the State Department was so good as to hand to His Majesty's Ambassador on the 28th April and Sir Ronald Lindsay has now been instructed to make the following observations thereon.

1. The reply of His Majesty's Government acceding in principle to the establishment of a trust in respect of Canton and Enderbury Islands related to these two islands only because it was understood that they alone formed the subject of the original proposal of the United States Government. This proposal followed immediately upon the occupation of these two islands by direction of the United States Government and no others were named in the personal message from the President which the United States Ambassador delivered orally to Lord Halifax on the 10th March, or in the President's Executive Order of the 3rd March. Had His Majesty's Government understood that this message was intended to relate to other islands it would obviously have been necessary to clarify its scope before the proposal could have been considered.

2. Two months having elapsed since the United States Government sent an expedition to occupy Canton and Enderbury Islands His Majesty's Government in the United Kingdom are very averse to any further delay in issuing a public statement with regard to the proposal for a joint trust to which they agreed over a month ago. Apart from the interest displayed in Parliament and in the British press there is evidence that curiosity has been aroused in other quarters; the German and Japanese Embassies in London, for example, have both addressed enquiries to the Foreign Office on the subject. The time for the issue of an agreed announcement would thus seem overdue. His Majesty's Government consider however that it would be most inadvisable for this announcement to contain any reference to other conflicting claims. In the first place such a reference is unnecessary since no arrangement arrived at with regard to the two given islands can prejudice the position with regard to other islands. Secondly it would necessarily encourage the inference by international opinion that there exist outstanding differences of an extensive nature between the two Governments. Thirdly it would suggest to interested parties that there are islands to which neither Government possesses a good title, and it might thus lead to attempts by other countries to assert claims.

3. His Majesty's Government take note of the fact that the agreed announcement suggested by the United States Government contains a statement to the effect that the two islands in question will be "used in common for purposes connected with international aviation and communication with equal facilities for each party". Considering that information has been received from the British Administrator on Canton Island to the effect that a United States party is already engaged in surveying the island and in determining the most suitable site for an air base, His Majesty's Government in the United Kingdom can only interpret the foregoing statement as meaning that any structure and ground facilities eventually erected on Canton Island by Pan-American Airways in pursuance of the licence issued to them by the United States Department of the Interior will, in due course and upon payment of an agreed proportionate cost or by some other reciprocal arrangement, be made available for use by a British air service on a basis of full equality. This being so it is desired to point out that the terms of the licence, for example Clause 10,⁸⁹ are incompatible with the foregoing interpretation. His Majesty's Government must therefore place it on record that they will not be able to recognise this licence as in any way prejudicing British rights in the islands and in particular the right to equal facilities as indicated above. They also consider that when the present survey work is completed the actual area which Pan-American Airways propose to reserve as an air base should be the subject of agreement reached locally between the administrators appointed by each Government and they would be glad to receive assurances from the United States Government that they concur in this procedure.

4. With reference to the proposal for the colonisation of Canton Island from the Gilbert and Ellice Islands group His Majesty's Government can assure the United States Government that, as already indicated in paragraph 5 of the *Aide-Mémoire* handed to the United States Ambassador on the 30th March, this matter has been the subject of close study by His Majesty's Government who, at the time when the United States Government recently sent a party to occupy Canton and Enderbury Islands, had plans in an advanced stage for carrying out the colonisation of Canton Island, a measure which they have good reason to regard as perfectly practicable. They would be happy to place their information on this subject at the disposal of the United States Government in order to convince them that it is important to proceed with the scheme of settlement in the interest of the surplus population of the Gilbert and Ellice Islands. It is not

⁸⁹ The text of clause 10 reads: "The licensee agrees that the premises will not be used for any unlawful purposes nor for any purpose other than the operation of licensed aircraft of American registry in commercial trans-Pacific air transport service."

however the intention of His Majesty's Government to demand priority for the areas to be eventually reserved for the settlement of these people which they believe can be effected on Canton Island without detriment to the arrangements for an air base. They would suggest for the purposes of administration that this eventual settlement should be placed under the jurisdiction of a British administrator and whilst they have no immediate intention of despatching a preliminary expedition, as proposed in their memorandum under reference, they anticipate that they may desire to do so in the course of the next few months. They would therefore wish for a specific reference to the colonisation scheme to be mentioned in the proposed exchange of notes. In the meantime they earnestly trust that the United States Government will be able to indicate their agreement to His Majesty's Government proceeding with this scheme on Canton Island, the actual allocation of land for settlement purposes being determined in consultation between the United States representative on the spot and the local British Administrator.

If the United States Government concur in the foregoing views His Majesty's Government in the United Kingdom would suggest that the draft communiqué for publication which has been proposed to them should be simplified and receive certain amendments of form so as to read as follows:

"The Governments of the United States of America and of the United Kingdom have agreed to set up a régime on the islands of Canton and Enderbury in the Phoenix Group, with a view more particularly to their use in common for purposes connected with international aviation and communication, with equal facilities for each party. The details of the régime will be determined in notes to be exchanged between the two Governments."

WASHINGTON, May 23, 1938.

811.0141 Phoenix Group/89

The British Embassy to the Department of State

AIDE-MÉMOIRE

With reference to the *Aide-Mémoire* of today's date containing the observations of His Majesty's Government in the United Kingdom on specific points raised in the most recent communications made on behalf of the United States Government regarding the status of Canton and Enderbury Islands, His Majesty's Ambassador has been instructed to state that His Majesty's Government are seriously disturbed by the present position of this question.

His Majesty's Government recollect that in the autumn of last year resentment seems to have been aroused in Washington by the decision

of His Majesty's Government to exclude the Phoenix Group from the discussion suggested by the United States Government regarding conflicting claims to ownership of islands in the Pacific. The subsequent delay in replying to the objections to this decision raised by the United States authorities, which was in point of fact solely due to the complex issues involved may, it is felt, have deepened this resentment. But His Majesty's Government feel that the balance of grievance has now been reversed. The sudden arrival early in March of the United States party upon Canton and Enderbury Islands (the former of which was in the actual occupation of an official British administrator at the time) created an unfortunate impression which was only effaced by the subsequent proposal of the President of the United States to establish a joint trust over these two islands, to which His Majesty's Government gladly acceded. On the evidence available it would now appear, however, that this proposal is in danger of losing its value. Without prior consultation having taken place with His Majesty's Government in regard to their own activities, a United States party is apparently already undertaking survey work to select the most appropriate site for an air base, presumably in virtue of the license granted to Pan American Airways, and this license appears to contain provisions enabling that Company to exercise what would amount to a monopoly both of the ownership and use of all facilities on the island. This and other points in regard to which some difference of opinion or intention between the two Governments appears to exist have been dealt with in the communications to which the present *Aide-Mémoire* refers and His Majesty's Government hope that these individual points may be open to the settlement which they have suggested. In order, however, to avoid further difficulties His Majesty's Government feel that the time has come when they and the United States Government should make plain to one another that they propose in future to handle this comparatively minor problem by way of frank and final consultation.

His Majesty's Government feel that it may be useful to recapitulate at this stage some of the considerations which have guided them in dealing with the question of the status of the islands in dispute. In the first place, it may be recalled that His Majesty's Government's own action in occupying Canton Island was taken before and not after the proposal made on behalf of the United States Government on the 9th August last for a "standstill" agreement on this question, and after the United States Government had earlier in the year themselves somewhat surprised His Majesty's Government by sending a warship to an island over which British sovereignty had been asserted and by sanctioning the erection of a plinth there.

It is a pertinent fact that, whereas from the point of view of the United States Government the main value of outlying Pacific Islands is presumed to lie in their eventual use as intermediate air bases, His Majesty's Government are also interested in some of them as potential areas for the settlement of surplus population in the Gilbert and Ellice Islands Group. They have accumulated a mass of evidence on this subject which may, they believe, convince the United States Government that the execution of such a project is fully justified and indeed necessary on humanitarian grounds. Moreover, they see no reason why this project should in any way interfere either with the proposed future status of Canton and Enderbury Islands or with any eventual general agreement for rendering air facilities available on Pacific islands to United States and British nationals on a basis of full reciprocity.

In the view of His Majesty's Government the present situation would never have arisen but for the course of development of trans-Pacific air navigation and they consider it all important, in order to avoid further difficulties, that this problem should be dealt with at the earliest possible moment. They therefore earnestly trust that the United States Government will see their way to acceding to their proposal for a four-party conference regarding a trans-Pacific air service. Lest any doubt should exist as to His Majesty's Government's aims in this connexion it may again be emphasized that, as explained in the *Aide-Mémoire* left by Sir Ronald Lindsay on the 11th April last, His Majesty's Government's proposal is that air facilities should be available to both United States and British nationals, on a basis of full reciprocity, not only on those islands in regard to which there might be conflicting claims but on all other islands in the Pacific under British or United States jurisdiction which it may be desired to use as intermediate landing places for trans-Pacific air services, including Fiji and Hawaii. Moreover His Majesty's Government do not exclude the possibility that in the course of discussions on the question of air services it might prove necessary to settle the status of hitherto neglected islands which might be found to be of value as intermediate air bases.

It is only in accordance with the good will borne to United States interests by His Majesty's Governments in the United Kingdom, in the Commonwealth of Australia and in the Dominion of New Zealand that Pan American Airways should have received great consideration in their efforts to establish services with terminals and stopping places in British territory. But such good will can only continue and be further developed if it is reciprocated; and the assertion of further claims in the manner which the United States authorities appear to have felt obliged to adopt in the case of Canton and Enderbury Islands

would hardly contribute to this result. Indeed there is already being created the impression, derived from this experience and from the inability of the United States authorities to accept a four party conference, that Pan American Airways are endeavouring to establish an exclusive position in connexion with trans-Pacific air services.

In view of the interest which it is understood that President Roosevelt has manifested in the question of the status of the Canton and Enderbury Islands and of their use for purposes of trans-Pacific aviation, it is Sir Ronald Lindsay's hope that the contents of this communication may be placed before him.

WASHINGTON, May 23, 1938.

811.0141 Phoenix Group/95‡

Memorandum by President Roosevelt to the Secretary of State

HYDE PARK, N. Y., June 28, 1938.

I think this proposed answer to the British⁹⁰ is all right—but Joe Kennedy tells me he has made one or two suggestions.

Will you please discuss with the Interior Department the possibility of our moving half a dozen families to Canton Island from the Hawaiian Islands or Samoa. If the British can do a little colonizing why can't we also?

F[RANKLIN] D. R[OOSEVELT]

811.0141 Phoenix Group/95‡

*The Department of State to the British Embassy*⁹¹

AIDE-MÉMOIRE

On May 23, 1938, the British Ambassador left at the Department of State two *Aides-Mémoire* concerning the status of Canton and Enderbury Islands.

If, in replying, the Department of State leaves unanswered certain criticisms directed against the attitude of the American Government it is not because it accepts these criticisms as well founded. It would not appear, however, that a recapitulation of past differences of opinion would serve any constructive purpose or hasten the conclusion of a final agreement as to the administration of these two Islands.

The two *Aides-Mémoire* under reference deal with three separate subjects: (1) the status of each of the two Islands of Canton and Enderbury; (2) the status of other Islands in the Pacific to which

⁹⁰ *Infra.*

⁹¹ This undated *Aide-Mémoire* was handed to the British Ambassador on June 30, 1938.

the two Governments may have conflicting claims; and (3) the subject of trans-Pacific aviation. In order to avoid confusion or delay, the present *Aide-Mémoire* accordingly is confined exclusively to the status of Canton and Enderbury Islands, it being understood that the other two questions may be dealt with in separate communications.

Reviewing the correspondence to date, it is clear that the two Governments have agreed to leave in abeyance the question of title and to set up a régime for the use in common of Canton and Enderbury Islands, with equal facilities for each party, and to record the details of that régime by means of an exchange of notes.

A number of subsidiary questions, however, still require solution.

1. How are Canton and Enderbury Islands to be administered?

This Government has suggested that administrative problems might be left to two of the occupants of the Islands designated for the purpose by their respective Governments and, in case of disagreement, questions at issue would be referred back to the two Governments for solution. As a practical step in carrying this out, two officials, either in London or Washington, might be selected to prepare a joint recommendation for subsequent approval.

The British Government has not so far indicated assent to this general method of procedure.

2. Is it agreed that each party should have equal facilities on the Islands?

The British Government has expressed concern lest steps taken by the representatives of an American company to survey Canton Islands, et cetera, may militate in fact against the enjoyment of equal facilities by each party.

This Government assures the British Government that it has no intention of qualifying its proposal with regard to equal facilities for each party and is anxious to enter upon discussions with the British Government regarding the facilities and the conditions of their employment which will be satisfactory to both parties.

It is not clear, however, whether the British Government contemplates (a) that an American company and a British company should each establish air facilities on Canton Island, or feel free to do so, the necessary division of suitable land and water areas to be decided by mutual agreement, or (b) that only the American company should provide air facilities, using the available land and water areas, on the understanding that upon payment of agreed proportionate costs or by some other reciprocal arrangements, the base should be made available for use by the British air service on a basis of full equality.

Attention is called in the British *Aide-Mémoire* to Article 10 of the license granted Pan-American Airways on April 1, 1938, as being inconsistent with these assurances. Article 10 should be read in con-

junction with Article 11,⁹² and assurances can be given and are hereby given that if alternative (b) is decided upon, Pan-American Airways will apply for permission and the Secretary of the Interior will grant permission, to accord to the competent British airline the equal facilities referred to.

3. Is it desirable to undertake large scale planting of the Island with a view to ultimate colonization by native settlers from the Gilbert and Ellice groups?

The American Government has received through Ambassador Kennedy additional information from the British Government regarding the feasibility of its desire to colonize at least Canton Island with native settlers from the Gilbert and Ellice Islands. It is now engaged in a sympathetic study of such information. While reserving its final opinion, it cannot lose sight of the fact that the project is admittedly experimental, that the Island is small, and that the amount of ground that may eventually be necessary for airplane and communications purposes is indeterminate. Should such planting and settlement take place it is not clear how this might ultimately affect the question of title, which, by common consent, is being left in abeyance. Furthermore, it would seem the part of wisdom to reduce to a minimum the administrative problems on the Island, where responsibility is joint and not single, rather than to increase them.

4. Should a joint communiqué be issued at this time?

The British Government is of the view that a joint communiqué is urgently desirable and proposes the following text:

"The Governments of the United States and of Great Britain have agreed to set up a régime on the Islands of Canton and Enderbury in the Phoenix Group, with a view more particularly to their use in common for purposes connected with international aviation and communication, with equal facilities for each party. The details of the régime will be determined in notes to be exchanged between the two Governments."

The question arises whether a useful purpose would be served by issuing a communiqué until the drafting of the notes to be exchanged has reached a more advanced stage. If, however, the British Government continues to feel that a communiqué at this stage is desirable the American Government suggests the following text:

"The Governments of the United States and of Great Britain have agreed to set up a régime for the use in common of the Islands of Canton and Enderbury in the Phoenix Group and for the employment of these Islands for purposes connected with international aviation

⁹² The text of clause 11 reads: "The licensee agrees not to enter into any agreement or undertaking with any foreign person, company, corporation or holding company covering the use of any of the licensee's facilities on Canton Island, without the express approval of the Secretary of the Interior."

and communication, with equal facilities for each party. The details of the régime will be determined in notes to be exchanged between the two Governments.”

811.0141 Phoenix Group/954

Memorandum of Conversation, by the Adviser on Political Relations (Dunn)

[WASHINGTON,] July 8, 1938.

Mr. Broadmead, of the British Embassy, by appointment brought in Mr. Fitzmaurice, a member of the Legal Division of the British Foreign Office, who was here in connection with the drafting of the Anglo-American Trade Agreement.⁹³ Mr. Fitzmaurice said he wished to speak about the subject of the islands in the Pacific. He said there were two points he wished to discuss, as he had something to do with the subject in the Foreign Office.

In the first place, the British were interested in discussing the general question of aviation in the Pacific and its relation to the use of all the islands of both countries for this purpose. He said that their mention of the subject in one of their notes had not been answered.

I told Mr. Fitzmaurice that we had made it entirely clear to the British Embassy here that we had no intention of bringing into the present discussion of the control of the Islands of Canton and Enderbury the general subject of aviation in the Pacific, that if the British wished to discuss that subject, they would have to bring it up as a question for discussion specifically, but that it was to be understood that it had no relation to the matters now before us with regard to the use of Canton and Enderbury Islands.

Mr. Fitzmaurice also said that another matter which interested them was the colonization of Canton Island from the Gilbert or Ellice Islands. He said the increase in population in the Gilbert Island group was proceeding at an increasing rate and that the British Government were obligated to find some outlet for this population. I said this was a matter which could no doubt be discussed, and, while this Government was not particularly keen about having Canton colonized from other islands, and while the physical difficulties seemed to be enormous in view of the lack of water and other facilities, this was a matter which could be discussed later on.

Mr. Fitzmaurice was obviously disappointed at learning that we had no intention of permitting the discussion of the use of "all" the islands of the Pacific for aviation purposes in connection with the present discussion regarding Canton and Enderbury Islands.

JAMES CLEMENT DUNN

⁹³ See pp. 1 ff.

811.0141 Phoenix Group/964

The British Embassy to the Department of State

AIDE-MÉMOIRE

The memorandum which was handed to His Majesty's Ambassador on the 30th June on the subject of Canton and Enderbury Islands has been carefully considered by His Majesty's Government in the United Kingdom with a view to cooperating with the United States Government in arriving at a final agreement as to the future administration of the Islands. His Majesty's Government desire to offer the following comments on the specific questions referred to in the State Department's memorandum.

1. Administration. In order to expedite a solution, His Majesty's Government are preparing and hope shortly to submit to the United States Government for their consideration the draft text of an exchange of notes regulating the method by which the two islands will be administered. The necessity of consulting various Departments of His Majesty's Government as well as the High Commissioner for the Western Pacific renders it impracticable to designate one official for the purpose of preparing a joint recommendation with a United States official concerning the contents of these notes. Such a procedure, however, may be followed later with advantage for the purpose of settling details once the main lines have been agreed upon.

2. Air Facilities. Although Pan American Airways are already surveying Canton Islands for the selection of the most suitable site for an air base it had been the understanding of His Majesty's Government that an eventual British air service would be allowed, on a basis of full equality and on the lines suggested in paragraph 3 of the Embassy's memorandum of the 23rd May, to use such structural and ground facilities as may be erected by the United States company. Consequently alternative (b) mentioned on page 4 of the State Department's memorandum is what His Majesty's Government had contemplated, and they were therefore gratified to receive the assurance that in these circumstances it is the expressed intention of the United States Government that a British air service should be in a position to enjoy equal facilities at the air base upon an agreed payment. But as, if a joint régime is set up, the title to Pan American Airways to operate on Canton Island will be derived from the permission of both Governments, it would seem that the existing license and the proposed procedure for the granting of equal facilities would hardly be suitable; His Majesty's Government therefore suggest that it would be more satisfactory if the license were cancelled and the terms of a new license agreed upon by themselves and the United States Government.

3. Colonization. His Majesty's Government note that while engaged in sympathetic study of the project for colonizing Canton Island the United States Government entertain various doubts as to the desirability of its execution. As tending to dispelling these doubts His Majesty's Government desire to remind the United States Government that they do not demand priority for this project, and they are consequently content to wait until the survey for an air base has shown how much land remains available for planting and settlement.

4. Joint Communiqué. For the reasons given in paragraph 2 of the Embassy's memorandum of the 23rd May, His Majesty's Government are anxious that an agreed announcement should be issued at an early date. The amended text contained in the last paragraph of the State Department's memorandum is agreeable to His Majesty's Government subject to the substitution of the words "United Kingdom" for "Great Britain", and also on the understanding that the communiqué is not to be interpreted as prejudicing any eventual decision regarding the settlement of colonists on Canton Island. On the receipt of an assurance to this effect His Majesty's Government propose that the communiqué should be released simultaneously in Washington and London at an early date to be agreed upon by the two Governments.

WASHINGTON, August 4, 1938.

811.0141 Phoenix Group/903

The Secretary of State to the British Ambassador (Lindsay)

The Secretary of State presents his compliments to His Excellency the British Ambassador and has the honor to acknowledge with thanks the receipt of the latter's *aide-mémoire* of August 4, 1938. Noting that the British Government seems anxious that an agreed announcement be issued at an early date concerning the establishment of a régime for the use in common of the Islands of Canton and Enderbury in the Phoenix Group, the Government of the United States desires to assure the British Government that the joint communiqué agreed upon is not to be interpreted as affecting in any way the opinion of either Government or as prejudicing any eventual decision regarding the settlement of colonists on Canton Island.

It is suggested that if agreeable to the British Government the text of the joint communiqué as further amended by the *aide-mémoire* under reference be given to the press on Wednesday, August 10, 1938, for publication in the morning newspapers of August 11, which do not appear on the streets before midnight Greenwich time or 7 p. m. August 10, Eastern Standard Time.⁹⁴

WASHINGTON, August 5, 1938.

⁹⁴ See Department of State, *Press Releases*, August 13, 1938, p. 114.

811.0141 Phoenix Group/104

The Department of State to the British Embassy

MEMORANDUM

The Navy Department is planning a hydrographic survey of Canton Island, Enderbury Island, and Swains Island during the calendar year 1939. The survey will be made by a ship especially fitted for this purpose, and will involve preliminary aircraft photography. While this expedition is in the Pacific it is considered opportune to include a survey of certain islands of the Phoenix Group on which accurate hydrographic information is lacking, namely, McKean, Birnie, Gardner, Hull, Sydney, and Winslow Reef. The purpose of this survey is entirely scientific and is without reference to the question of title to such islands as to which both Governments have claims.

It may be added that the Navy Department will of course gladly furnish the British Government with such information as is obtained as a result of this survey of the islands of the Phoenix Group.

WASHINGTON, October 25, 1938.

811.0141 Phoenix Group/105

The British Embassy to the Department of State

AIDE-MÉMOIRE

His Majesty's Government in the United Kingdom take note of the projected hydrographic survey announced in the State Department's memorandum of the 25th October, and while reserving all questions of title will be glad to take advantage of the offer to furnish them with such technical information as is obtained as a result of the survey of the islands of the Phoenix Group.

Arrangements have already been made for an expedition under the auspices of His Majesty's Government in New Zealand to conduct a general technical survey of outlying British Pacific islands with a view to the ultimate establishment of a British trans-Pacific air service. The information obtained as a result of these investigations will most readily be placed at the disposal of the United States Government.

In this connexion it is hoped that the United States Government will see their way to accept the invitation already extended to them to confer with His Majesty's Government in the United Kingdom, His Majesty's Government in the Commonwealth of Australia and His Majesty's Government in New Zealand in order to examine the common use of air facilities on Pacific islands for the purposes of trans-Pacific flying.

WASHINGTON, November 10, 1938.

811.0141 Phoenix Group/105½

The British Ambassador (Lindsay) to the Secretary of State

No. 448

WASHINGTON, November 26, 1938.

SIR: With reference to the discussions which have for some time past been proceeding between the United States Government and His Majesty's Government in the United Kingdom regarding the future status of Canton and Enderbury Islands and with particular reference to the joint communiqué issued by the two governments on the 11th August last, I have the honour under instructions from His Majesty's Principal Secretary of State for Foreign Affairs to submit to you herewith draft copies of the notes which it is proposed that His Majesty's Government should exchange with the United States Government for the purpose of defining the manner in which Canton and Enderbury Islands are in future to be administered.

I should be grateful to learn in due course whether the terms of this draft exchange of notes are agreeable to the Government of the United States.

I have [etc.]

R. C. LINDSAY

[Enclosure 1]

NOTE FROM THE UNITED STATES GOVERNMENT TO THE BRITISH
AMBASSADOR IN WASHINGTON

EXCELLENCY: With reference to recent correspondence between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Canton and Enderbury Islands in the South Pacific Ocean, I have the honour to propose an Agreement concerning these islands in the terms of the following Articles:—

Article I

The Government of the United States and the Government of the United Kingdom, without prejudice to their respective claims to Canton and Enderbury Islands, agree to set up a joint control over these islands.

Article II

The islands shall, during the period of joint control, be administered by a United States and a British official appointed by their respective Governments. The manner in which these two officials shall exercise the powers of administration reserved to them under this Article shall be determined by the two Governments in consultation as occasion may require.

Article III

The Islands shall, during the period of joint control, be subject to a special joint *ad hoc* régime the details of which shall be determined by the two Governments in consultation from time to time.

Article IV

The islands shall be available for use as air ports for international aviation and communications, but only civil aviation companies incorporated in the United States of America or in any part of the British Commonwealth of Nations shall be permitted to use them for the purpose of scheduled air services.

Article V

The use of any part of either of the islands for aviation or any other purpose shall be the subject of agreement between the two Governments.

Article VI

An air port may be constructed in Canton Island by Pan-American Airways who, in return for an agreed fee, shall provide facilities for British aircraft and British civil aviation companies equal to those enjoyed by United States aircraft and by Pan-American Airways. In case of dispute as to fees, or the conditions of use by British aircraft or by British civil aviation companies, the matter shall be settled by arbitration. Pan-American Airways shall pay a rent of per annum to each of the two Governments.

Article VII

The joint control hereby set up shall have a duration of fifty years from this day's date. If no agreement to the contrary is reached before the expiry of that period the joint control shall continue thereafter until such time as it may be modified or terminated by the mutual consent of the two Governments.

2. I have the honour to suggest that if an Agreement in the sense of the foregoing Articles is acceptable to the Government of the United Kingdom this Note and Your Excellency's reply thereto in similar terms shall be regarded as placing on record the understanding arrived at between the two Governments concerning this matter.

[Enclosure 2]

REPLY FROM BRITISH AMBASSADOR

SIR: I have the honour to refer to your Note of this day's date proposing an Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government

of the United States of America on the subject of Canton and Enderbury Islands in the terms of the following Articles:—

[Here follows text of articles set forth in draft note from the United States Government printed *supra*.]

811.0141 Phoenix Group/105½

The British Embassy to the Department of State

MEMORANDUM

It will be observed that the draft exchange of notes concerning Canton and Enderbury Islands, which forms the enclosure to Sir Ronald Lindsay's note No. 448 of the 26th November, contains no reference to the colonisation of Canton Island. The reason is that in the interests of simplifying the administrative problems on Canton Island and after fully reviewing these circumstances, His Majesty's Government have decided to suspend their claim for its colonisation. This decision of course in no way implies that His Majesty's Government have revised their views as to the merits of the recommendations on the subject made by the authorities of Gilbert and Ellice Islands Colony as the result of their investigations on the spot last year, and it is only with the utmost reluctance that the British authorities have consented to sacrifice an integral part of the highly practical scheme for the settlement of the Phoenix Group which was elaborated prior to the arrival of the United States party on Canton and Enderbury Islands in March, 1938. It is hoped that the suspension of this well-founded claim will be conducive to the rapid adjustment of all future questions to which the use of Canton Island may give rise, but, if the conditions under which the air base on this island is operated should make colonisation possible at any later date His Majesty's Government would then expect it to be made available for the settlement of natives from the Gilbert and Ellice Islands Colony.

His Majesty's Government are proceeding with their proposals for the settlement of Gardner, Hull and Sydney Islands in accordance with the scheme described in the reports from the High Commissioner for the Western Pacific, copies of which His Majesty's Principal Secretary of State for Foreign Affairs placed at the disposal of the United States Ambassador in London under cover of his personal letter of the 23rd May last.⁹⁵

WASHINGTON, November 26, 1938.

⁹⁵ Not printed.

811.0141 Phoenix Group/105½

The British Embassy to the Department of State

AIDE-MÉMOIRE

Although Article 2 of the proposed exchange of notes concerning Canton and Enderbury Islands provides for the administration of the Islands by an United States and a British official, His Majesty's Government do not consider that it will be necessary in practice for a permanent British administrator to reside on Canton Island and they consequently propose that the duties of the British administrator should be confined to periodical visits.

WASHINGTON, November 26, 1938.

AUSTRALIA

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND AUSTRALIA ¹

611.4731/252 : Telegram

The Secretary of State to the Consul General at Sydney (Wilson)

WASHINGTON, January 10, 1938—7 p. m.

Your December 24 [23].² Please see Mr. Lyons³ at once and say to him (1) that your Government is gratified at the steps which Australia has taken; (2) that it is now willing to accept the Australian point of view that steps have been taken to eliminate all substantial discrimination; (3) that it is not disposed to adopt a technical interpretation which would require a guarantee immediately that intermediate tariff rates which Australia has granted to other foreign countries in trade agreements be extended to the United States; (4) that your Government desires to issue an announcement restoring to Australian products the benefits of reduced duties appearing in existing and future United States trade agreements; (5) that in any event we would hope to take this step when the licensing system is completely abolished, but that we are prepared to take it at once if the Australian Government will provide you for the record with a definite assurance that in the issuance of licenses between now and the abolition of the licensing system on the items still restricted, they will be allocated without discrimination as between products of the United States and any other non-British country.

You may also say to Mr. Lyons that, if you can receive at once such assurance for telegraphing to your Government, you are authorized to hand him the note which follows. The note is intended for release for joint publication at a time which you and he may agree upon, leaving 36 hours for the receipt of your telegram.

Note follows:

"I have been instructed by my Government to inform you that it has derived gratification from the announcement made by the Government of Australia on December 8 [7?], 1937,⁴ of its intention to

¹ For previous correspondence respecting trade relations between the United States and Australia, see *Foreign Relations*, 1937, vol. II, pp. 136 ff.

² *Ibid.*, p. 157.

³ J. A. Lyons, Prime Minister of Australia.

⁴ See note of December 9, 1937, from the British Embassy, *Foreign Relations*, 1937, vol. II, p. 151.

abolish import restrictions. It has been observed with satisfaction that restrictions on 34 items were immediately removed, that subsequently 3 additional lists of items freed from restrictions have been issued, leaving only a few items still subject to license restrictions. It also has been noted that it is the announced intention of the Australian Government in due course to remove existing restrictions. In view of this evidence of good will and your assurance that import licenses for items still subject to restrictions will be issued as freely for products of the United States as for those of any other foreign nation, the President is directing the Secretary of the Treasury to apply to products of Australia the duties proclaimed in connection with trade agreements between the United States and foreign countries (except Cuba).”

You may state orally that as soon as the present matter is settled you will be sent instructions regarding confidential informal exploratory trade agreement discussions.

I wish to commend you upon the manner in which you have handled this matter at your end, as evidenced by the contents of your despatch of December 10⁵ and your telegram of December 23.

HULL

647.116/323

*Memorandum of Conversation, by the Chief of the Division of
European Affairs (Moffat)*

[WASHINGTON,] January 11, 1938.

I asked Mr. Keith Officer, Australian Counselor of the British Embassy, to call this morning. I told him that I was in a position to give him some good news. Ever since the Australian Government had announced its intention of withdrawing restrictions and removing discriminations we have been working on the possibility of “de-black-listing them”,—to use the term which the Australians themselves had invented. I explained, however, that in spite of a widespread impression to the contrary in Australia, discriminations had not as a matter of fact been entirely removed. Those remaining were of two sorts: (1) The fact that they still refused to give us the benefit of concessions that they had granted to other countries in their trade agreements, while asking us to give Australia the benefit of concessions we have given to other countries; and (2) that in the articles still restricted, which amounted to about 33% in value of the original list, they had given us no assurance that if licenses were henceforth granted we would be given our proportionate share.

Notwithstanding this, we realized that the Australian Government was making an effort to meet us, and we were prepared to meet them

⁵ Not printed.

more than halfway. We would not insist upon receiving their intermediate rates now, despite the principle involved therein. We had therefore sent a telegram ⁶ late last night to Mr. Wilson directing him to tell the Australian Government that we were prepared to de-black-list them on the basis that steps had been taken to eliminate substantial discrimination as soon as we received assurances that if any licenses were issued between now and the end of the system in March we would be given our proportionate share. I then read to him the note which Mr. Wilson had authority to deliver at once, and said that within thirty-six hours of the time we received Wilson's telegram steps would be taken to de-black-list them and publicity given thereto.

Mr. Officer expressed himself as very gratified. I said that I was also, but I felt bound to tell him that in getting the various approvals from other interested Departments I had been surprised to find how much resentment, which I had never suspected, still persisted in these quarters. He said that he was aware of that and, conversely, he doubted if we had ever suspected the extent of the resentment in Australia that had brought about their action. However, he admitted that Australia "had hit us hard" and the task before us now was to clean up the mess.

However, he said that what his Government was interested in was the next step, namely, the initiation of negotiations. Expecting that I would soon tell him that we had been able to de-black-list Australia, Sir Ronald Lindsay ⁷ had been sitting for ten days on instructions to come down. He said that the Australian Government felt that it had not only gone a long way to meet us in removing the licensing system but had also gone a long way to meet us in agreeing to give up certain preferences to facilitate the U.K.-U.S.A. trade agreements.⁸ Confidentially he could tell me that there had been "the devil of a row" in the Cabinet and that it had only been approved by a very small majority. Australia had given up the idea of multilateral negotiations during the U.K.-U.S. negotiations, but still was anxious to proceed with us as soon as possible. A list of Australian desiderata was now on its way, which he believed was not long, and which Sir Ronald Lindsay would bring down.

What was he to put in his telegram on this point?

I replied that I thought the de-black-listing would now go through in a very short time; I hoped that Sir Ronald Lindsay would not come down and propose discussions before this was an accomplished fact. If he had to describe the situation in a telegram I should suggest something as follows: That the American Government attached

⁶ *Supra.*

⁷ British Ambassador in the United States.

⁸ See pp. 1 ff.

importance to cleaning up this phase of the situation at once; that before it was finished they would not give any sort of a promise as to what they would do afterward; but that he (Keith Officer), on the basis of his own analysis of the situation, was recommending to Sir Ronald that he come down to the State Department and raise the question of trade discussions immediately thereafter. Mr. Officer said he thought that his Government would probably authorize exactly that.

P[IERREPONT] M[OFFAT]

611.4731/272

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] January 14, 1938.

Mr. Keith Officer called to see me this afternoon, very much disturbed by a telegram he had received from Canberra following Mr. Wilson's visit. The telegram indicated that the Australian Government was more than disappointed at the non-cooperative attitude of the American Government in continuing to insist, after all the concessions which Australia has made to meet the American viewpoint, on further assurances regarding the removal of discriminations on the few items still restricted. The telegram which Mr. Officer read to me, though he did not leave a copy, clearly showed that the offer confused continued restrictions with continued discriminations. Going further the telegram said that the time element was so important and that it was imperative to start informal, confidential discussions to find a basis of agreement with the least possible delay.

Mr. Officer then made an earnest plea that we withdraw our condition that there be no further discrimination before starting talks. He said that it was vital not only to the success of the Australian-American trade treaty, but even to the success of the U. S.-U. K. treaty. He repeated to me that there had been the most violent opposition in Cabinet to yield any preference in the British market to facilitate a U. S.-U. K. agreement, and that it had only been "put over" on the expressed conviction of the majority that an American-Australian trade treaty was a real possibility. Acting on my advice he had persuaded Sir Ronald not to come down and present a pretty strong request from the Australian Government to Mr. Hull. He, himself, had believed that his Government could meet our request for definite assurances, and was frankly concerned at the trend things were taking. "Could we not find a formula to meet Canberra's preoccupation? Could we not commence informal talks at once, with the understand-

ing, of course, that no formal announcement could be made until after the 'de-black listing' had been completed?"

I told Mr. Officer that I was more disappointed than he at the nature of his telegram; I had felt that we had met them more than half way; we were offering to overlook the fact that they would still refuse us intermediate rates which they had granted to other powers, while expecting us to grant them such rates; that we had explained to them repeatedly that it was not the continued restrictions we objected to, but the continued application of discrimination in allocating licenses in the restricted items; that while we were gratified with the action taken to date by Australia, nonetheless, the removing of part of a grave injustice against us did not in itself constitute a concession. As a matter of fact we never understood why certain authorities at Canberra refused to believe us when we said that we could not discuss trade agreements in any way with Australia while she continued to discriminate against us; even as late as Mr. Wilson's visit to Canberra, early in December,⁹ Mr. Moore¹⁰ had still tried to argue this point.

Mr. Officer tried to maneuver me at least into a firm promise that if they gave us the assurances we asked for, we would then immediately start discussions to see whether a basis for agreement was to be found. This I declined to do and suggested that we await the receipt of Mr. Wilson's telegram before going any further. Then he and Sir Ronald could decide what the latter wanted to do. Mr. Officer said that Sir Ronald would probably be more firm in his representations on behalf of a dominion government than he would on behalf of the U. K. Government. He also told me that Mr. Chalkley¹¹ felt that there was a great deal in the commonwealth point of view and that possibly one difficulty was that certain promises had been made in the allocation of licenses in certain items between now and mid-March, which the Government felt unable or unwilling to go back on.

PIERREPONT MOFFAT

611.4731/259 : Telegram

The Consul General at Sydney (Wilson) to the Secretary of State

SYDNEY, January 15, 1938—noon.
[Received January 15—6:54 a. m.]

Referring to Department's telegram of January 10, 7 p. m., I was received by Lyons on Wednesday afternoon in Canberra. Points 4 and 5 caused much discussion. No note was shown or handed to

⁹ See telegram of December 8, 1937, from the Consul General at Sydney, *Foreign Relations*, 1937, vol. II, p. 152.

¹⁰ A. C. Moore, Assistant Secretary of the Department of Trade and Customs of Australia.

¹¹ H. O. Chalkley, Commercial Counselor of the British Embassy in the United States.

him, although I told him one summarizing the points made would be left him if the assurances under 5 were given. In that event I expressed a belief I might expect to receive instructions regarding confidential informal exploratory discussions.

The Prime Minister stated definitely that he could give no unqualified assurance of the nature asked by the Department. He emphasized his desire to abolish the licensing system at once, but repeated his inability to do so without Parliamentary action and felt the Department's point 5 is tantamount to a demand that he perform the impossible. He assures me that the policy of the present Government is one of liberality in issuing licenses and will continue to be under his direction; he claims that Commonwealth Government is retaining prohibition at the moment only so far as is necessary to protect Australian industries that may be without tariff protection.

I must respectfully point out that paragraph 2 of the Department's telegram does not correctly state the Australian point of view as I have sought to explain it. Their view is that substantial discrimination has been eliminated and Officer has informed his Government that this has been conceded. Given this as a premise it is easier to understand Lyons' contention that the assurance asked under 5 places the whole matter just where it was before the statement of December 8 [7?] was made. They do not deny the existence of some discrimination but assert their inability to correct this without Parliamentary action.

Because of an unfavorable atmosphere I sensed at once when I arrived (Lyons was obviously put out at being expected to give further assurances and felt a loss of dignity of his position as head of the State because of the demand) I expressed on my own account a doubt that he realized the deep sense of hurt felt by my Government against discriminatory action taken by the Australian Government which, as far as I knew, was unprecedented and more drastic than action taken against American commerce by any other government no matter how strong or dictatorially governed.

I am not sympathetic towards the position in which the Australian Government now finds itself; furthermore the viciousness of their discriminatory policy in the past strikes me with greater force as I delve into it. But I do counsel a realistic view of the present situation providing of course that we wish to enter into discussions with them at all. Assurances already received are not without weight; expressions of future intentions are sincere. Any course taken by us which lacks realism will create bad feeling at a time when good feeling should be cultivated.

I do not feel certain of Officer's ability to get points accurately or to transmit them clearly to his Government. Furthermore, I am

not positive his Government keeps him completely informed of technical details of the operation of the licensing system (referring to the Department's instruction dated December 17¹² received today by mail). Referring to the last paragraph of my telegram of December 23, 5 p. m.^{12a} considerable publicity continues to be given by the press and over the radio to my visits to Canberra and the status alleged or surmised of trade talks. Much of this is misleading but occasionally astonishingly accurate.

WILSON

611.4731/264

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] January 19, 1938.

Participants: The British Ambassador,
The Australian Counselor of the British Embassy,
Assistant Secretary of State Sayre,
Mr. Pasvolsky,¹³
Mr. Hawkins,¹⁴
Mr. Pierrepont Moffat.

Sir Ronald Lindsay said that he had brought Mr. Officer in order to discuss the present stalemate with regard to Australia. He felt we were on a false track in discussing discriminations, which might still exist in a technical sense but which amounted to nothing in a realistic sense. He wanted to emphasize further the proposal he had made to the Secretary that we proceed at once to preliminary and confidential discussions looking toward a trade agreement without prejudice to our position with regard to de-black-listing Australia.

Mr. Sayre pointed out that Sir Ronald was viewing the matter exclusively as an Australian-American problem, whereas he had to regard Sir Ronald's request as it might affect our whole trade agreement program. To make his point clear he had to go back to the time when the Act¹⁵ was being passed and opposition Senators and Representatives charged that the only result of the Act would be that foreign nations would immediately raise their tariff rates against the United States or initiate discriminatory measures against the United States, in order to improve their bargaining position and obtain concessions for either reducing padded rates or removing discriminations.

¹² *Foreign Relations*, 1937, vol. II, p. 155.

^{12a} *Ibid.*, p. 157.

¹³ Leo Pasvolsky, Special Assistant to the Secretary of State.

¹⁴ Harry C. Hawkins, Chief of the Division of Trade Agreements.

¹⁵ Trade Agreements Act of June 12, 1934, 48 Stat. 943.

The Department had at the time taken the position that they would not negotiate under these circumstances, and that this raised a question of principle which could not be violated. More than that, he said that we were being pressed by other countries,—he even named Germany,—to start discussions while discriminations remained, and that if we should do for Australia what Sir Ronald now asked, our position vis-à-vis those other countries would become untenable. Therefore it seemed essential that before doing anything further we find a way to de-black-list Australia.

Mr. Sayre then read the essential parts of our recent telegram to Wilson and excerpts from his reply. He remarked that we were quite dumbfounded by the Australian attitude as we felt that we had gone a long way to meet them. However, it was perfectly clear that a misunderstanding existed, and we were anxious to try and iron it out. We really wanted to get down to discussions with Australia and we would go as far as we could in helping find a suitable formula. Did Sir Ronald or Mr. Officer have any suggestions to make?

Mr. Officer said that his mind had been running along the idea, as a possibility, that we might write a letter to the Australian Government based on an assumption of their attitude, which could then be acknowledged, and that we would take this acknowledgment as sufficient. However, he did not know whether or not this would meet with Canberra's approval. Mr. Sayre then read him a formula which we had been working on, making it exceedingly clear that he had not yet shown it to the Secretary and if it should at a later date be rejected by the latter we could not be accused of bad faith. In other words, what we were suggesting was merely an effort on the part of the experts to find a way out, but was not an American proposition. He repeated this two or three times so that there could be no misunderstanding on this point. Sir Ronald said that he would telegraph it at once. He did not know what was the real trouble, but it was necessary to clean it up. Mr. Moffat asked that he also try and clear up what was evidently a false atmosphere. It appeared from the telegrams that the Australian Government felt that we were trying to obtain additional guaranties from them and were thereby trying to increase the difficulties, whereas in reality we were trying our best to find a formula which would ease the prevailing misunderstanding.

Mr. Officer then asked whether he could add in the telegrams that if Australia were de-black-listed we would then immediately proceed to informal confidential talks. Mr. Sayre agreed to this on the understanding that they were confidential, that no announcement was contemplated, and that if ever they had to be described they would be described as conversations to see whether a basis for agreement existed.

Sir Ronald said he would at once telegraph to Canberra and would let us know as soon as a reply had been received. The difficulty was that January and February corresponded to Washington's July and August, and that there was often a dearth of officials at their desks.

P[IERREPONT] M[OFFAT]

[Annex]

*Formula Read to the Australian Counselor of the British Embassy
(Officer) by the Assistant Secretary of State (Sayre)*

The United States Government is desirous of applying trade-agreement tariff rates to products of Australia as soon as possible. It has been observed with gratification that the measures which compel the United States Government to withdraw the benefit of trade-agreement rate concessions to Australian products have for the most part been abandoned. The United States Government, however, still is not sure that it is entirely clear as to the position of the Australian Government.

In view of the intention of the Australian Government to abandon the licensing system in the form in which it has operated since May 22, 1936, under conditions specified by the Minister for Trade and Customs in the Commonwealth Parliament on December 7, 1937, and on the understanding that it is the policy of the Australian Government to issue licenses liberally on the items which are still subject to licensing restrictions during the present Parliamentary recess and prior to the complete abandonment of such restrictions, the Government of the United States is prepared to extend the benefits of trade-agreement tariff rates to Australian products as soon as the Government of Australia confirms this understanding.

611.4731/274

*Memorandum of Conversation, by the Chief of the Division of
European Affairs (Moffat)*

[WASHINGTON,] January 22, 1938.

Mr. Keith Officer called this morning to say that, following our conversation on the 19th, Sir Ronald Lindsay, Ambassador E. and P., had telegraphed to Canberra. They were now in receipt of a reply, which he was giving me partly orally and partly in an *aide-mémoire*.¹⁶

Briefly, the Prime Minister said that he was much gratified that we were trying to reach a meeting of minds with him rather than adopt a completely rigid position. Before considering the suggestion

¹⁶ *Infra*.

reached by Lindsay and ourselves of a further exchange of notes, he wanted to put all his cards on the table and to explain exactly what they were doing in the intervening period of six weeks before the licensing system was completely abolished. They had yesterday issued a new list of items which were no longer restricted, leaving only a residue, the value of which from all countries, British and foreign, they estimated at only 200,000 pounds a year, or a maximum of 25,000 pounds during these six weeks. Of this they would, although they were not in a position to announce the fact, grant licenses to us on certain of the items. In one or two cases only, where the American product was alone competitive with the Australian product, they had given previous assurances to their manufacturers that licenses would not be issued to American imports pending the imposition of the new tariff rates. These were very few. In view of the foregoing, Mr. Lyons hoped that his explanation would in effect be the equivalent of the formula we had suggested, though if we still wished to go back to a formula he did not exclude consideration.

I told Mr. Officer that naturally we would have to study the situation further; that there were at least six or seven officials who had an immediate interest, but that no time would be lost in starting consideration. Mr. Officer said that he had been planning to leave for Canada on Tuesday, but in the circumstances he had postponed his trip.

P[IERREPONT] M[OFFAT]

611.4731/271

The British Embassy to the Department of State

His Majesty's Government in the Commonwealth of Australia are anxious to explain the present position with regard to the operation of their licensing system.

In March next the Commonwealth Government propose to substitute for the present licensing system new tariff provisions for such of the items at present subject to that system as are now being manufactured in Australia and require protection. Until that date licences are being issued freely for 77 out of the 92 items affected by the system. Four other items are the subject of quotas of which the United States of America has the largest share.

There remain eleven items licences for the import of which are still nominally restricted. But in the case of some of the articles comprised in the items although it has not been possible to announce that licences will be issued freely in fact licences can and are being issued for the import of goods from the United States of America.

Any discrimination that remains is confined to a limited number of articles, the total value of the imports of which from all countries is estimated not to exceed £200,000 in a full year. For the import of these items from the United States of America it is not possible to issue licences. In the case of some of them open licences have already been issued and few if any further licences could be issued before the licensing system comes to an end. As regards the remainder, the Commonwealth Government has either undertaken to issue licences for imports from certain foreign countries or, in the interests of Australian manufacturers, has agreed with those interests not to permit the import of these goods from the United States of America.

Taking the licensing system as a whole, importers from the United States of America are now receiving licences for goods of a greater value than in the case of any other country, and imports from the United States of America are being granted the most liberal treatment consistent with the assurance the Commonwealth Government has given to certain manufacturers.

The Commonwealth Government hope that the above will show that they are issuing licences liberally for imports from the United States of America; and that the United States Government will appreciate that during the period of approximately six weeks for which the licensing system will continue it will affect such a comparatively negligible proportion of United States of America trade with Australia that they will consider that substantial discrimination no longer exists.

WASHINGTON, January 22, 1938.

611.4731/262a : Telegram

The Secretary of State to the Consul General at Sydney (Wilson)

WASHINGTON, January 25, 1938—7 p. m.

Department's January 19.¹⁷ Lindsay duly received a telegram from Canberra and Officer delivered an *aide-mémoire* on January 22 explaining the Australian position. He also delivered a new list of items which may be imported freely, leaving a residue, the value of which from all countries, British and foreign, the Australians estimate at only 200,000 pounds a year, or a maximum of 25,000 pounds during the next 6 weeks. Of this they could grant and were in fact granting licenses on certain of the items, although they were not in

¹⁷ Not printed; it apprised the Consul of the nature of recent discussions between some members of the Department and the British Ambassador (611.4731/261a).

position to announce the fact. In one or two cases only where the American product was alone competitive with the Australian product they had given previous assurances to their manufacturers that licenses would not be issued to American imports pending the imposition of the new tariffs. Officer said the Prime Minister seemed to be pleased that we were trying to find a formula, and that Lyons now hoped that this explanation would be acceptable in the place of those assurances which it would embarrass him to give officially.

In view of the nominal value of the few remaining items and the short time remaining during which they would be restricted, the President has signed a letter to the Secretary of the Treasury in which he rescinds his order of June 26, 1936,¹⁸ because he has found as a fact that Australia no longer applies to American commerce the treatment which caused him to issue that order.

We desire that Mr. Lyons receive this news at once and, accordingly, suggest that you proceed immediately to Canberra and after expressing our gratification upon a satisfactory settlement of the matter, deliver to him the following note:

"I am instructed by my Government to inform you that, on the basis of the announcement made by the Government of Australia on December 7, 1937, of its intention to abolish import restrictions and of action subsequently taken which effectively restores to American exporters without discrimination the market possibilities they formerly enjoyed in Australia, the President of the United States has directed that beginning February 1, 1938, the products of Australia entering the United States shall thenceforth be accorded most-favored-nation tariff treatment."

Please inform Mr. Lyons that we propose to release this note for publication in our morning papers of January 28 and that we presume he will wish to release simultaneously.

HULL

647.116/328

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] January 26, 1938.

I told Mr. Officer that he would be interested in reading two documents; the first was a photostat of the President's instruction to the Secretary of the Treasury ordering the de-black-listing of Australian products as of February 1; the second was the text of our note to be

¹⁸ See unnumbered telegram of June 29, 1936, 6 p. m., to the Consul General at Sydney, *Foreign Relations*, 1936, vol. I, p. 763.

presented today, through Mr. Wilson, to Prime Minister Lyons informing him of this fact. Mr. Officer expressed the greatest pleasure, to which I replied that, having followed the whole "mess" from the beginning, I took a particular pleasure in seeing it brought to a satisfactory end.

Mr. Officer then raised the question of starting confidential exploratory talks. I said that although we were not making the note public for two days in order to allow a simultaneous release in Australia, nevertheless the orders had been given, and any time Sir Ronald or he chose to come down on the other matter they would be welcomed. Mr. Officer said that while this was very gratifying, unfortunately he had not yet received his instructions and there was nothing to come down about. He was going to send a telegram to Sydney right away to inquire when his instructions would be received; he would add a suggestion that if they were not forthcoming without delay they be telegraphed him regardless of expense. Meanwhile he was going to New York today and would take the long week-end off, and hoped to be in a position to call at the Department early next week.

P[IERREFONT] M[OFFAT]

611.4731/263 : Telegram

The Consul General at Sydney (Wilson) to the Secretary of State

SYDNEY, January 27, 1938—5 p. m.
[Received January 27—7:25 a. m.]

Referring to Department's telegram of January 25, 7 p. m., Lyons is in Sydney in connection with the sesquicentennial celebrations, also meetings of the Cabinet scheduled to commence today in Sydney.

At a luncheon yesterday and before the receipt of the Department's telegram above referred to, I had a talk with him and learned that immediately after my last talk with him in Canberra he had called in Abbott¹⁹ and told him he wanted "to go to the bottom of the whole matter." After this they had released 10 more items from restrictions. He was much surprised to learn that I had not been informed of that action. (That action was unknown to Squire²⁰ as well, but today's mail has brought me a mimeographed notice dated January 21, 1938, which releases 10 further items.)

In accordance with Department's telegram of January 25, 7 p. m., I this morning sought and obtained an appointment with the Prime Minister. I had a talk with him at 2:30 and delivered the note.

¹⁹ Edward Abbott, Australian Comptroller General of Customs.

²⁰ E. C. Squire, American Trade Commissioner at Sydney.

It was a brief but highly satisfactory interview closing with expressions of mutual gratification. He does not expect to give publicity to this note until the morning newspapers of the 29th and feels that it is not necessary for his Government to go into details but will rely upon a very brief statement. Personally I think he is still somewhat uncertain of his press and is fearful of giving openings for attack. He wants to make the most of the present occurrence but does not know how to do so without giving further publicity to the fact that Australia has been on our black list.

WILSON

611.4731/298

Memorandum of Conversation, by the Assistant Chief of the Division of Trade Agreements (Deimel)

[WASHINGTON,] February 4, 1938.

Participants: Mr. Sayre,
 Mr. Keith Officer,
 Mr. Minter,²¹
 Mr. Deimel.

Mr. Officer called by appointment and handed to Mr. Sayre a "tentative list of concessions" his Government would request in a trade agreement. A copy of this list is attached.²²

Mr. Officer explained the nature of the list and said it was felt to be a modest list and he hoped it would be possible to go ahead. He said that they understood our procedure perfectly and that negotiations with Australia would have to be conducted quite separately and independently of negotiations with the United Kingdom but that after all they were interrelated since Australia's position in facilitating the fully satisfactory outcome of our negotiations with the United Kingdom would be improved if negotiations were under way between Australia and the United States. In this connection he said they felt they were far behind Canada and therefore hoped that a speedy beginning could be made. Mr. Sayre replied that the list submitted by his Government would be studied; that in accordance with our usual practice we would want to discuss first the various major points relating to the basis of an agreement before discussing commodities in detail, and that he would plan to ask Mr. Officer in

²¹ John R. Minter of the Division of European Affairs.

²² Not printed.

some time next week for a further discussion. It was agreed to regard these conversations as strictly informal and confidential.

611.4731/301

Memorandum of Conversation, by Mr. John H. Fuqua of the Division of Trade Agreements

[WASHINGTON,] February 10, 1938.

Participants: Mr. Officer,
Mr. Hawkins,
Mr. Minter,
Mr. Fuqua.

We went over with Mr. Officer steps to be taken in the exploratory trade-agreement discussions. It was pointed out that two aspects of the situation require attention, as follows:

1. The first problem is to determine whether definitive negotiations would result in a mutually satisfactory agreement. This involves an examination of the General Provisions, and of the nature and extent of the concessions to be offered by each country.

Copies of our standard general provisions²³ were given to Mr. Officer with the suggestion that he study them and that whenever he is ready he will come to the Department and go over them with us. (He later telephoned to say that they are acceptable.)

In regard to the schedules, we said that we had given some consideration to the list of products recently submitted to us on which Australia seeks concessions from the United States. Except in the case of butter, we were not, of course, in a position to speak definitively in regard to them. In regard to butter, we could safely say that, in accordance with the chief-source rule, the granting of a concession on this product to Australia is precluded. Mr. Officer said that he had expected this and raised no question on it. With reference to wool, we stated that a concession on this product would, of course, involve difficulties, and we were not now in a position to indicate even tentatively what could be done. In view of the difficulties involved in granting a wool concession, it is impossible to consider this question as an isolated one. Whether any concession could be granted would depend upon a number of attendant circumstances, notably the nature and extent of the concessions which would be offered by Aus-

²³ For text of original standard general provisions, see *Foreign Relations*, 1935, vol. I, p. 541. Minor changes in these standard provisions were made from time to time.

tralia for the benefit of American exports. For this reason, it seems essential that we obtain from Australia an indication of how far it was prepared to go in granting concessions to us and suggested that, with this end in view, we submit to Mr. Officer in the very near future a list of our requests. When we had received the Australian Government's reply to our requests, we would be in a position to consider the question of a concession on wool in the light of the benefits to American interests which would result from the agreement. Mr. Officer agreed to the procedure outlined above.

2. In the event that it is found that the initiation of negotiations would result in a mutually satisfactory agreement, the question of the timing of the negotiations would have to be considered. We pointed out to Mr. Officer that, to announce negotiations of such a controversial character between now and next fall might present serious difficulties. Consequently, if a satisfactory basis for negotiations were found to exist, it might be necessary to consider whether actual negotiations or any announcement in regard thereto should not be deferred. We said that we did not need to consider this question now, however, as there is no need for doing so until the problem of finding a basis for negotiations had been disposed of.

Mr. Officer expressed serious concern over the possibility of any delay in making public announcement of negotiations. He said that Canada had succeeded in bringing about negotiations with us simultaneously with our negotiations with the United Kingdom and that it would create political difficulty in Australia if the Australian Government were unsuccessful in doing likewise. More specifically, he said that the Australian Government would be seriously embarrassed if an announcement of contemplation of negotiations were not made before the Australian Parliament meets, presumably about March 15. Mr. Officer agreed, however, the "timing" question does not arise until the question of finding a basis for negotiations has been disposed of and indicated that since the matter had been discussed only tentatively and informally he did not think it necessary even to bring the matter to the attention of his government at this time.

We impressed upon Mr. Officer the importance of avoiding any publicity whatsoever in regard to these exploratory discussions. He said that he would do everything possible to prevent leaks and would telegraph his government again stressing the importance of this. He indicated, however, that despite these precautions he could not be absolutely sure that no leaks would occur at the Australian end, since Ministers, when questioned in Parliament, might hedge and evade all they could but still be unable to deny that conversations are proceeding.

611.4731/294

*Memorandum of Conversation, by Mr. John R. Minter of the Division
of European Affairs*

[WASHINGTON,] February 17, 1938.

Participants: Mr. Keith Officer,
Mr. Hawkins,
Mr. Deimel,
Mr. Minter,
Mr. Fuqua.

Mr. Officer came in at Mr. Hawkins' request to continue preliminary discussions. He was handed a list of products which the United States would wish to have considered for concession (copy attached) ²⁴ and a memorandum regarding special paragraphs which it might be necessary to include in the General Provisions (copy attached).²⁴

Mr. Officer perused the list, and noticing that the nature of our requests would vary considerably, asked that we help him arrange the categories so that he could telegraph the list in as simple a form as possible. All agreed that the mere listing of products by name and number under each of nine or ten categories should convey to the Australian authorities a full picture of the scope of our requests.

Mr. Hawkins explained that we did not necessarily require yea or nay on each of these products, but simply an indication from the Australian Government whether it is prepared to negotiate an agreement having this scope. Mr. Officer said that this list was just what he expected to receive, recognizing as he did that since we send to Australia a diversified list of manufactured products, our list would necessarily be longer than theirs. He did not anticipate any delay in receiving a favorable reply. He would be out of town for the "long weekend" but would return to his desk Wednesday when he hoped to receive his instructions.

Mr. Officer then branched off into the question of the timing of an announcement. He had been told on his last visit to the Department that there were two questions to be discussed, the "whether" and the "when". The latter was to be discussed seriously only after the former was settled. But we had told him that on our part we were not then sure of the "when", and gave him reasons why it may be difficult, if not impossible, to make public announcements this year. Although on his previous visit, when Mr. Officer had appeared startled at the doubt of beginning at once and had expressed rather forcibly some of the dire consequences which he personally thought might result, had said he would not inform his government of this unfavorable turn of events, he told us today that he had telephoned to Mr.

²⁴ Not printed.

Bruce²⁵ at London. Mr. Bruce had immediately got in touch with Canberra and had urged that the delegation, which would start eastward on February 15, should postpone its departure until March 15 at the earliest. In the first place, Mr. Bruce realized that their departure on February 15 would embarrass the United States, and their arrival at London would be before he was ready for them. However, he would be ready for them at the end of May and he wanted that part of the delegation which would travel via the American continent to leave on March 15, the balance traveling directly from Australia to England by leaving early in May or late in April. Mr. Officer said that the "fat would be in the fire" as soon as this group left Australia, or even before, because naturally the wives begin to say goodbye sometime before departure. Since the Australian people were fully expecting a delegation to proceed to the United States, it would be impossible to deny any feature of their intentions. Consequently, since it would be impossible to maintain secrecy beyond the first week in March, he felt that we should get down to serious discussion of the date of announcement by the end of next week. Mr. Hawkins told Mr. Officer that we were concentrating our efforts on trying to reach a decision in that matter, and asked that Mr. Officer get in touch with him Wednesday or Thursday of next week.

Regarding the memorandum on the subject of the duty on inland freight, Mr. Officer said the request was not unexpected, as he was aware of how much importance we attached to the freight diversion problem.

611.4731/309

*Memorandum of Conversation, by Mr. John H. Fuqua of the
Division of Trade Agreements*

[WASHINGTON,] March 3, 1938.

Participants: Mr. Keith Officer, Australian Counselor of the British Embassy,
Mr. Hawkins,
Mr. Hickerson,²⁶
Mr. Minter,
Mr. Fuqua.

Mr. Officer called today at his request in order to comment on behalf of his Government on the Standard General Provisions and the

²⁵ Australian High Commissioner at London.

²⁶ John D. Hickerson, Assistant Chief of the Division of European Affairs.

list of United States preliminary requests of February 17, 1938. He opened the conversation by reciting practically verbatim the statement made in the attached memorandum²⁷ which he then delivered.

Mr. Officer stressed his Government's desire for an early public announcement that negotiations with Australia are contemplated. In view of this, he suggested that it might be advisable for the British Ambassador to present the attached memorandum to the Department as a formal note, but he said he would follow our desires in this matter.

Mr. Officer was told that this point would be considered. He was informed that we desire to study the memorandum and that he would be informed as to the Department's attitude in the near future.

Mr. Officer stated that the two Australian officials still intend to sail from Australia on March 15. They expect to be in Washington for about a month before proceeding to London to participate in Anglo-Australian trade talks. Mr. Officer said that the London discussions would not delay negotiations with the United States as some members of the Australian delegation could be sent from London to Washington at practically any time we desire. He added that if negotiations with the United States eventuate, Mr. Bruce, the High Commissioner at London, would probably head the Australian delegation.

Mr. Officer was reminded that no decision has yet been reached as to whether we would be able to proceed with negotiations in the near future, but he was also informed that the flexibility of the plans of the Australian delegation would be helpful in arranging the "calendar" necessitated by our trade agreement procedure, in case it was found possible to go ahead with negotiations with Australia.

611.4731/309

The British Embassy to the Department of State

His Majesty's Government in the Commonwealth of Australia is prepared to accept the "general provisions" set out in the draft supplied to them by the United States Consul-General in Sydney as a suitable basis for an agreement although, as the State Department has itself pointed out, certain particular articles will need modification before they could be incorporated in an agreement between the Commonwealth and the United States. The details of such modifications could be discussed in the course of the actual negotiations.

The Commonwealth Government consider that the requests contained in the State Department's list of 17th February, 1938 provide scope for effective negotiation on these items generally, although the extent of the concessions which the Commonwealth Government will

²⁷ *Infra.*

be able to grant on certain items necessarily will be limited by their obligations to Australian manufacturers, whilst, as regards the items as to which other members of the British Commonwealth enjoy at present preferential treatment, the extent of the concessions will depend on the result of consultations with them.

The Commonwealth Government is prepared to consider the request for a reduction in primage duty on a limited list of commodities of special interest to the United States of America, although the question of revenue, particularly in view of expenditure on defence, will have to be considered.

The Commonwealth Government hopes that the United States of America Government will agree that there exists a basis for the negotiation of a commercial agreement and announce at an early date that the negotiation of such an agreement with Australia is contemplated.

WASHINGTON, March 3, 1938.

611.4731/316

Memorandum of Conversation, by the Chief of the Division of Trade Agreements (Hawkins)

[WASHINGTON,] March 11, 1938.

Participants: The Honorable Sir Ronald Lindsay, British Ambassador;
Mr. Frank Keith Officer, Australian Counselor of Embassy;
Mr. Francis B. Sayre;
Mr. Harry C. Hawkins.

Mr. Sayre stated that we had been studying the question of trade-agreement negotiations with Australia and that he desired to explain the situation as it now stands. First, he said he would like to make it perfectly clear that we are anxious to proceed with these negotiations and that the matter had been given the most active and thorough consideration during recent weeks. The conclusion reached is that the political risks in making a public announcement of contemplated negotiations at this time would be too great; that the Secretary had decided that it is best to mark time for the present and see how the situation develops. For example, the hearings on the United Kingdom agreement which begin next week will furnish one indication of the strength of the opposition which we will have to face, and we would like to gauge the risks in the light of the situation growing out of these hearings.

Mr. Sayre emphasized the fact that the risk involved is one which is shared by Australia and the United Kingdom as well as by ourselves;

that if the added burden of negotiations with Australia should result in adding sufficiently to the already great opposition so as to stop progress on the whole trade-agreements program, this would be as greatly to the disadvantage of other countries as to ourselves. In pointing out that the addition of Australia to the countries with which we are negotiating would seriously increase the risk, he referred to the fact that it would mean adding the Western States to the opposition which we are now encountering in the Eastern States in connection with the British agreement. In other words, the addition of wool might be all that is necessary to defeat us and it seems unwise to take this risk in view of the existing situation just at this time.

The Ambassador replied that he understood our position, but that he must point out that Australia also has a serious political problem which will be made more difficult if we refuse to go forward with the negotiations at this time. He thought that it might appease the Australian Government to some extent if we could reply to its recent memorandum concerning the basis for negotiations and say that we regard that memorandum as furnishing an adequate basis for negotiations, pointing out, however, that the question still remains to be decided as to the exact timing of our public announcement. Mr. Sayre said that he had thought the matter might best be dealt with orally, but if it would help the situation any, we would be glad to prepare a written reply to the memorandum in question, and add a statement on the question of timing, along the lines indicated.

The Ambassador said that it might be useful in appeasing the Australian Government if we instructed Wilson to explain our position at Canberra.

Mr. Officer then referred to the plans for two Australian officials to leave Australia on March fifteenth and to stop by the United States en route to the United Kingdom. He inquired as to our attitude in regard to this visit. Mr. Sayre informed him that we would of course be glad to see the Australian officials and to discuss the trade agreement in an informal and exploratory manner, although we might not be in a position to go into details as to rates of duty. He said that he saw no objection to the Australian Government announcing, if necessary, that these officials are coming by way of the United States for the purpose of carrying on exploratory discussions as to the possibility of a trade agreement; but he cautioned against letting the Australians believe that we were prepared as yet for actual negotiations as distinct from exploratory conversations.

Mr. Officer later phoned Mr. Hawkins to say that perhaps he and the Ambassador had stressed too much the desirability of a written reply to their memorandum. He said what they really had in mind was a definite reply on the question of basis and that it might even be preferable if this were given orally.

611.4731/317

Memorandum of Conversation, by the Chief of the Division of Trade Agreements (Hawkins)

[WASHINGTON,] March 11, 1938.

Participants: The Honorable Sir Ronald Lindsay, British Ambassador;
Mr. Francis B. Sayre;
Mr. Harry C. Hawkins.

In accordance with a suggestion previously made by Mr. Sayre to the Ambassador, the latter remained for a short time after Mr. Officer had left, for further discussion of the question of trade-agreement negotiations with Australia. Mr. Sayre emphasized to him that the political considerations discussed in the conference with Mr. Officer were very real ones and it is desirable that the Ambassador and the British Government fully understand this in order that they may give such assistance as possible in making the Australian Government understand the situation. Mr. Sayre stressed what he said in the conference with Mr. Officer, namely that we feel that an announcement of negotiations with Australia just at this time would be subjecting our agreement with the United Kingdom to undue risk. He pointed out that the desideratum of paramount importance is the trade agreement between the United States and the United Kingdom. Mr. Sayre explained further that what we fear is a combination between the opponents of the United Kingdom agreement in the Eastern States with the interests in the wool growing States which would be aroused by the announcement of negotiations with Australia. He said that there are two stages by which we might find the trade-agreements program jeopardized. The first is between now and the adjournment of Congress, during which there is always the possibility of a resolution or a rider to a bill being adopted which would cripple the program. The other is at the time of the Congressional elections in the fall when the opponents of the program might make a successful political issue of it at the polls.

The Ambassador indicated that he quite understood all this and felt sure his Government would be prepared to assist in appeasing the Australians to the extent of its ability. He said, however, that we probably overrate the ability of the British Government to do this. He also said he understood that the agreement with the United Kingdom is the trunk and that an agreement with Australia is only a branch and, while the branch is important, we must not jeopardize the trunk for the sake of it.

611.4731/318

Memorandum of Conversation, by the Chief of the Division of Trade Agreements (Hawkins)

[WASHINGTON,] March 14, 1938.

Participants: Mr. Frank Keith Officer, Australian Counselor of the British Embassy;
Mr. John D. Hickerson;
Mr. Harry C. Hawkins.

We handed Mr. Officer the attached memorandum²⁸ on the subject of trade-agreement negotiations with Australia, explaining to him that it should be read in conjunction with statements made orally to him and the Ambassador last Friday. Mr. Officer at first reading of the memorandum expressed mild disappointment with it, but on further perusal seemed not too dissatisfied.

With reference to the visit of Australian officials to the United States en route to London, Mr. Officer said that the original plan had been to land at Vancouver and immediately to cross into the United States and come to Washington through this country. He said that it might be preferable with a view to showing that the visit to the United States is only an incidental side trip on the way to London if the Australian officials should cross Canada to Montreal and then pay a brief visit to Washington from there. We said that perhaps this might be slightly preferable.

Mr. Officer said that he had talked by phone to Mr. Bruce and that the latter had asked for an estimate as to when definitive negotiations might actively begin in Washington. Mr. Officer said he had indicated July as a possibility and inquired whether we thought this was a fair estimate. We told him that we simply were not in a position at this time to judge.

Mr. Officer later phoned to say that he understood the memorandum would not be made public unless the two Governments should agree to it, and that he was advising his Government to this effect. He was informed that the memorandum should be regarded as confidential and had been so marked.

611.4731/318

The Department of State to the British Embassy

MEMORANDUM

Careful consideration has been given to the memorandum of March 3, 1938, of His Majesty's Government in the Commonwealth of Australia in regard to the scope and character of the concessions which

²⁸ *Infra.*

Australia would be in a position to offer in a trade agreement with the United States. It is believed that when the two Governments find it possible to undertake trade-agreement negotiations, the reaching of a satisfactory basis for negotiations will present no insuperable difficulties. The occasion of the contemplated mission of Australian officials to London and their plan to stop en route in the United States might be taken to explore any aspects of the subject which may appear to require further discussion.

WASHINGTON, March 14, 1938.

611.4731/3204

*Memorandum of Conversation, by the Chief of the Division of
Trade Agreements (Hawkins)*

[WASHINGTON,] March 29, 1938.

Participants: The British Ambassador;
Mr. A. E. Overton;²⁹
Mr. Keith Officer;
Mr. Francis B. Sayre;
Mr. John D. Hickerson;
Mr. Harry C. Hawkins.

The Ambassador stated that he wanted to take up again the situation with respect to the negotiation of a trade agreement with Australia. He said that the Australian parliament will reconvene shortly after Easter and the Government may be asked embarrassing questions in regard to the justification of giving up of preferential treatment in the United Kingdom when it has no compensatory benefits to show in the form of a trade agreement, or a prospective trade agreement, with the United States. The Ambassador said that it would greatly relieve the difficulties of the Australian Government if it were possible for us to indicate definitely just when we would be in a position to announce trade-agreement negotiations with Australia. He said the Australian Government is anxious that such an announcement be made before, or at least concurrently, with the signature of the agreement between the United States and the United Kingdom. He asked whether we could not give definite assurances that this would be done.

Mr. Sayre replied that we were always ready, of course, to consider any proposition which the Ambassador wished to present. Before giving an answer to the question presented he would wish to discuss

²⁹ Second Secretary of the British Board of Trade and member of the British Trade Delegation in the United States.

it fully with his associates and possibly the Secretary, and when this had been done, he would let the Ambassador know this Government's position. He said, however, that while he was not attempting to give an answer now, certain considerations bearing upon the question at once came into his mind and he would give the Ambassador the benefit of his off-hand observations. In the first place, he hoped that the Ambassador and the Australian Government realized that we are just as anxious to conclude the trade agreement with Australia as is the Australian Government; that Australia is an important commercial nation with which our trade relations represent interests of considerable magnitude; that the trade-agreements program has as its ultimate objective the improvement of trade relations with all of the important commercial countries of the world; and that this program would not be complete if an agreement were not consummated with Australia. He went on to say, however, that the question of when negotiations should be instituted is one of the greatest importance. The situation in this country at the present time is such that if we take on too great a load we may jeopardize not only an Australian agreement but the agreement with the United Kingdom and the whole trade-agreements program. He said that while we want to go ahead as soon as the propitious time arrives, we cannot foresee just when that time will be. We will have to watch developments and move when the time is ripe. Hence it is impossible to state now that an announcement will be made at any particular time in the future because we cannot determine in advance when the moment will be opportune. An undertaking now to make the announcement at any particular time would be more or less meaningless because if when that time arrived, it were found that developments were such as to make the announcement unwise, Australia would not want us, in its own interests and in the interest of the successful conclusion of the agreement with the United Kingdom, to go ahead. Mr. Sayre repeated that these were his off-hand observations and did not constitute an answer to the question presented; that the answer would be communicated to the Ambassador after Mr. Sayre had had an opportunity to think the matter over and discuss it further with his associates. He promised to get in touch with the Ambassador in the course of the next few days.

APRIL 2, 1938.

Today (Saturday, April 2) the British Ambassador called again at Mr. Sayre's request. Mr. Sayre said he had asked him to come in in order to tell him that he had followed out his intention of discussing with his associates the question of the answer to be made to the Australian Government, and that his view had been confirmed that

there was really no other answer to make than that which he had personally indicated at the previous interview. Mr. Sayre reiterated this answer by saying again that we are very anxious to enter into negotiations with Australia at the earliest feasible opportunity, but that at the present time it would not be wise to do so and that we could not make prior commitments as to when it would be found wise. The British Ambassador evinced no surprise at this and showed that he understood the answer by resuming it in the following terms: that we found it neither wise nor feasible to make a commitment as to when we would be prepared to announce the opening of negotiations. Mr. Sayre emphasized again the fact that we are anxious to take advantage of the earliest desirable opportunity to do so and said that when the Australian officials came here Easter Week, we would seek to make our position and intentions clear to them.

611.4731/322

Memorandum of Conversation, by Mr. John R. Minter of the Division of European Affairs

[WASHINGTON,] April 20, 1938.

Participants: For the Commonwealth of Australia:
 Mr. Edward Abbott, Comptroller General of Customs,
 Mr. J. F. Murphy, Secretary of Commerce,
 Mr. Keith Officer, Australian Counselor of the British Embassy.
 For the State Department:
 Mr. Sayre, Mr. Hawkins, Mr. Hickerson, Mr. Minter.

The Australian gentlemen came by appointment to hold their long-sought exploratory conversations regarding the possibility of negotiating a trade agreement with the United States. Messrs. Abbott and Murphy are two of the four who are proceeding by way of this continent to London, where negotiations for the renewal of their Ottawa agreement³⁰ will begin in May. They will sail for London next week.

Mr. Sayre opened the business end of the conversations by reciting the general aims of the trade agreements program. He discussed the degree of success which had been attained to date, and stated that he felt certain that this success could not have been attained if we had not

³⁰ Agreement of August 20, 1932, between the United Kingdom and Australia; *British and Foreign State Papers*, vol. cxxxv, p. 183.

proceeded cautiously. The success of any such large program was dependent upon the silencing of opposition by education regarding its benefits, and by gaining an irresistible momentum with each forward step. Realization of the possibility of a misguided public and legislative opinion of the program having fatal consequences has resulted in the exercise of just such precautions as we are now forced to use in dealing with the question of negotiating with Australia. Mr. Sayre said that we all earnestly desired to negotiate an agreement with Australia, and it had been a part of our plan from the very beginning to undertake this at about the same time as we were negotiating with the United Kingdom. He wanted them to know that late last year we were considering very seriously such a possibility, but that the greatest single factor militating against it was Australia's own wilful contribution. Earlier change in Australia's policy toward the United States might have had different results. We had fully understood Australia's political difficulties with elections imminent, and with other uncertainties there. We had been patient with the Australian Government in its period of political difficulties and had come to hope that because of this they would now be patient with us when we are faced with such.

Mr. Sayre then outlined our own political difficulties, which need not be repeated here. He had stated these to the British Ambassador on the occasion of interviews last month, and Mr. Officer would without doubt have reported them to his Government. Mr. Sayre said, however, that he had grown more hopeful of the political complexion by reason of the opposition to the United Kingdom and the Canadian trade agreements²¹ having been less than was anticipated, and by the success which the Department had had in preventing the passage by Congress of amendments and resolutions contrary to the aims of the program. He hoped these successes were an indication of continually improved political complexion and, although he must repeat his former insistence made to the Ambassador that he could make no commitment on the question of a public announcement, he did not despair of developments which would be pleasing to both Governments.

Mr. Abbott said that they had been very interested in hearing Mr. Sayre's remarks. He would summarize them by concluding that we desired to negotiate with Australia, but that we were unable to say when, if ever, we would begin negotiations. It seemed to him that if we did wait until after the elections, a change in personnel of the Congress might result in making it impossible ever to negotiate (Mr. Sayre and others reiterated their belief that the Trade Agreements Act would continue in force if we proceeded with caution). Mr. Abbott said that his Government had hoped that we would at least find it

²¹ See pp. 1 ff. and pp. 164 ff., respectively.

possible to announce contemplation before the terms of the United Kingdom agreement were made public. His Government had given assent to certain concessions which the United Kingdom might make, and the publication of these while Australia's future position in this scheme of things was still indefinite, would leave his Government in a difficult position at home. They had rushed through their plans for abandonment of the licensing system in the hope of gaining a place in this scheme. Both he and Mr. Murphy expressed fear that their ability to go through at London with tentative promises of cooperation might be lessened if they were unable to report to their ministers more definite progress than had been made this morning. (Mr. Murphy dwelt a little on the personal side, implying that Abbott and he would be open to criticism for having failed in their mission.)

Mr. Sayre said, apropos of Australia's cooperation in making the Anglo-American agreement successful, that he believed such cooperation would prove to be well worth while for Australia. Messrs. Abbott and Murphy went on to recite the complexity of the Empire economic scheme, and stated that they felt that Australia's position in that exclusive scheme would henceforth be determined by its commercial and treaty relations with the United States.

After the foregoing general thoughts had been expressed and clarified by questions and answers, Mr. Sayre inquired of the Australian procedure in putting a trade agreement into effect. He asked this question because, in the event we should find it possible within the next few months to put our own procedure into operation, he would want to feel reasonably sure that Australian parliamentary procedure would not throw the date of publication of terms too near our Congressional election.

The Australian procedure requires the tabling in the House of an exact copy of an agreement, since such agreement must be ratified by the Parliament. The Australians were so willing to proceed and conclude at the earliest possible date that they would devise some method of having a copy ready in Australia on the date of signature here, so that we could publish it immediately. Parliament would be called in special session for such an eventuality. Moreover, they would not be averse to cabling the entire agreement.

They then inquired of our procedure particularly as to whether it could not be shortened. Mr. Sayre was then obliged to leave the room, and in the remaining half hour Mr. Hawkins and the other officers outlined our procedure and indicated where it could be shortened. The primary reason for ability to shorten the period lay in the brevity of the schedules.

Messrs. Abbott and Murphy stated that they would be prepared to return from London at any time we were ready to start negotiations, and that one or more ministers would proceed here for the later stages.

They regretted the possibility of returning to Australia and then having at a later date to make the long trip again.

Whereas Messrs. Murphy and Abbott attributed their remarks to the Australian Government, Mr. Officer in a few remarks which he made attempted only to interpret the feelings of the British Ambassador.

611.4731/329

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] June 2, 1938.

Mr. Keith Officer called on me this morning to say that while he realized our preoccupations which had made it necessary to postpone negotiations for a trade agreement with Australia, nonetheless time was passing so rapidly that he felt he should speak to me again about the situation that was developing. It had now been six or seven weeks since Messrs. Abbott and Murphy had been here and no further step had been taken to his knowledge since they left. This very morning he had received a letter from Mr. Bruce indicating satisfactory progress in the Anglo-Australian talks and an increasing sense of worry at not hearing further from the United States.

At the same time he had received copies of the Parliamentary debates in Canberra showing that there was renewed criticism of the Government for having abandoned its trade diversion system against the United States and gotten nothing in return. This was accentuated by the increasingly unfavorable trade and payments balance.

Mr. Officer had accordingly been thinking out ways and means of taking into account the political situations in the two countries. He said that obviously the best thing would be if we could announce our intention to negotiate late in June and actually sign up within ten weeks. This, however, he admitted was bringing a negotiation very close to our elections.

As a second best solution, which he had not submitted to his Government, was the possibility of the two Governments announcing a "contemplation of negotiation" with the understanding that the "intention to negotiate" and the negotiations themselves should only take place after our elections. He said that he had not put this up to his Government and so must be regarded as a purely personal suggestion.

In any event, if our decision was to be unfavorable he thought it only fair to tell the Australian authorities so early in the game rather than to "kid them along" for months and months and then confront them with a "*non possumus*".

I told Mr. Officer that I had not been keeping in touch with developments but would be glad to see that his point of view was given careful attention. Either Mr. Sayre, Mr. Hawkins or I would get in touch with him again in a very short time.

P[IERREPONT] M[OFFAT]

611.4731/331a

The Department of State to the British Embassy

MEMORANDUM

Referring to conversations which have been held from time to time regarding the possibility of negotiating a trade agreement between the United States and Australia, and in particular to those held with Messrs. Abbott and Murphy when they were in Washington on April 20, 1938, the United States Government is prepared to undertake immediately negotiations under the following conditions:

(1) If the negotiations cannot be completed and the agreement signed and made public by early September, it will be necessary publicly to announce that the negotiations have been terminated. This is due to the fact that the principal concessions sought by Australia are on important primary products.

(2) In view of the foregoing, it would be necessary, in order to complete the procedural requirements for public notice and hearings as laid down in the Trade Agreements Act, to make not later than July 7 the public announcement of negotiations.

(3) Since it is obviously desirable that negotiations not be publicly announced if there is any danger of their not being completed in the time indicated under (1) above, it is important that agreement be reached on essentials before public announcement is made, that is, before July 7. If announcement cannot be made on or before July 7, it would be necessary indefinitely to postpone such announcement.

(4) With this end in view there is transmitted herewith a more precise indication of the concessions desired by the United States. The Government of the United States would like to be informed at the earliest possible date whether the Australian Government is able to meet each of the precise requests made herewith.

(5) On its part, the Government of the United States, having examined the list of concessions sought by Australia, is prepared to make the following reductions in the American wool duties as part of a comprehensive trade agreement with Australia:

Wools, finer than 44s now subject to various duties under paragraph 1102 (b) of the Tariff Act of 1930³² to bear rates of duty as follows:

³² 46 Stat. 590, 647.

- (1) In the grease or washed, 25 cents per pound of clean content;
- (2) Scoured, 28 cents per pound of clean content;
- (3) On the skin, 23 cents per pound of clean content;
- (4) Sorted, or matchings, if not scoured, 26 cents per pound of clean content.

It will be observed that these tentative offers represent a reduction in the existing wool duties by about 26½ percent. These offers are the result of exhaustive study by the interested branches of the American Government, and it has been definitely established that greater reductions in these rates cannot be considered.

The United States expects to be able to offer to Australia bindings on the free list or substantial reductions in the American tariff rates on those other products of which Australia is the principal supplier in the American market. Tentative indications of these offers can be transmitted to the Australian Government in the course of the next few days. All proposals of American tariff reductions put forward at this time are, of course, subject to alteration in the light of information which may be brought out in the briefs and at the public hearings in connection with the normal trade agreement procedure in the United States.

(6) The conclusion of a trade agreement between the United States and Australia is, as has been previously pointed out, contingent on the conclusion of a broad and comprehensive trade agreement between the United States and the United Kingdom. In the opinion of the American Government the proposals of the British Government in the current negotiations fall far short of the minimum requirements of such an agreement. It is fair to add, however, that the British Government is re-examining the requests of the United States, and it is hoped that a broad and comprehensive agreement can be reached. The cooperation of the Australian Government in making it possible for the United Kingdom, as well as Canada, to meet certain important requests of the United States should greatly facilitate the accomplishment of this objective.

WASHINGTON, June 13, 1938.

611.4731/328

The British Embassy to the Department of State ^{32a}

His Majesty's Government in the Commonwealth of Australia have given careful consideration to the memorandum handed to me at the State Department on June 13th and the list of probable concessions ³³ received from the State Department on the 20th June.

^{32a} Delivered to the Department by Mr. Keith Officer, Australian Counselor of the British Embassy; the first-person references in this document are to Mr. Officer.

³³ List not printed.

They wish me to communicate to you the attached list ^{33a} of formal requests made by the Commonwealth Government: this list would have been supplied before had the Commonwealth Government thought that the United States Government wished and were in a position to proceed to detailed discussions.

The Commonwealth Government desire me to say that whilst they are anxious to negotiate with the United States of America a mutually satisfactory trade agreement, such an agreement naturally must have regard to the circumstances of both countries and, in the case of Australia, to the great need for an expansion of its exports to the United States of America, particularly in such commodities as wool, beef, mutton and lamb. In their opinion the offer the United States Government have made falls very far short of constituting a reasonable basis for negotiations, and they hope that the United States Government will be able to accept as a basis the list they are now submitting.

In explanation of the above, I should say that the Commonwealth Government are preparing to consider only an agreement which is of real value to both parties. To be of value to Australia an agreement must promise a more even balance in trade between the two countries and contain concessions which will make possible some expansion of the Australian Export Trade to the United States of America, for the Commonwealth Government cannot contemplate a continuance indefinitely of anything approaching the figure of the present annual adverse balance. But whilst the requests submitted by the United States Government would expand to a very considerable extent United States exports to Australia the concessions offered by the United States of America promise no expansion of Australian trade and so actually threaten to increase Australia's adverse balance of trade. For these reasons the Commonwealth Government are seeking such further concessions as would promise some increase in their exports and so a more equitable and mutually satisfactory distribution of trade.

WASHINGTON, June 28, 1938.

611.4731/328

The Department of State to the British Embassy

AIDE-MÉMOIRE

The American Government has given careful consideration to the memorandum of His Majesty's Government in the Commonwealth of Australia dated June twenty-eighth and the accompanying list of requests for concessions in a possible trade agreement between the two Governments. The American Government appreciates the reply of His Majesty's Government and greatly regrets that a study of the

^{33a} Not printed.

list of requested concessions presented with the memorandum seems to indicate the impracticability of successfully negotiating the essentials of a trade agreement before July seventh. It is hoped that as soon as both Governments find that conditions are favorable, the possibility of negotiating a mutually satisfactory trade agreement can again be examined.

WASHINGTON, June 29, 1938.

611.4731/339

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] August 12, 1938.

Participants: Sir Earle Page,³⁴
Mr. Hawkins,
Mr. Moffat.

Sir Earle Page opened the conversation at luncheon by saying: "Let's get away from generalities and come to the specific question of Australian-American trade relations. Are you genuine in your intention to negotiate a trade agreement with us or are you continuing 'to string us along' alleging one reason after another for delay?"

Mr. Moffat replied that we envisaged trade agreement negotiations with Australia just as soon as we found it politically and economically possible, but that for reasons already explained we could not hope to enter into such conversations,—at any rate until after our elections.

"In that case", he replied, "can you give us a definite commitment that you will negotiate after elections?"

Mr. Moffat said that unfortunately giving an advance commitment to that effect would be the equivalent of negotiating at the present time,—at least as far as political repercussions were concerned. We could not foresee the future with exactness. For instance, the next Congress might be out of hand; the reaction of the public to the British and Canadian trade agreements might be unfavorable. No, we could not give a firm commitment, but Mr. Moffat said he felt extremely hopeful that we could go ahead right after the elections and would be exceedingly disappointed if we could not.

Sir Earle Page then said, "What am I to say when I get back to Australia? The first question I will be asked is 'what about Ottawa?' There I have a good answer and can point out that Australia and England laid down the bases of a wider Empire cooperation that may mean the beginning of a new era. The second question I will

³⁴ Australian Minister of Commerce on mission to the United States.

be asked is 'what about the trade agreement with America?' and there the best answer I can give is that they won't talk to us until after elections."

Mr. Moffat replied that all hope of going forward with Australia depended upon one other factor that he had not mentioned,—namely,—that nothing should be said in Australia which would complicate our political problem in the two or three months immediately ahead of us.

Sir Earle Page answered that if we thought the Australian Government could remain silent until November we did not know the Australian public. The Australian public knew that Australia had made definite sacrifices in order to bring about a U. K.—U. S. A. trade agreement; that Canada had done the same; that Canada was rewarded with new negotiations and Australia was shut out in the cold. He went on to say that not only had she been shut out in the cold but that we had made a proposal to her six weeks ago that were it made public would so anger the Australian people that negotiations between the two countries would be out of the question for twenty years. In return for a valueless wool concession we had asked to displace many of the principal British and Canadian exports to Australia, at the very moment when we were selling six times as much to Australia as we were buying from her. He then proceeded to present the classical Australian arguments against our trade practices and ended with a statement that if we went on snubbing Australia, she would have to bring down new tariff measures designed to divert American trade.

Mr. Moffat told Sir Earle Page that there was scant value in looking backwards on the mistakes or disagreements of the past. The thing to do was to look forward and the first problem before us was what formula he could devise to prevent any embarrassment coming from Australia during the next three or four months.

At this point luncheon ended and Sir Earle Page continued conversation with Mr. Hawkins, Mr. Officer and Mr. Moffat in the Library. He went over much the same ground in a more dispassionate tone. Mr. Hawkins pointed out the actual benefits which Australia would derive from the woolen fabric concessions we were planning to give Great Britain. Sir Earle Page would not admit that this would materially help the Australian wool grower as he claimed that it would not increase the total consumption of wool. In fact, Australia's basic problem as he saw it, was to bring about any form of international cooperation which would increase the consumption of agricultural commodities. He cited at some length Australia's manipulations of butter prices, et cetera, to this end. He then made the claim that the U. S.—U. K. trade agreement was going to be a narrow one which would scarcely enlarge world trade; he was even doubtful of its psychological effects, for he said that the Europeans

would argue that if this were the best the two greatest trading nations could do by mutual agreement, they themselves might just as well continue with their autarchical systems. Finally he reverted to the political problem facing the Australian Government and accepted Mr. Hawkins' assurances that the specialists and technical men in the Department were working now on Australian matters and endeavoring to see what the terms of an agreement should be, including the concessions which might be granted Australia. He evidently accepted as an unwelcome but nonetheless inescapable fact that the only chance Australia could hope to initiate negotiations was the period immediately following our elections. Mr. Hawkins assured him that our studies on all technical phases by that time would be complete and that he would raise the question with the Secretary of making a new approach to Australia.

Sir Earle Page asked if we could give roughly the time table as we envisaged it. Mr. Hawkins replied that if we could go ahead he thought the Australian experts might be welcome for exploratory discussions some time late in December or early January, that after a basis of agreement had been reached, we would announce our intention with the statutory provisions for hearings, briefs, et cetera, and that if all went well it might be time for their Minister to come over and complete negotiations in March or April. He pointed out in this connection that for obvious reasons there could be no definitive negotiations until after our hearings had been completed. Sir Earle Page said that this seemed all right but he had one request to make,—namely,—that if we could not go ahead soon after elections for any political reasons, we tell Australia so honestly and frankly so that they would lose no further time in chasing the will-of-the-wisp, and could get started working on their new tariff schedules designed to divert trade from us to countries that would buy from Australia.

As to the formula, he suggested a statement to the effect that he and other Australians had discussed the general trend of Australian-American trade; that this was so exceedingly complex and raised so many problems that it was requiring especial study; that this study was in process and when completed it would advance our trade relations one stage. He said that the great thing was that such a statement be not contradicted here. Mr. Hawkins said that we should probably give the matter a slightly different emphasis by pointing out that our trade agreement program is a comprehensive one and that we were making similar studies not only affecting Australia, but all other important countries with which we have not yet concluded agreements. Sir Earle Page agreed that this was all right, adding that the Australian public would not care in the slightest what we were doing with other countries!

P[IERREPONT] M[OFFAT]

611.4731/351a : Telegram

The Secretary of State to the Consul General at Sydney (Wilson)

WASHINGTON, November 15, 1938—4 p.m.

Please proceed to Canberra at once and hand to the Prime Minister, or in his absence to Sir Earle Page "for the Prime Minister" the following *Aide-Mémoire* marked strictly confidential.

"Now that negotiations leading to the United States-United Kingdom Trade Agreement have been completed, the American Government, as indicated to the Honorable Sir Earle Page at Washington last summer, looks hopefully to the prospect of negotiating a trade agreement with Australia.

"The American Government assumes that the Australian Government agrees that whereas conversations should be started without delay, no public announcement of 'intention to negotiate' should be made until a basis of agreement has been found. By this is meant a meeting of minds on the most important concessions on both sides indispensable to the conclusion of a comprehensive agreement. It would be understood, of course, that whatever proposals might be put forward at this stage must be subject to such eventual modifications as might be rendered necessary as the result of the introduction of new evidence at public hearings.

"It is anticipated that the Australian Government also is prepared to engage in conversations to find a basis of agreement without delay. As a matter of fact, considerable preparatory work has already been done in the course of informal talks during the past 2 or 3 months between Mr. L. R. Macgregor³⁵ and certain technical experts of the United States. These talks have unquestionably been productive of better mutual understanding of the difficulties still confronting the two Governments. It is believed that these confidential talks might usefully be formalized and intensified, and that as progress is made they might perhaps be expanded by the addition of other experts. It is the American Government's belief that the continuation of such conversations might be the most effective method of finding a basis of agreement as defined above. As soon as such a basis is found, the American Government is ready to join with the Australian Government in making public announcement of 'intention to negotiate.'

"The American Government would welcome an indication from the Australian Government as to whether the procedure suggested meets with the approval of the Commonwealth Government and to invite any comments which it may care to make."

HULL

611.4731/352 : Telegram

The Consul General at Sydney (Wilson) to the Secretary of State

SYDNEY, November 19, 1938—noon.

[Received November 19—7:55 a. m.]

Referring to Department's telegram of November 15, 4 p. m., I have just returned from Canberra where on Thursday evening I handed

³⁵ Australian Trade Commissioner at New York City.

the *aide-mémoire* to the Prime Minister and had a conference with him and Page. Both expressed keen pleasure of a turn which would allow conversations to take place but equally keen disappointment at our insistence upon secrecy.

Late Friday afternoon I was called by Hodgson³⁶ to the Prime Minister's office where I received from Moore an uninitialed *aide-mémoire*. Only Hodgson and Moore were present. Moore stated that this *aide-mémoire* expressed the views of the Cabinet meeting then in session. The *aide-mémoire* opens: "The Australian Government welcomes the prospect of initiating an agreement with the United States and is prepared to explore the possibility of reaching a basis of agreement." Then follows a wordy reference to past and present unsatisfactoriness of Australia's trade balance as "overwhelmingly and increasingly in favor of the United States" and a necessity "to expand the volume and value of its exports to the United States." (Does this indicate a return to trade diversion?)

The *aide-mémoire* closes with a paragraph expressing a genuine desire "to arrive at a basis for agreement with the least possible delay" and promises at the earliest opportunity an expression of views concerning the procedure proposed in my *aide-mémoire*.

My visit was pleasant and the reception accorded me cordial.

Press comments on United Kingdom and Canadian agreements have been very favorable. Page's statement before the House of Representatives on the trade agreement between the United States and the United Kingdom provoked no unfavorable comment of serious character from the opposition.

WILSON

611.4731/358: Telegram

The Consul General at Sydney (Wilson) to the Secretary of State

SYDNEY, December 6, 1938—6 p. m.
[Received December 6—9:15 a. m.]

Referring to my telegram of November 19, noon, I have had nothing further from Canberra notwithstanding which I shall take no steps to expedite reply unless definitely instructed to do so believing that delay for which Australia is responsible will not in the long run adversely affect the American position.

Two factors may be cause of the delay: (1) Cabinet concentration on defense matters and internal Cabinet dissensions; (2) the forthcoming visit to Washington of Mr. Bruce.

³⁶ W. R. Hodgson, Australian Secretary of the Department of External Affairs.

With regard to visit of Mr. Bruce I feel strongly that greatest importance is attached by Commonwealth Government to his welcome in Washington and much is expected from the visit with reference not alone to a possible trade agreement but also to political relations. There is a marked increase in nervous apprehension regarding possible danger due to country's isolated position with reference to defense. The present Commonwealth Government looks to Mr. Bruce in an increasing measure, particularly with reference to empire and foreign relations. Australia as a whole is proud of him and his attainments. It would be most unfortunate to our good relations if he or Australia got the impression of an inadequate reception or any lack of appreciation on our part of the man and his visit.

WILSON

611.4731/380

Memorandum of Conversation, by Mr. John H. Fuqua of the Division of Trade Agreements

[WASHINGTON,] December 10, 1938.

Participants: Mr. Keith Officer, Australian Counselor of British Embassy,
 Mr. Harry C. Hawkins,
 Mr. John R. Minter,
 Mr. John H. Fuqua.

Mr. Officer called to present the attached note.³⁷ He commenced the conversation by briefly paraphrasing the second and third paragraphs of the Note and he then read the entire Note verbatim.

Mr. Hawkins said that it must be made clear at the start that we consider the whole question of bilateral trade balances irrelevant to trade agreements and that we will not negotiate with any country on the basis of attempting bilateral balancing. He pointed out that this was a dangerous policy in the long run for Australia to attempt to pursue with its necessity for an over-all favorable balance.

Mr. Officer agreed that Australia must depend on multilateral balancing and he said that his Government realized that Australia will probably always have an adverse balance with the United States; but that the extent of the current adverse balance is so great that it threatens the financial position of his country. In these circumstances it is felt in Australia that there is no advantage in attempting trade agreement negotiations if there is no prospect of increasing Australian exports. Mr. Hawkins said that if we negotiate with a country, we naturally expect the results to be an increase of exports of that country

³⁷ *Infra.*

to us, but that an agreement must be mutually advantageous. He also noted that the present state of our trade balance with Australia is primarily due to fundamental economic conditions. He said that we are willing to start negotiations, as suggested in the note, by discussing possible concessions by the United States, as obviously the discussion must be started at some point and that this is probably as good a point of departure as any.

Mr. Hawkins emphasized the general difficulties of negotiating with Australia and stressed that any false step made at the present stage might kill the possibilities of negotiation. In this connection he said he had in mind the recent tariff increases in Australia and the action taken by certain Australian states against motion picture imports. As regards the recent tariff increases we did not as yet have complete information as to how they affected American trade but that we would have to postpone any steps in connection with trade agreement discussions until we have a clear picture of what Australia has done. He said that we take a very serious view of anything in the nature of padding of tariff rates for negotiating purposes especially since the danger of this is one of the objections raised to the trade-agreements program by its opponents. He pointed out that the difficulty of negotiating with Australia is serious enough without complications of this kind. As we have not yet received details of these tariff changes, he said we could not make detailed comment upon them now.

Mr. Officer said that he felt sure that the changes made were based upon Australian economic needs and were not intended as an attack upon our trade. He said, in explanation, that the Government's declared policy was one of supporting local manufactures, and as its life is only three years, and one year has already passed, the Government is under pressure to show results.

Mr. Officer stated that he was pleased that we are willing to accept the procedure outlined in the Note and said that his opinion was that his Government was interested chiefly in knowing whether we can make a reduction in the wool duty which would offer an opportunity for increased trade and reductions on two or three other items. Mr. Hawkins explained that butter would have to be reserved for possible negotiations with New Zealand. Mr. Officer said that he believed his Government realized this and he did not believe that any specific item, other than wool, was considered as a *sine qua non* in Australia.

When asked about a convenient time for starting further conversations, Mr. Officer intimated that Mr. Macgregor appeared to believe that it might be inconvenient to start before the first of the year. It was agreed that the question of timing would be discussed with Mr. Macgregor when he comes to Washington on December 19.

611.4731/380

The British Embassy to the Department of State

His Majesty's Government in the Commonwealth of Australia have carefully considered the proposals of the United States Government as presented by the United States Consul-General at Sydney on November 17th, 1938 for a resumption of conversations regarding the possibility of a trade agreement between the two countries and in particular the question of the most effective method of finding a basis of agreement. Australia's major export commodities are few in number. The level of production of these commodities determines to a large extent the general level of prosperity in Australia and their export value sets a limit to the import capacity of Australia.

The Australian Government desire to continue to rely on the liberal principles of multilateral trading to maintain the necessary equilibrium in their external commercial and financial transactions. The capacity of Australia to adhere to that policy depends almost entirely upon the readiness of highly industrialized countries which enjoy a large share of the Australian import trade to afford reasonable facilities for the importation of Australian raw materials and food-stuffs in exchange.

In consideration of her trade with the United States Australia is faced with a great and growing disparity between her purchases from and sale to that country. Over a period of eight years from 1930 onward the balance of merchandise trade between the respective countries was adverse to Australia to the extent of eighty million pounds. Moreover it is emphasized that since the recent removal of restrictions on imports from the United States the active annual balance in favour of the United States is increasing. The latest figures for the year 1937-1938 show a balance in favour of the United States of America of 18,900,000 pounds Australian. Whilst under most conditions it might be anticipated that the balance would to a degree be in the United States' favour, it is clear that the extraordinary height of the tariff duties of the United States which affect a few main items of Australian exports and other impediments to import have much to do with the limited volume of Australian shipments to the United States.

In view of these considerations and because Australian concessions to the United States will of necessity be measured in terms of the facilities which the United States are prepared to provide for an increased market for wool, butter, mutton and lamb, beef and fresh apples, the Australian Government is of the opinion that conversations and negotiations could best be facilitated if the United States Government were to intimate the maximum import duty concessions

it is possible to contemplate on wool, mutton and lamb, beef and butter. It would also be helpful to know whether the United States Government would give favourable consideration to the question of amelioration of certain quarantine restrictions on fruit and meat which prejudicially affect Australian products.

In making this proposal the Australian Government also have in mind the fact that a number of United States requests will involve consultation between the Australian Government and Governments of other members of the British Commonwealth before it will be possible for Australia to give a comprehensive reply to them. The Australian Government are reluctant to undertake such consultations until it has been established that the concessions which the United States can offer are such as to make it clear that Australia could anticipate an increased demand from the United States for Australian products.

To this end and for the purpose of endeavouring to find a basis for negotiations between the two countries the Australian Government agree that conversations should be placed on a formal basis and that they should proceed without delay. Mr. L. R. Macgregor, the Australian Government Trade Commissioner at New York City, in general consultation with Mr. F. Keith Officer, Australian Counsellor at His Majesty's Embassy at Washington, is being instructed to carry on conversations in detail, and should it appear to the Australian Government as a result thereof that there is a prospect of making a trade agreement, officials would be sent from Australia to Washington.

The Australian Government further agree that no public announcement of "intention to negotiate" should be made until it is found that a basis for agreement exists.

WASHINGTON, December 10, 1938.

611.4731/388

*Memorandum of Conversation, by the Chief of the Division
of Trade Agreements (Hawkins)*

[WASHINGTON,] December 19, 1938.

Participants: The Right Honorable Stanley Bruce,
Mr. Keith Officer,
Mr. Sayre,
Mr. Hawkins.

The discussion began with some general comments by Mr. Bruce and Mr. Sayre on the gravity of the international political situation. In the course of this discussion Mr. Sayre took occasion to

point out that economic policy has a definite significance in this connection. He said that the bilateralistic system of trade, such as is pursued by Germany, is a phase of Germany's general foreign policy and is, of course, definitely opposed to our own policy and he understood also to the policy of Australia. It is largely for this reason that we are anxious in pursuance of the trade-agreements program to go forward with negotiations with Australia as soon as possible. He said that we want to do this despite the very serious domestic political difficulties which this entails. He illustrated these difficulties by reading a letter just received from a Western Senator objecting to any reduction in the duty on raw wool, and pointed out that the attitude reflected in this letter is shared by a good many other Senators—eighteen to be exact. He explained the latter figure by saying there are nine states largely devoted to the production of raw wool, each of which has two Senators.

Mr. Sayre pointed out in this connection that certain action recently taken by Australia tends to complicate our problem of going forward with these negotiations. He referred to the recent duty increases in Australia and to the action taken by certain Australian states against American moving pictures. He said that he mentioned these things in the interest of obtaining a clear understanding at the outset. He mentioned in this connection one further factor which has caused us some misgivings—namely, the reference to the bilateral trade balance in the recent Australian memorandum. He stated at some length the American theory of multilateral balancing of accounts and pointed out the Australian interest in supporting commercial relations on such a basis. He said further that it should be clearly understood that the matter of the bilateral trade balance would be irrelevant in connection with the negotiation of this agreement.

Mr. Bruce referred to the various points made by Mr. Sayre, as follows:

With reference to the matter of the bilateral trade balance he pointed out that Australia is as much opposed to the German system of barter and clearing as we are. He said that the Hull trade-agreements policy has the full support of himself and his Government. In this connection he commented upon Mr. Hull's remarkable persistence in carrying forward a task beset with so many obstacles. He pointed out that the Australian economic situation is such as to make it sound policy for Australia to subscribe to the multilateral trade methods which we advocate.

In regard to Mr. Sayre's remarks concerning the recent increases in the Australian tariff, he pointed out that we should not consider this to be the mere padding of rates for bargaining purposes; that he was familiar with the European practice during the Twenties in

raising rates to towering heights so as to provide basis for easy tariff reductions; that this was not at all what Australia had recently done. In regard to the moving picture legislation, he stated that this was not a matter within the control of the Commonwealth Government at all but was one entirely within the competence of the several states. He felt, however, that we possibly exaggerate the seriousness of these measures.

In regard to the relation of the bilateral trade balance to these negotiations, he stated that Australia would not take an exaggerated position on this subject. He said that while it is true that the state of the trade balance with us is a matter of concern to the Australian Government, it would not, of course, insist upon any fixed ratio being determined by the trade agreement or that the agreement contain any reference at all to this subject. He did say, however, that he felt that Australia's situation is such that the negotiations should be primarily on the basis of a stabilization by Australia of our position in that market; i. e., largely the binding of present treatment. He pointed out that this would prevent any further diversion schemes and assure us that our situation there would not become worse. In response to Mr. Sayre's inquiry whether he meant that the agreement would consist largely of bindings on both sides, he indicated that a reduction in the raw wool duty would be expected from us.

Mr. Bruce explained the need of maintaining protection for Australian secondary industries by pointing out the difficulties of supporting Australian economy on the basis of the exportation of primary products alone. He said that Australia can not count on continued expansion of exports of those products to the United Kingdom since it can not expect that as a need for more exports arises the United Kingdom will be ready to shut out Argentine meat, Danish butter and United States dried and canned fruits so that Australia can come in. This means that Australia must develop secondary industries, and for this purpose tariff protection is necessary. In these circumstances, he said, it is very hard for Australia even to bind rates, but his Government has come to recognize this necessity if they are going to carry on trade-agreement negotiations with foreign countries.

Mr. Sayre stated that substantial reductions on some of our products would be absolutely indispensable.

Mr. Bruce replied that the assurances we mainly need are for safeguarding our position.

Mr. Sayre then said that he assumed Australia would want something more than a binding on some products and we must have reductions on some items such as lumber and automobiles; that such reductions are absolutely necessary if we are to obtain political support for the agreement. In regard to automobiles Mr. Bruce stated

that that is not an industry which Australia has committed itself to building up in Australia, but that Australia is committed to the United Kingdom and to Canada on preferential margins and would not want to take up the matter with those two countries until there was real prospect of an agreement.

In the course of the discussion of specific concessions of interest to Australia Mr. Sayre made it clear that a concession on butter could not be considered as Australia is not the chief source of this product.

Mr. Sayre raised the question whether the best procedure is not to get both lists spread out and when the position is clear any release from bound preferential margins could then be taken up with other Empire countries. He stated that it is highly important, as recognized in the recent Australian memorandum, that, both for international and domestic political reasons, no public announcement be made until we are certain that an agreement will materialize and can be concluded rapidly. Mr. Bruce assented to this and summarized the situation by saying that the way it now stands is that both sides want an agreement and technical conversations without commitments on either side can proceed in order to find out whether it is possible to have one.

CANADA

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND CANADA, SIGNED NOVEMBER 17, 1938¹

611.4231/2179

*Memorandum of Conversation, by Mr. James C. H. Bonbright of the
Division of European Affairs*

[WASHINGTON,] January 12, 1938.

Participants: Mr. Merchant Mahoney of the Canadian Legation,
Mr. Hickerson of Eu,²
Mr. Bonbright of Eu,
Mr. Southworth of TA.³

Mr. Hickerson called in Mr. Mahoney, Commercial Counselor of the Canadian Legation, this afternoon and handed to him three copies of the list, which we hope to make public early next week, of the products on which this Government will consider making concessions in the proposed trade agreement with Canada. In talking with Mr. Mahoney, Mr. Hickerson stressed the following points:

(1) He made it very clear that the publication of this list involves no commitment whatever on the part of this Government to grant a concession on any of the products listed and that publication merely indicates products which this Government will give consideration to. Mr. Mahoney said that this was very well understood.

(2) Mr. Hickerson said that it was impossible at this time to give any indication as to the products upon which concessions could be granted, or the extent of such concessions, since in no case has even a recommendation for a concession been placed before the Trade Agreements Committee.

(3) With regard to the products on which Canada had requested concessions and which had not been approved for publication by the Trade Agreements Committee, Mr. Hickerson made it clear that in practically every case the product had been dropped from the list because our statistics did not reveal that Canada was the principal supplier. He expressed the hope that we would have any comment which the Canadians might wish to make by the end of this week and

¹ For previous correspondence, see *Foreign Relations*, 1937, vol. II, pp. 160 ff.

² Division of European Affairs.

³ Division of Trade Agreements.

that we would be very glad to give further consideration to listing any of the dropped items with regard to which the Canadians might be in a position to supply additional statistics to support their claim of being the principal supplier, actual or potential.

(4) In conclusion Mr. Hickerson told Mr. Mahoney that the list handed to him had not yet received the approval of the Secretary of State and that naturally any changes which the Secretary might wish to have made in the list would have to be the subject of further discussion.

[For formal notice on January 29, 1938, of the intention of the Government of the United States to negotiate a new trade agreement with the Government of Canada and for list of products of which Canada is the chief or important source of supply to the United States, see Department of State, *Press Releases*, January 29, 1938, pages 158 ff.]

611.423 Lumber/333

*Memorandum of Conversation, by Mr. Constant Southworth of the
Division of Trade Agreements*

[WASHINGTON,] March 5, 1938.

Participants: Mr. Merchant Mahoney, Commercial Counselor of the
Canadian Legation,
Mr. Hiss,⁴
Mr. Southworth.

Mr. Mahoney called, by invitation, at Mr. Hiss' office the afternoon of March 4, 1938 and, in conformity with an understanding with Mr. Hawkins⁵ and Mr. Hickerson, was given the information indicated below:

It was explained to Mr. Mahoney that, although the Department, in an effort to lean over backwards to avoid any possible violation of the Canadian agreement,⁶ had taken the position that any amendment of the Revenue Act of 1932⁷ providing that board measurement for the purposes of that Act be the same as for the Tariff Act⁸ and that timber be subject to the import tax would be inconsistent with the agreement, nevertheless the final decision in the matter lay with authorities other than ourselves. Presumably if the Treasury rules

⁴ Alger Hiss, assistant to Assistant Secretary of State Sayre.

⁵ Harry C. Hawkins, Chief of the Division of Trade Agreements.

⁶ Presumably a reference to the Reciprocal Trade Agreement between the United States and Canada, signed November 15, 1935; for text see Department of State Executive Agreement Series No. 91, or 49 Stat. 3960.

⁷ 47 Stat. 169.

⁸ Tariff Act of 1930; 46 Stat. 590.

that such an amendment does not violate the agreement, the courts will be called upon to pass upon such ruling. Mr. Hiss said that, speaking in a purely personal capacity as a lawyer, he felt it only fair to warn Mr. Mahoney that although the Department in the interest of protecting the agreement had felt that it must oppose the amendment, its legal position in so doing is, he believes, a weak one and that if a court decision is rendered on it, the ruling may very likely be unfavorable to Canada.

It was also pointed out that the advantage now enjoyed by Canada in the board measure matter and the contingent advantage now enjoyed by Canada in the timber matter are fairly clearly the result of faulty drafting of the Revenue Act of 1932, that the intent of Congress to subject sawed timber to the import tax and to have lumber measured for import tax in the same way as under the Tariff Act could not be seriously questioned, that consequently these advantages are in the nature of a windfall, that Canada itself uses the same system of board measure as in our Tariff Act, that the required use of two systems to measure the same lumber constitutes a serious burden upon the customs service, and that we, therefore, look forward to Canada's voluntarily agreeing in the coming negotiations to the proposed rectification of these matters.

Mr. Mahoney said that he understood our position but commented that the proposed change in board measure would add about 25 cents per thousand board feet to the present duty.

Mr. Mahoney was also informed that although the Department had sent a letter to the Budget Bureau opposing the McNary amendment (which amendment would remove lumber and certain other timber products from the jurisdiction of the provision in the pending customs administrative bill conferring on the Treasury the power to exempt from origin marking products which have not been so marked during the preceding five years) Congress appears likely to enact the McNary amendment in a revised form which would merely leave lumber marking in its present legal status. He was further informed that due presumably to changing conditions such as lower cost of marking the Treasury in the absence of legislation changing the present requirements is likely to begin to require origin marking of lumber.

Mr. Mahoney said that this, if done, will add about \$1.50 per thousand board feet to the cost of getting Canadian rough lumber into the United States. He was informed that the furnishing by Canada of further information on this point would be desirable and he undertook to obtain it for us. He expressed concern as to the

effect which adding to the cost of Canadian lumber in the United States the cost of marketing and the additional import tax occasioned by changing the method of board measurement might have on the chances of bringing about the abatement of the British preferential duty on lumber in the British agreement. He said that he planned to communicate with Ottawa relative to these matters.

Mr. Mahoney expressed surprise that Congress in the revenue bill appears to contemplate removing the import tax from Western white spruce grown in only three Canadian provinces, remarking that this situation might be somewhat similar to the situation should Canada give California oranges different customs treatment from Florida oranges. He was informed that we had had no previous notice of Congress' intention to include this provision in the present revenue bill and that we would probably seek to eliminate the discriminatory features thereof.

611.426 Lumber/502

The Canadian Minister (Marler) to the Secretary of State

WASHINGTON, March 17, 1938.

MY DEAR MR. SECRETARY: The Secretary of State for External Affairs of Canada has telegraphed to inform me of the great concern with which he has viewed proposals which appear in the Revenue Bill of 1938⁹ (H. R. 9682), and in the Bill¹⁰ amending certain administrative provisions of the Tariff Act of 1930.

The Canadian Government, after carefully considering the probable effects upon commercial relations between Canada and the United States of America of the enactment of these measures in their present form, have decided that I should immediately inform you that any worsening by legislative or administrative action of the treatment now accorded to Canadian lumber on importation into the United States would make it extremely difficult for the Canadian Government to consent to modification of the importation preferences now guaranteed Canadian lumber by the Government of the United Kingdom.

In particular, I am directed to point out that the amendments to section 601 (c) (6) of the Revenue Act of 1932 contained in section 704 (a) and (b) of the Revenue Bill of 1938 would appear to jeopardize such advantage as the importation of Canadian lumber, under the

⁹ For text of the Revenue Act of 1938, approved May 28, 1938, see 52 Stat. 447.

¹⁰ For text of Customs Administration Act of 1938, approved June 25, 1938, see 52 Stat. 1077.

provisions of the Canada-United States Trade Agreement of 1935, has derived since December 23, 1936, from the assessment of the United States import excise tax on lumber on the net measurement of the imported lumber. In this connection, I am further directed to inform you that the Canadian Government proposes, during the forthcoming treaty negotiations, to ask the Government of the United States to confirm, for the term of a new agreement, the applicability of United States Treasury Decision, 48640, of November 2, 1936 which upheld the decision of a lower court that the import excise tax should only be collected on the lumber actually imported.

In the second place, I am to bring to your attention the consequences that might be expected to follow from the enactment, in its present form, of section 3 of the Bill to be entitled the "Customs Administrative Act of 1938." In this section which amends section 304 of the Tariff Act of 1930 relating to the marking of imported articles and containers, "sawed lumber and timbers, telephone, trolley, electric-light and telegraph poles of wood, and bundles of shingles" are expressly excluded from the scope of subsection (j) under which the Secretary of the Treasury would be empowered to authorize the exception of any article from the requirements of marking if "such article is of a class or kind with respect to which the Secretary of the Treasury has given notice by publication in the weekly *Treasury Decisions* within two years after July 1, 1937, that articles of such class or kind were imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin."

The Canadian Government hope that sub-section (j) of section 304 may become law without the offending proviso and that the Secretary of the Treasury may see his way clear to exercise at the first opportunity the discretion which he would then have acquired to authorize the exception of lumber from the requirements of marking.

In acquainting you with the views of the Canadian Government on these questions I have been instructed to explain that the extent of the concession in favour of United States lumber in the United Kingdom market to which the Canadian Government can consent will have to be determined in large part by the treatment accorded Canadian lumber on importation into the United States.

In these circumstances I venture to enquire whether the proper congressional authorities might be moved to refrain from the enactment of the proposals hereinbefore mentioned.

Believe me [etc.]

HERBERT M. MARLER

611.426 Lumber/528

*Memorandum of Conversation, by Mr. Constant Southworth of the
Division of Trade Agreements*

[WASHINGTON,] April 19, 1938.

Participants: Mr. Norman Robertson, First Secretary of Canadian Department of External Affairs;
Mr. Dana Wilgress, Director of Commercial Intelligence, Canadian Department of Trade and Commerce;
Mr. Hector McKinnon, Commissioner of Tariffs, Canadian Department of Finance;
Mr. Hawkins, Mr. Bonbright, Mr. Alger Hiss, and Mr. Southworth.

Messrs. Robertson, Wilgress, and McKinnon came to Mr. Hawkins' office by invitation the afternoon of March 30, 1938. The questions relative to classification of timber for import-tax purposes, board measure, and marking of lumber, which formed the subject of Sir Herbert Marler's letter of March 17, 1938, were reviewed. It was pointed out to the Canadians, as had been done to Mr. Mahoney previously, that the pending legislation relative to timber and board measure was merely designed to correct an obvious oversight in the wording of the Revenue Act of 1932, while fully protecting Canada's rights under the present trade agreement, that the proposal relative to marking involved no change in substantive law, and that even the elimination of the provision for exempting lumber from the purview of Section J of revised Section 304 of the Tariff Act would not guarantee that the Treasury would continue to exempt lumber from marking.

The Canadians replied that independent of what might be the technical and juridical status of these matters, what concerned them most was that Canadian lumber, whether by legislative or administrative action or both, was now threatened with a worsening of treatment on importation into the United States, that their lumber interests, which are just as pertinacious as ours, did not and could hardly be expected to understand the fine points of law and administrative procedure involved, and that if such worsening should actually be put into effect, the Canadian Government would probably find it harder to assent to improved treatment for American lumber in the British market as compared with Canadian lumber.

They summed up their two present primary desiderata relative to lumber in the new trade agreement as follows:

(1) Bind Treasury Decision 48640, in which the Court of Customs and Patent Appeals ruled that for purposes of the import tax lumber is measurable at its net dimensions as imported. They asked that detailed information be obtained for them as to the origin and status of the pending customs court case in which the issues on which a decision was rendered in T. D. 48640 appear to have been reopened.

(2) Bind present practice of not requiring the marking of origin on imported lumber.

Since no worsening of present customs treatment is contemplated in the amendment relative to timber Mr. Robertson said that the Canadians are not now actively opposing that amendment.

In connection with the amendment exempting lumber of certain species from the import tax, Mr. Robertson referred to the following sentence in the Canadian memorandum of March 17, 1938: "In fact, the immediate political effects of the removal of import excise tax from certain species of lumber produced in quite well defined parts of Canada and of the retention of the tax on lumber of other species which make up the bulk of Canadian exports to the United Kingdom is likely to accentuate rather than allay the misgivings with which Canadian lumbermen contemplate any modification of the preferences now effective in the United Kingdom". He said that contrary to what Mr. Hiss and Mr. Southworth said had been their understanding of the significance of this sentence, it did not mean to nullify or more than nullify the previous characterization in the same memorandum of the proposed exemption from import tax as "welcome in itself". The proposed exemption, he said, is definitely welcome to the extent that it is divorced from any question of an offsetting worsening of treatment.

LATER SUPPLEMENTARY CONVERSATIONS

The Pending Board-Measurement Case.

Mr. Hiss telephoned Mr. Robertson on March 31 that he had ascertained from the Department of Justice that the case in question might well be a protest (similar to that involved in T. D. 48640) which had been suspended pending the ultimate judicial disposition of T. D. 48640. There were clearly established precedents for such a procedure which would in effect permit a reconsideration of the principles adopted by the Court of Customs and Patent Appeals in T. D. 48640. He added that definitive information as to the case referred to was being secured by the Department of Justice from its New York office in charge of customs matters.

Later in the day Mr. Robertson telephoned Mr. Hiss that he had ascertained from the Canadian trade commissioner in New York that the pending case was Protest No. 625,764G filed December 5, 1932.

It has been suspended during the litigation which was terminated by T. D. 48640, came up for trial on June 11, 1937, the arguments were completed on December 23, 1937, and the case is now awaiting decision. It was evident, he said, that the case was a bona fide one, and there could be no suspicion that a United States governmental agency was trying to revive a dead issue in order to provide ammunition for new trade-agreement negotiations.

Later Mr. Southworth asked Mr. W. R. Johnson, Chief Counsel of the Customs Bureau, by telephone, for his informal views as to our authority for and the propriety of binding T. D. 48640 while Protest 625,764G remains undisposed of. On April 15 Mr. Johnson telephoned that in his opinion, since the Treasury Department is now actually following the ruling set forth in T. D. 48640, we have legal authority to do so, but that in view of what the lumber people have been told they would probably regard it as skulduggery to do so.

Lumber Marking.

Mr. Southworth ascertained by telephone on March 31 from Mr. W. R. Johnson that in the latter's opinion it was clearly within our authority to bind existing marking practice if the proviso to Section J. "that this subdivision (j) shall not apply to sawed lumber, etc." is eliminated by Congress. Even if this proviso remains in the amendment Mr. Johnson thinks we technically possess the authority to bind present marking practice, but points out that with circumstances as they now are this would probably constitute a direct ignoring of the wishes of Congress.

611.4231/24614

Memorandum by Mr. Jacques J. Reinstein of the Division of Trade Agreements of a Conversation With the First Secretary of the Canadian Department of External Affairs (Robertson)

[WASHINGTON,] July 21, 1938.

Mr. Robertson remarked at the outset of the discussion that, aside from the question of the applicability of the most-favored-nation clause to the provisions regarding tourist purchases in the recent Customs Administration Act, he knew of no issues which had arisen between the two Governments under the present trade agreement which had shown the necessity for clarification or expansion of the general provisions. Mr. Reinstein said that while he had not been able to review the operation of the Agreement fully, his understanding was the same.

Mr. Robertson said that while, from the viewpoint of the Canadian Government, the present general provisions are entirely satisfactory,

the fact that the United States-United Kingdom and United States-Canada agreements are being negotiated simultaneously and will be signed simultaneously will lead people to look for differences in wording which might have some significance. The Canadian Government wishes, therefore, to make the general provisions of the two agreements as nearly parallel as may be practicable, in order to avoid, for example, the possibility of discussion of the effect of the Agreement upon Canada's status in the British Commonwealth.

Mr. Robertson's concern seemed to be primarily over questions of form and I gathered the impression that the Canadians were not entirely pleased with the use of the term "High Contracting Party" in the draft of the United States-United Kingdom agreement. It was explained to him that the term had been used at the suggestion of the British negotiators in order to avoid difficulty in referring to the commitments by the colonies.

The following discussion took place with regard to particular Articles (the numbers refer to the articles in the present Agreement) :

Preamble: It was agreed that the preamble should refer to the fact that the present Agreement is to be superseded. Mr. Robertson said that Canada would wish to follow the United States-United Kingdom draft agreement in regard to the handling of exchange control, i. e., to omit the Article on exchange control in the present Agreement and to refer in the preamble to the absence of exchange restrictions on the settlement of commercial payments between the two countries. (During the course of an informal conversation earlier in the day, Mr. Hickerson had informed Mr. Robertson that this would be satisfactory).

A draft of a preamble which was tentatively worked out in the course of the conversations is attached.

Mr. Robertson felt that the draft preamble which has been tentatively agreed to with the United Kingdom Delegation is incorrect in its reference to the King. He said that the preamble in the United Kingdom agreement should state that the King is acting "in respect of Great Britain and Northern Ireland". He was told that, according to the statement of Mr. Fitzmaurice,¹¹ the preamble in the United States-United Kingdom draft was in the form customarily used by the British in bilateral agreements applying only to the Government of the United Kingdom. It was suggested that, if the Canadians object to the wording of the United States-United Kingdom draft in this respect, they should take the matter up directly with the British Delegation. Mr. Robertson said that he probably would do so.

¹¹ Gerald Gray Fitzmaurice, Third Legal Adviser in the British Foreign Office.

Article XIII (Territorial application and preferences). Mr. Robertson said that he felt the language of this Article was needlessly complicated. Mr. Reinstein said that he would attempt to work out a simplified version along the lines of the territorial application Article in the United States-United Kingdom draft.

Mandates. Mr. Robertson said that Canada would wish to have a note on preferences to B and C mandates identical with that agreed upon with the United Kingdom. Canada does not wish to grant preferences to Palestine. Mr. Robertson remarked in this connection that it had been the understanding of the Canadian Government that the United States note of November 15, 1935, regarding Canadian preferences to mandates would not be made public, but that it had been published by the United States with the text of the Trade Agreement.

Article I (Most-favored-nation treatment). Mr. Robertson indicated that he had not decided whether he would prefer the draft United States-United Kingdom article or the Article in the present Canadian agreement. He felt that the first paragraph of Article I (Canadian agreement), which contains a promise of most-favored-nation treatment in general terms (i. e., not restricted to goods originating in the other country) applied more clearly to the provisions of Customs Administrative Act relating to tourist purchases than the provisions of the United States-United Kingdom draft. Mr. Reinstein remarked that, while he could not undertake to comment on the point, the matter of the tourist purchase exemption would undoubtedly be discussed in detail in the general negotiations.

Article VI (National treatment in respect of internal taxes). Mr. Robertson asked why the phrase "in connection with" had been included in the United States-United Kingdom draft. He was told that the British had requested its inclusion because of concern that license fees might not be covered by the standard United States language.

Mr. Robertson also asked what the significance was of the reservation in the United States-United Kingdom draft regarding "constitutional limitations on the authority of the Federal Government". The legal complications which have arisen from the wording of the 21st Amendment were briefly explained to him. He said that there were important questions outstanding in Canada regarding the scope of authority of the Dominion and of the provinces and that, if the United States made such a reservation, Canada would be compelled to do so also, which he felt would be undesirable. Mr. Reinstein asked whether a provision for national treatment in an agreement which is formally ratified would be construed to override inconsistent provincial legislation. Mr. Robertson said that this point had never

been passed on, but that the inclusion of any reservation would be taken to mean that there was considerable doubt as to whether authority existed in the Dominion Government to bind the provinces in this respect. He felt that it would be undesirable to raise such a question and asked that the United States give consideration to the possibility of stating the reservation in specific terms (i. e., relating it only to liquor).

[Annex]

Draft Preamble

JULY 21, 1938.

The President of the United States of America and His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect to Canada;

Desiring to facilitate and extend still further the commercial relations existing between the United States of America and Canada by granting mutual and reciprocal concessions and advantages for the promotion of trade;

Taking into account the absence of any restriction upon the settlement of commercial obligations arising out of such relations;

Have resolved to replace the Trade Agreement concluded between them on November 15, 1935, at Washington by the present Agreement and have appointed for this purpose as their Plenipotentiaries:

The President of the United States of America :

.....

His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India :

For Canada :

.....

Who, having communicated to each other their full powers, found in good and due form, have agreed on the following Articles :

611.4231/2508a

The Secretary of State to the British Ambassador (Lindsay)

ATLANTIC CITY, N. J., October 6, 1938.

MY DEAR MR. AMBASSADOR: Permit me to refer to the requests made by this Government, with a view to facilitating the negotiation of a new and mutually satisfactory trade agreement with Canada, that the Government of the United Kingdom assent to the relaxation

of the preferential margins now enjoyed by certain specified products of British origin in the Canadian market.

Although the number of products on which the Canadian Government is contractually bound to maintain a preferential margin is relatively large, the American negotiators, recognizing the importance attached to these margins in the United Kingdom-Canada agreement of 1937,¹² purposely refrained from asking that they be modified except in respect of a limited number of products. It had been our hope that your Government could on that account meet these limited requests. Without desiring in any way to disparage the contributions in this respect which your Government has indicated a willingness to make, the replies of your Government have on a number of products been a very real disappointment to me. In spite of this disappointment, however, and after giving the most careful and sympathetic thought to the difficulties which the United Kingdom Government foresees in meeting our requests, I have reluctantly decided to accept the latest proposals of your Government regarding Canadian preferences with one exception, namely, their unwillingness to assent to any modification of the preferential margin on anthracite coal.

I have given the fullest consideration to the factors which have influenced your Government in its position. On the other hand, the negotiation of a new trade agreement between this country and Canada would be open to the most severe criticism if it failed to include a concession on so important a product as anthracite coal. My Government has greatly modified its original request for free entry of anthracite into Canada during the whole year. It is now willing to confine its request to free entry during the five months, December to April, with no reduction in the duty during the remaining months. It seems most unlikely that free entry for American anthracite during this limited period could have an injurious effect upon shipments from the United Kingdom to Canada. Furthermore, owing to the difficulties of winter navigation and the long freight haul from the Atlantic coast to the large consumption centers, it is unlikely that any third country would develop substantial anthracite exports to Canada as a result of a limited concession to the United States.

In the light of these considerations, I would like to ask most earnestly that the United Kingdom authorities reconsider this question with a view to allowing the Canadian Government to grant this limited concession to an important American product.

I am [etc.]

CORDELL HULL

¹² British Cmd. 5382: *Trade Agreement between His Majesty's Government in the United Kingdom and His Majesty's Government in Canada, February 23, 1937.*

611.4131/1857

The British Ambassador (Lindsay) to the Secretary of State

WASHINGTON, October 25, 1938.

DEAR MR. SECRETARY: I have communicated to my Government your letter of October 6th, on the subject of waivers of United Kingdom preferences in Canada, and I can assure you that they have given it the most careful consideration. They recognise and appreciate the spirit in which you have examined the position and have modified your original request and also the political reasons which obliged you to press for further consideration. They regret, however, that, with the best will in the world, they cannot see their way to meet you.

On the United Kingdom side, too, the main consideration is political. More than 80% of the export trade in anthracite to Canada comes from South Wales which is, as you may be aware, perhaps the most depressed of our depressed areas. It is probably not too much to say that in any trade negotiations of less importance than this my Government could not have considered for one moment making any concession at all at the expense of this district. Yet they have agreed already to a very considerable waiver of our preference in Canada on tinsplate, which also is produced mainly in South Wales. They could not possibly contemplate a further concession at the expense of South Wales, even had the case been a good one.

But I venture to suggest that the case is not a good one on merits. The United Kingdom trade with Canada in anthracite is a development of the last 15 years and even with the preference has been declining steadily since 1934, largely owing to the competition of United States anthracite, particularly in the last year or two. In these circumstances, you will, I am sure, realise how impossible it would be for the United Kingdom Government to justify agreeing to the removal of the preference. My Government fully recognise that your Government have advanced some way to meet them by limiting their request for free entry to the months of December to April. This, however, would not prevent the concession from being a serious blow to South Wales, since their trade to Canada in the summer months, much of which is for stock for the winter, would inevitably be reduced if imports were admitted from the United States free of duty in the winter months.

I think, however, that you may be inclined to agree with me on merits. Your case, the force of which, believe me, I fully appreciate, is mainly that it is politically important to you to include in this Agreement something for the anthracite trade. I can only say against this that my Government for their part feel that the political objec-

tions to a concession, particularly in view of the fact that your industry is gaining on ours in spite of the preference, far outweigh the political advantages which you could obtain from a concession and make it quite impossible for them to contemplate giving their consent.

Yours sincerely,

R. C. LINDSAY

[For text of the Reciprocal Trade Agreement between the United States and Canada, signed at Washington November 17, 1938, see Department of State Executive Agreement Series No. 149, or 53 Stat. 2348.]

DISCUSSIONS RESPECTING THE ST. LAWRENCE WATERWAY
PROJECT¹³

711.4216 Kenogami/25

The Secretary of State to the Canadian Minister (Marler)

WASHINGTON, March 17, 1938.

SIR: I have the honor hereby to convey to you the views and decision of the United States Government in connection with the request made in your note no. 17 of January 27, 1938.¹⁴

In the note in question you stated that the Canadian Government has under consideration and is prepared to approve an application, pursuant to the Navigable Waters Protection Act, from the Hydro-Electric Power Commission of Ontario, for which the Government of the province of Ontario asks favorable consideration, and which seeks the approval of certain works designed to provide for the diversion of water from the Kenogami River, a tributary of the Albany River, via Long Lake, all in the province of Ontario, into Lake Superior.

You went on to say that the project, if carried out, would entail certain material advantages, which the United States would share in common with Canada, namely, an improvement in the conditions affecting navigation throughout the Great Lakes-Saint Lawrence system, and some reduction in the expenditures on the compensating works which have to be operated at certain points in the system. With regard to the conditions affecting navigation, it is perhaps sufficient at this time to observe that any proposal which might affect the existing levels of boundary waters would appear to fall within the scope

¹³ Continued from *Foreign Relations*, 1937, vol. II, pp. 168-176.

¹⁴ For text of note, see Canada, *Correspondence and Documents Relating to St. Lawrence Deep Waterway Treaty, 1932 . . .* (Ottawa, 1938), or Department of State, *Press Releases*, March 26, 1938, p. 408.

of Article 3 of the Boundary Waters Treaty of 1909,¹⁵ which reads in part as follows:

“It is agreed that, in addition to the uses, obstructions, and diversions heretofore permitted or hereafter provided for by special agreement between the Parties hereto, no further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a joint commission, to be known as the International Joint Commission.”

In conclusion you pointed out that the diversion, averaging approximately 1,200 cubic feet per second, would also make available more water along the Great Lakes-Saint Lawrence system for the production of electrical power. You inquired whether the Government of the United States would be disposed to enter into an agreement to the following effect: That, notwithstanding the provisions of Articles 5 and 8 of the Boundary Waters Treaty of 1909, in the event of the proposed diversion being made into Lake Superior from the Kenogami River, via Long Lake, the exclusive rights to the use of waters equivalent in quantity to any waters so diverted shall be vested in Canada, and the quantity of water so diverted shall be at all times available to Canada for use for power below the point of diversion so long as it constitutes a part of boundary waters.

As both governments are fully aware, the existing contractual rights of our two countries in respect to the uses of boundary waters are embodied in the Boundary Waters Treaty of 1909. The proposal now advanced by your Government contemplates a change in that treaty which, in connection with possible additional diversions of water for power purposes on the Canadian side of the Niagara River, would have the effect of upsetting the division of water for power purposes which was specifically provided for in Article 5 of the Boundary Waters Treaty and which was considered equitable at that time. It is noted that although this Government is invited to acquiesce in the proposed change, which would be to the sole benefit of the province of Ontario, there is no suggestion that there be considered at the same time any of the related questions which are of outstanding interest to the United States.

This Government does not contend that the division of water for power purposes agreed upon in 1909 is perfect, or that it should necessarily be perpetuated. Indeed, this Government is convinced that Article 5 of the Boundary Waters Treaty is antiquated and in urgent need of revision, not only to provide for the construction of adequate

¹⁵ *Foreign Relations*, 1910, p. 532.

works to ensure the preservation of the scenic beauties of Niagara Falls, but to eliminate, through much more efficient utilization of existing power resources, the waste which is inevitable with the present power plant facilities. The adoption of progressive steps in the Niagara River looking towards the equalization of diversion between the two countries and the most efficient use of the waters so diverted for power purposes, would in the opinion of this Government result in mutual benefits considerably larger than those now enjoyed by either country.

It is believed that no change should be made in Article 5 of the Boundary Waters Treaty without due consideration being given to the new conditions which have arisen since 1909. Without entering into a detailed discussion of those conditions, I will merely draw your attention to the following factors:

A. The practical obsolescence of the power plants which existed and were taken into consideration at the time the 1909 treaty was made.

B. The construction by Ontario of the Queenston station at the foot of the lower Niagara Rapids, no consideration having been given in 1909 to the possibility of diversion around the Rapids.

C. The Supreme Court decree limiting the diversion in the Great Lakes Basin at Chicago to 1,500 cubic feet per second by December 31, 1938, thereby making 8,500 cubic feet per second available at Niagara which were not considered available in 1909.

D. The present utilization of Niagara waters for peak purposes over and above the daily average diversions, no consideration having been given in 1909 to agreement on the limits of this practice.

E. Finally, as was mentioned before, the urgent necessity for works to preserve the scenic beauties of Niagara Falls.

As indicated in your note, it is true that in the Great Lakes-Saint Lawrence Deep Waterway Treaty, which was signed on July 18, 1932,¹⁶ but which failed to receive the advice and consent of the United States Senate to its ratification, the principle was accepted that waters diverted from a national watershed into the international waterways should be regarded for power uses as exclusively national waters of the country wherein the watershed lay. What is not clear from your note, however, is the fact that this provision, which in reality could only benefit Canada, was a part of a comprehensive agreement which involved a large number of other factors. A request that this Government accede to the adoption of this principle in a separate agreement without relation to those other factors, many of which are of outstanding importance to the United States, does not seem justifiable.

May I say, in conclusion, that this Government realizes the needs of Canada, and particularly the needs of the province of Ontario,

¹⁶ *Foreign Relations*, 1932, vol. II, p. 69.

with respect to the production of additional hydro-electric power, and sympathizes with the very natural desire of the Canadian Government to provide for the future. This Government has every reason to hope that the Canadian authorities on their part will appreciate and sympathize with the needs of the American people on their side of the border.

It is only because this Government desires to see the mutual needs of both countries fully provided for, and is convinced that this can best be done through a jointly planned development of their extraordinary natural resources in the Niagara and Saint Lawrence Rivers, that it finds it necessary to convey an adverse decision on the specific request set forth in your note.

As the Canadian Government is already aware, this Government is ready and eager to enter into and push to a speedy conclusion negotiations looking towards a mutually satisfactory agreement dealing with the varied and important problems of the Great Lakes-Saint Lawrence River Basin.

Accept [etc.]

CORDELL HULL

711.42157SA29/1511a

The Secretary of State to the Canadian Minister (Marler)

WASHINGTON, May 28, 1938.

SIR: I have the honor to refer to my note of March 17, 1938, and to my memorandum of the same date¹⁷ in which I expressed the conviction of the United States Government that the mutual needs of Canada and the United States could be best provided for through a jointly planned development of their extraordinary natural resources in the Great Lakes-St. Lawrence River basin. I stated that this Government is ready and eager to enter into and push to a speedy conclusion negotiations for a mutually satisfactory agreement directed to this objective.

I now desire to lay before you certain additional proposals which, in the opinion of the United States Government, should make it possible to reach an immediate agreement providing for the early initiation of the undertaking in accordance with a program designed to give full recognition to a possible divergence of interest between the two countries with reference to the timing of specific works.

As a basis for discussion, I am transmitting to you herewith an informal and tentative draft of a proposed general treaty¹⁸ estab-

¹⁷ For text of memorandum, see Department of State, *Press Releases*, March 26, 1938, p. 403.

¹⁸ *Ibid.*, June 4, 1938, p. 626.

lishing what is, in effect, a broad plan covering the future utilization of the Great Lakes-St. Lawrence Basin to assure the maximum advantages to both peoples. In this draft it has been our purpose to embody terms assuring recognition of the special needs and problems of the areas intimately concerned on both sides of the boundary.

The United States Government believes that the best interests of both peoples would be served by the immediate consummation of an agreement along the general lines of this treaty draft. I may add that in its preparation special consideration was given to the views of the Government of the Province of Ontario, as expressed in official communications recently made public in Canada, to the effect that it is not ready to assume any responsibility in connection with the project until its market requires the power.

In brief, the proposed treaty would (*a*) enable the United States to go forward immediately with the International Rapids Section link in the proposed St. Lawrence deep waterway and the incidental power development; (*b*) defer Canada's responsibility for completing its share of the waterway for a sufficient time to assure the readiness of the Ontario power market to absorb its share of the power; (*c*) provide for an international commission to develop plans and advise the two Governments in a program to promote the most advantageous use of the entire Great Lakes-St. Lawrence resource; (*d*) assure the immediate undertaking under the supervision of this commission of the proposed remedial works to preserve the scenic beauty of Niagara Falls; (*e*) permit the Province of Ontario to go forward with its plans for diversion from the Albany River basin into the Great Lakes and utilize such additional water for power at Niagara; (*f*) make available considerable additional Niagara power to each country for development at will; and (*g*) enable the proposed commission to proceed immediately with the preparation of comprehensive plans for more efficient use of the resources of the Niagara River.

In my memorandum of March 17, 1938, reasons were given why the Government of the United States could not consent to additional importations of hydroelectric power on a withdrawable basis unless provision were simultaneously made for the development of an alternative and equally economical domestic supply to be available when the imported power was withdrawn. Under the proposed treaty such a domestic supply would be made available through the development of the American share of the International Rapids Section and the Government of the United States would therefore be prepared to approve such additional imports of power from Canada, on a temporary basis and without obligation on the part of either party to continue, as Canada might see fit to permit to be exported.

Certain observations on the proposals which have been incorporated in the tentative treaty draft will serve to clarify the extent to which they are designed to meet the needs of both countries.

1. The United States would immediately undertake the development of the International Rapids Section of the St. Lawrence River, in accordance with the provisions of the treaty, and would complete all proposed works except the Canadian power house superstructures and their equipment. Thus, the next important step in the deep waterway project would be assured without requiring the Government of Canada to undertake the immediate completion of its share of the project or the additional expenditure associated therewith.

2. The State of New York would be able to proceed immediately with the development of the 1,100,000 horsepower of cheap hydroelectric power which constitute the American share of the power available in the International Rapids Section of the St. Lawrence River. This additional power supply at a cost of less than \$8.00 per horsepower year would thus be assured to meet its future market requirements.

3. The Province of Ontario would be assured an equivalent reserve of cheap St. Lawrence power, available to meet its requirements whenever the supplies provided in the present contracts with Quebec companies shall have been absorbed, without the assumption of any financial obligation until it needs the power. This would guarantee the Province of Ontario an economical power supply for many years to come. Furthermore, the Province would be relieved of the necessity of anticipating future market requirements by more than two years because, after completion by the United States of other works in the International Rapids Section, such a period would be ample for the construction of the required power house facilities.

4. The civic interests in both countries concerned with the preservation of the scenic beauty of the Niagara Falls and Rapids would be assured the immediate undertaking of the remedial works to distribute the waters of the Niagara River in such a way as to ensure unbroken crestlines on both the American and Canadian Falls, as recommended in the 1928 report of the Special International Niagara Board and embodied in the unratified 1929 Convention and Protocol between the two countries.

5. The Province of Ontario would be assured the opportunity of proceeding with its projects designed to divert the waters of certain tributaries of the Albany River into the Great Lakes-St. Lawrence basin and would acquire the right to use such waters for additional power development at Niagara and eventually in the International Rapids Section of the St. Lawrence River. Under present plans this would make an additional 100,000 to 150,000 horsepower at Niagara as soon as the diversion projects shall have been completed.

6. Both countries would be assured not only the immediate possibility of developing considerable additional supplies of very cheap hydroelectric power at Niagara but also the initiation of the first scientific approach to the development of a comprehensive plan for the utilization of the Niagara River. Such a plan would provide both for enhancement of scenic spectacle and for future power devel-

opment, which would prove an important contribution to economic expansion on both sides of the boundary.

7. The important economic areas tributary to the Great Lakes-St. Lawrence basin on both sides of the border would be assured of the realization of their desire that ocean navigation be brought to the heart of the continent while, at the same time, the period within which completion of the deep waterway would be contemplated would be sufficient to provide a natural growth of traffic assuring the railroads the ability to adjust themselves to the new transportation agency without financial hardship.

8. Both countries would be assured a continuing basis of cooperation in the planned utilization of one of the world's greatest natural resources. Provision would be made for the prompt solution on a sound technical basis of all problems, including those of navigation, power, lake levels, diversions from and into the basin, et cetera, in terms of the mutual interests of the two peoples.

May I express the hope that the Government of Canada will find in the proposals herein outlined a satisfactory basis for the undertaking at an early date of negotiations for a treaty and the expediting of such negotiations to the end that the interests of both peoples in the Great Lakes-St. Lawrence resource may be most effectively served?

I shall appreciate being informed of the views of your Government as soon as may be conveniently possible.

Accept [etc.]

CORDELL HULL

CONVENTION BETWEEN THE UNITED STATES AND CANADA PROVIDING FOR EMERGENCY REGULATION OF LEVEL OF RAINY LAKE AND OF OTHER BOUNDARY WATERS IN THE RAINY LAKE WATERSHED, SIGNED SEPTEMBER 15, 1938

[For text of convention, see Department of State Treaty Series No. 961, or 54 Stat. 1800. For recommendations of the International Joint Commission, United States and Canada, which had been accepted as a basis of agreement, see *Final Report of the International Joint Commission on the Rainy Lake Reference, Washington-Ottawa, 1934* (Ottawa, J. O. Patenaude, Printer to the King's Most Excellent Majesty, 1934.)]

RECIPROCAL ARRANGEMENT BETWEEN THE UNITED STATES AND CANADA RESPECTING ADMISSION TO PRACTICE BEFORE PATENT OFFICES, EFFECTED BY EXCHANGE OF NOTES SIGNED DECEMBER 3 AND 28, 1937, AND JANUARY 24, 1938

[For texts of notes, see Department of State Executive Agreement Series No. 118, or 52 Stat. 1475.]

ARRANGEMENT BETWEEN THE UNITED STATES AND CANADA RELATING TO ISSUANCE OF CERTIFICATES OF COMPETENCY OR PILOTS LICENSES, EFFECTED BY EXCHANGE OF NOTES SIGNED JULY 28, 1938

[For texts of notes, see Department of State Executive Agreement Series No. 130, or 53 Stat. 1937.]

ARRANGEMENT BETWEEN THE UNITED STATES AND CANADA RELATING TO CERTIFICATES OF AIRWORTHINESS FOR EXPORT, EFFECTED BY EXCHANGE OF NOTES SIGNED JULY 28, 1938

[For texts of notes, see Department of State Executive Agreement Series No. 131, or 53 Stat. 1941.]

ARRANGEMENT BETWEEN THE UNITED STATES AND CANADA RELATING TO AIR NAVIGATION, EFFECTED BY EXCHANGE OF NOTES SIGNED JULY 28, 1938

[For texts of notes, see Department of State Executive Agreement Series No. 129, or 53 Stat. 1925.]

AGREEMENT BETWEEN THE UNITED STATES AND CANADA REGARDING RADIO COMMUNICATIONS BETWEEN ALASKA AND BRITISH COLUMBIA, EFFECTED BY EXCHANGE OF NOTES SIGNED JUNE 9, JULY 11 AND 18, AUGUST 22, SEPTEMBER 27, OCTOBER 4, NOVEMBER 16, AND DECEMBER 20, 1938

[For texts of notes, see Department of State Executive Agreement Series No. 142, or 53 Stat. 2092.]

ARRANGEMENT BETWEEN THE UNITED STATES AND CANADA REGARDING RADIO BROADCASTING, EFFECTED BY EXCHANGE OF NOTES SIGNED OCTOBER 28 AND DECEMBER 10, 1938

[For texts of notes, see Department of State Executive Agreement Series No. 136, or 53 Stat. 2042.]

IRELAND

PRELIMINARY DISCUSSIONS REGARDING POSSIBLE NEGOTIATION OF A TRADE AGREEMENT BETWEEN THE UNITED STATES AND IRELAND¹

611.41D31/50a : Telegram

The Secretary of State to the Minister in Ireland (Cudahy)

WASHINGTON, January 20, 1938—7 p. m.

2. If you perceive no objections, please see Mr. de Valera² and after referring to overtures in regard to a trade agreement made by Ireland in recent years, inquire if his government is still interested in such an agreement. If Mr. de Valera replies in the affirmative you should state that we are prepared to enter into confidential exploratory discussions with a view to determining whether trade agreement negotiations between the two countries can be undertaken with reasonable hope of successful conclusion.

In the course of your conversation you should explain that the United States Government is engaged upon a comprehensive trade agreements program having as its object an increase in the general level of world trade by the reduction of excessive barriers to international trade and the removal of discriminations. It is with these broad and liberal purposes in view that the United States undertakes its trade agreement negotiations.

Statements made by various Irish officials, and by Mr. de Valera himself, indicate that a trade agreement with the United States has at times been looked upon by them as a means of achieving a more even balance of trade between the two countries. You should state to Mr. de Valera that the trade agreements now being negotiated do not have bilateral balancing as an objective, since this thesis is known to have reacted detrimentally rather than favorably upon the main objective of increasing the general level of world trade, and could not, therefore, in the long run serve the best interests of either country. In the course of your remarks on this subject you might point out that the balance of all payments between the two countries shows regularly a large surplus to Ireland's credit.

¹ For previous correspondence, see *Foreign Relations*, 1936, vol. I, pp. 847 ff.

² Eamon de Valera, Prime Minister and Minister for External Affairs of Ireland.

You should also point out to Mr. de Valera that the agreements entered into by the United States under the Trade Agreements Act³ embody reciprocal pledges of unconditional most-favored-nation treatment applied to all forms of trade and payments control and that you believe that agreement on this principle is an essential feature to the establishment of a basis for negotiations.

It is the general policy of the United States to confine the concessions which it grants in a trade agreement to products of which the other country is a principal supplier and to ask no greater consideration. The concessions which the United States could grant to Ireland on products not included in agreements with other countries would therefore probably be very few. If, however, the United States has granted a concession to another country on a certain product of which Ireland is a substantial although not the principal source of supply, it should be feasible to grant a concession on that product to Ireland in its own right. Concessions granted to other countries would of course be extended to Ireland in any event so long as Ireland did not discriminate against the trade of the United States. The advantage to Ireland in obtaining in its own right concessions on products in which it is interested lies in the fact that it could then continue to enjoy these concessions if the other agreements containing them should be terminated.

The first stage of any exploratory discussion could be profitably confined to a clarification of understanding on the preceding points but you could say that the Irish Government, having agreed upon the foregoing principles, might wish to present to us at any time through its representative here a list of the products it will wish to have considered.

More complete information and instructions are being sent to you by mail.

HULL

611.41D31/53

The Minister in Ireland (Cudahy) to the Secretary of State

No. 54

DUBLIN, January 29, 1938.

[Received February 18.]

SIR: With reference to the Department's telegram No. 2, January 20, 7 p. m., I have the honor to report that yesterday I called on Prime Minister de Valera and advised him that in view of overtures for a trade agreement between the United States and Ireland, the

³ Approved June 12, 1934; 48 Stat. 943.

Government of the United States would be willing to enter into exploratory conversations on this subject if the Government of Ireland was agreeable thereto.

In the discussion which followed, I pointed out that all trade agreements were made by my government subject to the unconditional most-favored-nation treatment and that this provision would be applicable to any trade treaty made between the United States and Ireland. The Prime Minister pointed out that the trade balances between Ireland and the United States indicated adverse figures for Ireland in the ratio of approximately 11 to 1, but I told him this was more than offset by the invisible items comprised within the balance of payments between the two countries and I was convinced that an investigation would show that the total of these very strongly favor Ireland.

The Prime Minister said that the matter was a subject for the experts and that he was eager for me to enter into discussions with Mr. Sean Murphy, Assistant Permanent Secretary to the Department of External Affairs, who was conversant with the subject in its preliminary stage and who in turn would refer matters of detail to competent experts.

Respectfully yours,

JOHN CUDAHY

611.41D31/51a

The Secretary of State to the Minister in Ireland (Cudahy)

No. 16

WASHINGTON, January 29, 1938.

SIR: Reference is made to the Department's telegram dated January 20, 1938, in regard to the possibility of negotiating a trade agreement with Ireland.

It is believed that the enclosed copies of the standard general provisions⁴ will serve to amplify and clarify the Department's policy on certain basic points, outlined in the telegraphic instruction. It is suggested that one copy be given to Mr. de Valera, if you perceive no objections.

Your comments on the enclosed survey⁵ of the possibilities of a trade agreement with Ireland are requested. This survey and the attached statistical studies should be considered confidential. From it you will see that the necessary adherence to the chief supplier principle in making tariff concessions naturally limits the possible scope of

⁴ For text of original standard general provisions, see *Foreign Relations*, 1935, vol. I, p. 541. Minor changes in these standard provisions were made from time to time.

⁵ Not attached to file copy of instruction.

a trade agreement with Ireland, in view of the small number of items of which Ireland is principal supplier to the United States.

It should be also noted, however, that there are a number of products of which the United Kingdom is the principal supplier which are also exported in considerable quantities from Ireland to the United States. It is not unlikely that there may be duty concessions on many of these products if the projected trade agreement with the United Kingdom is successfully concluded.⁶ In that event the number of concessions which possibly could be given to Ireland in its own right would be distinctly increased, as explained in paragraph five of the telegraphic instruction.

The reference to the preparation by the Legation of statistics and tariff information made in the last paragraph of the enclosed survey may be ignored for the time being.

Two copies of a speech by Mr. Sayre are enclosed⁷ as of possible assistance in your discussions with Irish officials. There are also enclosed, as further illustrations of procedure, copies of the preliminary and formal notices of intention to negotiate a trade agreement with Czechoslovakia,⁸ one of which may be handed to them.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.41D31/56

The Minister in Ireland (Cudahy) to the Secretary of State

No. 64

DUBLIN, February 28, 1938.

[Received March 14.]

SIR: With reference to the Legation's despatch No. 59 of February 15, 1938,⁹ I have the honor to report that the following list of commodities was enclosed in a memorandum under date of February 26, 1938, from Mr. Sean Murphy, Assistant Permanent Secretary of the Department of External Affairs of Ireland, addressed to this Legation and received under date of February 28, 1938, for which it was stated in the memorandum the Government of Ireland would be interested "to secure a tariff reduction in any trade agreement come to between the two countries":

⁶ See pp. 1 ff.

⁷ Address delivered by Francis B. Sayre, Assistant Secretary of State, entitled "How Trade Agreements Are Made," delivered at the World Trade Dinner in Cleveland, Ohio, November 4, 1937; for text, see Department of State Commercial Policy Series No. 42 (publication No. 1098).

⁸ See Department of State, *Press Releases*, May 8, 1937, pp. 317-323, and September 4, 1937, pp. 195-204.

⁹ Not printed.

*U. S. Tariff Act 1930*¹⁰
Paragraph

| <i>Commodity</i> | |
|--|--|
| Stout in casks for bottling in U. S. A. | 805. |
| Whiskey | 802. |
| Prune Wine | 804; 806 (a). |
| Peat Moss Litter | 1548. |
| Marble | 232. |
| Handwoven and hand knitted goods | 1114 (b) (c) (d); 1119; 1120; 1529 (a). |
| Biscuits | 733. |
| Linen, cotton and union piece goods | 904 (a) (b) (c) (d); 1009 (a) (b); 1010; 1011; 1023. |
| Household linen and articles of apparel made of linen and cotton | 918; 919; 1017; 910; 911 (b); 923; 1013; 1014; 1016; 1023; 1529 (a). |
| Scarves | 115 (a); 1209. |
| Woolen and worsted piece goods | 1108; 1109 (a); 1111. |
| Travelling rugs | 1111. |
| Poplin | 1109 (a); 1122; 1205. |
| Horses | 714. |
| Pickled Mackerel and Herring | 719 (4). |
| Bacon | 703. |
| Cheese | 710. |
| Carragheen or Irish Moss | 1540; 1722. |
| Oatmeal, rolled oats, oat grits and similar oat products | 726. |

On February 24, 1938, I submitted the following list of articles and commodities to the Department of External Affairs of Ireland as those of which the United States was a large supplier to Ireland. This information was based upon information contained in the enclosures sent the Legation with the Department's instruction No. 16 of January 29, 1938.

| <i>Commodity</i> | |
|-----------------------------------|--|
| Unmanufactured tobacco, unstemmed | Resin |
| Unmanufactured tobacco, stemmed | Oleo oil |
| Raisins | Refrigerating and cold storage apparatus, etc. |
| Fruit | Tool handles |
| Barley | Wireless telegraphy apparatus, etc. |
| Staves | Lard |
| Typewriters and parts | Hops |
| Turpentine | Machines and machinery |
| Fruit, preserved, no sugar | Cottonseed cake and meal. |
| Raw Plums, prunes, etc. | |

Respectfully yours,

JOHN CUDAHY

¹⁰ 46 Stat. 590.

611.41D31/58 : Telegram

The Acting Secretary of State to the Minister in Ireland (Cudahy)

WASHINGTON, April 22, 1938—7 p. m.

8. Your 7, March 25, 9 a. m.¹¹ The Department had not contemplated timing negotiations with Ireland to be completed at any particular time, as it had not considered that they would have bearing upon negotiations with any other country. Unless considerable unexpected delay develops in the United Kingdom negotiations, it would not be possible to complete our procedure for Ireland in time to have signature antedate signature of the United Kingdom agreement. Our procedure, as you know, normally requires approximately 4 months from date of preliminary public announcement to completion of hearings, before which actual negotiations cannot begin. Mail instruction follows.¹¹

It is not entirely clear whether the Irish Government has definitely indicated that it is prepared to enter upon negotiations on the basis set forth in my telegram No. 2.¹² We are ready to join with Ireland in the issuance of the usual preliminary press statement of contemplated negotiations at an early date, if the Irish Government accepts the suggested basis of negotiations.

WELLES

611.41D31/59 : Telegram

*The Minister in Ireland (Cudahy) to the Secretary of State*DUBLIN, May 25, 1938—noon.
[Received May 25—9:26 a. m.]

13. Referring to Department's telegram No. 8, April 22, 7 p. m., Legation has formal notification from the Government of Ireland that negotiations be entered into for a trade treaty at the earliest date possible and expresses willingness that a public announcement of such negotiations be made. Request telegraphic instructions concerning time so that joint announcement may be made by the Government of Ireland.

CUDAHY

611.41D31/59 : Telegram

The Secretary of State to the Minister in Ireland (Cudahy)

WASHINGTON, May 28, 1938—3 p. m.

11. Your 13, May 25, noon. Please refer to Department's No. 8, April 22, wherein it was stated we are ready to join with Ireland in the

¹¹ Not printed.¹² January 20, 7 p. m., p. 185.

issuance of the usual preliminary press statement of contemplated negotiations provided the Irish Government accepts the general basis of negotiations as set forth in the Department's No. 2, January 20. It is not yet clear to the Department that the Irish Government has in fact agreed to the principles embodied in the suggested basis of negotiations. Until definite assurances to this effect are received, it will not be possible to announce the contemplation of negotiations.

HULL

611.41D81/60 : Telegram

The Minister in Ireland (Cudahy) to the Secretary of State

DUBLIN, May 30, 1938—4 p. m.
[Received May 30—1:23 p. m.]

17. Referring to Department's telegram No. 11, May 28, 3 p. m., Department's attention is invited to despatch number 54, of January 29th. In proposing to enter into negotiations for a trade agreement the Government of Ireland has agreed to accept the principle of unconditional most-favored-nation treatment applicable to all forms of trade and payments control and referred to the trade convention of 1815¹³ based on most-favored-nation treatment to show that this policy has long been in effect between our two countries.

CUDAHY

611.41D81/62 : Telegram

The Minister in Ireland (Cudahy) to the Secretary of State

DUBLIN, July 1, 1938—4 p. m.
[Received July 1—11:54 a. m.]

24. Referring to my telegram No. 13, May 25, noon and 17, May 30, 4 p. m., Irish Government is pressing for reply as to when joint announcement may be made regarding beginning of negotiations for trade agreement. Please telegraph.

CUDAHY

611.41D81/62 : Telegram

The Secretary of State to the Minister in Ireland (Cudahy)

WASHINGTON, July 11, 1938—6 p. m.

16. Your No. 24, July 1, 4 p. m. On July 1 we asked Brennan, the Irish Chargé d'Affaires, to call at the Department and discussed with him the matter of an announcement at an early date of trade agree-

¹³ Convention To Regulate Commerce, signed at London July 3, 1815; Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 2, p. 595.

ment negotiations between the two countries. We told Brennan of the conversations which have taken place between you and Irish officials and explained that we are ready to join with Ireland in making a public announcement regarding trade agreement negotiations at an early date. We added, however, that in view of the many ties which unite our two countries it would be little short of tragic for a public announcement to be made and later for our two Governments to find that they are "talking different languages" about trade agreement objectives.

We stated that we have every reason to assume that the Irish Government is prepared to enter upon negotiations on the basis which you set forth in pursuance of our instructions; that is, subject to the unconditional most-favored-nation principle and without reference to any aspect of the bilateral trade balance between the two countries. We added that we had previously explained to him and you had explained in Dublin our practice of bargaining with the principal supplier, or an important supplier, of commodities and the effect which this would necessarily have upon the negotiations between our two countries. We explained also that we are prepared to reconventionalize to Ireland a number of important reductions which have been granted to other countries but in which Ireland has a considerable interest. We referred to the list of products which the Irish Government handed to you and stated that prior to an announcement we would be glad to discuss these products and reach an agreement with the Irish Government regarding any list to be published. We added, however, that it would be helpful for us to have a more precise indication of the exact products in which Ireland is interested, particularly in the woolen and linen schedules.

We emphasized the fact that we feel certain that there is no point of difference in regard to all of these matters, but that we feel that in the interest of both countries it is essential that we be absolutely certain of this before announcing trade agreement negotiations. Brennan stated that he was in full agreement with us that we must be certain on both sides that we understand one another and that our objectives are the same. He stated that he would telegraph his Government at once along the lines of our conversation and communicate with us later.

HULL

611.41D31/64

Memorandum of Conversation, by Mr. John R. Minter of the Division of European Affairs

[WASHINGTON,] November 10, 1938.

The Irish Minister came at Mr. Sayre's request. Mr. Sayre reminded him of the several formal and informal conversations which

had been held both here and at Dublin regarding a basis for trade agreement negotiations between the two countries and stated that we were now ready to enter into more formal discussions, if his government wished to do so. Mr. Sayre told him that we had examined the list of products which he had given us in September¹⁴ and that, according to our practice of considering concessions only to countries which have been principal or important suppliers of our imports, we had found that it would be possible to consider granting concessions to Ireland in the list of products which was handed him. He was told that this list was made from statistical and other information available to us, but that if the Irish Government could submit information making a good case for other products we would be glad to consider it.

Mr. Sayre recited the objectives of our trade agreement program and the principles under which the agreements are made, stressing chiefly (1) most-favored-nation treatment in respect of tariffs, quotas, exchange control, et cetera, (2) disregard of bilateral balancing, and (3) the rule of granting concessions to principal or important suppliers. He expressed the hope that his government would be willing to negotiate on that basis.

Mr. Brennan asked a few questions, which were answered as follows:

Q. Would we insist that Ireland extend to all countries the concessions it makes to us in such an agreement?

A. No. While we believe that generalized most-favored-nation treatment is a powerful contribution to improvement in world trade, we could not dictate the policy of other nations.

Q. Would this agreement require the abolition of Empire preferences?

A. No. We have recognized Empire preference in other agreements, although we don't like it. Some of our requests could conceivably require consultation with the United Kingdom Government regarding modification of an existing bound margin of preference, as has been the case in our agreements already negotiated with Empire countries.

Q. What are the concessions which Ireland would obtain through generalization as a result of the British Agreement?

A. We would be able to give him a list of such concessions at the end of next week. However, he was at liberty now to report that the British Agreement, if signed, would contain a wide range of concessions in all the textile schedules of our tariff, thus covering most, if not all, of the textile items in the Irish September list. It appeared

¹⁴ Not found in Department files.

to our experts extremely difficult, if not impossible, to make a statistical case for independent concessions to Ireland on any of the textiles.

Q. Were the products in the list given him already in other trade agreements?

A. No. The concessions which might be granted on these products would be the first alterations of their rates of duty since the act of 1930.

Mr. Brennan stated that he thought he understood the situation thoroughly, but said that he would take advantage of our offer to elucidate if he struck a snag in making his report.

[On May 16, 1939, the Irish Minister, Mr. Robert Brennan, was informed that the American Government was prepared to make, at any time agreeable to the Irish Government, a formal announcement of trade agreement negotiations between the two countries. At the same time he was handed a list of products on which the United States would consider offering concessions to Ireland and a second list of products on which the United States would expect concessions from Ireland (611.41D31/66). It appears, however, that no further action was taken with respect to these negotiations.]

REPRESENTATIONS TO IRELAND WITH RESPECT TO THE SALE OF IRISH SWEEPSTAKES TICKETS IN THE UNITED STATES

841D.513/51

*The Secretary of State to the Minister in the Irish Free State
(Cudahy)*

No. 7

WASHINGTON, October 4, 1937.

SIR: I enclose a copy of a letter dated August 20, 1936, from the Acting Postmaster General,¹⁵ together with its enclosures, in regard to the desire of the Post Office Department to acquaint the Irish Free State Government with violations of United States statutes which are being practiced by the Hospitals' Trust, Limited.

You are requested to take up this matter with the appropriate authorities and to request that steps be taken to prevent further violations of United States statutes.

For your information I enclose a copy of the Department's recent communication to the Postmaster General on this matter.¹⁶

Very truly yours,

For the Secretary of State:
HUGH R. WILSON

¹⁵ Not attached to file copy of instruction.

¹⁶ Not printed.

841D.513/52

*The Minister in the Irish Free State (Cudahy) to the Secretary
of State*

No. 23

DUBLIN, October 27, 1937.
[Received November 8.]

SIR: With reference to the Department's Instruction No. 7 of October 4, 1937, I have the honor to report that on October 26, 1937 I called on Mr. J. P. Walshe, Permanent Secretary of the Department of External Affairs, at his office in the Government Buildings, Dublin.

I called Mr. Walshe's attention to Sections 336 and 387 under Title 18 of the United States Code and told him the authorities in the American Post Office Department were in possession of evidence indicating that the Hospitals' Trust, Limited, of the Irish Free State, was engaged in a systematic effort to countervene the provisions of these Statutes of the Criminal Law.

Specifically I directed his attention to Exhibits 1, 2 and 3 set forth in the copy of letter from the office of the Postmaster General of the United States under date of August 20, 1936, enclosed with Instruction No. 7 of October 4, 1937, above referred to, quoting pertinent evidence therefrom bearing out my statement.

Mr. Walshe stated that the sweepstakes and all activities in furtherance thereof were legal transactions sanctioned by the Public Hospitals Act of 1933, a legislative Act of the Dail, signed by the executive authorities of the Irish Free State which granted legal powers "to enable funds to be raised by means of sweepstakes and drawings of prizes for the benefit of certain classes of institutions and organizations affording social services, etc." He said it was, therefore, clear that under the municipal law of the Free State there was no illegality involved but when I suggested that the effect of soliciting the purchase of sweepstake tickets in America, the engaging of agent distributors for this purpose and other similar activities by the Hospitals' Trust, Limited, constituted an enterprise which had the effect of countervailing the Criminal Law in the United States, Mr. Walshe agreed that such action was not consistent with the amity between friendly nations.

At my suggestion he promised to take the matter up with the Hospitals' Trust, Limited, directing their attention to my protest and asking them in the furtherance of friendly relations between the Irish Free State and the United States to desist from further solicitation of purchasers for sweepstake tickets and from carrying on an organized effort for the distribution of such tickets.

Respectfully yours,

JOHN CUDAHY

841D.513/57

The Secretary of State to the Minister in Ireland (Cudahy)

No. 18

WASHINGTON, February 4, 1938.

SIR: Reference is made to the Department's instruction dated October 4, 1937, and to your despatch, no. 23, dated October 27, 1937, in regard to the sale in this country of sweepstakes tickets.

I now enclose a copy of a letter dated January 22, 1938, together with its enclosure, from the Chief Inspector of the Post Office Department,¹⁷ which are self-explanatory.

You are requested to see Mr. Walshe again and endeavor to ascertain whether the Irish Government intends to take some action which would prevent the solicitation in this country of the purchase of these tickets. You might point out that if it is a matter of the wording of the law, amity might dictate a modification of the law to meet the contingency. Some instances of such cooperation by foreign governments in the enforcement of United States laws are cited below:

1. A law was enacted in Canada, effective May 30, 1930, prohibiting the exportation of alcoholic beverages to countries where its importation is forbidden.¹⁸ This action entailed considerable loss in revenue to the Canadian Government but resulted in preventing the further introduction of liquor into the United States contrary to our laws and was greatly appreciated by this Government.

2. Upon the repeal of the Eighteenth Amendment the above-mentioned law was no longer applicable to the United States but in order to prevent surreptitious shipments of spirits to this country the Canadian Government further cooperated with this Government by prohibiting the removal of liquor from bonded warehouses for shipment to the United States unless invoices duly certified by American consular officers are first presented to the appropriate Canadian authorities showing that the spirits will be legally imported.¹⁹

3. The Belgian Government, by a decree effective August 1, 1936, cooperated with this Government to prevent the exportation of alcohol from Belgium destined for illicit importation into the United States. The decree specifies that alcohol intended for exportation from Belgium must be shipped on vessels belonging to regular steamship lines sailing from a Belgian port, or on vessels having a minimum tonnage of 3,000 tons and transporting at the same time other merchandise of an amount equal in quantity to the gross weight of the alcohol on board, and, furthermore, the alcohol must be shipped in metal containers of a capacity of not less than 100 liters each.²⁰

¹⁷ Not printed.

¹⁸ See *Foreign Relations*, 1930, vol. I, pp. 488 ff.

¹⁹ See *ibid.*, 1935, vol. I, pp. 390 ff.

²⁰ See *ibid.*, 1936, vol. I, pp. 407 ff.

4. In addition, several governments, including Cuba, Great Britain, France and Mexico have taken steps to require the giving of a bond for the production of a landing certificate covering cargoes of spirits in order to prevent their introduction into the United States contrary to the laws of this country.²¹

5. Cuba, furthermore, by a decree signed November 30, 1934, has prohibited the exportation of alcohol to any port or place believed to be used as a smuggling base.

6. Guatemalan customs officers at Puerto Barrios (the only port from which spirits destined for smuggling into the United States were shipped) were instructed that after June 11, 1936, they should neither receive nor clear alcohol or alcoholic beverages in transit.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

841D.513/62

The Minister in Ireland (Cudahy) to the Secretary of State

No. 88

DUBLIN, April 19, 1938.

[Received May 3.]

SIR: With further reference to the Department's Instruction No. 18 of February 4, 1938, and this Legation's despatch No. 60 of February 17, 1938,²² I have the honor to report that on April 12, 1938, I called on Prime Minister de Valera at the Department of External Affairs in the Government Buildings and discussed with him at length the Irish Sweepstakes and contravention of the United States statutes by Hospital Trusts, Limited.

I emphasized that the distribution of Sweepstake tickets in the United States was a felony under Sections Nos. 336 and 387, Title 18 of the U. S. Code, and stated that while I realized there was no penal offense under existing law of Ireland, it was hardly compatible with friendly relations between the two countries to engage in an organized enterprise to contravene these provisions of the U. S. Criminal Law.

Mr. de Valera replied that he had been opposed to the Sweepstakes from the outset, as the record showed. He realized that while financial benefits might result from the immediate effect of this enterprise, a lottery was not socially wholesome and the ultimate gain from one might be dearly paid for. He agreed that it would be advisable to curb, if not prevent, the distribution of sweepstake tickets in the United States but asked me how this could be effected, what specific measures I could propose.

²¹ See *Foreign Relations*, 1935, vol. I, pp. 390 ff.

²² Latter not printed.

I told him that in the trying matter of enforcing our prohibition law we had, pursuant to the comity of friendly nations, secured the cooperation by appropriate treaties of neighboring countries. Canada had especially manifested a cooperative spirit in this regard. I drew attention to a law enacted by Canada in 1930 prohibiting the exportation of alcoholic beverages during the period of Prohibition in the United States, and to a 1936 decree by the Belgian Government to prevent the exportation of alcohol destined for illicit importation into the United States. I said that several governments, including Cuba, Great Britain, France and Mexico, have taken steps to require the giving of a bond for the production of a landing certificate covering cargoes of spirits in order to prevent their introduction into the United States contrary to the laws of this country. In the case of Guatemala, customs officers were instructed by the Guatemalan Government that they should neither receive nor clear alcohol or alcoholic beverages in an effort to aid enforcement by the U. S. Customs Officers to suppress smuggling. He said that was all very well, but what measures specifically could I suggest in the present situation to control distribution of tickets in the United States by a lottery legalized in Ireland? In rejoinder to my contention that a lottery was inherently pernicious, he said that its inherent unlawful character was not recognized in Ireland. On the contrary, he asserted that there was nothing morally wrong in a lottery, it did not obviously violate social order or decency; statute in the United States had made wrong something which was not wrong in itself; the distinction was between *malum in se* and *malum prohibitum*. Countries such as France and Spain had given legal sanction to lotteries, much as Ireland had done. Nevertheless, he did not want to appear out of sympathy with the attitude of the American Government. He wanted to help in any way he could, but he did not think it advisable to attempt any measures for the suppression of the Sweepstakes unless they could be effective. He was absolutely certain that any attempt of this kind would be opposed overwhelmingly by public opinion and no law opposed to public opinion could be enforced in Ireland. He said it came down to this, that the American Government was asking the Government of Ireland to enforce an American criminal law, a law which was opposed to the fundamental concept of personal liberty in Ireland. The Governments of Italy and Germany had recently protested against the adverse criticism of the dictators appearing in the Irish newspapers, but he had made reply that it was impossible to control Irish journalism since freedom of speech was the essence of democratic institutions in Ireland and that weighed with this consideration the jeopardy to most cordial relations with the governments concerned must be disregarded. I reiterated the necessity for some offer of assistance on his part in a matter that might

cause embarrassment to the Irish Government in the United States and stated that it would be embarrassing if I were constrained to report to my Government that the Government of Ireland considered a lottery as essential to its institutions as freedom of the press. He asked me again for some specific suggestion and stressing that it was entirely my personal suggestion, I advanced the proposal of a scrutiny by American authorities in Ireland of all Irish mail addressed to the United States. I said that this would facilitate the detection of Sweepstake tickets in the mails and the sources from which they originated. Another expedient, probably more effective, I suggested would be the passage of a law by the Irish Parliament requiring all enterprises, whether commercial or otherwise, to imprint on all of their outgoing envelopes their address and some language descriptive of the character of their business. Mr. de Valera told me he did not think very highly of these expedients. Scrutiny of American mail from Ireland could be better accomplished in American ports. If necessary, he said, all such mail could be definitely earmarked and its distribution delayed while postal authorities and authorities from the Department of Justice made searching examination. A law requiring the address of the sender and the character of his business to be printed on envelopes would be immediately detected as directed against the Sweepstakes, moreover such a measure would put a great premium on corruption. Great pressure would be brought to bear on the individuals handling the American Sweepstakes mail and these individuals would not be human if they could not be induced to evade the law by using ordinary envelopes. He concluded the discussion by repeating what he had said at the outset that he personally was not sympathetic to the Irish Sweepstakes and did not approve of the wide-spread distribution of Sweepstakes tickets in the United States. He said he would take the matter very seriously under advisement and would try to find some method whereby closer cooperation with the American authorities might be found, but at the present time no feasible method occurred to him.

Respectfully yours,

JOHN CUDAHY

841D.513/63

The Minister in Ireland (Cudahy) to the Secretary of State

No. 92

DUBLIN, April 23, 1938.

[Received May 9.]

SIR: With reference to Instruction No. 18 of the Department, dated February 4, 1938, over signature of The Honorable Sumner Welles, Under Secretary of State, and this Legation's confidential despatch No. 88 of April 19, 1938, I have the honor to report that having secured

permission from the Minister for External Affairs, I had a discussion on April 20, 1938, with Mr. Joseph McGrath, Managing Director of Hospitals' Trust, Ltd., and Sir Joseph Glynn, Chairman of the Associated Hospitals Committee.

I pointed out that press articles indicated that the sale of Sweepstakes tickets in the United States for the past three Sweepstakes had been upwards of £4,000,000 and said that with the increasing winnings by Americans, the enterprise would grow to such proportions that the Sweepstakes would defeat itself. It would become a wholesale scandal in the United States and measures would be demanded in Congress for its suppression. I emphasized that in the United States the importation of Sweepstakes tickets and transmissal, both intra- and inter-state, was a felony under provisions of the American Criminal Law. And said further that the distribution of tickets by Hospitals' Trust, Ltd., constituted a breach in the comity between two friendly nations.

I went on to say that in October, 1937, I had protested against this organized contravention of these American Criminal Laws and that notwithstanding this protest, I had been supplied with evidence that from November 1, 1937 to January 22, 1938 a large number of Sweepstakes tickets had been sent through the mails from Ireland to the United States.

Mr. McGrath asked me if I could give him the names of persons sending these tickets and I thereupon showed him the list of names and addresses supplied by the United States Post Office Department. After examining the list he said that the persons mentioned had no connection whatever with Hospitals' Trust, Ltd., and that they merely as individuals and entirely on their own responsibility had mailed tickets to the United States. He said he had no means of controlling independent sources from which Sweepstakes tickets could be purchased. After being apprised of my protest with the Department of External Affairs on October 26, 1937, he said he had written an instruction to all agencies distributing Sweepstakes tickets in the United States forbidding them to engage in advertising or wholesale methods of distribution. He told me that if the American Postal authorities would send in the Sweepstakes tickets confiscated, he could identify the agency from which the tickets were secured and if any agency had engaged in advertising or exploitation in violation of his order, he would revoke such agency.

Sir Joseph Glynn at this point stated that a large portion of the Sweepstakes tickets mailed to the United States were remailed to their destination from England and Canada. He said this simply illustrated one of the obvious devious methods for the evasion of the American Law.

At the conclusion of the discussion, Mr. McGrath agreed that the Hospitals' Trust, Ltd., would not use the mails to the United States for the transmissal of any written or printed matter concerning the Sweepstakes, that no Sweepstakes tickets would be sent through the mails, by the Hospitals' Trust, Ltd., to the United States, that no circular or advertising matter from any distributing agent of Hospitals' Trust, Ltd., in the United States would be permitted and if any such agent violated the order against circularizing or advertising, he would revoke the agency of such agent.

Respectfully yours,

JOHN CUDAHY

841D.513/67

The Secretary of State to the Chargé in Ireland (MacVeagh)

No. 28

WASHINGTON, June 13, 1938.

SIR: Reference is made to despatch no. 92, dated April 23, 1938, in regard to a conversation which Mr. Cudahy had with officials of the Hospitals' Trust, Limited.

The Department forwarded a copy of this despatch to the Postmaster General who, in due course, acknowledged the same in a letter dated June 1, 1938, a copy of which is enclosed.²³

On June 6, 1938, the Department was visited by two Post Office Inspectors, who, after expressing their appreciation of Mr. Cudahy's success in securing the degree of cooperation reported, stated that the Post Office Department did not feel disposed to request that you press this matter with Irish Government officials to a point which would cause you embarrassment. They stated, however, that the Post Office Department would be grateful if you would take occasional opportunity to remind officials there of the seriousness with which we view their official condonation of private violation of a United States law.

Very truly yours,

For the Secretary of State:

G. S. MESSERSMITH

²³ Not printed.

E U R O P E

A U S T R I A

ANNEXATION OF AUSTRIA BY GERMANY

(See volume I, pages 384 ff.)

**PROBLEMS ARISING FROM THE ANNEXATION OF AUSTRIA
BY GERMANY**

(See *post*, pages 483–515.)

BELGIUM

PRELIMINARY DISCUSSIONS RESPECTING A SUPPLEMENTARY TRADE AGREEMENT BETWEEN THE UNITED STATES AND BELGIUM¹

611.5531/726 : Telegram

The Secretary of State to the Ambassador in Belgium (Gibson)

WASHINGTON, January 13, 1938—8 p. m.

4. The action suggested in your Despatch No. 101, December 13,² is receiving careful and sympathetic consideration and instructions will be sent at the earliest practicable date.

While we realize that the situation is unsatisfactory, there are a number of questions which require further study. Among these questions is the relationship between the problem raised in your despatch and the negotiations still in progress in respect of the comprehensive general provisions (Instruction No. 28, November 2³). We feel that our position would be considerably stronger under those comprehensive general provisions than it is at present.

You are requested to report whether a favorable opportunity has presented itself for discussing the general provisions with the Foreign Office. You are requested further to ascertain if possible and to report as to when a definitive expression of the Belgian views on the subject may be expected.

HULL

611.5531/728 : Telegram

The Chargé in Belgium (Tuck) to the Secretary of State

BRUSSELS, February 2, 1938—5 p. m.
[Received February 2—12:40 p. m.]

15. Department's 4, January 13, 8 p. m., and Embassy's telegram 4, January 14, 1 p. m.⁴ Foreign Office now informs me that the preparation of a counter-draft of 2 or 3 articles in the United States standard draft of comprehensive general provisions, taking into careful consideration the Department's proposals, is in the course of prepara-

¹ Continued from *Foreign Relations*, 1937, vol. II, pp. 219-234.

² *Ibid.*, p. 227.

³ *Ibid.*, p. 224.

⁴ Latter not printed.

tion but as the conclusions and opinions of certain Ministries and more particularly of the Inter-Ministerial Committee are still to be obtained this work cannot be completed for about another month.

Since the Foreign Office has been told that the Department does not wish to change the place of negotiation it proposes to forward the counter-draft when completed to the Belgian Embassy in Washington for presentation to the Department.

I am also told that every consideration is being given to the points embodied in the Memorandum which I left with the Director of the Commercial Section in November and that the Foreign Office is as anxious as the Department to avoid reaching an impasse in the matter.

TUCK

611.5531/731

The Chargé in Belgium (Tuck) to the Secretary of State

No. 160

BRUSSELS, February 7, 1938.

[Received February 16.]

SIR: I have the honor to acknowledge the receipt of the Department's telegram No. 4 of January 13, 1938, 8 p. m., referring to the Embassy's despatch No. 101 of December 13, 1937. . . .

With particular relation to the difficulties arising from the failure of the Belgian Government to observe the terms and spirit of the Trade Agreement as outlined in our despatch No. 101 of December 13, 1937, certain developments have recently occurred here which are of interest to report.

A few weeks ago, at the request of M. Leurquin, Assistant Director of the Section of Commercial Accords at the Foreign Office, I called upon him, accompanied by the Commercial Attaché.⁵ At this meeting M. Leurquin laid his cards frankly on the table. A report, he said, had reached the Foreign Office that it was Ambassador Gibson's intention to formulate a serious complaint against the Belgian Government, on the grounds of its continued failure to observe the terms and spirit of the Trade Agreement. He was most anxious to avoid this contingency and asked if there was anything that he could do to remedy the situation. Realizing that M. Leurquin had probably, through the Belgian Embassy in Washington, got wind of the recommendations and suggestions embodied in the Embassy's despatch No. 101 of December 13, 1937, I judged it advisable to reply with equal frankness. I briefly reviewed the difficulties which were becoming

⁵ Thomas L. Hughes.

increasingly apparent in regard to the successful operation of the Trade Agreement and I reminded him that as a result of a *démarche* made by Ambassador Gibson to M. van Zeeland in September 1937 (when the latter was still Prime Minister), the Embassy had been glad to notice that there had been a distinct betterment of the situation. I added that this happy state of affairs had unfortunately not continued and that since the Cabinet crisis in October there had been evidence that the members of the Interministerial Committee were resuming their old tactics. I said that my Ambassador was as anxious as the Foreign Office to avoid the necessity of further representations but that, in view of the attitude assumed by certain members of the Interministerial Committee, and of the numerous complaints which the Embassy was again receiving with regard to the operation of the Trade Agreement, he had felt obliged to make certain definite recommendations to his Government. I hastened to assure M. Leurquin, however, that it was the Embassy's belief that it had encountered at all times a sincere measure of good will on the part of Foreign Office officials and that the difficulty consequently did not seem to lie in his Department, but was to be found in the apparently uncontrolled action of certain ministerial officials who appeared either indifferent to the desirability of observing the spirit of the Trade Agreement or were inclined to ignore the representations which the Embassy had so frequently made. The Commercial Attaché cited briefly, as an example, the delay in issuing import licenses which had mitigated [*militated?*] against the successful importation of certain American commodities. M. Leurquin was frank in agreeing that the situation was far from satisfactory and requested that I submit to him specific cases regarding which we found grounds for complaint. This, I told him, I would be glad to do although he was reminded that most of these cases had been brought to the attention of his Government in the past.

On February 4, I called for the second time on M. Leurquin, again accompanied by the Commercial Attaché, and left with him a copy of the memorandum and annexes which formed the enclosures to the Embassy's despatch No. 101 of December 13, 1937. M. Leurquin, who has constantly displayed a desire to be as helpful as he consistently can, then referred to the Royal Decree published in the *Moniteur Belge* of February 2, 1938, with regard to the creation of a Central Office for Quotas and Licenses which will be known as the "Office Central des Contingents et Licenses". This Office will have control of the administration of all quotas and the issuance of import licenses which have heretofore been vested in the Ministries of Economic Affairs, Agriculture, Transport, and Marine, according to the articles or commodities involved. He pointed out that the Ministry of Foreign Affairs and Foreign Commerce had, in the past, attempted to exercise

some supervision over all these various controls but that, in spite of their efforts, there had been considerable jealousy among all the officials of the various Ministries concerned and consequent lack of coordination in the administration of quotas. The new Office, which will be directed by M. Henri Marchant, will be established in the Ministry of Economic Affairs and will endeavor to remedy the unsatisfactory situation which has hitherto existed. Furthermore, in the course of 1938, the functions and personnel controlling the issuance of licenses and quotas will be gradually consolidated and assimilated into this new organization. M. Leurquin added that he would occupy the position of Secretary-General of the new organization. He felt that many of the difficulties which had been encountered in obtaining licenses would be done away with by the new order of things.

After further discussion of a general and specific character, it was agreed that after M. Leurquin had made a careful study of the items embodied in the memorandum, we would again meet to discuss these individually and at length. I may add that M. Leurquin's attitude gave me every reason to believe that the Foreign Office was disposed to meet us more than half way. It was also apparent that Belgian officials appeared anxious to avoid a second *démarche* of the kind which Ambassador Gibson made to M. van Zeeland.

I feel, however, that it would be unduly optimistic to expect a more liberal régime as regards restrictions placed upon imports from the United States. While the new Office of Licenses and Quotas may serve its purpose in coordinating Government activities, it is doubtful whether, with M. Henri Marchant at its head, there is any very real chance for improvement in so far as American commodities are concerned. M. Marchant, who administered the License Bureau in the Ministry of Economic Affairs during past years, has proved on many occasions obstructive in the distribution of quotas under the terms of the United States-Belgian Trade Agreement.⁹ Furthermore, he has shown that he is in sympathy with the views expressed by an economist of the University of Louvain, who recently conducted a study of the quota system. This economist proposed to the Government that the eligibility of importers to receive licenses should not be contingent upon their having been importers over a base period, but that any importer, although not having been accorded licenses heretofore, should participate in the established quota to the extent of 10%. He also advocated that this 10% should be deducted from the quota allotted to established importers who had qualified as eligible by virtue of the fact that they imported during the base period. This theory, if put into practice, would mean the eventual elimination of the established

⁹ Signed February 27, 1935, Department of State Executive Agreement Series No. 75, or 49 Stat. 3680.

importer, and such a "long division" of quotas would be equivalent to their suppression since it would sooner or later prove unprofitable to importers to deal in such small quantities. It was gratifying to learn that M. Leurquin's personal views do not coincide with those of the Louvain economist.

Respectfully yours,

S. PINKNEY TUCK

611.5531/735 : Telegram

The Ambassador in Belgium (Gibson) to the Secretary of State

BRUSSELS, March 30, 1938—1 p. m.

[Received March 30—10:50 a. m.]

37. Mr. Suetens, Director General Commercial Section of the Foreign Office, is extremely anxious to contact Culbertson⁷ now in Praha regarding the Belgian counter draft on the general provisions which is shortly to be sent to Washington. The Embassy was very recently given the opportunity of reviewing the Belgian counter draft which is practically completed. The impression gained at that time was that the Belgian Government had made an effort to meet our views but has encountered obstacles. Suetens feels very definitely that these differences could be discussed with mutual advantages in a meeting between Culbertson and himself and before counter draft is sent to Washington.

Request that Culbertson be given authorization to visit Brussels at first convenient opportunity.

GIBSON

611.5531/735 : Telegram

The Secretary of State to the Ambassador in Belgium (Gibson)

WASHINGTON, April 1, 1938—5 p. m.

18. Your 37, March 30, 1 p. m. Culbertson is being instructed to proceed to Brussels at the first convenient opportunity and will notify you as far in advance as possible.

The Department feels, however, that the discussions would be more fruitful if the Belgian counter draft were available here in Washington. Culbertson is not authorized to commit this Government but would have to refer all questions here for decision.

As Suetens does not desire to send final counter draft to Washington until after discussion with Culbertson, the Department desires that you endeavor to persuade Suetens to give you very informally and

⁷ Paul T. Culbertson, Assistant Chief of the Division of European Affairs.

without committing the Belgian Government a copy of the tentative counter draft in its present form. With the tentative counter draft available the Department would be able to instruct Culbertson much more efficaciously.

HULL

611.5531/740 : Telegram

The Ambassador in Belgium (Gibson) to the Secretary of State

BRUSSELS, April 27, 1938—6 p. m.

[Received April 27—1 : 30 p. m.]

45. The Department's telegram No. 18, April 1, 5 p. m. Culbertson accompanied by Tuck and Miss Willis⁸ had a conversation with Suetens and de Fontaine⁹ this morning on the subject of the Belgian counter draft of the general provision, transmitted under cover of despatch No. 207 of April 5.¹⁰

The first five articles of the Belgian text were discussed and Suetens explained the reason for the proposed modifications. Culbertson outlined the Department's policy in regard to the various principles involved in the articles in question and expressed his personal opinion with regard to the Department's probable attitude toward the specific points under discussion.

The greatest obstacles encountered to date have been in connection with articles I and II and V. Among the principal points discussed were: (1) the probable objections to the expression "the products originating in and coming from"; (2) the inadequacy of the proposed Belgian substitution in article I which guarantees only most-favored-nation treatment and does not bind all charges imposed in connection with importation; (3) the necessity of retaining the principles embodied in article V.

After hearing Culbertson's explanation of our viewpoint the Belgians were prepared to some extent to modify their proposals provided an acceptable formula could be found. Culbertson replied stressing the fact that he had no power to negotiate but that he was quite willing to continue on Thursday and Friday a minute article by article consideration of the text in order to indicate to them (in so far as he could personally) the objections which would probably be raised in Washington.

Culbertson plans to leave for Paris Saturday morning April 30 and to sail May 5. It would be helpful if any instructions to be used by him here could reach Brussels not later than Thursday night.

GIBSON

⁸ Frances Elizabeth Willis, Second Secretary of Embassy in Belgium.

⁹ Jean de Fontaine of the Belgian Foreign Office.

¹⁰ Not printed.

611.5531/740 : Telegram

The Acting Secretary of State to the Ambassador in Belgium (Gibson)

WASHINGTON, April 28, 1938—6 p. m.

22. Your telegram No. 45, April 27, 6 p. m. The Department approves Culbertson's approach to the conversations on the subject of the general provisions, and instructions do not appear to be necessary.

We should like to receive at an early date through the Belgian Embassy here the official version of the Belgian counter-proposals.

WELLES

611.5531/741 : Telegram

The Ambassador in Belgium (Gibson) to the Secretary of State

BRUSSELS, May 4, 1938—1 p. m.

[Received May 4—9:45 a. m.]

47. Department's 22, April 28, 6 p. m. At the urgent request of the Belgians, Culbertson remained in Brussels until May 3 when he departed for Paris. We feel that the able manner in which he conducted the conversations should greatly facilitate the Department's task in reaching an agreement on the general provisions. He succeeded in persuading the representatives of the Foreign Office to withdraw their objections on many points to the American counter draft submitted to the Belgian Embassy at Washington in July 1937.¹¹ He likewise induced them to maintain articles 5, 6 and 8 with some reservations. Articles 1 and 2 are still under discussion but it is understood that a provision binding charges in connection with importation is to be included.

Suetens explained that the modified Belgian proposals have to be submitted to the other interested departments and that certain supplementary information has to be obtained before the revision of the Belgian counter draft can be completed. As both Suetens and De Fontaine are leaving in a day or two for meeting of the representatives of the Oslo Powers to be held in Oslo beginning May 9 there will be unfortunately a delay which according to Suetens may easily amount to 3 weeks before despatch of the Belgian counter draft.

GIBSON

611.5531/742

The Chargé in Belgium (Tuck) to the Secretary of State

No. 256

BRUSSELS, June 20, 1938.

[Received June 29.]

SIR: I have the honor to refer to the Embassy's despatch No. 160 of February 7, 1938, concerning certain conversations with Mr.

¹¹ Not printed.

Leurquin, the Assistant Director of the Section of Commercial Accords at the Foreign Office, in regard to the failure of the Belgian Government to observe the terms and spirit of the Trade Agreement with the United States.

In the months which have elapsed since my conversations with Mr. Leurquin, some of the specific commodities mentioned in the memorandum and annexes which were left with Mr. Leurquin on February 4, 1938, and which were transmitted to the Department under cover of despatch No. 101 of December 13, 1937,^{11a} have been discussed with representatives of the Foreign Office in an attempt to improve, if possible, the situation as described in the memorandum. In these occasional informal conversations the position of the assemblers in Belgium of American automobiles has always been avoided by the Belgian officials who have stated that they did not wish to go into that for the present as an exhaustive study of the automobile industry was in progress and it was better to await its completion before making even any unofficial statements.

On its side the Embassy had not pursued its representations of a general nature concerning violation of the Trade Agreement but had confined its efforts to an attempt to obtain favorable treatment in the case of individual commodities. The Embassy in this matter was guided by the Department's telegram No. 4 of January 13, 1938, 8 p. m., in this sense. There appeared to be reason to hope during Mr. Paul Culbertson's visit in April and May and immediately afterwards that the excellent work done by him would bear fruit in the speedy submission through the Belgian Embassy at Washington of an acceptable Belgian counter draft and the successful negotiation of General Provisions. (See the Embassy's telegram No. 47 of May 4, 1938, 1 p. m.) It is true that shortly after Mr. Culbertson's visit to Brussels, Mr. Suetens, the Director of the Section of Commercial Accords, and Mr. de Fontaine, also of the same Section, went to Oslo for the Meeting of the Oslo Powers, and that since their return various other current negotiations have kept them very busy. The fact remains that although Mr. Suetens assured me as recently as June 16, 1938 that he hoped to be able to send the Belgian counter-draft to Washington at an early date, it has not yet gone forward.

Such is the relevant background of a recent series of events which I feel compelled to report to the Department for its information although, as will be seen later in this despatch, the Prime Minister and Minister for Foreign Affairs and Foreign Commerce, Mr. Spaak, has in a sense annulled the action of his subordinates.

On June 16, 1938, I called upon Mr. Suetens at the Foreign Office at his request, and was received by him and Mr. Leurquin. Mr.

^{11a} Memorandum and annexes not printed; for despatch No. 101, December 13, 1937, see *Foreign Relations*, 1937, vol. II, p. 227.

Suetens handed me an *Aide-Mémoire* with a Memorandum enclosed concerning the "Automobile Policy of the Belgian Government." The *Aide-Mémoire* was dated June 16, 1938, and the Memorandum May 25, 1938, and Mr. Suetens stated that he was making them available to me for transmission to my Government in order that it might have an opportunity to express its views before August 1, 1938, the date on which it was planned to have the new automobile policy go into effect. It was impossible to digest the substance of these documents while I was still with Mr. Suetens and Mr. Leurquin, and it was not until I returned to the Embassy that a careful study could be made of their contents, and at the same time copies and translations, which are enclosed, were prepared for transmission to the Department.¹²

It did not take more than a hasty perusal of the Memorandum to disclose the fact that the contemplated measures would go further than ever in a violation of the spirit if not the letter of the Belgian-American Trade Agreement, and that in the case of trucks at least restrictions were contemplated which could in no way be considered as depending upon legislation which antedated the Agreement.

In order to obtain an expression of opinion from at least one of the important American automobile assemblers, I requested Mr. E. W. Zdunek, Managing Director of the General Motors Company, to come to the Embassy, and in strictest confidence obtained his views on the subject. He told me quite frankly that he had known for some time that such a Memorandum was in preparation but he had understood it was not to be delivered to the Embassy because it did not meet with the approval of the Prime Minister, Mr. Spaak (whom he knows personally and sees from time to time).

My conversation with Mr. Zdunek took place on Friday, June 17, 1938, and on Saturday, June 18, 1938, I had an appointment to call on Mr. Spaak for the purpose of introducing to him Mr. McAneny, Chairman of the Board of Directors of the New York World's Fair. While I was with the Prime Minister I took the occasion to mention the *Aide-Mémoire* and Memorandum, and he said he had been on the point of sending for me as he wanted very much to talk to me about the matter and requested me to come to see him at 10 a. m. on Monday, June 20, 1938.

Accordingly I called on the Prime Minister and Minister for Foreign Affairs and Foreign Commerce this morning, Monday, June 20, 1938, at 10 a. m. He asked me immediately what my objections were to the contents of the Memorandum, and I replied that the aims of the Memorandum appeared to me to be contrary to the Belgian-American Trade Agreement. I recalled that at the time of negotiation of the

¹² Not printed.

Agreement in 1935, there had been a proposal of requiring 40% Belgian content in automobiles assembled in Belgium and sold in the Belgian market, and that our Government at that time had rejected any such proposal. It was true, I added, that subsequently there had been a gentlemen's agreement between the automobile industries in Antwerp and the Belgian Government which had effectually put this 40% into effect in so far as passenger automobiles are concerned. I said that any such proposal as the one contained in the Memorandum in question, even though submitted to our Government for its consideration, would, I felt sure, prove unacceptable and, frankly, would produce a very bad effect. I rehearsed briefly the steps which the Ambassador, Mr. Gibson, had taken with Mr. van Zeeland with regard to the operation of the Trade Agreement and the feeling that we had that there had been a failure on the part of the Belgian Government to observe the spirit of that Agreement. I said that as a result of that *démarche* there had been a change for the better but that subsequently we were faced with practically the same difficulties as had arisen previously. I told him that I had no wish to exaggerate the seriousness of the situation and I realized that the Memorandum, if forwarded, would only be for the consideration of our Government and for its observations, but that I experienced a certain amount of embarrassment in sending it on. Mr. Spaak immediately suggested that I return the *Aide-Mémoire* and added that he would talk with the competent services with regard to it and that an understanding along other lines would be sought. I thanked him for his understanding of the situation, and again stressed the fact that I had no desire to exaggerate the importance of the step which Mr. Suetens proposed, but that I felt certain that by returning the *Aide-Mémoire* and Memorandum to him, we could reach a more workable solution.

In accordance with Mr. Spaak's request, I returned the *Aide-Mémoire* and Memorandum to him, and they are to be considered as not having been transmitted by the Foreign Office to the Embassy. It is considered advisable, however, to report what took place and at the same time to make available to the Department for its information the enclosed copies and translations of the *Aide-Mémoire* and Memorandum, which it is urged be treated as strictly confidential.

Respectfully yours,

S. PINKNEY TUCK

611.5531/742

The Secretary of State to the Ambassador in Belgium (Davies)

No. 4

WASHINGTON, July 30, 1938.

SIR: Reference is made to your despatch no. 256 of June 20, 1938 relative to the trade agreement between the United States and Bel-

gium and certain regulations under consideration by the Belgian Government in connection with the manufacture and importation of automotive vehicles and their separate parts.

The Department notes that the Embassy has not pursued its representations of a general nature concerning violations of the spirit of the trade agreement but has confined its efforts to an attempt to obtain more favorable treatment in the case of individual commodities. These efforts have been appreciated by the Department.

As the Embassy is aware, the Department has anticipated for some months that the Belgian Government would submit through its Embassy in Washington, without delay, a counterdraft which would serve as the basis for the successful negotiation of general provisions. The delay on the part of the Belgian authorities in transmitting their counterdraft may be due in part to the fact that the provisions of the present agreement are not very comprehensive in scope and, in the absence of general provisions, the Belgian authorities are relatively free to adopt various measures which, although not in conflict with the terms of the present agreement, would be in conflict with the terms of the general provisions. The Department appreciates the efforts which the Embassy has made to persuade the Belgian authorities to submit the Belgian counterdraft without further delay and hopes that the Embassy will continue those efforts.

The Department notes that the *aide-mémoire* and memorandum enclosed with your despatch under reference are to be considered as not having been transmitted by the Foreign Office to the Embassy and will consider them as strictly confidential. The contents of the *aide-mémoire* and memorandum have also been noted, as well as the Embassy's comment that the regulations under consideration by the Belgian Government, in connection with the manufacture and importation of automotive vehicles and their separate parts, would go further than ever in a violation of the spirit, if not the letter, of the trade agreement.

It is apparent, of course, that the regulations under consideration by the Belgian Government would not be in conflict with any specific provision of the existing trade agreement. However, if the evidence were clear that the proposed regulations might have the effect of nullifying or impairing the concessions on automotive parts which were granted to the United States in the trade agreement, this Government would be in a position to protest on the ground that such regulations would be in conflict with the spirit and purposes of the present agreement.

The Belgian Government apparently considers that the problem of regulating the Belgian automotive industry is an important one. Therefore, the Department feels that it would be desirable, if pos-

sible, to work out a solution of the problem in cooperation with the Belgian authorities which would be satisfactory to both Governments and in accordance with the spirit as well as the terms of the existing trade agreement. It would be appreciated if the Embassy would consider the possibility of working out such a solution. Meanwhile, you are requested to submit to the Department for its consideration such further views or proposals as the Belgian authorities may communicate to the Embassy, together with your comments and recommendations.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.5531/745

The Ambassador in Belgium (Davies) to the Secretary of State

No. 36

BRUSSELS, August 23, 1938.
[Received September 2.]

Subject: Assembly of American Automobiles in Belgium, and the Trade Agreement.

SIR: I have the honor to refer to the Department's instruction No. 4 of July 30, 1938, and, with reference to the above entitled matter, beg leave to report as follows:

Since my arrival, I have had several conferences with different representatives of automobile companies of the United States doing business in Belgium. On this date I asked all of the representatives of the various American companies to meet with me at the Embassy to discuss the situation and afford me an opportunity to meet them personally. I took the occasion to advise these gentlemen that the policy of the Secretary of State and that of our Government was, of course, to aid in every manner that was consistent and fair in the promotion and protection of American business interests outside of the United States, and that I wished them to feel that, within those limitations, they could count on my active aid. The conference was characterized by general discussion and not by the discussion of any specific proposal, for reasons which will subsequently appear.

The facts appear to be, briefly, that there has been a good deal of what might appear to be "chiseling" so far as the spirit and even letter of the trade agreement is concerned, particularly in connection with the granting of import licenses, which has harassed American importers of automobile parts, etc. The origin of the trouble seems to have been in the chief of the particular Department in the Ministry of Economic Affairs, which is characterized by an intense nationalist zeal as well as by a "functionnaire" attitude in its methods; and it is

suspected that it is the head of this Department who has pressed the policy that has induced these embarrassments.

Following Ambassador Gibson's representations to former Premier van Zeeland, the situation apparently bettered, and then subsided again. Since then the matter has been taken up with the new Premier, Mr. Spaak. He has manifested a very lively interest in the situation and is much concerned in preserving intact the trade agreement both in letter and in spirit. He is heartily in accord with the ideas of the Secretary of State in the projection of these trade agreements as a part of a program to restore world peace, and in addition thereto is exceedingly anxious not to do anything that would appear to indicate a lack of cooperation with the purposes back of this policy.

The importing industries, as far as automobiles are concerned, are divided, practically, into two groups: those which have assembly and quasi-manufacturing plants, and those which have only agencies who import parts and assemble cars in a retail sort of way and without manufacturing facilities. In the first class are General Motors, Chrysler and Ford, who furnish approximately 92% of the truck imports into Belgium. The other 8% is absorbed by the agencies of Packard, Studebaker, Federal, Diamond T, and others.

In a conference which I recently had with Mr. Zdunek, who is the Managing Director of General Motors here, and who is taking a very active interest in the projection of a settlement of the matters in dispute, he advised me that he understands that the Premier and Foreign Minister was desirous of finding some machinery which would implement a satisfactory arrangement, without going to the length of repealing the laws establishing the import license system, which would undoubtedly entail extensive debates in Parliament and a very long delay. The plan which is being considered is to place upon a "national" basis all those American automobile concerns that would establish and would agree to a condition whereby 40% of the total cost of the finished article would be paid out for either Belgian labor or material, so far as autocars and trucks (with a pay load of five and one-half tons) are concerned. The advantage of such a classification to the American importers would be also that it would place them on the same footing as Belgian nationals in the matter of furnishing Government agencies with trucks, which is now denied them. It was Mr. Zdunek's opinion that such an arrangement, in its practical effects, would be most advantageous to American importers, and would be generally acceptable to them. Under such conditions the importers would not be required to obtain licenses for importation of parts.

In response to my inquiry, he stated that it would work no hardship upon the large assembly plants to conform to the 40% requirement, for the reason that currently they were incorporating that percentage

already in their manufacturing operations. In response to my inquiry as to what effect it would have upon the agencies who were not fortunately situated in having assembly manufacturing plants, he stated that in his opinion it might effect some hardship upon them, but that such hardship would be relatively small and that they would acquiesce in such a proposal. He pointed out that this new arrangement did not change the status of these agencies under the trade agreement but only served to give additional advantages to those who could qualify under the terms of the compromise arrangement. Again in response to my inquiry, he stated that he thought that a situation could be worked out whereby a special provision might be made for the agencies, by a reduction of the percentage from 40% to 30% for a period of a year, within which time they could arrange to accommodate themselves to a new arrangement and procure all of the advantages any other American importer would have during the transition period.

He states that they have a kind of trade association here in which all of these interests have membership. Mr. Zdunek left with me today a copy in French of a memorandum which had been worked out in principle and which he considered probably would be acceptable to both sides. He asked that we treat the matter as confidential until their Committee and their Board of Governors had an opportunity to discuss it with their "agency" members, in the expectation that they would be able to submit an arrangement that would be unanimously approved by all those interested.

For this reason the matter was not discussed at the general conference held today. I am forwarding, however, the original memorandum in French¹³ so that the Department will have it immediately available and so that it may catch the first mail, and will forward the translations in the next pouch.

Upon the occasion of my first call upon the Premier and Foreign Minister, Mr. Spaak, I touched upon this matter and stated that I wished to call to see him to discuss the matter formally and more in detail. Since that time I have had the opportunity to talk with him about the matter informally, and to express the gratification of my Government that he had manifested so keen an interest in this particular matter and that his disposition was of so constructive a character.

If the sanguine expectations of Mr. Zdunek are realized, so far as the "agencies" are concerned, there is probability that a practical arrangement may be worked out here without modification of the terms of the trade agreement.

¹³ Not printed.

While this solution might be entirely satisfactory to American import interests here and be a "practical" disposition of the matter, it occurs to me that there might still remain a question as to whether the policy of the Department would permit recognition of such an arrangement, and I would appreciate the views of the Department thereon for my guidance.

I have [etc.]

JOSEPH E. DAVIES

611.5531/752

Memorandum of Conversation, by Mr. John C. Ross of the Division of Trade Agreements

[WASHINGTON,] September 27, 1938.

Participants: Baron Hervé de Gruben, Counselor of the Belgian Embassy.

Mr. Sayre, Assistant Secretary of State.

Mr. Ross, Division of Trade Agreements.

Baron de Gruben called on Mr. Sayre by appointment at four o'clock this afternoon. Although it had been understood that Baron de Gruben wished to discuss trade-agreement matters, the purpose of his call was to discuss the attitude of this Government, in the event of war, with reference to the shipment in American vessels of Belgian purchases in this country, particularly purchases of raw materials.

Baron de Gruben stated that he had not received instructions from his Government to discuss this matter. He said that if war should break out in Europe his Government would endeavor to remain neutral and would doubtless establish a rigid control of foreign trade. Belgium would be even more dependent upon the United States for its supplies of essential raw materials than at present. His country would be willing to pay cash for such supplies but it would probably be necessary to ship them in American vessels, as Belgium does not have a very large merchant marine. The Counselor was not aware of any specific requirement of American law at present that would prevent such shipments but was anxious lest some executive or legislative action might impair the ability of his country to obtain essential supplies from the United States in time of war.

Mr. Sayre pointed out and emphasized that it is quite impossible to predict the nature of any legislation Congress might pass in this connection and that it is equally impossible to predict any action the Executive might take pursuant to such legislation. In the event of war, there would probably be a conflict of pressures for various courses of action and no one could prophesy the outcome.

One important consideration might be the question of transshipments of war supplies to belligerent countries.

Baron de Gruben said that the question of transshipments should not create difficulties, because his Government, which would take control of all aspects of foreign trade, would not permit such transshipments. He said that he understood fully the difficulty of predicting developments in American neutrality policy in the event of war.

The Counselor then mentioned the decline in Belgian exports to the United States during the first half of 1938. He agreed with Mr. Sayre that this decline was probably temporary and due to the economic recession in the United States. He went on to say, however, that Belgian exporters often found themselves between the Scylla of our anti-dumping legislation and the Charybdis of our anti-monopoly legislation. On the one hand they often could not quote a low price for fear of anti-dumping proceedings and, on the other, they could not agree upon a higher price with American producers of like articles for fear of anti-monopoly proceedings.

Mr. Sayre suggested that, if the Counselor would submit a memorandum on any specific cases he might have in mind, the Department would be very glad to look into the matter.

Mr. Sayre then mentioned the Belgian counter-draft of general provisions for the trade agreement between the two countries. The Department had expected to receive this counter-draft for some time and Mr. Culbertson had discussed certain aspects of the matter with Belgian officials in Brussels at the end of April. Mr. Sayre suggested that the Department would be glad to do whatever it could to expedite the matter. Baron de Gruben said that he would try to ascertain the present status of his Government's counter-draft.

611.5531/747

The Secretary of State to the Ambassador in Belgium (Davies)

No. 24

WASHINGTON, October 11, 1938.

SIR: Reference is made to the Embassy's despatches no. 44 of August 31, 1938¹⁴ and no. 36 of August 23, 1938, regarding the trade agreement between the United States and Belgium and certain measures which have been proposed for the regulation of the Belgian automotive industry.

It is gratifying to note that significant progress has been made in regard to the proposed automotive regulations. It is particularly gratifying that the proposed solution does not envisage any revision

¹⁴ Not printed.

of the trade agreement and that it is based upon the desire of the Belgian authorities to adhere not only to the terms but also to the spirit and intent of the agreement.

Subject to the conditions envisaged in the proposed regulations, national treatment in respect of government purchases would be accorded to certain automotive vehicles produced in American assembly plants established in Belgium and import licenses would not be required for the importation from the United States of automotive parts destined for such assembly plants. In order to avail themselves of these advantages, the assembly plants would agree to incorporate Belgian labor and material to the extent of 40 percent of the value of imported materials used in the production of certain types of automotive vehicles and to the extent of 70 percent of the value of imported materials used in the production of certain other types. The assembly plants would agree to a semi-annual government inspection and would be free to withdraw from the arrangement at any time. Belgian assembly plants would be subject to the same inspection and requirements.

In the Department's opinion, the proposed regulations appear to be equitable and to constitute an acceptable solution of the problem. Apparently, the 40 percent requirement has been in effect for some time by agreement between the more important assemblers and the Belgian Government and, according to the information available to the Department, there has been a very substantial increase in imports from the United States during the past two years of automotive parts on which concessions were obtained in the trade agreement. However, the Department is not aware that the 70 percent requirement in respect of certain types of automotive vehicles has been in effect and, therefore, is not in a position to know what effect this requirement might have on imports of automotive parts from the United States.

The proposed regulations apparently are acceptable to the General Motors representatives in Belgium but the views of other importers concerned had not yet been ascertained. In the Department's opinion, the agreement of the other importers would seem essential to the successful operation of the proposed regulations. In this connection, the Department feels that full consideration should be given to the views of the agencies mentioned on page 4 of your despatch no. 36 which do not themselves maintain assembly plants in Belgium; and that it would be desirable to work out an arrangement whereby, for a period of one year at least, less stringent requirements would be applicable to assembly plants (presumably Belgian) to which automotive parts imported by those agencies would be destined.

The proposed regulations do not appear to be in conflict with the terms of the trade agreement and, although it would be difficult

to predict whether they might have the effect of nullifying or impairing the concessions on automotive parts included in the agreement and thus be contrary to its spirit and intent, there appears to be good reason to believe that the proposed regulations would not have that effect. Therefore, although the Department considers that this matter is primarily one which concerns the interested importers and the Belgian Government, it feels that the Embassy might at the appropriate time indicate informally and orally to the competent Belgian authorities that this Government perceives no objection to the proposed regulations but that it must reserve the right to object if they should impair the concessions on automotive parts included in the trade agreement.

It is noted that the general difficulties which Belgian importers apparently have experienced as a result of an unsympathetic attitude on the part of certain subordinate officials of the Belgian Government (page 2 of the Embassy's despatch no. 36) have been discussed with the new Premier, Mr. Spaak. It is gratifying to know that Mr. Spaak is so thoroughly in accord with the principles and objectives of the trade-agreements program and that he is anxious to preserve intact the spirit as well as the letter of the trade agreement. In view of his cooperative attitude and his efforts in regard to the proposed regulation of the automotive industry, it is hoped that a more sympathetic attitude may be expected on the part of subordinate officials.

There is, of course, an important relationship between this matter and the proposed general provisions of the trade agreement. As pointed out in the Department's instruction no. 4 of July 30, 1938, it has been anticipated for some months that the Belgium Government would submit through its Embassy in Washington without delay a counter-draft which would serve as the basis for the successful negotiation of general provisions. You will recall that Mr. Paul Culbertson discussed this matter in detail with Belgian officials in Brussels at the end of April. It was understood that the various points of difference between the American and Belgian proposals had been clarified and that the official Belgian counter-draft would be sent to Washington within a few weeks.

This matter, although important, is not one of great urgency and the Department does not wish the Embassy to press unduly for early presentation of the promised counter-draft. However, in view of Mr. Spaak's cooperative attitude, the Department feels that presentation of the draft might be expedited if you were to mention the subject to him at a convenient opportunity.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.5531/747

The Assistant Secretary of State (Sayre) to the Ambassador in Belgium (Davies)

WASHINGTON, October 28, 1938.

MY DEAR MR. DAVIES: You have doubtless noted that the last two paragraphs of the Department's instruction no. 24 of October 11, 1938 referred to the Belgian counter-draft of the proposed general provisions of the trade agreement. It was suggested that you might wish to mention this subject to Mr. Spaak at a convenient opportunity.

You may be interested in knowing that this matter came up during the course of a brief conversation which I had with the Belgian Ambassador, Count van der Stratén, when he called on October 11 upon his return to Washington from home leave. The Ambassador said that he had discussed the general provisions with Mr. Suetens before leaving Brussels. Mr. Suetens had told him that, although their counter-draft was nearly ready, one or two points were causing them concern. I suggested to the Ambassador that we would be very glad to discuss such points with a view to doing whatever we could to expedite the matter.

It occurs to me that you may wish to follow up my discussion with the Ambassador by calling on Mr. Spaak at a conveniently early date to discuss the matter with him. Although, as I suggested to the Ambassador, we would be very glad to discuss any particular points of difficulty which may have arisen, I am inclined to believe that it would be preferable to discuss such points after receiving the Belgian counter-draft rather than before. I believe that our comprehension of their difficulties would be greater if we could consider them in the light of the Belgian proposals as a whole.

Trade-agreement negotiations with various countries continue to occupy a great deal of our time and attention. In some cases, of course, there have been difficult problems to overcome but I feel that we are making satisfactory progress. Although the negotiations with the United Kingdom and Canadian trade delegations have been long and arduous I am hopeful that we shall be able to bring them to a successful conclusion in the near future.

I am [etc.]

FRANCIS B. SAYRE

CZECHOSLOVAKIA
THE GERMAN-CZECHOSLOVAK CRISIS

(See volume I, pages 483 ff.)

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES
AND CZECHOSLOVAKIA, SIGNED MARCH 7, 1938¹

G11.60F31/553a

The Secretary of State to the Minister in Czechoslovakia (Carr)

No. 19

WASHINGTON, January 5, 1938.

SIR: Reference is made to your despatch No. 732 of July 21, 1937, enclosing a memorandum prepared by the Commercial Attaché on the subject of possible discrimination against California wines in the levying of duties thereon in Czechoslovakia.² It is noted that whereas the general rate on wine is 420 crowns per hundred kilograms if in barrels, and 975 crowns per hundred kilograms if bottled, the rates in certain treaties are 210 crowns and 420 crowns, respectively, the reduced duties being reported to apply only to wines from certain specified districts of the treaty countries.

There is enclosed, for your information, a copy of a further letter, dated November 15, 1937, from K. Arakelian, Inc., of New York,³ bearing on this subject, in which it is alleged that the practice in the levying of wine duties varies somewhat from the theory, and that the conventional rates are in fact applied to all wines imported from the treaty countries. The Department is telegraphing you to endeavor to determine whether this is actually the case, and to inform it by telegraph in the premises.

Paragraph one of the *modus vivendi* of March 29, 1935,⁴ between the United States and Czechoslovakia, reads in part as follows:

"1. With respect to customs duties or charges of any kind imposed on or in connection with importation . . . and with respect to the method of levying such duties or charges . . . any advantage, favor, privilege or immunity which has been or may hereafter be granted by

¹For previous correspondence on trade relations between the United States and Czechoslovakia, see *Foreign Relations*, 1937, vol. II, pp. 238 ff.

²Neither printed.

³Not printed.

⁴*Foreign Relations*, 1935, vol. II, p. 145.

the United States of America or the Czechoslovak Republic to any article originating in . . . any third country, shall be accorded immediately and unconditionally to the like article originating in . . . the Czechoslovak Republic or the United States of America, respectively."

The United States construes most-favored-nation treatment with respect to customs duties to mean that the lowest duty applicable to a product of any third country shall apply to the (intrinsically) like product of the United States. This principle is one which this Government applies in generalizing its tariff concessions to products of other countries. Moreover, the United States considers that wines of United States origin are intrinsically similar to wines of any other national origin and therefore that the lower conventional Czechoslovak tariff rates applicable to wines of specified districts of France or of any other country should be extended to intrinsically similar wines of American origin. In this connection it may be desirable to point out the practice of the United States, which imposes duties on wines as follows:

| | <i>Per Gallon</i> |
|--|-------------------|
| Champagne and other sparkling wines | \$3.00* |
| Still wines produced from grapes (not including vermouth), containing 14 per centum or less of absolute alcohol by volume, in containers holding each 1 gallon or less | 0.75* |
| Vermuth, in containers holding each 1 gallon or less | 0.625* |
| Other still wines (i. e., from 14 to and including 24 per centum of absolute alcohol by volume, or in containers holding each more than one gallon) | 1.25 |

(Wines containing over 24 per centum of absolute alcohol by volume are classed as spirits and are dutiable accordingly.)

The differentiation as to types of still wines for tariff purposes is made on the basis of alcoholic content, which is easily determinable.

These classifications impose no country-of-origin requirements which would negate the principle of equality of treatment.

You are requested to bring this matter to the attention of the appropriate Czechoslovak authorities and to inform them that this Government expects to receive the benefits of the conventional rates on similar wines of United States origin. Such treatment is considered our most-favored-nation right under the terms of the *modus vivendi* referred to above, and such would be the situation under the most-favored-nation provisions of the proposed reciprocal trade agreement now in the process of negotiation. The Government of the United States, it must be emphasized, does not consider the generalization of conventional rates on wines or any other products of United States origin as a subject for bargaining in connection with the schedule of concessions to this country which will appear in the pro-

* Reduced by trade agreement with France. [Footnote in the original.]

posed trade agreement. As stated above, it is a tariff treatment which this Government expects as a right under the most-favored-nation clause of the *modus vivendi* (or of the proposed trade agreement).

For your information, we expect to discuss this subject with the Czechoslovak negotiating delegation while it is here, and it is in the eventuality that that delegation refers the matter back to Prague for advice that you are being instructed to discuss the matter with the Czechoslovak authorities.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.60F31/560a : Telegram

The Secretary of State to the Minister in Czechoslovakia (Carr)

WASHINGTON, January 8, 1938—3 p. m.

3. In yesterday's meeting with Trade Delegation the American Chairman stated that the United States expects more concessions in the projected agreement than Czechoslovakia has up to the present time offered. He said that the two schedules as originally presented had represented a balanced agreement and that nevertheless we have agreed to certain recessions from our original requests in Schedule I.

With respect to Schedule II the United States has offered duty reductions on 43 out of 50 items, these 43 representing 49 percent of Czechoslovakia's exports to the United States in 1936. On the other hand in Schedule I raw materials represent 63.4 percent of American exports to Czechoslovakia in 1936. Of course Czechoslovakia has agreed to bind these, but this action does not really represent an improved condition for American commerce. Our requests for improved treatment, either by duty reductions or by removal of permit requirements, cover only 12.8 percent of our exports to Czechoslovakia in 1936. The outstanding items included in this last percentage are automobiles, lard, apples and prunes on which we have already indicated our willingness to recede in part from our original requests.

Culbertson⁵ then compared relative importance of United States imports from Czechoslovakia to that of the combined imports from Czechoslovakia by Hungary, Rumania and Yugoslavia. In 1936 of the total of Czechoslovakia's exports the United States took 9.1 percent and the other three countries combined absorbed 12 percent. He said that in the light of these comparative figures Czechoslovakia should not place too much emphasis on the Danubian market at the expense of the American trade.

HULL

⁵ Paul T. Culbertson, Assistant Chief of the Division of European Affairs.

611.60F31/568 : Telegram

The Secretary of State to the Minister in Czechoslovakia (Carr)

WASHINGTON, January 13, 1938—7 p. m.

6. Your letter of January 4 to Culbertson.⁶ We regret that we have not been able to keep you currently informed in greater detail as to the progress of the trade agreement negotiations. We have tried to keep you informed in broad outline but it would be almost impossible to give a day by day account of developments.

The position which the Czech delegation has taken to the effect that the demands which we have presented represent a change from the basis previously set forth is to our mind quite inaccurate. We feel we made it quite clear to the Czech Legation that the lists which we gave them in July and August did not represent the final list of commodities, since we could not have given them such a final list until all American interests had had an opportunity to present their views. Even so, there are only a half dozen items upon which we have requested action which were not covered in the two lists submitted to the Czechs, and not one of these additional items has caused any difficulties to date.

At the outset of our negotiations we presented the Czech delegation with a complete draft agreement such as we would like to see signed. We told them that we considered Schedule I (our request list) as balancing the concessions which we were offering. We have not yet discussed Schedule II at any time. With the exception of Article 8 (the quota provision) we are in substantial agreement in respect of the general provisions. All of our other meetings have been devoted to a discussion of Schedule I. The original Czech offers in large part failed to meet our requests. On restudy we found it possible to modify our requests on certain important items but not to a point offered by the Czechs. We have explained in detail why we consider the offers as being unsatisfactory. The Czechs are at present again presenting their offers which we understand will represent the maximum offers authorized by the Czech Government. So far the present offers represent practically no improvement over the offers originally made to us. As soon as we have received all the Czech offers we will study them as a whole with a view to determining whether they could in any circumstances be accepted and if so what curtailment of our own offers would be necessary.

HULL

⁶ Not printed.

611.60F31/573 : Telegram

The Minister in Czechoslovakia (Carr) to the Secretary of State

PRAHA, January 27, 1938—5 p. m.

[Received January 27—3:49 p. m.]

8. Your despatch No. 19, January 5, 1938. We had lengthy discussion today with Foreign Office. In substance the two Governments have diametrically opposite conceptions of the most-favored-nation clause. Czechoslovakia in practice regards clause as subject to interpretation and exception in respect to particular products including wines. Her acceptance of our position with respect to most-favored-nation clause would, it is claimed, necessitate granting most-favored-nation treatment to German wines which Czechoslovakia does not wish to do. Moreover, it would constitute an exception to an unbroken line of treaties with other countries containing wine clauses. Foreign Office suggested that remedy with respect to wine is to include a wine clause in proposed trade agreement and meanwhile if necessary conclude an agreement covering wine as supplementary to *modus vivendi*. We pointed out that inclusion of such clause was contrary to the most-favored-nation principle as we applied it and would moreover open the way to making exceptions in respect to other products. While unwilling to write into an agreement a provision that exceptional treatment would be limited to wine opinion was expressed that in practice it would be the only commodity affected. The question of most-favored-nation clauses as well as the wine question have not yet been referred back to Praha by the delegation. I made it clear that the divergent views of the two Governments on this subject would probably prove a serious obstacle to the success of the negotiations but that view is not held here. On the contrary optimism was exhibited that difficulty could be overcome by leaving the most-favored-nation clause intact and adding a wine clause below. I am promised written reply soon but have no expectation that it will differ in substance from foregoing.

Despatch follows.⁷

CARR

611.60F31/575a : Telegram

The Secretary of State to the Minister in Czechoslovakia (Carr)

WASHINGTON, January 29, 1938—noon.

9. We have had under consideration for some time the last Czech offers to our requests for concessions. We have given full consideration to the explanations which were given by the Czechoslovak dele-

⁷ Not printed.

gation and to the problems confronting the Czechoslovak Government in its efforts to meet our requests. As a result of our study and of a sincere effort to find the basis for an agreement we have gone to considerable length in making substantial recessions from our original requests. We have cut down our requests to rock bottom, and unless the Czechoslovak Government can meet the present American requests we are faced with the problem of determining whether any agreement would be worthwhile.

The American delegation went over with the Czech delegation January 27th our final request list. While every effort was made to avoid our present position being taken as an ultimatum it was nevertheless made clear to the delegation that unless our present demands are met there would be serious question whether this Government could sign an agreement in the face of the political difficulties which will confront the Administration once it becomes known what concessions we are in fact prepared to accord to Czechoslovakia.

It was made clear to the Czech delegation that we are not interested in a narrowly limited agreement. In other words, we are not interested in withdrawing items from our Schedule II in order that some sort of a balance might be reached as between Schedules I and II. Unless there can be comprehensive liberalization of trade on both sides we question whether any useful purpose could be served by reaching an agreement at this time.

Should the Czechoslovak authorities discuss with you on their initiative the present situation in connection with the trade agreement negotiations, I think it would be well for you to impress upon them that we have made every effort to reach an agreement, but that we have now reduced our requests as far as we can. We considered our original requests for concessions as fully justified. We now consider that the requests we are making are if anything very moderate. We do not see how it will be possible for us to recede any further from our original requests. Above all, it is important for the Czechs to realise that the stage of bargaining and manoeuvring has passed, that this is not the usual "crisis" in a negotiation, but that we have reached a point where they must make a final decision one way or the other.

HULL

611.60F31/580: Telegram

The Minister in Czechoslovakia (Carr) to the Secretary of State

PRAHA, February 12, 1938—noon.
[Received February 12—10:30 a.m.]

12. This Government's attitude on wine described in my No. 8, January 27, now confirmed by written report but Foreign Office states that the Czechoslovak delegation has been authorized to discuss the

most-favored-nation clause in Washington. An official in the Economic Section of the Foreign Office told me that while the outlook for a trade agreement had been very discouraging it is now better and an early favorable outcome of the negotiations is expected. Information from another source is to effect that a week ago recall of delegation was being considered. I was not able to obtain any details. No disposition apparent to initiate discussion of the situation with me.

CARR

611.60F31/591

*Memorandum of Conversation, by the Assistant Secretary of State
(Sayre)*

[WASHINGTON,] February 18, 1938.

Participants: Mr. Vladimir Hurban, Czechoslovak Minister,
The Secretary,
Mr. Sayre.

Mr. Hurban called on the Secretary by appointment in order to deliver to him a message just received from his Government. Mr. Hurban began by saying that the situation in Czechoslovakia is grave,—“very, very difficult”. He went on to say that Germany is threatening to dominate Central Europe economically as well as in other ways. He said that his Government believed that the German Government intends the complete domination of Central Europe and that German activities seem to point to a plan of forming extensive clearing agreements with all the European countries of Central Europe except Austria and Czechoslovakia. Within the limits of such an extensive clearing agreement would be Hungary, Yugoslavia, Bulgaria, Rumania, Greece, and other countries similarly situated. The economic effect of such a union would be extensive bartering without money passing on the basis presumably of the German mark. In the words of the Czechoslovak Minister, it would be equivalent to a large monetary union. He said that Austria and Czechoslovakia would be left out of this because of German plans to dominate these two countries through political means. From the entire group trade from the other countries would be virtually excluded. In other words, the plan was German domination of Central Europe, with a closed door to the trade of every other country. The Czechoslovak Minister said that his Government had brought this matter to the attention of the British and French Governments within the last day or two and that he was now instructed to bring it to the attention of the United States Government.

In view of this development, the Czechoslovak Minister said that he hoped we would not be rigid in insisting upon the language in our trade agreement covering the Danubian preferences, for he said

that some kind of a Danubian alliance seemed to be the only way successfully to prevent the achievement of such a German plan as he outlined.

F[**RANCIS**] B. S[**AYRE**]

611.60F31/611b

The Secretary of State to the Czechoslovak Minister (Hurban)

WASHINGTON, March 7, 1938.

SIR: During the course of the negotiations which have resulted in the conclusion of the Trade Agreement signed today between the United States of America and the Czechoslovak Republic, there has been detailed discussion of the request of the Government of the United States for improved treatment by the Government of the Czechoslovak Republic of American motion picture films. You have requested on behalf of your Government that motion pictures form the subject of separate negotiations on the ground that, by their nature, motion pictures are different from other commodities of trade.

The Government of the United States has been unable to agree with the position of your Government that motion pictures should not properly be included in trade-agreement negotiations. It has, however, with considerable reluctance agreed to the proposal of your Government that the treatment of American motion pictures in Czechoslovakia be made the subject of a separate agreement between the two Governments. The assent of the Government of the United States to this proposal is predicated upon the understanding that the agreement thus envisaged will be concluded as soon as possible. It is further understood that, pending conclusion of an agreement with respect to motion pictures, the Government of the Czechoslovak Republic will not adopt any measure which would affect American motion pictures adversely in relation to the treatment which they are now accorded in Czechoslovakia.

I should be greatly obliged to have your confirmation of the correctness of this understanding.⁸

Accept [etc.]

For the Secretary of State:
FRANCIS B. SAYRE

[See Department of State Executive Agreement Series No. 147, or 53 Stat. 2293 for texts of: (1) Reciprocal Trade Agreement between the United States and Czechoslovakia, protocol, and notes, signed March 7, 1938; (2) protocol of amendment, signed April 15, 1938; and (3) proclamation issued by the President of the United States, March 23, 1939, terminating the arrangements.]

⁸ No confirmation has been found in Department files.

AGREEMENT BETWEEN THE UNITED STATES AND CZECHOSLOVAKIA
WITH RESPECT TO MOTION PICTURE FILMS, EFFECTED BY EX-
CHANGE OF NOTES SIGNED MAY 18, 1938

611.60F31/597a : Telegram

The Secretary of State to the Minister in Czechoslovakia (Carr)

WASHINGTON, March 4, 1938—7 p. m.

13. It is hoped that the trade agreement will be signed the early part of next week.⁹ Agreement has been reached on all questions except exposed motion pictures and the two delegations are now comparing the final texts in both languages. The Czech delegation has taken the position that exposed motion pictures are not, because of their nature, properly a subject for inclusion in a trade agreement and have asked that the question be covered by separate negotiations and agreement. We can not accept the idea that exposed motion pictures are not proper subject for a trade agreement, but to have insisted on its inclusion in the agreement would have considerably prolonged the negotiations, and for obvious reasons both sides are anxious to have the agreement signed. We have therefore agreed to separate negotiations for exposed motion pictures and, since the Czech delegation seems to have no authority, Culbertson¹⁰ is proceeding to Praha, leaving on the *Washington*, March 9. He will arrive in Praha about March 22 and will wish to get into discussions at the earliest possible moment. While the Czech delegation has informed its government of Culbertson's plans, I suggest you take up the question with the Foreign Office and make any necessary arrangements. While there will be no formal American delegation I suggest that upon Culbertson's arrival you can work out with him the question of who should participate in the discussions.

HULL

860F.4061 Motion Pictures/126 : Telegram

The Minister in Czechoslovakia (Carr) to the Secretary of State

PRAHA, April 6, 1938—6 p. m.

[Received April 6—1:35 p. m.]

56. From Culbertson. It was not until yesterday that we made any progress on the motion picture question. On my arrival here I found the situation even more complicated than we had thought in Washington. We prepared a list of 14 points which was presented to the Czechs. They have met us partially or wholly on 12 points

⁹ See pp. 223 ff.

¹⁰ Paul T. Culbertson, Assistant Chief of the Division of European Affairs.

and I feel we can probably come to an acceptable agreement within the fairly near future. The most important outstanding is the registration fee of 20,000 crowns. While they have offered no reduction in this amount they have suggested it be imposed as an import license tax and payable to the Ministry of Commerce. No doubt the money will still find its way into the hands of the domestic industry as a governmental subsidy but so long as our industry is not required to pay it into the hands of the domestic industry I feel we have made our point on the principle involved. There is really no chance of getting this fee abolished but I am in hopes we can get it reduced. Refusal of our requests has been based on political considerations which the Czechs feel are real and pressing. Some of our requests are without doubt difficult for them. [Culbertson.]

CARR

860F.4061 Motion Pictures/128 : Telegram

The Minister in Czechoslovakia (Carr) to the Secretary of State

PRAHA, April 11, 1938—3 p. m.
[Received April 11—2:04 p. m.]

66. From Culbertson. I have suggested to the Czech authorities that film agreement take the form of exchange of notes and I have this morning submitted draft of such note to the Foreign Office. The note has 14 paragraphs providing for: a binding or reduction of existing duties, fees and charges, reductions being in present license fee from 20,000 to 15,000 crowns and for dubbed versions from 12,000 to 6,000; exemption from internal taxes in excess of those payable on Czech films; treatment in respect to distribution and exhibition equal to Czech film and binding of present requirement that a fixed number of Czech films be shown in Czech theatres; no quota; an outline of administrative procedure through which a film must pass in order to get on to the Czech market; no necessity to superimpose Czech titles until after screening and censorship; permission to dub in Czech either in the United States or in Czechoslovakia; no obligation to produce films in Czechoslovakia and no obligation to include Czech subject matter in news reels; abolition of import permits for advertising material; permission for American companies to establish and maintain branch firms in Czechoslovakia and no restriction on film prints originating in the United States; no censorship of films on the ground of artistic or technical execution; no limitation on the distribution and sale in Czechoslovakia of dubbed version films; the agreement to become operative on a day to be decided upon and to continue in force until denounced by either country on 6 months' notice.

The exchange of notes would be signed by Mr. Carr and the appropriate Czech authority. There are one or two points included in the foregoing outline which may not be accepted by the Czech authorities. However, the major points involved have already been accepted and I feel that the film interests should be satisfied.

Please instruct whether I should now submit exact text to the Department and whether the agreement and procedure as outlined are satisfactory. [Culbertson.]

CARR

860F.4061 Motion Pictures/128: Telegram

The Secretary of State to the Minister in Czechoslovakia (Carr)

WASHINGTON, April 15, 1938—6 p. m.

33. Legation's 56, April 6, 6 p. m., 66, April 11, 3 p. m. For Culbertson. The Department agrees that the film agreement should take the form of an exchange of notes, and your procedure appears to be satisfactory. The exchange of notes will be published here but not proclaimed. It is presumed that ratification in Praha will not be necessary.

Since the exchange itself will constitute a unilateral agreement, with no consideration on the part of this Government involved, the Department believes that the notes should refer to the Trade Agreement, somewhat along the following lines:

I have the honor to confirm and make of record the following agreement between the Governments of our respective countries, pursuant to the understanding reached in connection with the negotiation of the Trade Agreement recently concluded by the two Governments, regarding the treatment etc.

Have you sought to have the agreement run for an initial period of 1 year, terminable on 6 months' notice thereafter? This would seem to be desirable.

It is assumed that you have pointed out to the Czechs that they have already agreed in the trade agreement to give us national treatment with respect to internal taxes on films and all other products and hence that the registration fees on undubbed and dubbed American films should be changed to import charges collected before release of foreign films from customs custody. If there are any other internal fees or charges which are higher on imported American films than on domestic films they should be equalized.

Please submit exact text of opening and closing paragraphs and a digest of the contents of the exchange, which will be released to the press here upon its signature. The exact texts of the notes should be transmitted by mail.

Your 71, April 13, 4 p. m.¹¹ 17,500 would appear to be acceptable under the circumstances.

HULL

860F.4061 Motion Pictures/134

*Memorandum of Conversation, by Mr. Leander B. Lovell of the
Division of Trade Agreements*

[WASHINGTON,] April 25, 1938.

Participants: Mr. Vladimir Hurban, Minister of Czechoslovakia,
Mr. Hawkins,¹²
Mr. Fowler,¹³
Mr. Lovell.

Mr. Hurban had been asked by Mr. Hawkins to come in to discuss the proposed film agreement. Mr. Hawkins reviewed for the Minister the progress of the motion picture negotiations in Prague particularly as they related to the Czechoslovak 20,000 crown per film registration fee. It was indicated that the initialed draft of the proposed agreement appeared to be quite satisfactory except for the question of this fee. Our original request had been for complete abolition of the fee, and when the Czechoslovak Government had indicated that this would be impossible we had asked that it be reduced to 10,000 crowns. Finally, in an effort to reach a speedy and satisfactory conclusion the American negotiators offered to compromise at 15,000 crowns. A tentative compromise was reached, but not at the latter figure. The Czechoslovak Government had taken the position that it could go no lower than 17,500 crowns.

Mr. Hawkins pointed out that the question of the registration fee was one of the most important aspects of the film negotiations as far as our industry was concerned and that the difference between a 17,500 crown fee and a 15,000 crown fee, while not great, represented the difference between a nominal reduction and one of some value to the industry. He explained that the reason for asking the Minister to come in was to see if he would not be willing to express to his Government the importance to our Government of obtaining a worthwhile reduction in the fee.

Mr. Hurban said that he had no objection to telegraphing his Government to express the American Government's position on the matter. However, he had never quite been able to understand the importance attached by the American industry to this fee. Certainly the fee

¹¹ Not printed; it reported that the outstanding question was the amount of license fee and that the Czechs offered 17,500 crowns (860F.4061 Motion Pictures/129).

¹² Harry C. Hawkins, Chief of the Division of Trade Agreements.

¹³ William A. Fowler, Assistant Chief of the Division of Trade Agreements.

alone did not keep out any American films. Actually this was a comparatively painless method of providing his Government with revenue and seriously reducing or abolishing the fee would result in his Government's having to find a substitute revenue measure. He conceded that there was a real difference between a reduction from 20,000 to 17,500 crowns and one from 20,000 to 15,000 crowns and repeated that he was quite willing to communicate with his Government on the matter.

860F.4061 Motion Pictures/133 : Telegram

The Minister in Czechoslovakia (Carr) to the Secretary of State

PRAHA, May 5, 1938—4 p. m.
[Received May 5—2:45 p. m.]

81. Your 35, April 26, 3 p. m.¹⁴ The Czechoslovak authorities have accepted all the Department's suggestions with a few unimportant changes in phraseology which do not modify the meaning of the agreement. Conversations with competent negotiating officials clearly indicate that reduction of registration fee will not be granted and we understand Czechoslovak Minister in Washington so informed. Nevertheless if Department deems it sufficiently important I shall discuss the subject directly with the Minister of Foreign Affairs. However, I shall not be able to reach him until next week as he is attending Little Entente meeting in Rumania. Please instruct.

CARR

860F.4061 Motion Pictures/133 : Telegram

The Secretary of State to the Minister in Czechoslovakia (Carr)

WASHINGTON, May 7, 1938—2 p. m.

37. Legation's 81, May 5, 4 p. m. The Department was informed by the Czechoslovak Minister that his Government would not be able to make a further reduction in the registration fee below the 17,500 crowns already offered. The Department does not deem the matter sufficiently important to have it further taken up with the Czechoslovak Government, and hence, if you are satisfied as to the present form of the proposed agreement, you should proceed to sign as soon as possible.

¹⁴ Not printed. This telegram contained certain modifications of initialed draft texts of notes to be exchanged, the substance of which had been transmitted to the Department in Legation's telegram No. 183, April 18, 11 a. m., not printed (860F.4061 Motion Pictures/130, 131).

You should carefully compare the American and Czech texts of the exchanges so as to be certain that no changes will have to be made later in either texts. Please transmit to the Department by part air the originals of the signed Czech notes and certified copies of the originals of the signed American notes.

HULL

[For texts of notes exchanged May 18, 1938, see Department of State Executive Agreement Series No. 126, or 52 Stat. 1517.

There was correspondence from June to August 1938, regarding a proposed interpretation of one provision of the agreement and certain changes in the Czech text. This correspondence was terminated, however, without final agreement, presumably due to diversion of interest in the Czechoslovak Government to the increasingly critical relations with Germany.]

DENMARK

EFFORTS OF THE DEPARTMENT OF STATE TO SECURE EQUAL OPPORTUNITY FOR AMERICAN COMMERCE IN DENMARK¹

659.116/164a : Telegram

The Secretary of State to the Minister in Denmark (Owsley)

WASHINGTON, February 21, 1938—2 p. m.

4. Department's telegram No. 2, February 11, 1935, 7 p. m.,² and other correspondence concerning Danish discrimination against American imports.

Although no recent official communications have been exchanged by the two Governments with respect to Danish discrimination against American imports, the Department has continued from time to time to give the matter active consideration. Complaints from American exporters indicate that the exchange control authorities have continued to discriminate against American goods in the allotment of import permits, and the new exchange control law, effective January 1, 1938, contains no provisions giving grounds for expecting the termination of this discrimination.

You are accordingly instructed, to call on the Foreign Minister and leave with him the following note :

"The Government of the United States has given sympathetic consideration to Your Excellency's note of March 29, 1935³ and has continued to hope that the Danish Government would find it possible to pursue a policy which would satisfactorily ameliorate the conditions described in the note under reference and which, at the same time, would involve no discrimination against products of the United States.

"Since March 29, 1935, 15 trade agreements negotiated by the Government of the United States with foreign countries have become effective. In harmony with the provisions of the Convention of Friendship, Commerce and Navigation signed April 26, 1826,⁴ the Government of the United States has extended to products of Denmark the benefits of tariff concessions granted by the United States in these trade agreements. The benefits which have accrued to Denmark through the generalization of these trade-agreement concessions are

¹ For previous correspondence, see *Foreign Relations*, 1935, vol. II, pp. 171 ff.

² *Ibid.*, p. 172.

³ See telegram No. 4, March 29, 1935, 4 p. m., from the Minister in Denmark, *ibid.*, p. 175.

⁴ William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. I, p. 373.

important. United States statistics of imports from Denmark for the years 1929 to 1936 inclusive, indicate that imports of products on which reduced duties had been granted in trade agreements in effect on January 1, 1937, amounted to about 36 percent of the average total dutiable American imports from Denmark for these years, and that imports of these commodities increased from \$769,000 in 1935 to \$1,039,000 in 1936 or by 35 percent while imports from Denmark of all other dutiable commodities decreased slightly during the same period from \$1,430,247 to \$1,424,628. As additional trade agreements are negotiated and become effective an increased number of products of interest to Denmark may be expected to benefit from the generalization of concessions granted by the United States.

"On the other hand, under the Danish system of import control, imports from the United States have decreased while Danish imports of similar commodities from other countries have increased. Danish statistics indicate that imports from the United States declined from 154.1 million crowns or 10.5 percent of total imports in 1931, to 79.0 million crowns or only 5.3 percent of total imports in 1936. In contrast, Danish imports from the United Kingdom increased from 218.6 million crowns or 14.9 percent of total imports in 1931 to 542.3 million crowns or 36.5 percent of total imports in 1936. The continued failure of the Danish authorities to accord non-discriminatory treatment to American commerce has, therefore, been a source of deep disappointment to my Government.

"My Government is pleased to observe that under the new Danish foreign exchange control law which became effective January 1, 1938, provision is made for some expansion in the list of commodities for which import licenses are not required. The law does not, in itself, however, appear to afford a basis for expecting that imports from the United States of products now or hereafter subject to import permits will be accorded non-discriminatory treatment.

"While the Government of the United States has viewed with sympathy the efforts of the Danish Government to improve the national economy of Denmark, it is finding it increasingly difficult to justify the extension to Denmark of the benefits of generalization of trade-agreement concessions, in view of the long-continued discrimination against American products.

"My Government, being desirous of enlisting the support of the Danish Government in the task of widening the application of the principle of equality of treatment to all forms of import and exchange control, hopes that, in view of the continued accord by it of most-favored-nation treatment to Danish products, the Danish Government will give the most serious consideration to the situation and will be able to give assurances at an early date that American commerce will be accorded non-discriminatory treatment."

Please keep the Department currently informed by telegram of developments including date on which note is delivered ⁵ and telegraph in full the Danish reply.

HULL

⁵ The note as delivered was dated February 23, 1938.

659.116/172

The Minister in Denmark (Owsley) to the Secretary of State

No. 189

COPENHAGEN, May 28, 1938.

[Received June 8.]

SIR: I have the honor to refer to the Department's telegram No. 4, dated February 21, 2 p. m., 1938, regarding discrimination against American trade, and to inform the Department that by special messenger today, Saturday, May 28, 1938, the Royal Ministry of Foreign Affairs handed to me the reply of the Minister of Foreign Affairs.

As an emergency matter, the original copy which is signed by the Minister is forwarded to the Department in haste to catch the pouch which is leaving today at 1 o'clock. Other and additional copies are being mailed under separate cover.

The reply of the Minister of Foreign Affairs is so lengthy and is in the form of an argument that it is not practicable to send the full contents or even a résumé or summary by telegram.

It is also to be noted that the cost of the telegram would be far in excess of the allotment for telegrams to this Legation.

Respectfully yours,

ALVIN MANSFIELD OWSLEY

[Enclosure]

The Danish Minister for Foreign Affairs (Munch) to the American Minister (Owsley)

COPENHAGEN, May 23, 1938.

MONSIEUR LE MINISTRE: In a note of February 23rd, 1938 you have been good enough, acting upon instructions from the Secretary of State of the United States of America, to bring to the attention of the Danish Government certain considerations in regard to the trade between our respective countries and concluding in the declaration that the United States Government, in view of the continued accord by it of most-favoured-nation treatment to Danish products, hopes that the Danish Government will be able to give assurances that American commerce will be accorded non-discriminatory treatment.

After a careful and serious consideration by the Danish authorities of your note and the question especially referred to, i. e. the treatment of the American trade during the existing exchange control, I have the honour to state the following:

As already mentioned in my note of March 29, 1933^a it became necessary at the beginning of 1932 for the Danish Government to establish the exchange control as a temporary measure. The consequence of

^a *Foreign Relations*, 1935, vol. II, p. 175.

the heavy fall in prices of agricultural products at the beginning of the world crisis was that all countries carried through restrictions against the import of these products. As will be known to you, the national economy of Denmark is chiefly based on the export of agricultural products which constitute three fourths of the total export. If under these circumstances Denmark might hope to maintain the balance of payments and continue to pay instalments and interest of the foreign debt (of which an essential part is placed in the United States), it was an absolute necessity for Denmark to establish an import control. In case Denmark could not any more reckon on selling her products to a similar extent as hitherto, this must inevitably lead to a corresponding reduction of her import of foreign products.

The Danish Exchange Control Law does not discriminate between the different countries, but is applied to the imports from all countries without exception. In accordance with the purpose of this act, the foreign exchange available is first and foremost used for the payment of interest and instalments of Denmark's foreign debt and for the import of raw materials for the exporting industries and the other industries, so that production, employment and export may be maintained; only what remains when the requirement for raw materials for the production is met, is used for import of manufactured goods.

The Danish Government has endeavoured to administer the act in such a manner that reasonable considerations are given to all quarters. But a certain country to which the export of Danish agricultural products is decisively bound, has made even a reduced import of agricultural products from Denmark dependent upon some reciprocity, so that it has proved inevitable at the practical carrying out of the act to a certain extent to pay regard hereto by issuing import licenses to this country in order to ensure to Denmark the maintenance of her export and thereby her power to pay for her import and to meet her other financial obligations.

The Danish Government has always been animated by the desire to limit as much as possible the extent of the import control exercised. During 1937 a certain improvement occurred in Denmark's balance of payments and thereby a strengthening of her exchange position. In consequence of this development the Danish Government immediately carried through not unessential facilities in the exchange control. After the passing of the new Exchange Control Law of December 22, 1937, about one third of Denmark's total import is exempted from restrictions. By this act were transferred to the free list goods—both raw materials and other goods—the total import of which from the United States, apart from grain and feeding stuffs, in 1930 amounted to 20 mill. Kr. In this connection I beg to draw your attention to the fact that the balance of trade between Denmark and

the United States in the first three months of 1938 compared with the same period of 1937 shows a development very favourable to the United States. While the export of Danish goods to the United States has fallen from 10,0 mill. Kr. to 5,7 mill. Kr., Denmark's import from the United States has increased from 17,8 mil. Kr. to 36,6 mill. Kr.

The Danish Government has thus availed itself of the improvement in the exchange situation to introduce at once an alleviation in the system in force and hopes that the development will make it possible to continue by this way—the above-mentioned act provides that not later than the autumn 1938 the list of goods is to be taken up for revision with a view to securing possible further facilities for the trade—but as long as the countries who are the principal purchasers of Danish goods, especially agricultural goods, hold by the principle of reciprocity as the basis of their commercial policy and thus more or less make the possibilities of sale of Danish goods dependent upon Danish purchases, the Danish Government unfortunately does not see its way to abandon the exchange control which enables Denmark to fulfil the obligations she must undertake in order to have her goods sold on her principal markets.

At no time after the introduction of the exchange control the Danish Government has wanted to discriminate against the American import to this country. It is not only the proportionate share in Denmark's import of the United States of America which has fallen in the period 1931-37, but the same holds good of the import from several other countries and in the case of some of them even to a still higher degree than from the United States. Thus Germany's share has fallen from 33,6 per cent. to 24 per cent., that of U. S. S. R. from 3,9 per cent. to 0,9 per cent., of France from 3,6 per cent. to 1,2 per cent., of Poland from 2,3 per cent. to 1,0 per cent. and of Czechoslovakia from 1,3 per cent. to 0,7 per cent.

In this connection it should also be noted that several important American export articles, such as benzine, petroleum, solar oil and lubricating oil, the import of which from the United States in 1931 amounted to more than 20 mill. Kr., still are imported to the same extent, but in such a manner that the import now by far the greater part takes place through branches of American firms in the United Kingdom, so that the goods are entered in the Danish statistics as imported from the latter country.

As will be known to you, the high American customs tariff constitutes a serious impediment to the import of Danish products to the United States. The Danish Government therefore fully appreciates the extension to Danish products of the tariff concessions which the United States have given in their commercial treaties with third coun-

tries, whereby it seems to become possible that Danish products to a greater extent than hitherto may gain access to the American market. As will appear from what has been stated above, the main difficulty for Denmark is to procure the necessary amount of foreign exchange, so that the country is compelled to the greatest possible extent to pay for her imports with goods. An increase in the Danish exports to the United States of America will, therefore, place Denmark freer as regards her purchases in the United States.

I need hardly assure you that Denmark whose commercial policy until 1932 for more than one hundred years uninterruptedly was based on a moderate customs tariff administered on the principle of equality, follows the endeavours of the United States Government to re-establish freer and sounder conditions for the international trade with great sympathy and in the hope that they may bear fruit. Just because the Danish Government in principle shares the view of the United States of the basis of the international exchange of goods, it is its desire and intention to give the American commerce a fair and equitable treatment within the existing possibilities which it is beyond its power to alter. With this in view the Danish authorities are willing in concrete cases together with the Legation of the United States—as has already been done in certain cases of late—to go in to the difficulties which might arise for the American export trade and discuss the possibilities of redressing them, and I venture to express the sincere hope that my Government in its efforts in this respect may continuedly count on the collaboration and understanding of the United States Government.

I avail myself [etc.]

T. MUNCH

659.116/178

The Minister in Denmark (Owsley) to the Secretary of State

[Extracts]

No. 242

COPENHAGEN, August 9, 1938.

[Received August 22.]

SIR: I have the honor to inform the Department that, since the beginning of the current year, there has appeared a noticeable tendency on the part of the Danish authorities to relax the restrictions that have been impeding the import of American products into Denmark. The primary cause is doubtless to be found in changes in existing conditions, both of a general and specific character: such as the large accumulation of foreign exchange in 1937; the rising costs of consumable goods, often of an inferior quality, occasioned through forced purchases under non-free market conditions; lower prices of

certain American products; and failures of crops in certain countries with which Denmark has had quota agreements. However, it is believed that the tendency noted has been accentuated and reinforced by the representations made to the Danish authorities by the Legation: in particular by such representations as have been made under the instructions contained in the Department's telegram of February 21, 2 p. m. and through the frequent contacts of the Commercial Attaché, Mr. Julian B. Foster, with the Chief of the Danish Import Control Office.

At the present moment, 32 percent of Denmark's total imports, as regards value, have been released from all import restrictions. The value of items on the free list has now been extended from 80 million Kroner in 1937 to some 540 million Kroner in 1938. The manifestation of such a tendency arouses the keen hope that further releases will be made in the future and that this country will make every effort consistent with the realities of its peculiar situation to rid itself of restrictions of this nature. Partially, at least, as a result of these releases, American imports, during the first six months of the present year, almost doubled in value over those of 1937—from 42.3 million Kroner to 71 million in the January–June period. It should, of course, be borne in mind that the principal American exports to Denmark have consisted of grain and feed stuffs (such as cotton seed oil cakes). Prior to January 1, 1938, these articles were on the bound list, although Danish importers had no difficulty in obtaining import permits for these two groups of commodities. However, recent transfers to the free list have been estimated as likely to be of more benefit to American exporters than to those of any other country—to an amount of perhaps \$750,000 during the remainder of the current year.

Other evidence of the desire of the Danish authorities to assist American trade whenever possible is found in the fact that on several recent occasions the Valuta Office has granted special import permits for limited specified amounts of certain types of American goods following informal suggestions made to it. . . .

The officials in the Ministry of Foreign Affairs, with whom informal conversations have been had with regard to the prospect for additional releases, have signified their belief that the United States will gain by some 15 to 20 percent in its trade with Denmark when the overhaul of the present Valuta Control Regulations takes place in October or November of this year. They have also definitely stated in confidence that there appears to be no possibility of the Valuta Control being abolished as long as the present government continues in power. However, they all definitely look for a marked modification of the

goods which will remain on the bound list and it is through this modification that the United States will gain.

The general position of the Danish Government with regard to ameliorating conditions affecting the import of American products into Denmark is set forth in Dr. Munch's Note to the Legation of May 23, 1938; transmitted to the Department in the Legation's No. 189 of May 28, 1938, entitled "Discrimination Against American Trade with Denmark". It is believed that the policy pursued by the Legation in the face of these conditions has been a correct one; namely, that of a gradual, constant, and friendly pressure to induce the authorities concerned to take as liberal an attitude as possible toward removing all artificial restrictions upon American trade. In view of the hard realities confronting this country in its commercial relations with Great Britain and Germany, it is believed that an arbitrary, technical, and over-aggressive policy would defeat its own purpose. The Legation believes that the foregoing summary of restriction releases is sufficient to warrant a presumptive conclusion that the course followed has substantially, if only partially, contributed to a betterment within the last twelve-month period of the status of American trade with this country.

Respectfully yours,

ALVIN MANSFIELD OWSLEY

ESTONIA

CONTINUATION IN FORCE OF THE COMMERCIAL TREATY OF 1925; PRELIMINARY DISCUSSIONS REGARDING A POSSIBLE TRADE AGREEMENT¹

611.60131/90

The Chargé in Estonia (Leonard) to the Secretary of State

[Extract]

No. 359

TALLINN, January 22, 1938.

[Received February 7.]

After receiving the Department's instruction under acknowledgment,² and its enclosures, a careful study was made thereof, and on January 12th, I called on Dr. Fr. Akel, Estonian Minister for Foreign Affairs, and handed him a Note, a copy of which is enclosed.³ Inasmuch as Dr. Akel does not speak English, and the Note handed to him was in that language, I explained it to him in German. He expressed keen interest in my remarks and stated that the Estonian Government was very pleased to have the opportunity to discuss further preliminaries in connection with a possible trade agreement, and he wished to be of any possible assistance in facilitating the conversations, for he hoped it would be found practicable to negotiate finally a treaty. He said that Estonia wished to have a broader basis for its foreign trade and be less dependent upon England and Germany than at present.

Dr. Akel asked me whether a new treaty would make possible the expansion of Estonia's trade in the United States' market, and in that way more nearly than at present balance the trade between the two countries, which is now greatly in favor of the United States.

In reply to the above, I pointed out to Dr. Akel that the United States had no quota, exchange, or other restrictions intended to decrease the trade from Estonia into the United States, while Estonia had such restrictions, which at present militated against the importation of American goods into Estonia. I informed Dr. Akel that I

¹ Continued from *Foreign Relations*, 1937, vol. II, pp. 259-274.

² Instruction No. 26, December 22, 1937, *ibid.*, p. 271.

³ Not printed.

realized its position in being forced by economic reasons to have certain safeguards at present, chiefly in the form of an import license system and in exchange restrictions. However, the United States requested that these restrictions should not be applied in such a manner as to operate discriminatingly against the trade of the United States. Further, I explained that the proposed trade agreements negotiated between the United States and other countries were not based upon the principle of bi-lateral trade but were intended to do away as much as possible, with the barriers on both sides so that trade could expand more freely. In other words, my Government negotiated treaties on the basis of multilateral rather than bi-lateral trade relations. For instance, I stated, the favorable balance of trade for Estonia with Great Britain should enable foreign exchange to be used for the purchase of American goods even if the imports from the United States were considerably greater than the Estonian exports to the United States. Dr. Akel stated that pressure was being brought to bear upon Estonia to purchase British goods in view of Britain's large purchases of Estonian products, and in that connection he referred to British automobiles which, he said, had not proved as satisfactory as American automobiles in the Estonian market. Dr. Akel stated that he would be glad to talk with me again after I had discussed the details with Mr. Wirgo,⁴ Mr. Mickwitz, and others in the Foreign Office, as well as in other Departments.

In my conversations with Mr. Wirgo and Mr. Mickwitz (Chief of the Treaty Division) we attempted to clear up a few doubtful points, but we agreed that the most important point was now to find some method of preventing discrimination against American goods, and that unless such an agreement could be reached there would be in reality no basis for a trade agreement. I informed both Mr. Wirgo and Mr. Mickwitz that no official announcement would be made in Washington recommending formal negotiations of a trade agreement between Estonia and the United States, until a satisfactory agreement could be reached upon the principles of non-discriminatory treatment of American goods in the administration of import-license and exchange control on the part of Estonia.

I may remark that I had occasion to see the Minister for Economic Affairs (Mr. K. Selter), for a few moments, and he stated that he would be glad to talk with me more fully. He remarked that he had seen in the press that the United States intended to negotiate a trade agreement with Great Britain.⁵ He said that Great Britain was a big factor in discussing Estonian trade relations with the United

⁴ Edward Wirgo, Director of the Foreign Trade Department of the Estonian Foreign Office.

⁵ Department of State, *Press Releases*, January 8, 1938, p. 45.

States, particularly in view of the large market in Great Britain for Estonian goods and the pressure being brought to bear by the British on Estonian authorities to purchase their goods.

Respectfully yours,

WALTER A. LEONARD

611.60131/93

The Chargé in Estonia (Leonard) to the Secretary of State

[Extracts]

No. 387

TALLINN, February 19, 1938.

[Received March 9.]

SIR: I have the honor to refer again to the Department's special instruction No. 26,^{5a} received on January 10, 1938, relative to the possible negotiation of a trade agreement between the United States and Estonia.

Since reporting to the Department in my code telegram No. 1 of January 15, and No. 2 of January 22,⁶ and in despatch No. 359 of January 22, 1938, I have had a number of informal discussions with members of the Foreign Office and of the Ministry of Economic Affairs, from which it is more evident than ever that the Estonian authorities feel that they cannot modify to any appreciable extent their proposals already conveyed to the Department. They state that they agree in theory with the principles explained by me as embodied in American trade agreements, but in practice they cannot deviate to any extent from Estonia's present system of controlling imports, chiefly through quotas and import licenses. Such a control, they state, is necessitated by Estonia's economic situation, and by the insistence of the leading countries, with which they have commercial treaties, to trade on a bi-lateral rather than a multilateral basis. I have pointed out that this system as administered at present tends to be prejudicial to American trade.

My conversations with the local authorities have shown that they are very desirous of maintaining the good will of the United States and they have pointed out that on the basis of present treaty relations between our countries, Estonia has purchased considerably more American goods than it has been able to sell to the United States. In fact, the authorities insist upon emphasizing the preponderance of American imports into Estonia over exports of Estonian products to the United States, notwithstanding my explanations of the basic principles of American trade agreements. For instance, in a conver-

^{5a} Dated December 22, 1937, *Foreign Relations*, 1937, vol. II, p. 271.

⁶ Neither printed.

sation with Director Tuhk (February 10th) of the Ministry of Economic Affairs, he stated that the 1937 foreign trade statistics indicated that Estonia imported in that year goods from the United States to the value of slightly more than 9,000,000 Estonian kronas, while the United States purchased from Estonia slightly less than 3,000,000 kronas worth of goods, which was much the largest "unfavorable" balance Estonia had with any one country. Further, Mr. Tuhk pointed out from the statistics that Great Britain imported during the same year (1937) 36,000,000 kronas worth of Estonian goods, while it sold in the Estonian market approximately only half of that amount, namely British goods to the value of 18,500,000 kronas.

I suggested to Mr. Tuhk that the exchange gained by its favorable balance of trade with Great Britain, could be used to purchase goods from the United States, inasmuch as it more than made up for the "unfavorable" balance with the United States. Mr. Tuhk replied that Estonia needed at least a part of the free exchange obtained from Great Britain for its own unfavorable balance of payments. He pointed out that in 1937, Estonia had an unfavorable balance of trade, according to preliminary statistics just published, of 5,050,000 Estonian kronas. Estonia's invisible balance of payments was also "unfavorable", its income from investments abroad and other income from foreign sources being less than its financial obligations abroad, aside from its unfavorable balance of trade. Besides, Director Tuhk stated that Great Britain used its large purchases of Estonian goods as a lever in endeavoring to extend its export trade to Estonia.

I am citing Mr. Tuhk's remarks above, inasmuch as they are typical of the arguments which the local authorities like to use, but which I have endeavored to explain to them should have no bearing on the principles of a trade agreement with the United States, particularly since the bulk of imports from the United States has consisted of cotton, sulphur and other raw materials needed in Estonia's industries.

In my conversations, I have proceeded on the theory that if agreement could be reached on a reasonable import-quota for American goods, the chief obstacle would be overcome. There would then be a possibility of agreement on other points. . . .

In my last conversation at the Foreign Office, which was yesterday (February 18th), and when Secretary Trimble was also present, inquiry was made of Mr. Mickwitz as to whether he thought, after our various conversations, that there existed any possibility of reaching agreement on fundamentals so that a trade agreement might be negotiated, he replied that he believed no such solution could be found for the moment, at least not in time to enable a trade agreement to be negotiated by May 22, 1938. Hence, it was his opinion that the

best plan, for the present at least, would be to extend the present treaty of friendship, commerce and consular rights⁷ for another year in the hope that during that time some solution could be found.

As indicated in my despatch No. 259 [359] of January 22, 1938, Mr. Wirgo left on that date for Poland and the Balkan States. He had not returned as yet, but as soon as he returns, I shall go over the matter with him again, and report further to the Department. However, it is evident that there is little chance for the difficulties to be overcome in time to complete negotiations by May 22 next, and unless conditions in Estonia change, there would appear to be poor prospects for successfully negotiating a trade agreement.

The Estonian Foreign Office and the Ministry of Economic Affairs wish me to convey their appreciation for the concessions which would likely be granted on vodka and other Estonian articles by the United States, and they hope some means may be found eventually to give them the benefit of these concessions.

Respectfully yours,

WALTER A. LEONARD

611.60131/94 : Telegram

The Secretary of State to the Chargé in Estonia (Leonard)

WASHINGTON, March 24, 1938—6 p. m.

2. Despatch No. 396, February 28.⁸ Please report by telegraph whether the Estonian position as outlined in your despatch No. 387 of February 19 has been modified in any further discussions with Wirgo and other Estonian officials. The Department is also anxious to obtain as soon as possible an indication as to the wishes of the Estonian Government with regard to the possible extension of the present treaty of commerce for a further period of time.

HULL

611.60131/95 : Telegram

The Chargé in Estonia (Leonard) to the Secretary of State

TALLINN, March 25, 1938—3 p. m.

[Received March 25—11:53 a. m.]

7. In reply to Department's telegram March 24, no modification as yet of Estonian position as reported in despatch No. 310 [337] of February 19. However, Wirgo has been on sick leave in Finland since March 2 interrupting conversations as indicated in my despatch

⁷ Signed December 23, 1925, *Foreign Relations*, 1925, vol. II, p. 70.

⁸ Not printed.

No. 406 of March 18.⁹ Treaty Division has today orally confirmed desire to extend present treaty of commerce for another year as indicated in page 12 in my despatch of February 19.

LEONARD

611.60131/98: Telegram (part air)

The Chargé in Estonia (Leonard) to the Secretary of State

TALLINN, April 13, 1938—3 p. m.
[Received April 17—7:20 a. m.]

9. With reference to the Department's telegram of March 31 and my despatch No. 47 [407] of March 25,¹⁰ the Foreign Office has now sent the Legation a note stating that since negotiations of a trade agreement between Estonia and the United States could hardly be completed before May 22 the Estonian Government considers that the most practicable course would now be to extend the existing treaty until a new agreement could be reached but not later than May 22, 1939. The above note was prepared by Mr. Wirgo who has just returned from sick leave.

LEONARD

611.60131/100: Telegram

The Chargé in Estonia (Leonard) to the Secretary of State

TALLINN, April 25, 1938—noon.
[Received April 25—8:35 a. m.]

10. The Foreign Office has orally informed me that it hopes its note of April 13, paraphrased in the Legation's telegram No. 9 of April 13, has been found sufficient for the Department's approval of the extension of present treaty and I would appreciate early telegraphic reply so that the local authorities may be informed, otherwise technical difficulties may arise due to new procedure locally in confirming or extending treaties by the new Estonian Parliament which convened on April 21. The Estonian Government in its note of April 13, 1938, meant to convey its desire and agreement to extend the existing treaty another year in the same manner as last year and conveyed in this Legation's telegram No. 7 of May 15, 1937.¹¹

LEONARD

⁹ Not printed.

¹⁰ Neither printed.

¹¹ *Foreign Relations*, 1937, vol. II, p. 270.

611.60131/100 : Telegram

The Acting Secretary of State to the Chargé in Estonia (Leonard)

WASHINGTON, April 29, 1938—7 p. m.

6. Your 9 and 10, April 13 and 25. This Government desires to have the treaty remain in force and appreciates very much Estonia's continued cooperation in this regard. However, we are doubtful that the Foreign Office's proposal of April 13, 1938 to extend the existing treaty until a new agreement could be reached is adequate to accomplish this purpose. The proposal, among other things, might constitute notice of intention to terminate the treaty within less than 1 year, depending upon the date of conclusion of a new agreement. Notice of intention to terminate the treaty within less than 1 year cannot be given under the terms of Article 29. Termination on less than 1 year's notice could be accomplished only by agreement between the two countries, requiring, insofar as the United States is concerned, the advice and consent of the Senate to ratification. Moreover, it should be noted that the question presented is not one of extending the treaty but rather a question of permitting the treaty to continue in force by Estonia's withdrawal of its notice of intention to terminate it. Once notice of intention to terminate has been given, the treaty may be continued in force only by withdrawal of that notice before the expiration of 1 year by the party which gave it.

Please inform appropriate officials orally in the foregoing sense and say that your Government would be grateful if Estonia could see its way clear to address another note to the Legation embracing at least (1) withdrawal of its notice of May 15, 1937, in so far as it operates to terminate the treaty on May 22, 1938 and (2) specific notice of intention to modify or terminate the treaty on May 22, 1939 in accordance with the provisions of Article 29 thereof. If the Foreign Office objects to a note along the foregoing lines, a communication more or less precisely like that of the Estonian note of May 15, 1937 with appropriate changes of dates and references, would also meet our requirements. Unless the new note is unduly long, cable the text verbatim.

If the Estonian officials do not desire to address a new note to the Legation along either of the foregoing lines, please report their reasons fully and give details of the technical difficulties which you indicate may arise due to procedure in confirming or extending treaties by the new Parliament.

WELLES

611.60131/103 : Telegram

The Chargé in Estonia (Leonard) to the Secretary of State

TALLINN, May 14, 1938—noon.
[Received May 14—11:30 a. m.]

13. Referring to the Department's telegram of April 29, No. 6. Estonian Foreign Office has addressed today a note to the Legation from which the following is quoted.

"The Estonian Government agree to withdraw their proposal as far as it concerns the expiration of the treaty as determined in the note of the Ministry of Foreign Affairs to the American Legation of May 15, 1937 No. 224V. At the same time the Estonian Government, referring to the stipulations of article 29 of the existing treaty, confirm their desire to modify the existing treaty on May 22, 1939."

I have acknowledged the note accepting it as operating to continue the treaty in force until May 19, 1939. Despatch follows.¹³

LEONARD

611.60131/103 : Telegram

The Secretary of State to the Chargé in Estonia (Leonard)

[Extract]

WASHINGTON, May 20, 1938—1 p. m.

10. Your no. 13, May 14, noon. Note of Estonian Foreign Office of May 14 and your acknowledgment thereof are acceptable.

.

HULL

611.60131/107

The Chargé in Estonia (Leonard) to the Secretary of State

[Extract]

No. 458

TALLINN, June 2, 1938.
[Received June 28.]

SIR: I have the honor to refer to my despatch No. 443 of May 14, 1938,¹³ relative to the continuation in force of the existing Treaty of Friendship, Commerce and Consular Rights with Estonia, in which I indicated that I was unable to say what effect the passing away of Mr. Wirgo¹⁴ and the recent changes in the Estonian Government would have upon possible treaty negotiations with the United States.

¹³ Not printed.

¹⁴ Mr. Wirgo died at Tallinn on April 28, 1938.

I also indicated that I hoped to have opportunity to speak with the new officials soon.

In calling upon Mr. Sepp (May 27th), the newly appointed Minister for Economic Affairs, he expressed himself as desirous of maintaining good trade relations with the United States and he stated that above all Estonia wished to keep the good will of the United States in its treaty relations. However, he was not acquainted with the progress made so far in preliminary conversations, for Minister Sepp has been in Riga during the past three years, until he was recently appointed Minister for Economic Affairs.

I also called on Mr. Tuhk, Director of the Trade Division in the Ministry of Economic Affairs, and after going over the situation with him it was apparent that no essential change had taken place in the attitude of the Estonian authorities from that reported by me in despatch No. 387 of February 19, 1938.

Respectfully yours,

WALTER A. LEONARD

6601.116/42

Report by the Vice Consul at Tallinn (Trimble)

[Extract]

No. 79

TALLINN, July 16, 1938.

[Received July 26.]

II. SUMMARY OF CONCLUSIONS

Because of the necessarily voluminous nature of a report of this type it would seem advisable to insert at this point a concise summary of the general conclusions reached. For sake of clarity, such conclusions are listed numerically in the following order:

1) The efforts of the Estonian Government to control through restrictive exchange and license measures imports from countries with which unfavorable trade balances exist have adversely affected the sale of American goods.

2) The policy of favoring imports from countries which are extensive purchasers of Estonian products has materially assisted the export trades of the principal competitors of the United States in this market, the United Kingdom and Germany.

3) The afore-mentioned program, although frankly discriminatory in nature, has not been initiated by the Estonian Government on its own volition but has largely been forced upon it by the United Kingdom.

4) Due to the restrictions placed on competitive goods of American origin, the character of the United States export trade with Estonia is gradually changing, the proportion of the total made up of raw materials increasing annually.

5) The proposed revision of the import license system will probably not benefit the United States.

6) With regard to the future, purchases of raw materials necessary for Estonia's economic welfare will continue to be made in the United States since in most instances they cannot be obtained elsewhere. However, competitive goods of American origin will either be imported in diminishing amounts or their importation will not be permitted to exceed fixed low levels.

.

611.60131/108

The Chargé in Estonia (Leonard) to the Secretary of State

[Extracts]

No. 514

TALLINN, September 2, 1938.

[Received September 20.]

SIR: I have the honor to refer to my despatch No. 458 of June 2, 1938, and previous despatches concerning the status of possible negotiations of a Trade Agreement with Estonia, and to report that on August 31, 1938, I called on Mr. Georg Meri, the new Director of the Foreign Trade Department of the Estonian Foreign Office, who has succeeded the late Mr. Edward Wirgo. Mr. Meri had announced on August 30, 1938, his assumption of official duties.

In my brief conversation with Mr. Meri, he informed me that he had only a cursory knowledge of the trade relations with the United States, but that he hoped within a month or so to become better acquainted with the possibilities of negotiations for a Trade Agreement with the United States. He further stated that his first duties would be to concentrate on treaties expiring shortly, particularly those with Latvia, Germany and the Soviet Union. Mr. Meri informed me that his duties, as chief of Estonia's trade delegation, would probably require him shortly to visit Riga as well as Berlin. He stated that treaty negotiations with Latvia would have to be concluded by October 1, 1938, otherwise there would be no commercial treaty between Estonia and Latvia. Further, he stated that negotiations have already been started with Germany and the Soviet-Union, since the annual trade arrangements with these countries would expire at the end of the year.

Mr. Meri stated that the difficulty in trade relations with the United States was the obvious lack of an American market for Estonian goods.

.

I remarked to Mr. Meri that the treaty basis for any negotiations with the United States would be the reciprocal lowering of customs duties and removal of other trade barriers, rather than any attempt to

balance the trade between the two countries. Mr. Meri stated that he appreciated this, but that Estonia did not have foreign exchange with which to make its purchases unless it could increase its trade with countries like the United States, which had free exchange.

As indicated in my despatch of June 2, 1938, it was not anticipated that any conversations could take place during the summer months, particularly in view of the many official leaves and further on account of the recent reorganization of the personnel of the Estonian Government. However, from my conversation with Mr. Meri, and other informal talks I have had, it is evident that no essential change has taken place in the attitude of the Estonian authorities from that reported by me in despatch No. 387 of February 19, 1938.

Respectfully yours,

WALTER A. LEONARD

FRANCE

DEVALUATION OF THE FRANC; MAINTENANCE OF THE AMERICAN-BRITISH-FRENCH TRIPARTITE FINANCIAL AGREEMENT¹

851.5151/1697 : Telegram

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

PARIS, January 27, 1938—4 p. m.
[Received January 27—3:12 p. m.]

148. After luncheon today Chautemps² in a conversation with Sir Eric Phipps, the British Ambassador, and myself said that he regarded the present flight of the franc most seriously. It was all very well for the Americans and the British to talk about the Tripartite Monetary Agreement and the desirability of continuing it; but it was entirely evident that France could not continue to maintain the position of the franc in the face of sales from the United States and Great Britain, especially the latter.

He said to the British Ambassador that he had his agents listening to telephone conversations between Paris and London. He had been shocked by the conversations that had taken place yesterday between distinguished British representatives in Paris and Sir Robert Kindersley.³ It had been predicted in those conversations that a tremendous financial crash in France was inevitable early in March. Furthermore, the articles which had appeared in the British press the last few days had been calculated to produce the greatest possible selling of francs. In the face of this sort of cooperation from Great Britain he felt that while it would be possible for the French Government to continue for a brief period to defend the franc any prolonged defense would be impossible. However much he might be opposed to exchange control he was being compelled to envisage it as the undesirable but single way out of an impossible situation.

I pointed out that there had been very small selling of francs from the United States, and that I felt Bonnet⁴ must have informed him that he was more than satisfied with the cooperation that he had re-

¹ For previous correspondence see *Foreign Relations*, 1936, vol. I, pp. 535 ff.

² Camille Chautemps, President of the French Council of Ministers.

³ London partner of the French banking firm of Lazard Frères.

⁴ Georges Bonnet, French Minister of Finance in the Chautemps Cabinet before its reconstitution on January 18.

ceived consistently from the American Government and especially from the Secretary of the Treasury, Mr. Morgenthau. He said that this was so and that his complaints were indeed directed against activities in London.

Sir Eric Phipps promised to attempt to do what he could at once to influence newspaper articles; but at the same time pointed out that it was practically impossible for the British Government to prevent sales of francs by British banks and British individuals.

Chautemps added that he felt he had the internal situation well in hand at the present moment. Moreover, he believed that no immediate explosion was to be expected in the international situation. The position of the Government, however, might be made impossible within a brief period, even a few days, by continued sales of francs.

I derived the impression during this conversation that Chautemps gradually is becoming convinced that the establishment of exchange control will be forced by the pressure of events.

BULLITT

851.5151/1701 : Telegram

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

PARIS, January 29, 1938—6 p. m.

[Received 7:25 p. m.]

160. From Cochran.⁵ Reference final paragraph my No. 158, January 29, noon.⁶ At 5:00 o'clock I was received by Marchandau, Minister of Finance. Rueff⁷ was present. The Minister expressed his genuine appreciation of Secretary Morgenthau's statement to the press in regard to France and the Tripartite [Agreement]. Rueff showed the Minister a cablegram just received from French Financial Attaché in the United States giving a very favorable report of the Treasury interview. The Minister asked if we had any objection to his giving this account of the interview to the French press. I said that there was certainly no objection to disseminating any public statements so long as they were recorded accurately and attributed properly.

⁵ H. Merle Cochran, First Secretary of Embassy in France, charged with special duties in matters relating to the Treasury Department and the French Ministry of Finance.

⁶ Not printed; the passage under reference stated that the French Minister of Finance desired to see the American Ambassador at 5 o'clock that afternoon (851.5151/1700).

⁷ Jacques Rueff, Director General of the General Administration of Funds, French Ministry of Finance.

Since I had no official text of the Treasury interview the Minister asked that I endeavor to obtain one. If the Treasury provides me with this by cable the French will compare the text with that received from Beaulieu and then decide whether the Ministry should give any communication thereon to the press. (After leaving the Minister Rueff said confidentially he doubted advisability of any new communiqué since story has already been carried with considerable benefit to the franc and anything further might lessen the good effect. Still he wants our text if possible.)

The Minister said there had been no change in policy since he talked with me on Tuesday (see my 140, January 25, 6 p. m.⁸). He intends to continue faithful to the Tripartite [Agreement] and on Monday will make a public statement as President of the General Council of the Marne in defense of his monetary policy.

The Minister said that some newspapers had been inclined to interpret the American Treasury interview as involving material assistance to France.

He proceeded to sound me out as to prospect of such material assistance through for example a loan floated on the American market in behalf of an "entirely independent body such as the city of Paris." I told him my purely personal idea was that such an operation was entirely out of the question since, aside from lack of appetite on the part of American market for foreign loans, the spirit of the Johnson law⁹ would be contravened by any attempt of the city of Paris, heavily indebted to the French Treasury, to borrow on our market in present circumstances.

Upon leaving the Minister, Rueff thanked me for disillusioning Marchandeu. Rueff said that he had already tried to convince the Minister of the impossibility of any American loan but wanted me to back him up as I had on previous occasions with other Ministers of Finance. Rueff asked that I not communicate this matter further and seek no official instructions thereon, so I just mention this as an incident of possible interest.

Both the Minister and Rueff assured me that there is no change in French monetary policy under consideration. I asked Rueff alone whether he agreed with my belief that the Senate would throw out the present Government if it attempted to get through a law establishing exchange control. He did. [Cochran.]

BULLITT

⁸ Not printed.

⁹ Act approved April 13, 1934; 48 Stat. 574. See also *Foreign Relations, 1934*, vol. I, pp. 525 ff.

851.5151/1701 : Telegram

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

WASHINGTON, January 31, 1938—10 a. m.

52. For Cochran from Secretary of the Treasury.¹⁰ Your 160. The reference to the Tripartite Agreement and France which the French Financial Attaché to the United States reported to Rueff was given only as background information to the press and not as a direct statement or interview. In the circumstances Secretary Morgenthau does not wish his name to be used in connection with it.

HULL

851.5151/1708 : Telegram

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

PARIS, February 2, 1938—11 a. m.

[Received 3:22 p. m.]

176. Marchandeu in the course of a long conversation last night said that he desired to express to me officially for transmission to Secretary Morgenthau his heartiest thanks for the statement issued at the Treasury Department on January 27.¹¹ He added that the statement of the Treasury Department had been admirable in tone and content and had been timed perfectly. It had stopped the flight from the franc. Yesterday for the first time since he had been Minister of Finance he had acquired some gold.

Marchandeu went on to say that he regarded the present Ministry as a Government of transition. It was entirely obvious that if Stalin should desire to destroy the present Ministry he could have the French Communists start a sufficient number of labor troubles to produce another flight of capital. Martssard, Minister of State at the moment, was attempting to arbitrate a dispute in the metal industries of the north which might lead to a general strike in that region and a sympathetic strike in the Paris region.

Marchandeu said he did not believe that the Communists would push matters to this extreme at the moment. There were only two regions in France in which Communist influence was still extremely strong; the northeast and the Paris suburbs. The rest of the country unquestionably was in a mood to work hard and live quietly. If the Communists should take an extreme line at the moment they would

¹⁰ Marginal note: "Telephoned by Mr. Lochhead, Treasury Department."

¹¹ Statement attributed to an official of the Treasury Department, at a press conference on September 27, regarding steps taken to assist France to avoid exchange control.

have the country against them and a general strike would be crushed by the army with national approval. The present Government would be replaced by a government further to the Right probably headed by Daladier.

On the other hand if the Communists should decide merely to make sufficient trouble to continue to frighten the capitalists of France they could probably produce another flight from the franc and the fall of the present Government because of financial difficulties.

Marchandean went on to say that he wished to assure me that he personally was opposed absolutely to exchange control; that he would resist it to the end and that he would resign rather than be party to any steps leading toward exchange control.

In his opinion it was a mistake to assume that if the present Government should fall because of financial difficulties it could be succeeded by a national government under Herriot or anyone else. On the contrary it would be succeeded by a Blum government in which the Communists would participate, and the first act of such a government would be to impose exchange control.

Unless a fresh flight of capital should be provoked by Communist action or some other cause he believed the predictions that a financial crisis in France was inevitable in the month of March would [prove?] to be unfounded. In addition to the equalization fund the Treasury had 5 billion francs in gold at the Bank of France at the present time which he would not hesitate to use to defend the position of the franc. He also hoped to launch during the month of February a large financial operation which he hoped would bring in considerable resources. I asked him if he could define for me precisely what operation he envisaged. He said that he had not yet decided whether to issue a large long term loan or a short term loan; but he would much prefer one large operation rather than a series of small ones in the name of the city of Paris, the Crédit National, the Caisse des Amortissements, et cetera. He was confident that he would be able to meet the payments due the first of March without difficulty although in the end he might be obliged to give up his idea of one large operation and put through a series of small ones.

Marchandean added that of course there was one resource to which his mind inevitably turned; that was the possibility of obtaining some sort of a large loan from the United States. He said that he was familiar with the terms of the Johnson Act; but that he believed it might be possible to float a loan in the United States which would not be in contravention of the terms of the Johnson Act but nevertheless would come finally into the hands of the French Government.

I replied that I was certain that he should put any such thought out of his mind. The Johnson Act had been intended to cover all

loans direct or indirect from the United States to the French Government or any subdivision or any agent thereof. If it should become evident that there was a hole in the Johnson Act through which a loan might creep I was certain that the hole would be stopped at once before the loan could be floated. Any additions to the Johnson Act for this purpose would be voted overboard almost unanimously by the Senate and House of Representatives. Since this was the case it was not even worth while to discuss whether or not the American Market would be prepared to absorb a French loan at this time.

Marchandau replied that he understood this position perfectly and in fact between ourselves, he agreed with it. He had been closely associated with Herriot¹² at the moment when France had defaulted on her debt to the United States¹³ and he considered Johnson Act wholly justified.

In further discussion of the present political situation Marchandau expressed the opinion that the evolution of the domestic situation would depend on the skill with which Chautemps should maneuver on one side and the Communists on the other. If Chautemps should go too far in action against the Communists the greater portion of the Socialist Party would escape from Blum's leadership and under the leadership of Pivert would work with the Communists. If on the other hand the Communists should be too unreasonable the greater portion of the Socialist Party would follow Blum and cooperate with the Radical Socialists. He hoped that the present Government could hang on until the month of June and that it might be possible then to form a national government which would include the Blum wing of the Socialists, the Radical Socialists and the groups represented by Reynaud, Pietri and Mandel.

BULLITT

841.5151/817

Memorandum of Conversation, by the Adviser on International Economic Affairs (Feis)

[WASHINGTON,] February 12, 1938.

At the invitation of the Secretary of the Treasury, I was present this morning during a telephone conversation between him and Butterworth¹⁴ in London.

¹² Edouard Herriot, President of the French Council of Ministers, June 7-December 14, 1932.

¹³ See note of December 14, 1932, from the French Ambassador, *Foreign Relations*, 1932, vol. I, p. 748.

¹⁴ William W. Butterworth, Jr., Second Secretary of Embassy, who was charged with special duties in matters relating to the Treasury Department and the British Exchequer.

It will be recalled that last evening the Secretary of the Treasury had informed him that this Government was considering a slight modification of its way of handling gold movements so that any future movements of gold into this country (or from domestic mines) up to the extent of \$100,000,000 a year would not be sterilized but would be permitted to enter into the reserve of the Federal Reserve System. Mr. Butterworth had been instructed to inform the British Government that some such action was in contemplation and to state that the Treasury would be very pleased if the British Government could be considered as taking some parallel action or at least assuring the move a good reception in European markets.

Mr. Butterworth reported that he had spoken with Sir Frederick Phillips, Under Secretary of the Treasury, who had not yet been able to get in touch with the Chancellor of the Exchequer. Sir Frederick had himself expressed real interest in the idea, and while dwelling upon certain difficulties, had made an earnest request that the announcement should be postponed, at least until Monday, so that he might put the matter before the Chancellor of the Exchequer with the hope that the Chancellor would decide to support our action. Mr. Morgenthau stated that he would wait until the Chancellor had reached a decision.

In the course of his report Mr. Butterworth mentioned that among the matters that Sir Frederick Phillips had cited as indicating British policy was the fact that the British Government had during the past week taken the only immediate step that seemed available to it to implement the Van Zeeland report¹⁵—that is, to greatly relax the restrictions in the London market on foreign lending. Apropos of this remark I took the occasion to inquire of Mr. Butterworth whether the British Government had made any decisions as to further procedure or action on the Van Zeeland report. Mr. Butterworth said he knew of no such further decisions, but believed for one thing that the British Government was waiting to receive indications of our attitude in response to the note presented by Sir Ronald Lindsay¹⁶ and the approach made by Leith-Ross¹⁷ to himself.

I also took occasion to inform Mr. Butterworth that the press this morning had rumors to the effect that the British Cabinet was in discussion of a large sterling loan to the Italian Government. Mr. Butterworth stated that this was "bunk".

He said that Eden¹⁸ had been talking to Grandi,¹⁹ and that there was active discussion, and possibly some real difference of opinion,

¹⁵ See *Foreign Relations, 1937*, vol. I, pp. 671 ff., and British Cmd. 5648, Miscellaneous No. 1 (1938): *Report Presented by Monsieur van Zeeland to the Governments of the United Kingdom and France* . . . January 26, 1938.

¹⁶ British Ambassador in the United States.

¹⁷ Sir Frederick Leith-Ross, Chief British Economic Adviser.

¹⁸ Anthony Eden, British Secretary of State for Foreign Affairs.

¹⁹ Dino Grandi, Italian Ambassador in the United Kingdom.

within the Cabinet as to approaching the Italian and German Governments. But this was as far as the matter had progressed, he believed. He said that he would lunch with Waley of the Treasury on Tuesday, and check up.

In response to the Secretary's inquiry as to the State Department's attitude towards the discussions between himself and the British Treasury, I replied that we were entirely sympathetic.

851.5151/1727: Telegram

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

PARIS, February 18, 1938—6 p. m.

[Received 7:45 p. m.]

268. From Cochran. Monick, French Financial Attaché in London called on me at 5 p. m., February 17. He said that he had that day come from London. Earlier in the week he said he and Ambassador Corbin had talked with Sir John Simon²⁰ in the presence of Phillips and Waley²¹ and that they had interested the British in the idea of opening tripartite conversations. Since his arrival in Paris he said that he had talked with the Minister of Finance but that no other official in the Ministry and no one in the Bank of France was informed concerning his visit. Monick stated that the Minister of Finance wanted me to come to the Ministry at 5:00 o'clock today.

When I called at the Ministry this evening at the fixed hour I was received by Marchandeu with Monick present. The Minister referred to our recent conversations in regard to collaboration between the tripartite countries. He reaffirmed his intention to remain faithful to the Tripartite Agreement and to maintain monetary freedom in France. He said we must realize that the task is a difficult one for France and that precautionary steps should be taken to prevent France being drawn into the danger of exchange control if conditions should become more critical.

At the Minister's request Monick summarized to me an account of his visit with Simon while he glanced at a memorandum of the conversation which he had prepared for the Minister of Finance. According to Monick he had told the British that certain circles in France were becoming disappointed over the failure of the tripartite arrangement to hold the franc steady and that the idea of exchange control for France was gaining adherents. Furthermore, the belief was advanced by Monick that the best countermove against this would be some international action by the tripartite countries in unison. Monick said

²⁰ British Chancellor of the Exchequer.

²¹ Sigismund D. Waley, Principal Assistant Secretary of the British Treasury.

that the British had accepted the idea of opening tripartite conversations.

The Minister asked that I submit the proposition to Secretary Morgenthau stressing the desire of both the British and French Treasuries that the matter be handled most intimately and be considered strictly confidential. I told him that I would promptly send a cablegram but that they had not been specific as to what they envisaged accomplishing in the conversations. I asked if they had any definite plan in mind insofar as France was concerned. The Minister insisted that the field should be left open for wide discussion and that France would enter it without any preconceived plan. He said it was the spirit of the Tripartite Agreement that the 3 countries should consult together when any serious situation with respect to the currency of anyone of them threatened. When I still insisted that I be provided with something more concrete upon which to base a message to the Secretary of the Treasury the Minister of Finance gave me a memorandum of which the following is a translation.

"Is the American Treasury disposed to open with France and England conversations which would have the following object: (a) to study the concrete possibilities of developing and extending the cooperation inaugurated by the Tripartite Agreement; (b) to examine particularly the possibility of establishing a new stage in the direction of more definite stability, while maintaining the necessary comparisons between their treasuries and institutions of issue."

[Cochran]
BULLITT

851.5151/1730 : Telegram

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

PARIS, February 21, 1938—10 p. m.

[Received 11:45 p. m.]

279. From Cochran. Reference Department's 103, February 19, noon,²² Butterworth arrived in Paris this morning and we compared notes.

On February 15 Rowe-Dutton, British financial adviser in Paris, had asked me to dine with him tonight saying that Sir Frederick Phillips would arrive in town today for a meeting of a League of Nations committee and would be with him for dinner.

Butterworth met Phillips en route to Paris and Rowe-Dutton asked me to bring him to the dinner tonight. Points raised in Butter-

²² Not printed; Mr. Cochran was informed that Mr. Butterworth had been instructed to proceed to Paris to discuss with him the subject matter of telegram No. 268, *supra* (851.5151/1727).

worth's talk with Phillips on the way to Paris were used for leads and confirmed in our evening conversation transcribed below. Phillips did not see French Treasury officials here.

Our conversation at dinner attended by only four of us may be summarized as follows:

I told Phillips of Monick's approach to me on February 17 and of the interview which I had with the Minister of Finance Marchandau in Monick's presence as reported in my No. 268 February 18, 6 p. m. I made it quite clear that while it was Monick who had brought the invitation to me to come to the Minister of Finance it was the latter who took the lead in the conversation, to whom I addressed my questions and from whose hands I received the memorandum quoted in my above mentioned cablegram.

Phillips stated that the British had received nothing in writing from Monick. I told Phillips that the impression that I gained from Monick's hints when he called on me February 17 was that he had in mind some step involving a move towards stabilization of our three currencies. I added that these hints had not been repeated by Marchandau. I had not therefore ventured to be more specific in reporting my interview at the Ministry of Finance than the memorandum which I received there warranted. Phillips said that in Monick's talk with the British there had been no suggestion of any move toward achieving greater stability in any currency other than the French franc. It was his understanding that Monick had in mind some intermediate step towards stabilization between the present situation and a final *de jure* definite fixing of the franc against gold with the idea that this intermediate step should involve the defense of the franc more along the lines of working of the old gold standard than the present system.

Phillips did not seem optimistic over the chances for success of such an operation and would be very hesitant if his advice were sought by the French. Considering such a possibility however he discussed various factors involved. For instance if stabilization made available after due legislation the contents of the stabilization fund amounting to approximately 13,000,000,000 francs, the 6,000,000,000 francs in the *rentes* fund and between 17 and 20,000,000,000 francs profit from revaluing the present gold stock of the Bank of France from 43 milligrams to the current rate, what would be the lasting relief therefrom to the French situation? Would this putting of new francs on the market lead to spending which would really facilitate a new flight from the franc? Would stabilization at the present rate of say 155 francs to the pound be sound or what rate should be chosen? Obviously concerned over the fact that the present pro-

posal is known only to Marchandeu, Chautemps and Delbos,²³ Phillips wondered what reaction there would be on the part of other Government leaders to the proposition particularly Daladier who might conceivably oppose vigorously a return to a system which would automatically involve surrender of Bank of France gold (constituting the so-called war chest) to defend the franc.

I gave as my purely personal opinion that stabilization at the present rate would not in itself be sufficient inspiration for immediate and permanent return of a significant amount of French flight capital even though the French may by instinct prefer a fixed to a floating currency.

I thought other very progressive steps toward social peace and increased production would have to come before stabilization could be really effective. As to the proper rate, I remarked that difficulty had been experienced in defending the franc in each successive stage of depreciation from 105 to 155. From the fact that the rate fluctuated very little, however, during the brief period the franc was unprotected at the time of the latest Cabinet crisis, it appeared that the present rate might be correct from the current economic viewpoint. Unless the factors of labor and production are cleared up and the balance of payments improved this rate cannot be held indefinitely and it is impossible to say what rate could be maintained. It was difficult for any one of us to see a Radical Socialist government taking the lead in seeking exchange control. We agreed that if the present treasury loan does not go better than currently reported the French Treasury will experience difficulty in raising funds in March. If it should draw upon its remaining 5 million credit in securing Bank of France this would presumably depress the franc.

I saw scant opportunity for the French to borrow further in Switzerland or the Netherlands. Phillips said that the short term money market had changed entirely in London since the French obtained their two earlier credits there and that a participation in one now would be out of the question.

Any borrowing would have to be at long term with the bonds passed on to investors and such a loan would not be well received now considering the unfavorable British impression of the French domestic situation. Phillips talked about the possible relief that France would receive however through a loan which would permit a lowering of the French interest rates to 4%. Butterworth and I were not entirely convinced that a long term British loan would be out of the question if political circumstances made it imperative.

²³ Yvon Delbos remained Minister for Foreign Affairs in the reconstituted Chautemps Cabinet.

Phillips thinks that it is impossible for either the British or ourselves to refuse to talk with the French. I do not believe that they should be given any possible ground for complaining that we failed to meet the terms of the Tripartite Agreement which envisage consultation. We all felt, I believe, that we should accept the French approach but leave it very definitely to the French to advance specific ideas at the earliest possible stage. Furthermore the conversations should be technical rather than made too formally diplomatic. The British are ready to give their moral support to the French under the Tripartite Agreement but do not desire that any conversations be based upon sentimental or idealistic grounds.

Phillips, Butterworth, left on the 10 o'clock train for London and the latter did not have opportunity to read the above text although we did discuss it and I am repeating this message to London for Butterworth's information and any supplementary additions. [Cochran.]

BULLITT

851.5151/1740

*Memorandum of Conversation, by the Adviser on International
Economic Affairs (Feis)*

[WASHINGTON,] February 23, 1938.

The Secretary of the Treasury asked me to be present in his Office this morning during a telephone conversation with Cochran.

His call was occasioned by the fact that last week the French Government gave word that it would like to arrange for consultation regarding possibly necessary reformulation of the Tripartite Monetary Agreement. Cochran and Butterworth had met with Phillips of the British Treasury in Paris on Monday. Cochran has had conversations with Monick, the French Financial Attaché in Paris, and with Marchandau, the French Finance Minister. Despite these conversations, it is distinctly unclear what type of reformulation the French Government has in mind.

The Secretary of the Treasury so informed Cochran, and then stated that he might inform the French Minister of Finance that we were ready to consult at any time.

At the same time Cochran was told to let the French Government know that this envisaged only confidential, technical conversations, not to be held as any significant intergovernmental discussions. Cochran stated he understood.

While it was probable that the ideas of the French Treasury are still running towards the possibility of getting assistance in maintain-

ing the franc rate while continuing the execution of their current policies, my guess is that the French will almost necessarily turn the conversations around to what type of exchange control might be compatible with the Tripartite Monetary Arrangement.

H[ERBERT] F[EIS]

851.5151/1734 : Telegram

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

PARIS, February 24, 1938—noon.

[Received February 24—10:50 a. m.]

294. From Cochran. At 11:00 a. m. today I saw Minister of Finance Marchandeu and referred to our conversation of February 18 in which he inquired whether the American Treasury was disposed to open with France and England conversations under the Tripartite Agreement. See my 268, February 18, 6 p. m.

I told the Minister of Finance that his inquiry had been communicated to the Secretary of the Treasury and that the latter upon his return to Washington after a few days absence had authorized me to inform the Minister of Finance that we are ready at any time to listen but that it is essential particularly considering the international political atmosphere that any consultations and conversations that may take place within the framework of the Tripartite should be strictly confidential and technical. The Minister of Finance agreed that it is highly necessary that our talks be secret and that the methods of contact and communication heretofore utilized in technical monetary discussions be employed. In this connection he said that Monick would return to Paris at the end of the week to report any progress that he has made in London although the Minister doubted whether much could have been done because of the British Cabinet crisis. The Minister of Finance will get in touch with me after he has received Monick's report.

[Cochran]
BULLITT

851.5151/1754 : Telegram

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

PARIS, March 11, 1938—noon.

[Received March 11—8:35 a. m.]

371. The Paris editor of the *New York Herald Tribune*, commenting upon the report that Blum had acceded to the Radical Socialist de-

mand for rejection of exchange control, added that "a reliable source said last night pressure from the Treasury Department in Washington had helped him to make up his mind".

We have received inquiries regarding this story and have replied that it is absurd.

There is no mention of the story in the French press.

WILSON

851.5151/1754 : Telegram

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

WASHINGTON, March 11, 1938—2 p. m.

143. Your 371, March 11, noon. The Secretary of the Treasury states that of course your position is correct. There have been no conversations of any character between the Treasury and the French authorities having an import of this kind.

There seems no need for public statement on this point, but you are free to make decisive denial in the event that you are again approached in regard to the story.

HULL

851.5151/1758 : Telegram

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

PARIS, March 14, 1938—noon.

[Received March 14—11:08 a. m.]

395. From Cochran. I called at the Bank of France at 11:30 this forenoon. The franc-sterling rate had opened at around 157. There had been such a demand for sterling that the French control was obliged at once to let the rate slip or face the possibility of exhausting its 2 billion francs of gold and foreign exchange. By the time the rate moved to 162 there began to appear some hesitancy among the operators and the control then stepped in and pushed the rate back to 161.50. The slight interventions made at various points to feel out the market and the intervention above described had cost the control 400,000 pounds at the hour I was in the bank.

Before starting operations the bank tried to get instructions from the new Government. Prime Minister Blum²⁴ who is also holding the Treasury portfolio replied that he was not interested in rates. No instructions could be received from Spinasse, the Minister in charge of the budget. The telephone in the office of the Minister of Finance

²⁴ The second Cabinet of Léon Blum was formed on March 13 and resigned on April 8, 1938.

was answered by a newspaper man who is close to Blum and has presumably been given a confidential post in that Ministry. [Cochran.]

WILSON

851.5151/1763a : Telegram

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

WASHINGTON, March 14, 1938—2 p. m.

148. The Secretary of the Treasury is going to ask Cochran to see Blum in his role as Minister of Finance, as promptly as possible under instructions that will be given on the telephone this afternoon. Would you kindly arrange this appointment for Cochran when he requests it?

HULL

851.5151/1771

*Memorandum by the Adviser on International Economic Affairs
(Feis) to the Secretary of State*

[WASHINGTON,] March 14, 1938.

MR. SECRETARY: Following up this morning's discussion, Mr. Dunn²⁵ and myself were present at 2:30 this afternoon when the Secretary of the Treasury talked with Mr. Cochran and Mr. Wilson²⁶ at Paris over the telephone.

The Secretary of the Treasury began by requesting Mr. Wilson to make an immediate appointment for Mr. Cochran to see Mr. Blum in his role of Minister of Finance.

He then instructed Mr. Cochran to address the following statement—which the Secretary of the Treasury characterized as a question—to Mr. Blum:

Ask Mr. Blum whether he would care to have the following question addressed to him:

“We assume that in view of the foreign exchange developments of the past few days you have explored the possibility of imposing exchange control. If you feel that your internal situation can best be stabilized by the temporary imposition of exchange restrictions which will control capital movements, we are prepared to discuss this question immediately with you and the British Treasury to the end that every effort be made by our three Governments to cooperate under the Tripartite Agreement with your efforts to stabilize your internal situation by the imposition of certain exchange restrictions.”

This is a somewhat different procedure, and somewhat a differently phrased message than was reported to the Secretary of State this morning. The changes were made after a meeting between the Presi-

²⁵ James Clement Dunn, Adviser on Political Relations.

²⁶ Edwin C. Wilson, Counselor of Embassy in France.

dent and the Secretary of the Treasury at luncheon. [The first procedure envisaged had been to ask Mr. Blum for information regarding the exchange developments and his plans, and to intimate to him that if it would be useful to him we would be willing to enter into discussion with the British authorities with a view of seeing whether it was not possible to say to him, Mr. Blum, that if the French Government decided to introduce restricted exchange control, we would make every effort to reconcile this with the continued operation of the Tripartite Agreement.]^{26a}

When, after having delivered the above quoted instruction to Mr. Cochran, the Secretary of the Treasury—holding Mr. Cochran on the telephone—asked whether I had any comments, I said first, that not having been notified of this change of procedure I had not had the opportunity to report it to you. Mr. Morgenthau was surprised at this, having assumed that Mr. Taylor²⁷ would have cleared it with me, for which omission Mr. Taylor later expressed regret to the Secretary of the Treasury.

I then said, however, that I had a more important preoccupation; to wit, I was not sure that the form of the message brought out clearly enough the fact to the French Government that if they did employ exchange control, it must not be used to restrict the purchase or payment of American goods and thus interfere with or impair the value of our trade agreement. After some discussion back and forth, the Secretary of the Treasury instructed Cochran, who had continued to hold the telephone, to add this as a verbal explanation to the message. I had pointed out that we had already expressed this view to the French Government periodically over the last two years, beginning with a visit I paid to Bonnet in the summer of 1936. In order to get this clarification of Cochran's instruction, I had to be rather insistent, in which position Mr. Dunn was in agreement, and so confirmed to Mr. Wilson on the telephone.

The Secretary of the Treasury asked both Cochran and Wilson whether they had any comments to make. They both said that they doubted whether this was the moment to take this step. Cochran stated that in his judgment it was premature; he explained that there was much doubt as to whether the Blum Government could stay in office any substantial period of time, and whether it might not be premature to make this move in advance of the coming into existence of a more firmly situated national government. Mr. Wilson made the same point though more briefly. To the comments of both the Secretary of the Treasury replied as he had replied to me in the course of the morning's discussion when I had raised the same point that the President and himself had decided that this was the moment. Cochran was instructed to move with great despatch.

^{26a} Brackets appear in the original.

²⁷ Wayne Taylor, Assistant Secretary of the Treasury.

Mr. Morgenthau indicated in every sense that he felt his decision had been finally made. Thus when Mr. Dunn and I brought up the possibility that Blum might use this to justify controlling the exchanges, if internal controversy arose on the subject, the Secretary of the Treasury remarked that he was going ahead anyhow. He referred to the President's sense of the timeliness and imperativeness of this initiative.

Later in the afternoon Mr. Taylor telephoned me to say again that he regretted very much that he had not checked with me before the meeting in the Secretary's Office. He explained it by saying that he was confident there was no basic misunderstanding.

I thanked Mr. Taylor and said that I thought that particular phase of the difficulty (the guarding of our trade treaty) worked out all right through the supplementary explanations and instructions given to Cochran. I added that looking back over the day's events, however, I felt dissatisfaction at having been put under the necessity of bringing before the Secretary of State a matter of such importance for decision and action all within three or four hours, and of finding myself participating in discussions under such circumstances of pressure. I went further and said that I would not do it again and that I did not mind if he repeated this remark to the Secretary of the Treasury.

I read to Mr. Taylor cable No. 396²⁸ just received from Paris conveying the opinion of the Embassy that the Blum Government is likely to have a "very difficult and brief existence". I said that this was in my mind and no doubt also in the Embassy's mind when they raised with the Treasury the question of whether this was the proper time to make this move or whether it might not be premature. Mr. Taylor stated that it was his opinion that it could just as well be done now as later. At all events, the President and the Secretary of the Treasury had made the decision.

A copy of Mr. Cochran's report of his talk with Mr. Blum is attached.²⁹

851.5151/1760 : Telegram

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

PARIS, March 14, 1938—10 p. m.
[Received March 14—9:10 p. m.]

404. For the Secretary of the Treasury from Cochran. Reference is made to the Department's 148, March 14, 2 p. m., which arrived after the conversation by telephone between the Secretary of the Treasury, Mr. Dunn, Mr. Feis, Mr. Wilson and myself had ended.

²⁸ Dated March 14, 4 p. m., not printed.

²⁹ Not printed.

At 8:00 o'clock Wilson telephoned Blumel who arranged for Blum as Minister of Finance to receive me at his home.

When I met Blum alone in his apartment at 8:45 this evening I told him that I had come on a strictly confidential errand as personal representative of the Secretary of the Treasury.

I told him that Secretary Morgenthau desired that I learn from him in such capacity whether he desired that we propose officially to him a certain question. I explained that no approach had been made to the British Treasury and that nothing would be done further unless he might desire to receive an official communication from us.

I then read to him in French a translation of the following message which I had received by telephone:

[Here follows text of message quoted in the fifth paragraph of the memorandum *supra*.]

I added the following in explanation: "In applying exchange control it shall in no way interfere with provisions which now exist in the trade treaty between our two countries or impair its value".

Blum asked me to convey to Secretary Morgenthau his most appreciative thanks for this message which showed such keen and sympathetic understanding of the present French situation and which message came as a source of great comfort and relief to him. He said that he would guard it strictly confidential and personal as conveyed.

Blum reminded me that he headed the Government which entered the Tripartite Agreement and that he personally was responsible for the part of the drafting thereof. He said that he desires that this be preserved. He assured me that he will make every effort to avoid exchange control.

He is not sure that he or any prime minister who may succeed him will be able to avoid such measure. He said France might be on the eve of a war. If war should come the internal value of the currency was not important. What counts in war is that the country have gold and credit. He is not willing to see the gold reserves of the Bank of France used endlessly and hopelessly through the stabilization fund to maintain the exchange value of the franc. Loans cannot go on indefinitely and Blum feels that London is tired of France's borrowing there. Blum is studying possible means of checking flight of French capital and may call upon us for assistance towards this end. He will consider every possible alternative before admitting that exchange control is demanded by the situation. He does not wish that Secretary Morgenthau feel that he has any preconceived plan which involves exchange control.

Consequently Blum does not desire that an official approach be made to him or to the British by us now. He will watch developments and if he thinks circumstances warrant our undertaking to discuss

the possibility of reconciling with the tripartite arrangement some measures of exchange control which would entirely respect the terms and value of the Franco-American trade agreement he will communicate confidentially to me the message which he desires relayed to Secretary Morgenthau. He told me that for the present he will not acquaint his collaborators with the message received tonight. I left nothing in writing with Blum. [Cochran.]

WILSON

851.5151/1807 : Telegram

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

PARIS, April 23, 1938—8 p. m.

[Received 8:15 p. m.]

644. From Cochran. After talking by telephone with Secretary Morgenthau at 6 p. m. I requested an appointment with Minister of Finance Marchandau³⁰ and was received by him at 7 p. m. with Rueff present.

I congratulated Marchandau upon being back in office and told him that I wanted to keep in touch with him as during the past with the view to exchange of information as envisaged by the Tripartite Agreement. I told him that we are naturally anxious to know just what this week's move in the franc meant and what the attitude of the Government is in the circumstances.

The Minister denied that there was any split in the Cabinet. He said that after Daladier's Government received the practically unanimous vote of Parliament it was ridiculous to think that there should at this early date be a lack of harmony among the 19 members of the Government charged with carrying out the program for which Parliament gave authorization. He said the decline in the franc these past few days had resulted entirely from speculation based on lies.

I told him that for the franc to fall so far in such a short period of time without the market seeing a firm defense by the French control tended to confirm the theory of the speculators that the Government was ready to accept a rate of 175 to the pound next week.

The Minister reminded me of the demonstration of confidence during the first few days of the Government. He said that in this favorable atmosphere it has been planned to work out their program slowly and not to announce any measures until after the first of May. The movement of capital into government securities had rendered the Treasury's situation such that no immediate borrowing from the Bank of France or through a long term loan was necessary. This speculative campaign has changed their plans. Marchandau was

³⁰ Appointed Minister of Finance in the Cabinet formed on April 10 by Edouard Daladier.

meeting with his experts when I was at the Ministry and he will work through Sunday. He will on Monday morning submit his proposals to a Cabinet meeting which has been advanced to that date. In the afternoon there will be a council of Ministers. After one or the other of the two meetings Daladier will make his announcement of policy and of specific measures.

By these statements and acts the Government hopes to restore the confidence that prevailed before the attack. In previous instances the stabilization fund with its gold has been the sole weapon of defense. The Minister said that this time they had decided not to use their diminished gold resources so extravagantly but to depend upon other means. Even at that considerable sums had been spent the past 3 days supporting the currency.

The Minister would not mention any specific level at which he desired the franc. He insisted that Monday's statements should drive back the rate. In answer to my inquiry as to whether 175 or any other limit had been in mind as the proper extent for the franc to sink, he responded emphatically that there was no basis whatever for speculation on the 175 level and that there was most definitely no intention on the part of this Government to manipulate a deliberate depreciation in the franc or to accept without counter attack a franc pushed down to the present level.

The Minister told me that the statement of Bank of France as of April 21 will show that there was no new advance to the state and that the current week will also witness no drawing on the Treasury's credit with the bank.

Plans for the national defense loan will probably be completed on Monday but no issue attempted until atmosphere improves.

Marchandau said it was impossible to give me details of his plans now since they are still in the course of formation and will likely be modified in the ministerial meetings Monday.

In our conversation the Minister referred to an interview of Daladier appearing in this evening's press wherein the Prime Minister said *inter alia* "the Government is unanimous in its monetary policy, unanimous in affirming its fidelity to the Tripartite Agreement".

Repeated by telegraph to Butterworth at London. [Cochran.]

WILSON

851.5151/1821 : Telegram

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

PARIS, May 2, 1938—5 p. m.

[Received May 2—3:35 p. m.]

683. For the Secretary of the Treasury from Cochran. Minister of Finance Marchandau sent word for me to come to his office this

afternoon at 4 o'clock. Upon my arrival he read to me a message which he wished communicated to Secretary Morgenthau at once. Rueff, who was also present, took the message in French and I took it down in English. Rueff and I then compared our copying and agreed on the following translation.

"The French Government is obliged to inform anew the Government of the United States of America that the expensive effort made by the stabilization fund, particularly during the recent period, can not longer be maintained. The French Government is therefore obliged, despite the fact that it has decided to impose from this week a new and important tax effort on the country, to choose between exchange control or the retreat of its currency. The rate at which the French Government has decided to stop is around 175 francs for one pound, with the will to lower progressively this figure in correlation with the economic improvement which it expects from its decrees.

The French Government recalls that from the first of last July taxes have been increased by 16,000,000,000 francs and that thereby it has shown its will to defend its currency by all possible means and that it remains still attached to this view within the framing of monetary liberty. It hopes therefore that in these conditions the setback which it is obliged to decide upon will appear to the Government of the United States of America as entirely in conformity with the provisions of the Tripartite Agreement."

Marchandean said that he would appreciate receiving Secretary Morgenthau's reaction to the above statement as soon as possible. In answer to my inquiry as to when the rate would be moved to 175 he said "tomorrow". This will be one of several steps taken simultaneously with the publication of certain decree laws tomorrow. When I asked whether the terms of the national defense loan would be announced tomorrow he replied that it was not sure whether they would be tomorrow or the next day. He insisted that in any circumstances it is not possible to hold the franc at its present rate and that it is absolutely necessary to let it move to 175. [Cochran.]

WILSON

851.5151/1835

*Memorandum by the Adviser on International Economic Affairs
(Feis) to the Secretary of State*

[WASHINGTON,] May 4, 1938.

MR. SECRETARY: The French Ambassador³¹ delivered to the Secretary of the Treasury early this morning a note³² from the French Council of Ministers (1) greatly urging the need of a prompt reply to its approach in regard to franc devaluation; (2) stating that the

³¹ René Doyne de Saint-Quentin.

³² Not printed; see telegram No. 683, May 2, *supra*.

French Government establishes the rate of 175 for itself as the last fall of the franc.

In view of all the circumstances, and the receipt of these assurances, the Secretary of the Treasury decided to make the following reply to the French Government (this is the text given you over the telephone) :

“Consequent upon the consultation which the French Government has carried on with the American and British Governments, as provided by the Tri-Partite Accord, this Government regards the Accord as continuing in full operation.

“The assurances in the note of May 4, 1938 given by the French Government with respect to carrying out the letter and spirit of the Accord are noted with the greatest of interest.”

Before delivering the reply to the French Government, it was necessary, however, to secure the agreement of the British Government—which has been indicated by all their previous messages. A copy was immediately given to Mr. Bewley,³³ and telephoned to Butterworth in London to present to the British Treasury. As soon as their reply is received it will be given to the French Government.

It is generally agreed that the hesitation and questioning entered into by the American Treasury has served a good purpose in making the French realize their responsibilities and begin concrete assurances—though it is also realized that circumstances may prove too strong for these assurances.

The Treasury notified me this afternoon that everything has now been satisfactorily adjusted.

H[ERBERT] F[EIS]

851.5151/1828 : Telegram

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

PARIS, May 4, 1938—9 a. m.

[Received 2:05 p. m.]

700. From Cochran. In accordance with instructions received at 10 p. m., last night from Secretary Morgenthau, I called at the Ministry of Finance at 11 p. m., and told Rueff that :

(1) The United States monetary authorities would continue to do business with and in behalf of the French authorities on Wednesday;

(2) Secretary Morgenthau was giving the whole matter his very serious consideration but would require at least one more day to reach a decision;

(3) The French authorities should exercise caution to avoid official leaks particularly of such a nature as to reflect criticism on any party to the present negotiations it having been noted that an American news ticker carried an item yesterday afternoon to the effect that the

³³ Thomas K. Bewley, Financial Attaché of the British Embassy.

French were delaying a monetary decision pending reply from Washington.

(4) The Federal [Reserve Bank?] had purchased only 1¼ million francs in New York Tuesday.

Rueff made a memorandum of these points and took it to Marchandau who was in conference with Rueff and Fournier.⁴⁴ Rueff asked me to await any reaction from the Minister. At 11:30 Rueff said a telephone call was just coming in from the French Embassy in Washington to the Ministry for Foreign Affairs here and asked that I wait until Marchandau knew the results thereof as there might be some news of common interest.

Fournier chatted with me while we were waiting. He said that telegraphic press reports had been received here last evening of conferences at the American Treasury on the French monetary situation. He feared that the growth of these reports and rumors would lead to increased pressure on the franc. He considered his exchange losses yesterday fairly severe. He fears that the control will have to give ground each day that uncertainty exists and that in the end 175 may be reached even despite attempt to resist depreciation, and through this gradual decline all opportunity for maneuvering by the control will be lost, an important sum of gold and foreign exchange will be sacrificed. Fournier departed very tired at 12:30 telling me that he could not run the Bank of France during the day and confer in the Treasury all night.

At 1:00 o'clock Rueff had a telephone conversation with the French Financial Attaché in Washington and gave him a reply to the message transmitted earlier in the night by St. Quentin to Bonnet⁴⁵ which latter message was the same as that which I had delivered as above set forth. Rueff asked me to endeavor to get the French reply directly to Secretary Morgenthau during the night lest Leroy Beaulieu might not succeed.

The following is an English translation of the reply Rueff gave over the telephone to the Financial Attaché and which I took down for communication to Secretary Morgenthau:

"We had thought that the reply which had been asked in our communication of yesterday at 4:00 p. m. (through Cochran) would be given tonight during the appointment given to our Ambassador in Washington by Mr. Morgenthau. In consequence the Council of Ministers has been summoned for Wednesday morning at 8:30 to take a final decision before the opening of the Paris market. Taking account of the fact that Mr. Morgenthau's communication (just given by Cochran) confirms the rumors which circulated in Paris this past evening with respect to a news item being published by the American tickers in New York on the exchange question it is feared that the

⁴⁴ Pierre Fournier, Governor of the Bank of France.

⁴⁵ Georges Bonnet, French Minister for Foreign Affairs.

pressure on the market will be stronger than preceding days. It appears essential that a reply be given before the meeting of the Council of Ministers."

At 2:40 this morning I reached Mr. Lochhead of the Treasury by telephone from the Embassy and gave him the foregoing information and message. At 3:00 o'clock I telephoned Rueff reiterating that he should not expect a reply from Secretary Morgenthau before the Council meeting this morning. [Cochran.]

WILSON

851.5151/1831 : Telegram

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

PARIS, May 5, 1938—9 a. m.

[Received 10:15 a. m.]

709. From Cochran. At 20 minutes before 8 last evening I delivered personally to Rueff in the office of the Minister of Finance the following communication which I had just received by telephone from Secretary Morgenthau:

"Consequent upon the consultation which the French Government has carried on with the American and British Governments as provided by the Tripartite Accord this Government regards the Accord as continuing in full operation.

The assurances in the note of May 4, 1938 given by the French Government with respect to carrying out the letter and spirit of the Accord are noted with the greatest of interest".

I told Rueff that Secretary Morgenthau desired to know what the wishes were of the French Government in regard to publicity for the communication. [St.] Quentin promptly telephoned the foregoing text in French translation to Marchandeu who was with Prime Minister Daladier at the latter's office in preparation for the radio address which Daladier gave at 8 o'clock. I remained with Rueff and two of his colleagues in the Minister's office until 8:45.

The British communication was still being received by telephone from the French Financial Attaché in London when Daladier's speech commenced. At 8:20 Rueff received from Ambassador St. Quentin by telephone from Washington the above text of the American communication. The Ambassador felt that publication thereof was advisable in view of the many rumors which had been circulating. Rueff telephoned Marchandeu while holding the line open with Washington and discussed this question. Since the British Cabinet note contained a specific reference to a definite rate it was considered undesirable to publish the text. No publicity could be given the American text without the British. Rueff spoke then with his representa-

tive in London who said that the British had drawn up their reply in the form of a verbal note and not with the view to publication. It was decided that the question should be put off until today as to whether the British should be asked to delete the above mentioned reference from their note with the view to permitting publication thereof. Rueff promised to inform me if any decision favoring publication should be reached. In the absence of such note it is understood that the British and American communications will not be published. [Cochran.]

WILSON

851.5151/1828a

*Memorandum by the Adviser on International Economic
Affairs (Feis)*

[WASHINGTON,] May 5, 1938.

The Secretary of the Treasury asked me to come over at 11:30 this morning. I found him in the middle of vigorous telephone conversations with London and Paris. He gave me the following account of what had happened since yesterday afternoon, when an agreement between the three Treasuries was announced.

It will be recalled that the French Ambassador delivered to the Secretary of the Treasury yesterday morning May 4, a note from the Council of Ministers which in its final paragraph conveyed the assurance that the French Government established ("se fixé") 175 as the final fall of the franc, and that it was largely on the basis of this assurance that Mr. Morgenthau sent word to the French Government that he would regard the action as within the spirit and letter of the Tripartite Agreement.

Cochran had telephoned him early this morning to say that the franc had been opened up at 179 to the pound, and had been more or less pegged there by the French Government even though the state of the exchange market plainly showed that a lower rate could be sustained without the slightest difficulty. There was taking place a great volume of purchases of the francs (about 30 million pounds was calculated to have returned in the course of the day). Cochran on his own initiative had visited the Minister of Finance and stated he was sure the American Treasury would think this rate had been set unfairly low, and was contrary to the assurances received. Mr. Morgenthau, on receiving this information, instructed Cochran to return to the Treasury and tell Mr. Marchandau very distinctly and emphatically that he felt the French action had gone out of the agreed-on bound, was unnecessary, and would be disturbing, and to say that he insisted that the franc rate be brought down in accordance with

assurances received. He said that if the French Treasury did not respect these assurances he might feel called upon to take his liberty of action for the American Treasury.

Mr. Cochran delivered this message. The French Minister of Finance stated that Mr. Morgenthau's message raised a very serious question affecting the whole of the French economic program, and that he would have to consult the whole Cabinet, including Mr. Daladier and Mr. Bonnet. During all this period the franc was kept pegged near 179. Shortly thereafter, Mr. Bonnet asked Mr. Wilson, our Counselor of Embassy, to call upon him. He informed Mr. Wilson that he had not followed the matter closely—I share Mr. Morgenthau's complete skepticism on this point—was surprised to find the franc at 179, and would immediately do his utmost to see that the French Government modified the situation and brought the rate down in accordance with assurances given.

He asked Mr. Wilson to ask Mr. Morgenthau whether Mr. Morgenthau would be satisfied if the franc rate were brought from 179 to 175 in the course of a few days by a succession of small measures.

When I entered the Secretary of the Treasury's Office, he was engaged in a telephone conversation with Mr. Wilson and Mr. Cochran, reiterating what he had said previously. He instructed Mr. Wilson to tell Mr. Bonnet that this gradual action, extending over several days, was not satisfactory and that he expected the action to be more prompt and immediate. He explained that beginning at 12 o'clock the American fund would—in accordance with the customary arrangements under the stabilization fund—take over the market and that he expected the French Treasury to give him a rate lower than 179.

Immediately thereafter Mr. Butterworth telephoned and stated that the British Treasury informed him that they had sent a message to the French to the following effect:

- (a) That they were delighted at the French decision to stabilize and were glad of the way in which capital was coming back to France.
- (b) However, the fact that 30 million pounds had returned in one day indicated clearly that the rate set was too low, and
- (c) the fact that 3 million of these 30 million pounds came from Belgium proved that it was disturbingly low and might very well upset other currencies.

Mr. Butterworth was authorized to inform the British Treasury of the messages which Mr. Morgenthau had sent to the French.

In the course of the conversation with Messrs. Cochran and Wilson, the Secretary of the Treasury asked me to take the telephone. I spoke very briefly with Mr. Wilson and told him that from the beginning of these conversations the basic attitude of the State Depart-

ment had been that the situation could be satisfactorily adjusted without interrupting the useful arrangements between the three Treasuries embodied in the Tripartite Agreement, and that it still persisted in that view. However, I did not see that the Secretary of the Treasury had any choice but to recall vigorously to the French the assurances received yesterday and to ask that French policy be made to conform to them—especially since every indication was that this was now entirely feasible.

The above was the situation as I reported it to you at noon today. I ought to add that the Secretary of the Treasury is convinced that at any rate one of the reasons why the French Government carried the franc down to 179 was in order to assist and make effective certain private speculations of French banks and even of French officials, and that Marchandeu wished to give them ample time to cover at the favorable rate of 179.

This afternoon the Treasury telephoned to keep me informed to the effect that what the French had done as a conciliation this afternoon was to take the rate down to 178.30 and to declare that they would lower it more tomorrow, and a little further the next day.

Mr. Morgenthau stated also that Cochran had reported that when he was talking with the Treasury they had said they had nothing but enthusiastic messages from the British Treasury and were saying it was difficult to understand why the American Treasury should make difficulties when the British Treasury was not doing so, even though its direct interest in the value of the franc was so much greater. Mr. Morgenthau said he believed that they were misstating the message received from London and that he had asked Butterworth to check up upon it.

851.5151/1837 : Telegram

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

PARIS, May 6, 1938—6 p.m.

[Received 6:13 p.m.]

717. In order to round out the record for the Secretary of the Treasury I am giving hereinafter for transmission to him a brief summary of my conversations yesterday.

Shortly after 4 o'clock yesterday afternoon Bonnet telephoned and asked me to call on him at once. When I arrived Bonnet, who was visibly disturbed, said that the Prime Minister had informed him of a message received by the Finance Minister from Mr. Morgenthau which was understood to mean that unless the franc was brought back to 175 to the pound that afternoon the Tripartite Agreement would be regarded as ended. Bonnet spoke of the situation of France in-

ternally and externally, said that it was the intention of the Government to bring the rate down gradually to 175 but if it attempted to do so at one stroke this would defeat the purpose of the monetary operation which was to induce capital to flow back to the country. Such defeat would probably result in the fall of the Government and create a most serious situation. He appealed to me to telephone Mr. Morgenthau and explain the situation.

I said that in an effort to clear up misunderstandings I thought I ought to explain certain matters as they appeared to me. Cochran had kept me fully informed of his conversations and messages delivered back and forth and I therefore was posted on the situation. I said that according to my understanding the Tripartite Agreement called for consultation and presupposed a frank and friendly exchange of views among the parties to the agreement. Since the present Government had come into office Cochran under instructions from Mr. Morgenthau had twice sought information as to the financial plans of the Government but had received only the vaguest replies. I appreciated that this was due to the fact that the Government had been unable to determine its plans until the last minute but the fact nevertheless remained that our Secretary of the Treasury had been given no information. Then without prior consultation Mr. Morgenthau was suddenly confronted with a *fait accompli* in the form of a message that the franc would be devalued to 175 to the pound. After considering the matter the Secretary of the Treasury out of desire to assist the French Government in its present difficulties had accepted this devaluation and had given out a statement most friendly and helpful to the French Government. This had been done upon his understanding that the new rate of the franc would not go above 175. Contrary to his understanding, however, the franc had opened at 179. Under the circumstances it seemed to me that Bonnet could appreciate that Mr. Morgenthau found himself in a most difficult situation.

Bonnet said that he was greatly embarrassed and upset. He was not Minister of Finance and had not made the decisions in this matter. He said, however, that I could assure Mr. Morgenthau that the franc would be brought back to "about" 175 in a week or 10 days' time. I said that before communicating with Mr. Morgenthau it might be desirable to give me the assurance in definite form. Bonnet started to write out something then said he must obtain the approval of the Prime Minister and endeavored to telephone to him. Daladier apparently hesitated and said he would have to consult the Finance Minister and the Governor of Bank of France. Bonnet then said that as soon as he received a statement from the Finance Minister which he was authorized to give me for transmission to Secretary Morgenthau he would telephone me.

Returning to the Embassy I found Cochran talking on the long distance telephone with Secretary Morgenthau and I reported to the latter my conversation with Bonnet. The Secretary said that his message to Marchandau was not an ultimatum. He said, however, that he was deeply shocked by the way the French had handled this matter. Out of sympathy with the French people he had gone beyond anything that could have been expected of him but there was a limit beyond which he could not go. He said that the franc remained pegged in New York and that he must insist that instructions be given to begin lowering the rate today. He insisted upon this as a sign of good faith on the part of the French. Herbert Feis then came on the telephone and said that while there had been no opportunity to discuss this development with Secretary Hull and while it was clear that we must compose these difficulties and maintain the financial relationship undisturbed he agreed fully with Secretary Morgenthau's position. I said that I as well was in agreement and would state this position to Bonnet.

Not having heard from Bonnet by 6:00 o'clock I telephoned to him and said that while waiting to hear from him I had had a conversation with Secretary Morgenthau and I believed it would be useful if we could talk again. He said that he had the British Ambassador with him and that I should come over in a few minutes.

While waiting at the Foreign Office the Finance Minister, Marchandau, accompanied by Cochran arrived and we went in together to see Bonnet after the British Ambassador had left. Marchandau explained why his experts had found it necessary to start at 179 in order to realize the greatest benefit of the monetary operation but insisted that it was their intention to bring the rate down below 175. Bonnet then said that the Prime Minister had just advised him of the receipt of a message from the Chancellor of the Exchequer congratulating the French Government on the way the monetary operation had been handled, saying that while the figure of 179 appeared too high and might cause difficulties for Belgium he was happy to have received the assurance that the rate would be brought down. The Chancellor added that if he was questioned in the House of Commons he would say that the British Government was satisfied with the operation and had received assurances that the rate would be brought down. Bonnet said that this message had been most helpful and in view of the attitude of the British he failed to see why we should be so disturbed.

I said that Secretary Morgenthau had told me over the telephone that the British Treasury had informed him that they were in agreement that the rate should be brought back to 175 that day.

I then informed Bonnet and Marchandau of what Secretary Morgenthau said to me. I added that it seemed to me that there was far more involved than a matter of a few hundred million francs. It

was a matter of maintaining the spirit of the Tripartite Agreement and preventing difficulties of this sort from arising in the future.

Marchandau said that he was prepared to give orders at once to lower rate by 50 centimes by the close of the day's dealings in New York, and by another 50 centimes in Paris the following day. Next week he would continue to bring it down by smaller amounts as favorable opportunities presented themselves. Both he and Bonnet insisted that it was the Government's intention to bring the rate below 175. Marchandau then telephoned to the Bank of France and gave instructions that the rate be brought down in New York by 50 centimes that afternoon.

During our conversation Bonnet said that he knew the sincerity of the friendship which Secretary Morgenthau had for France and appreciated all that the Secretary had done to assist France. He regretted very much that the incident had arisen.

At the close of our talk Marchandau said that he hoped Mr. Morgenthau would understand the great pressure and difficulties he had been working under and that he "would continue to have sympathy for the French Finance Minister".

On returning to the Embassy I reported this conversation to Secretary Morgenthau by telephone.

WILSON

851.5151/1848

The Secretary of the Treasury (Morgenthau) to the Secretary of State

WASHINGTON, May 6, 1938.

MY DEAR CORDELL: I have just completed an extremely difficult week keeping the Tripartite Agreement alive.

I want to take this opportunity to thank you personally for your sympathetic understanding.

I wish that you would convey to Dr. Herbert Feis, Mr. Edwin C. Wilson, Mr. H. Merle Cochran and Mr. William W. Butterworth my deep appreciation for the very able assistance which they have again given me during this past week.

With kind regards [etc.]

H. MORGENTHAU, JR.

851.5151/1848

The Secretary of State to the Secretary of the Treasury (Morgenthau)

WASHINGTON, May 7, 1938.

MY DEAR HENRY: I am glad that the Department has been able to be of assistance in your difficult task of sustaining the Tripartite Agreement during the past difficult week.

I appreciate your kind reference to me, and I have had pleasure in conveying your message of appreciation to Messrs. Feis, Wilson, Cochran, and Butterworth.

Sincerely yours,

CORDELL HULL

[The franc did not rise to the ratio of 175 to the pound sterling desired by the Treasury Department, but remained relatively stable above the level of 179 to the pound. A gradual decline in relation to the dollar began in July and continued through the European political crisis which culminated in September (see volume I, pages 483 ff).]

851.5151/1924 : Telegram

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

[Extract]

PARIS, August 11, 1938—6 p. m.

[Received 6 : 30 p. m.]

1256. For Treasury. . . .

Following is memorandum of Ambassador's conversation with Secretary Morgenthau by telephone August 11:³⁶

"I telephoned to Secretary Morgenthau at 10:00 o'clock this morning and said to him approximately the following:

['] After talking with you yesterday afternoon I spent an hour with Marchandean. He was most anxious to have you make some sort of statement. I told him that I thought the causes of the weakness of the franc were real and not the result of fantastic rumors and that I could see small utility in a statement. He was very insistent however and said that he hoped we would not underrate the critical condition of the franc. He had been losing more than 2,000,000 pounds a day from the equalization fund. He still had more than 13,000,000,000 francs in the fund but no fund could withstand the present drain. Furthermore unless he could renew his 3-months bonds, 7,000,000,000 francs of which would fall due in August, and if the holders of those bonds should demand gold, his position would become catastrophic this month.

I questioned him with regard to the amount of these bonds the holders of which might ask for gold. He admitted that about 3½ billions were held by Government institutions which would renew them and that only about 3½ billion francs were in the hands of private holders and might not be renewed.

I again recurred to the underlying causes of the weakness of the franc all of which you know and Marchandean said that he agreed with me as to the basic causes of the weakness and said that all he was trying to do was stave off a collapse until the month of November. He would bring in a budget about September 15th which would be balanced except for amounts which could be covered by loans for the national defense. Otherwise he had no plans for attacking the fundamental difficulties. "I have to be modest" he said "and if I can live until November I shall be satisfied".

³⁶ In the course of a nonofficial trip to several countries of western Europe, Mr. Morgenthau had visited Paris and at this time was at Antibes, France.

He then went on to describe the possibilities if the present flight from the franc should continue. Here he made a statement which was somewhat different from the statement reported by Cochran. He said that although as a theoretical possibility the Government might continue to let gold run out of the equalization fund and then summon Parliament and ask for the imposition of exchange control he would positively not consider taking this course.

On the contrary, if the flight from the franc should continue he would keep a large sum in the equalization fund and not use it and would let the franc fall to any point to which it might go down without support from the equalization fund. He then again said that he felt that the rumors about a joint devaluation of the dollar, pound, and franc having been arranged between Washington and London and by you in France were considerable contributing factor in the present demand for gold in France and urgently requested me to obtain some sort of a statement that would put an end to these rumors.

Your visit to Paris has done a great deal of good in the general political situation in Europe by reinforcing the impression of closer collaboration between the Government of the United States and the French Government and I am just as loath after talking with Marchandeanu as before to jeopardize this impression in any way.

If you should wish to make a statement of the sort that Marchandeanu wants there is perhaps a formula which I discussed with Marchandeanu that would satisfy him and conceivably help somewhat without detracting in any way from the effect of your visit.

I have had many cordial and interesting conversations since my arrival in France. In no one of those conversations has devaluation of the franc, the pound, or the dollar been mentioned in any way.'

I added to the Secretary of the Treasury that if he should feel inclined to make such a statement I could give it out formally at the Embassy at Paris. Secretary Morgenthau replied that he did not wish to make any personal statement and that he felt if any statement was to be made, it should be made as a formal statement in Washington, London and Paris simultaneously.

I then said to the Secretary of the Treasury that I had made this suggestion yesterday to Marchandeanu and that he had felt that a statement by Secretary Morgenthau would be sufficient. The Secretary of the Treasury asked me to send him a memorandum of my conversation with Marchandeanu yesterday and above memorandum of our telephone conversation of this morning and to transmit both to the Treasury Department by telegraph. He also asked me to refer the suggestion of simultaneous statements in Washington, London, and Paris to Marchandeanu."

Following is memorandum of Ambassador's telephone conversation with Minister of Finance Marchandeanu August 11:

"Immediately after my conversation on the telephone this morning with Secretary Morgenthau I spoke with Marchandeanu on the telephone and informed him that the Secretary of the Treasury did not wish to make any statement from the rocks at Antibes but that if Monsieur Marchandeanu felt that these fantastic rumors were causing the present weakness of the franc he believed the Government of the United States might participate in a simultaneous statement in Washington, London, and Paris.

Monsieur Marchandeanu said that he would get in touch with London at once and would let me hear from him later in the day."

851.5151/1929

Memorandum by the Assistant Adviser on International Economic Affairs (Livesey) to the Secretary of State

[WASHINGTON,] August 12, 1938.

MR. SECRETARY: Mr. Wayne Taylor has just telephoned (10 a. m.) the attached message received from Secretary Morgenthau. Mr. Taylor said that is the only information he has as to the suggested public statement. He presumes the idea may have fallen through, particularly since Saturday and Monday are holidays in Paris.

Mr. Taylor said that he has no thoughts to communicate to Mr. Morgenthau on this message. He would be glad to receive any suggestions from you.³⁷

F. LIVESEY

[Annex]

Telegram Received by the Treasury Department From the Secretary of the Treasury, Temporarily in France

[ANTIBES,] August 12, 1938.

I had Butterworth telephone Phillips this evening, Thursday, and tell him that through our Embassy in Paris the French had approached me to obtain a statement denying tripartite stabilization discussions. That I had replied that an individual statement did not seem to me either desirable or wise but that if they felt their circumstances demanded a statement I would be prepared to agree to a joint one to be issued simultaneously in the 3 countries provided its form and substance was acceptable. Phillips was told of the French reply to the effect that they were taking the matter up with the British. Phillips said that this was the first that he had heard of the matter. He expressed appreciation for being given this background information and he did not seem opposed to the issuance of an innocuous statement. He volunteered that the French Fund had had another bad day but no worse than recent ones. Please inform Hull of the contents of this despatch.

MORGENTHAU

851.5151/1926 : Telegram

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

PARIS, August 13, 1938—3 p. m.

[Received August 13—11:40 a. m.]

1271. Reference latter part my 1267, August 12, midnight.³⁸ Saint³⁹ in Bonnet's office has just telephoned me that the French

³⁷ Marginal notation: "Nothing further. C[ordell] H[ull]".³⁸ Vol. I, p. 63.³⁹ Charles Saint, assistant in the office of the Minister for Foreign Affairs.

Government has again changed its mind as regards communicating to the United States Government and to the British Government a formal note relative to pressure on the franc and the necessity of a common statement to deny the rumors of modification of the Tripartite Agreement. He stated that Bonnet now requests urgently that the note which he gave me yesterday evening be regarded as an official note and be transmitted to the United States Government. Saint added that an identical note was handed to the British Chargé d'Affaires this morning.

A translation of the note is as follows:

"The pressure exerted on the French currency, while not having its origin in circumstances related solely to the market for the franc, is entailing serious consequences for the stabilization fund and for the French Treasury. The French Government considers that it is acting in the spirit of the Tripartite Agreement in informing the Government of the United States that if the pressure on its money should persist, it would not be certain of being able to continue very long the sacrifices implied by the defense within the present system, of the existing monetary level.

It believes it necessary therefore that the Governments signatories of the Tripartite Agreement seek in common, in the spirit of confident collaboration which has always inspired them the appropriate measures to ward off the attacks which at present are affecting the principal continental currencies. It stresses in particular the urgency of a common declaration tending to deny the rumors which continue to circulate regarding the possible modification of the Tripartite Agreement and of the existing monetary rates."

Cochran has telephoned foregoing to Secretary Morgenthau.
Please advise Treasury.

BULLITT

851.5151/1927: Telegram

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

PARIS, August 13, 1938—8 p. m.

[Received August 13—6:16 p. m.]

1272. From Cochran. After 1271, August 13, 3 p. m., was despatched I got in touch with the Minister of Finance upon request of Secretary Morgenthau transmitted through the Ambassador. Marchandean and Rueff had left town for the long week end. I spoke with Couve de Murville⁴⁰ who was on the point of departing.

I asked what action they expected from us on Bonnet's note. De Murville said they sought our acceptance in principle of a common statement which they hoped to be issued on Tuesday. I told him

⁴⁰ Maurice Couve de Murville, Associate Director of the Budget in the French Ministry of Finance.

there was no chance of getting an agreement from us either to the principle or the text of a communiqué for Tuesday unless they gave us a draft thereof by Sunday forenoon. Even then, I said they should not expect us to join in any positive statement to the effect that the franc is not going down. Since the French have indicated their own uneasiness on this point and had served us notice any communiqué would have to be carefully considered. De Murville said they had received no reaction from the British. He would however get in touch with Rueff and endeavor to telephone me a draft text Sunday morning.

I have telephoned the foregoing to Secretary Morgenthau this evening. He said Butterworth who was with him would telephone Phillips. [Cochran.]

BULLITT

851.5151/1928 : Telegram

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

PARIS, August 14, 1938—5 p. m.

[Received August 14—3:55 p. m.]

1274. From Cochran. Rueff telephoned me at 1:45 p. m. that De Murville had given him my message (see my 1272 August 13, 8 p. m.). Rueff had then drafted a common statement and had spoken by telephone with Marchandau thereon. The Minister of Finance felt that they should not attempt any final drafting for transmission to us until they had received some reaction from the British to Bonnet's note.

Rueff promised to call me if they had any draft to communicate on Monday but thought it most likely that they would have nothing until they were all back in Paris Tuesday morning. He was holding his own draft as a basis for their discussions at that time in which he thought Prime Minister Daladier might also enter. I stressed to him as I had to De Murville our desire to know what they are going to do toward holding the franc while a communiqué is being prepared and then after it is issued. I made clear that we could not give our assent to a draft statement the same day it was submitted to us. He understood this and gave up the idea of issuing any communiqué on Tuesday although he still hopes to give us a draft text on that day at latest. We can thus see how the Paris market develops on Tuesday before having to take any decision.

I telephoned the foregoing to Secretary Morgenthau at Antibes at 4 p. m. and I am instructed to speak with him Monday night at Brianon. [Cochran.]

BULLITT

841.5151/955 : Telegram

The Chargé in the United Kingdom (Johnson) to the Secretary of State

LONDON, August 17, 1938—7 p. m.
[Received August 17—4: 15 p. m.]

784. For Assistant Secretary of the Treasury Taylor from Butterworth. I returned to London 8 o'clock last night.

Sir Frederick Phillips sent for me and discussed at some length the French situation.

He let me read the British reply to the French note of August 12 which was sent in confidential code to the British Embassy in Paris and delivered orally to Bonnet. While admitting that there is some disturbance of the European currencies due mainly to the international political situation it states that advisers of the British Government are unanimously agreed that rumors of changes in the value of the Tripartite Agreement currencies have little or no practical effect on the situation, that such rumors existed before Mr. Morgenthau went to France, and it is always possible that they will recur from time to time but at this moment international political events completely overshadow other considerations. It goes on to state that the effect of denying such rumors in a formal and official manner would not be likely to be beneficial; that the fact that the Governments would be forced to give an explanation would be taken by the market as a sign of weakness and an effort to distract attention from the real causes. The position therefore would only be aggravated if demands for gold in London would not be fully met and there is no question of interfering with London's free gold market.

I also obtained from Phillips a copy of a proposed Tripartite statement which Monick handed to the British Treasury when he returned from Paris Tuesday morning. He said that he was acting on behalf of Daladier. Phillips did not gather that Daladier had approved of the text as such which was probably drafted by Monick himself but that it probably was as Monick maintained, the kind of statement which Daladier would think appropriate. The translated text is as follows:

"The Governments of the United States of America, of Great Britain and of France, (a) in view of the unjustified return to the hoarding of gold, its incidence on the position of exchanges, the instability of the financial markets, (b) considering, on the other hand, that the production of gold has never attained the present figures, that the metallic reserves in the United States, in Great Britain and in France have increased all their forces of credit to unthought of proportions, and that their capacity of production is greater than ever, (c) noting that the last monetary adjustments have now at-

tained their end; considering that for the future it is on their closely concerted financial and commercial policy that the new economic adjustments, which are still necessary, depend, (d) determined above all to maintain the foreign exchange value of their internal currencies which guarantees their purchasing power and the stability of price, (e) declare solemnly that their common monetary policy excludes all manipulation tending to new devaluation, (f) decide to base on their large available stocks of gold and their forces of credit the execution of a collective program of economic recovery, of development of international commerce and of assistance to countries more especially affected by the crisis and by the political instability in Europe and in the rest of the world, (g) constitute from now on among themselves a committee of permanent international action charged with putting this program into effect and gradually to pursue its realization."

Phillips told me in the strictest confidence that Daladier had addressed a personal and private letter to the Prime Minister which was dated August 12 but received August 15. (Incidentally Phillips specifically asked that no mention of it be made in my telegram to Paris the text of which follows below). In this letter Daladier set forth the difficulties of the French position and Government and indicated that he had an internal plan which he wished to put into effect but could not do so except under cover of and in conjunction with an international arrangement. He gave no details of his internal plan. He emphasized the dislocating effect of the fluctuations in the price of gold incident to hoarding and dehoarding movements and implied that inasmuch as the Tripartite currencies controlled the overwhelming majority of the world's gold stock it was up to them to produce a plan for its use in restoring international commerce. He concluded by asking the British Government to enter into discussions immediately with a view to producing some scheme and prophesied "disastrous things for next week". Phillips said the British reply had not yet been formulated but that it would be designed to get at the real intentions of the French. It would ask about the internal plan and at the same time point out that whereas it was highly desirable to use the available gold stocks to facilitate international commerce there was no new plan at hand for the execution of such a purpose. It would also mention that the price of gold had in fact been remarkably steady, not having varied more than 3 per cent which was scarcely more than a gold point variation. It would also mention that because there had been a strong movement into gold there was no reason to believe that it would go on forever and that there was in private hands in London about the same amount of gold now as at the time of the signing of the Tripartite Agreement.

There follows below the two telegrams which were sent Cochran this afternoon and which set forth Phillips' views on what he conceives to be "the real inwardness of the situation."

1. "August 17, 4 p. m. For Cochran from Butterworth. The British interchange accomplishment with the French have convinced Phillips that the British and American Governments are about to be faced by the Daladier Government with the following alternatives.

1. Resignation of the Daladier Government.
2. Imposition of exchange control.
3. Further depreciation of the franc presumably to another established but lower level.

Phillips does not think Daladier wants to resign and considers 1 an unlikely contingency.

As regards 2 and 3 he pressed me for a definition of the American attitude which I countered by pointing out (a) that I had no instructions on this point, and (b) that even the French Government itself had by the manner in which it had conducted the recent interchange accomplishment shown that they looked to the British, their allies, for a prior definition of attitude.

Phillips then said that as regards 2 he did not see how the French could impose exchange control and still adhere to the terms of the Tripartite Agreement and that as he had mentioned on so many previous occasions he did not believe that exchange control was workable in France. He asked whether it was also our opinion that the French Government had no existing legal powers with which to impose an exchange control and I told him that I had asked you the same question when I was in Paris 2 weeks ago and that you also did not know of any legal means by which exchange control could be imposed without obtaining the sanction of the French Parliament. He then said that that being the case he could not conceive of anything which would do more harm than the calling of the French Parliament for such a purpose at such a time and that on that score alone it should be excluded.

As regards 3 he said 'we certainly are not going to advise the French to depreciate the franc further.' I said I took it that that meant that the British would in the last analysis acquiesce to its depreciation, to which he agreed.

Phillips stated that the British have been advised by the French a monetary decision must be reached before Monday August 22 and therefore he wants an official expression of our attitude in the premises as soon as possible. He asked me when you would see the Secretary of the Treasury and I told him of the possibility of your leaving for Geneva tonight. He expressed strongly the hope that you would carry with you to the Secretary the above information and therefore this is being telegraphed to you. He particularly asked that it not be transmitted orally over the French telephone system. Given the Monday deadline Phillips wants an expression of our attitude by tomorrow afternoon if possible.

Copy to Washington."

Telegram 2. "August 17, 5 p. m. For Cochran from Butterworth. Since talking with you I had occasion to see Phillips and told him that you might not leave tonight and that by staying you might obtain a statement from the French. He said he felt sure that no worthwhile statement would be forthcoming because the French were obviously awaiting an indication of the British Government's views and that in turn [the British?] did not wish to move without prior consultation with us. He again urged most strongly the desirability of immediate action.

This I pass on to you for what it may be worth."

While the first part of this message was being sent Phillips telephoned to say that he had just had "reliable advices from a private source in Paris" to the effect that there were two parties within the French Government as regards the alternatives 2 and 3 referred to above and that inasmuch as alternative 2 would require the calling of the French Parliament the advocates of this course would doubtless be defeated and might well have to be dropped from the Government. His informant also had warned him that Daladier had a way of signing papers which he had not himself prepared and to the contents of which he had not necessarily given careful consideration.

Will you please advise me tomorrow when I may expect our official reply. [Butterworth.]

JOHNSON

841.5151/954 : Telegram

*The Chargé in the United Kingdom (Johnson) to the
Secretary of State*

LONDON, August 17, 1938—11 p. m.
[Received August 17—5:30 p. m.]

788. For Assistant Secretary of the Treasury Taylor from Butterworth. Phillips has just telephoned me to say that he gave the British answer, along the lines indicated in my 784, August 17, 7 p. m. to Monick earlier this evening. Monick was very disgruntled about its substance and said that the British were driving them to a course of action that the British themselves did not like. Phillips said that he frankly replied that that was bunk.

Phillips also stated that he gathered that the French would probably appeal to us and that Monick had gone so far as to ask what would be the British Government's attitude if the French could persuade the United States to make a statement without British assent. Phillips replied that he would be glad to have a look at any such statement and he felt sure that the United States would afford the British Government an opportunity to do so before any such possible statement was made public. I venture to say that such a course of

action as Monick suggested seemed most unlikely and I felt equally sure that Phillips was right in his assumption.

The Secretary of the Treasury telephoned me tonight and asked about the position. I supplied him with the kind of summary that can be given over the transcontinental telephone. He said that Cochran would meet him in Basel on Friday morning and he requested that I attempt to get there also; and it was arranged that I would go if it were practicable, and that in any case Cochran would carry with him all available documents.

I believe a plane leaves tomorrow shortly before 1 p. m. May I hear from you before then? [Butterworth.]

JOHNSON

851.5151/1937: Telegram

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

PARIS, August 18, 1938—7 p. m.

[Received August 18—3:48 p. m.]

1303. In the course of a conversation today I asked Bonnet to explain to me the meaning of Daladier's statement of this morning, reported in my No. 1299 of August 18, 6 p. m.,⁴¹ in the course of which Daladier said that the Government was resolutely hostile both to exchange control and to a new devaluation of the franc. Bonnet said that this statement meant that neither measure would be adopted. When I asked what other alternative there was at a time when gold was leaving the equalization fund with such rapidity Bonnet replied that Daladier in the speech which he will make at the end of this week will suggest certain modifications in the application of the 40-hour law which he hopes will produce an increased confidence in the financial situation.

Bonnet added that no other measures were being contemplated and at some length described the reasons why the Government considers exchange control out of the question. I asked him how long he felt the equalization fund would last and he said that it still contained 13½ billion francs. I suggested that the figure was not quite so high as this; but he replied that he had had this figure officially from the Treasury this morning.

I asked Bonnet why the idea of a declaration of the French, British and American Governments denying the rumors of a joint devaluation of the franc, pound and dollar had been dropped. He replied that the British Government had refused to make any declaration of this sort. To the arguments of the French Government, the British Government had answered that any such declaration by the British Govern-

⁴¹ Not printed.

ment at the present time would create anxiety in England and tend to cause further demands for gold. The French Government had not approached the American Government further with regard to this matter merely because of the British refusal to cooperate.

I suggested to Bonnet that a different interpretation was being put on Daladier's words. It was being said that his statement with regard to the hostility of the Government both to exchange control and devaluation of the franc meant that he himself would not remain Prime Minister if a continued flight from the franc should drain the equalization fund but would resign and leave the ultimate decision to some one else. Bonnet asserted emphatically that there was no justification for this interpretation. Daladier had not the slightest thought of resigning.

Please repeat to Treasury.

BULLITT

841.5151/957 : Telegram

The Chargé in the United Kingdom (Johnson) to the Secretary of State

[Extract]

LONDON, August 20, 1938—noon.

[Received August 20—9:45 a. m.]

800. Taylor from Butterworth. I returned from Basle 8 o'clock last night.

I met with Phillips and Rowe-Dutton—British Financial Attaché at Paris, who has been recalled from his vacation and returns to his post today.

Under instructions from the Secretary of the Treasury I explained to Phillips that in view of Daladier's public announcement and Bonnet's statements to Ambassador Bullitt on August 18 there appeared to be no decision for the American Government to make at this time, to which he agreed.

[Butterworth]

JOHNSON

[On November 12, 1939, the French Ministry for Finance decreed a revaluation of the gold content of the franc, and fixed the ratio at 170 to the pound sterling.]

851.5151/2018 : Telegram

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

[Extract]

PARIS, November 14, 1938—6 p. m.

[Received November 14—5:32 p. m.]

1915. From Cochran. *Financial Times*, London, today quoted Reynaud ⁴² as saying the following to foreign press representatives:

"The Tripartite Agreement has never been so closely respected in letter and in spirit as it is by our present policy, which is a policy of freedom of trade and freedom of the exchanges. Any expansion of the Tripartite Agreement in the spirit in which it was drawn up and everything that will bring the three great democracies closer together will be warmly welcomed by us."

He was reported further to have said in answer to a question that in the event of any change in relation to the dollar the franc would "remain faithful to the pound."

.

[Cochran]

WILSON

**EFFORTS BY THE FRENCH GOVERNMENT TO PURCHASE AIRPLANES
AND AIRPLANE PARTS IN THE UNITED STATES**

851.248/49

*Memorandum of Conversation, by the Chief of the Office of Arms and
Munitions Control (Green)*

[WASHINGTON,] January 18, 1938.

Baron Amaury de La Grange, a member of the French Senate and of the Commission des Finances and of the Commission de l'Air of that body, called on Mr. Norman Davis by appointment this afternoon. This appointment was made at the suggestion of the President with whom the Baron had recently discussed his mission in the United States. I was present during the conversation in Mr. Davis's office in which the Baron explained briefly that he had come to this country for the purpose of purchasing bombing planes, attack planes, and pursuit planes, airplane engines, airplane parts, patent rights for the construction of airplanes and airplane engines, and machine tools for the construction of airplanes and airplane engines. At Mr. Davis's

⁴² Paul Reynaud, appointed French Minister of Finance on November 1, 1938.

suggestion, the Baron accompanied me to my office where he explained his mission at great length and in considerable detail.

He said that he had recently prepared a report for the Commission des Finances of the French Senate in which he had demonstrated that by the end of 1938 Germany would have at least 4,000 high speed military airplanes of the most modern types, whereas France at that time would have not more than 300 such planes. Furthermore, German industry was geared to produce modern high speed fighting planes in tremendous quantities, whereas it would require two years or more for French industry to produce such planes in comparable quantities. Moreover, in case of war, Germany could spare a large proportion of its man-power for work in factories, whereas France would require a much larger proportion of its man-power in the fighting forces. He explained that on the basis of this report, he had been commissioned by the Air Minister to visit the United States with a view to purchasing perhaps as many as 1,000 planes of types now in use in the American Army to be delivered as rapidly as possible, additional planes built according to French plans and specifications to be delivered later, modern high speed engines to replace worn engines now installed in French military planes, patent rights to various types of planes and engines so that French industry could begin to construct them in the near future, and large quantities of all the necessary machine tools for the construction of these planes and engines. He explained that in general what he had in mind was attempting to "harness American industry to the French war machine". He said that he realized that the Neutrality Act⁴³ to which the President had invited his particular attention would, if proclaimed to be in effect in respect to a war in which France was involved, prevent American industry from continuing to supply the French Army with the planes and engines which he hoped France could purchase in vast quantities in this country in case of war, but he said that he thought it probable that even in case an embargo were proclaimed the friendship of this Government for France would be sufficient to induce us to permit surreptitious indirect shipments via Canada.

I told the Baron something of the history of the recent Neutrality Act and of the weight of public opinion in support of it and stated emphatically that as long as that Act remained on the statute books unmodified, his Government must face the fact that in case of a war in which France was involved, the exportation of arms, ammunition, and implements of war from this country to France would be pro-

⁴³ Joint Resolution of August 31, 1935; 49 Stat. 1081. Amended May 1, 1937; 50 Stat. 121.

hibited, and that this Government would not connive at any violations of the embargo.

The Baron said that even in view of what I had just told him, he felt that his Government was justified in the present emergency in making a series of long-time contracts with American manufacturers in the hope that when France and England were attacked by Germany—as he expected they would be before 1940—the Neutrality Act would be repealed and American manufacturers would be permitted to supply the great democracies with arms.

I explained briefly the pertinent provisions of the Espionage Act of June 15, 1917,⁴⁴ and of the present policy in regard to the release of arms for export. The Baron seemed to be more or less familiar with the provisions of the law in question. He said that he felt sure that his Government could find planes and engines to suit its immediate purposes among the types already released.

I suggested to the Baron that the Military Attaché⁴⁵ of the French Embassy could probably supply him with detailed information in regard to the types of planes and engines which had already been released, and in regard to the dates at which the release of other types might be expected.

The Baron said that his mission was very confidential and that he did not intend to explain its purpose to the French Embassy in Washington. His statement that he felt that he might have confidence in Colonel Champsaur⁴⁶ and other remarks which he made, in regard to other members of the Embassy staff, indicated clearly that he had little confidence in anyone at the Embassy except Colonel Champsaur, and that he did not wish the others to know anything of his mission. He said that he did not intend to explain fully why he was in the United States to anyone but the President, Mr. Norman Davis, and me.

I asked the Baron whether he had as yet begun negotiations with any American manufacturer. He replied that he had spent most of yesterday afternoon with Mr. Martin and Mr. Hartson of the Glenn L. Martin Company from which he hoped to purchase a large number of bombing planes, and that he had made an appointment to see Mr. Guy Vaughan, President of the Curtiss Wright Export Corporation, next week. He said that he doubted whether he would wish to deal with any other companies. In speaking of manufacturers of American planes and engines, he showed great familiarity, not only with the planes and engines manufactured in this country, but also with

⁴⁴ 40 Stat. 217, 223.

⁴⁵ Lt. Col. Emmanuel Lombard.

⁴⁶ Col. Norbert Champsaur, French Air Attaché in the United States.

the personalities of the important manufacturers. He said that he knew most of these men well. He added that he already had an agent visiting Cleveland, Dayton, and other cities making arrangements to purchase machine tools and that he expected to encounter no difficulties in that field.

As the Baron did not ask me to do anything for him, I came to the conclusion that the purpose of his call was merely to inform the Department of the purpose of his mission.

JOSEPH C. GREEN

851.248/49

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

WASHINGTON, January 21, 1938.

MY DEAR MR. AMBASSADOR: I enclose for your information, a copy of a memorandum⁴⁷ of a highly confidential conversation which Mr. Green had on January 18 with Baron de La Grange, in regard to a proposal of the French Government to purchase arms in large quantity in this country. The Baron spent the weekend at the White House and he described his mission to the President who suggested that he see Mr. Davis. I don't know how much significance we should attach to this project. We would be interested in any information which you may have or may be able to obtain in regard to it.

With best wishes [etc.]

CORDELL HULL

851.248/43 : Telegram

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

PARIS, January 24, 1938—1 p. m.

[Received January 24—11:15 a. m.]

124. Delbos⁴⁸ said to me this morning that the French Government had just concluded a careful examination of the situation of French military aviation. The stories of the inferiority of French aviation which were being circulated industriously throughout Central and Eastern Europe to the detriment of French prestige were exaggerated. Nevertheless the conclusion had been reached that the system of the army of building prototypes for future production but having small present production was one which was most dangerous. At the present moment the German and Italian aviation forces were

⁴⁷ *Supra.*

⁴⁸ Yvon Delbos, French Minister for Foreign Affairs.

so much more powerful than the French that they could do immense damage before France could have time to manufacture a great number of planes.

The conclusion had been reached therefore that it was essential for the French Government to purchase military planes. It had been decided that these planes should be purchased if possible in the United States. Chautemps⁴⁰ had thought of the following method of procedure: that the French Government should place orders now in the United States for a considerable quantity of planes for delivery as soon as possible and should place also at the present time much larger orders for delivery in case of war.

I said at once that I felt that deliveries of American planes in case of war would be forbidden by the provisions of the Neutrality Act. Delbos argued that the French had been able to continue to send war supplies to China by stating to the Japanese that all these supplies had been ordered before the outbreak of hostilities. He suggested that the same argument might be made by the United States. I said that I did not believe such a position could be taken by the United States.

There was also a brief reference to the possibility of obtaining the latest models of American planes. I said that I was under the impression that it was the policy of our Government not to permit any company making planes for the Government to deliver the latest models to any foreign government for a minimum period of 2 or 3 years.

After some further discussion I asked Delbos if I should regard his statements to me as a formal request to be transmitted officially to my Government. He said that he had discussed the matter at length with Chautemps and knew that Chautemps had intended to speak to me about it. He would see Chautemps at luncheon today and define the Government's position exactly.

Delbos then invited me to dine with him alone this evening and said he would go into the matter further at that time.

The question of whether or not we should permit delivery of planes after the proclamation that a state of war exists in case such planes should have been ordered before the outbreak of war, is one which has doubtless been studied by the Department. I do not feel that it is necessary for me to be in a position to give any reply to Delbos this evening. I will report further with regard to this matter after talking with Delbos.

BULLITT

⁴⁰ Camille Chautemps, President of the French Council of Ministers.

851.248/44: Telegram

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

PARIS, January 25, 1938—2 p. m.
[Received January 25—11:10 a. m.]

134. Reference my No. 124, January 24, 1 p. m. Delbos said to me last night that he had talked again with Chautemps about the possibility of buying planes from the United States and said that Chautemps' idea was that it might be possible to place a definite order now for the delivery of a certain number of planes per month to be increased to a much greater number in case of war.

I said to Delbos that I had had no instructions from my Government since our conversation yesterday morning; but that personally I felt certain that after proclamation by the President that a state of war existed remainder of the delivery of planes contracted for under such an arrangement as he had suggested would be forbidden.

Delbos expressed his disappointment and went on to say that if my views were those of my Government it would be necessary to devise a different method for arranging for the purchase of planes in the United States. The important thing would be to get them even after the outbreak of war.

I believe that in the face of my expression of opinion, the French Government will not now approach us formally with the proposal recounted above so that no formal refusal will be necessary.

I should be glad if you would inform me whether or not my statement was in accord with your views.

There was a hint in further conversation that the suggestion might be made that planes might be bought through some neutral country, perhaps through Canada, in case Canada should remain neutral in the event of European war.

BULLITT

851.248/44: Telegram

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

WASHINGTON, January 27, 1938—8 p. m.

46. Your No. 124, January 24, 1 p. m., and No. 134, January 25, 2 p. m. The questions raised by Delbos were fully canvassed in a recent conversation between Green and Senator de La Grange. A memorandum of this conversation⁵⁰ is being transmitted to you in the pouch leaving Washington January 26. From this conversation, it would appear that the French Government with full knowledge of the implications of the Neutrality Act is already negotiating with Amer-

⁵⁰ Memorandum of January 18, 1938, by the Chief of the Office of Arms and Munitions Control, p. 297.

ican manufacturers with a view to making such contracts as those suggested by Delbos in his conversations with you.

The sale for exportation of planes of the very latest models is prohibited in the interests of the National Defense under the provisions of the Espionage Act. Nevertheless, the French could obtain from American manufacturers planes of models almost as recent as those of which the exportation is temporarily prohibited, and some of these models which could be purchased at this time are of the particularly high speed types which, according to de La Grange, the French are particularly anxious to obtain. New types of planes purchased by the Army or the Navy are considered military secrets and hence not available for export for a period of 1 year after the second plane of such types is delivered to this Government. Thereafter they may be sold for export provided that such sales do not interfere with production under contracts with the Army or Navy. The Army and Navy are reluctant to permit sales interfering with deliveries to them, but they have on occasion granted permission for such sales when such action seemed to be in the interest of the National Defense.

You were correct in your statement in regard to the provisions of the Neutrality Act. The French Government should understand that as long as that Act remains on the statute book in its present form, the outbreak of armed conflict among European powers would almost inevitably require the President to issue a proclamation under Section 1. Were such a proclamation issued, any exportation of arms, direct or indirect, to any of the belligerents would be prohibited. Therefore, such indirect shipment through Canada as Delbos suggested would be impossible. Furthermore, the Act not only makes no exception in regard to contracts already entered into, but even provides for the immediate revocation of licenses already issued if shipment has not taken place at the time of the issuance of a proclamation.

You will find the texts of the laws pertinent to these questions in the pamphlet *International Traffic in Arms*.⁵¹ See particularly paragraphs (d), (f), and (g) on page 2, Categories III and V on page 5, Part 5 on page 20 [21] and Section 1 on page 25.

HULL

851.248/53 : Telegram

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

PARIS, February 23, 1938—noon.

[Received February 23—9:25 a. m.]

287. For the President. Senator de La Grange called on me this morning and requested me to send you a personal and ultra confidential communication from him as follows:

⁵¹ Department of State, *International Traffic in Arms*. . . 5th ed. (Washington, Government Printing Office, 1938.)

As an outgrowth of his conversations with you and his investigations in the United States the French Minister of Air ⁵² has decided to place an order with Curtiss Wright for P-36s and also to purchase the license for the manufacture of P-36s in France. Goulding, representative of the Curtiss Wright, who is now in Paris, is prepared to close the deal. The French Minister of Air in order to protect himself from possible future criticism insists, however, that the well known French aviator should be permitted to fly one of these planes before the French Government places its order.

De La Grange asserted that there were only three P-36s in flying condition; that they were at Dayton, Ohio, and were the property of the Air Corps.

De La Grange said that you had asked him to handle questions connected with this matter through you and therefore asked me to communicate with you personally and urgently to ask if Detroyat, one of the most famous French fliers, would be permitted in entire privacy to fly one of these planes if he should sail for the United States on the *Washington* tomorrow evening.

De La Grange expressed the hope that you might find it possible to answer today so that Detroyat could catch the boat tomorrow evening in case your answer should be favorable.

I shall be at the Edge residence, Passy-8615 or 7457 from 11 o'clock a. m. Washington time for the rest of the day in case you should prefer to say yes or no over the telephone.

Incidentally, I reminded de La Grange that in case of war in Europe involving France you would be obliged to declare that a state of war existed and the export of planes, even those ordered now, would be forbidden by the Neutrality Act. I also informed him that I had made a similar official statement to Delbos on the basis of a communication from the Secretary of State. He said that he understood entirely our point of view with regard to this matter.

BULLITT

851.248/55

Baron Amaury de La Grange to the Chief of the Office of Arms and Munitions Control (Green)

PARIS, March 16, 1938.

[Received April 2.]

DEAR MR. GREEN: Since my return to France, I have been pursuing the plan which I told you of in the conversation I had the pleasure of having with you in Washington.

⁵² Guy La Chambre.

I have studied the document which you gave me, and I wonder if I understood correctly what you explained to me.

On page 2, section "g", it is said:

"Whenever the President . . . shall cease to grant authority to export arms, etc. . . ."

Does this mean that no agent for the French Government could, under those circumstances, buy war material in the United States, take delivery on American territory, and export such war material on foreign ships?

Or, does this provision merely prohibit export of war material, by American citizens on American ships?

I would be so grateful to you if you would be kind enough to give me your opinion on this subject.

Believe me [etc.]

A. DE LA GRANGE
Sénateur

851.248/55

*The Chief of the Office of Arms and Munitions Control (Green) to
Baron Amaury de La Grange*

WASHINGTON, April 13, 1938.

MY DEAR BARON: I acknowledge the receipt of your letter of March 16, 1938, in regard to the interpretation of Section 5, paragraph *g*, of the Neutrality Act of May 1, 1937.

This provision merely reenforces the prohibition on the export of arms, ammunition, and implements of war provided by Section 1 of the Neutrality Act in cases where the President has issued a proclamation finding that a state of war exists. The issuance of such a proclamation under Section 1 of the Act would immediately prohibit all exports of the arms, ammunition, and implements of war listed in the proclamation to the belligerent countries named therein regardless of whether the exports were to be made by American citizens or citizens of foreign countries, and regardless of whether they were to be exported on American ships or on foreign ships. The prohibition on the export of the arms listed in the proclamation to the belligerent countries would therefore be absolute, and, under the provisions of paragraph (*g*) of Section 5 of the Act, which you quote, any licenses which had been issued before the proclamation authorizing such exportations would be automatically revoked as soon as the proclamation was issued.

The distinction between American ships and foreign ships to which you refer is drawn by Section 2 of the Act, which provides that the President may, after he has issued a proclamation under Section 1,

issue an additional proclamation prohibiting American ships from carrying to belligerent states certain articles which he shall name, in addition to the arms, ammunition, and implements of war listed in his proclamation issued under Section 1. Foreign vessels might continue to carry to belligerents the additional articles listed in the proclamation issued under Section 2 of the Act, but they could not, of course, carry arms, ammunition, and implements of war, the export of which would be prohibited under all circumstances. In other words, the so-called "cash and carry" provisions of the Neutrality Act apply to articles other than arms, ammunition, and implements of war, the export of arms, ammunition, and implements of war to belligerents being totally prohibited as soon as the President issues a proclamation finding that a state of war exists.

I trust that you will find that this explanation answers your question fully. For convenient reference, I enclose a copy of the Neutrality Act and a copy of the latest edition of the pamphlet *International Traffic in Arms*.

I am interested to note that you are pursuing the plan of which you told me in our conversation when you were in Washington. Please do not hesitate to communicate with me again should you desire any further clarification of the existing laws and regulations relating to these matters.

Sincerely yours,

JOSEPH C. GREEN

851.248/68 : Telegram

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

PARIS, May 17, 1938—2 p. m.

[Received May 17—8:35 a. m.]

778. Before I left Washington Mr. Joseph Green showed me a reply prepared by his Division to a request from the French Government for a definition of our policy with regard to the delivery of airplanes to France in case of war between France and Germany. I should be greatly obliged if a copy of this reply could be forwarded to me by pouch immediately.

I was astonished a few days ago to find that the Minister of Air La Chambre had been left with the impression by Baron de La Grange that deliveries of American planes to France would be continued even though France and Germany might be at war. I did my utmost to convince the Minister that he should not count on receiving a single American plane after a declaration of war; but feel that I should reinforce my verbal statements by handing him a written communication giving the point of view of our Government on this subject.

BULLITT

851.248/67 : Telegram

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

PARIS, May 17, 1938—2 p. m.
[Received May 17—12:35 p. m.]

779. The following communiqué was published yesterday by the Ministry of Air:

"The Minister of Air declares: the Supreme Air Board recently approved a plan for the modernization and enlargement of the Air Force.

The Minister having taken cognizance of the plan immediately invited French builders to bid for its realization. Their engagements relating to the first portion of the program and for the supply of certain equipment being materially inferior to the most urgent needs, as ascertained by military authorities, the Minister decided to make good the difference by ordering 100 airplanes from American manufacturers the operation of which is equivalent to that of our best planes recently ordered.

If, as is to be anticipated, the engagements taken by French industry for the second portion are fulfilled it will not be necessary in the future to place similar orders, and the present transaction will not include other supplies than those now ordered."

I had some days ago an exhaustive conversation with the Minister of Air on this subject and it is my impression that for the moment at least the French will place no further orders in the United States. Incidentally Glenn Martin, who is about to leave Paris, is convinced that there is no market here for bombing planes.

BULLITT

851.248/67 : Telegram

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

WASHINGTON, May 18, 1938—9 p. m.

296. Your No. 779, May 17, 2 p.m. Lamont⁵³ of J. P. Morgan called me by telephone on May 17 and informed me that the French Government had asked his company to act as fiscal agent in connection with the purchase of planes in the United States. He said that the company had accepted on the understanding that cash would be deposited in Paris, if not in this country, that no credit would be involved, and that the company would strictly adhere to the letter and spirit of all provisions of the Neutrality Act.

HULL

⁵³ Thomas W. Lamont.

851.248/66 : Telegram

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

WASHINGTON, May 18, 1938—10 p. m.

297. Your No. 778, May 17, 2 p.m. Instruction No. 784 of April 13⁵⁴ transmitted a copy of the reply to Baron de La Grange.⁵⁵ See also the memorandum⁵⁶ transmitted with my letter of January 21.

The pertinent provisions of the Neutrality Act have been so fully explained to the Baron, both orally and in writing, that there is no excuse for any misunderstanding on his part in regard to the possibility of the delivery of airplanes to France in case that country should become involved in a European war. I hope that you can clear up any false impression which may persist in the mind of the Air Minister.

HULL

851.248/73

Memorandum of Conversation, by the Chief of the Office of Arms and Munitions Control (Green)

[WASHINGTON,] May 31, 1938.

I called Mr. Guy Vaughan, President of the Curtiss-Wright Corporation, by telephone this afternoon and asked him whether the pending contract between his company and the French Government, which had been the subject of several recent conversations, had actually been closed.

Mr. Vaughan replied in the affirmative stating that the French had contracted to purchase one hundred pursuit planes of the type P-36, delivery to be begun in November 1938 and to be completed in April 1939. He added that the French had apparently abandoned their original intentions to purchase a much larger number of planes, a large quantity of parts for assembly in France, and manufacturing licenses and design data to enable them to construct Curtiss planes in France. He said that he still hoped, however, to close a contract for a number of airplane engines.

Mr. Vaughan said that the contract was satisfactory to his company except in one respect. He had wished to insert a clause which would require the French Government to pay for any planes constructed pursuant to the contract even if a proclamation under the

⁵⁴ Not printed.⁵⁵ April 13, p. 305.⁵⁶ January 18, p. 297.

Neutrality Act should supervene to prevent their exportation. The French, however, had refused to agree to the insertion of such a provision.

JOSEPH C. GREEN

851.248/75

The French Ambassador (Saint-Quentin) to the Secretary of State

[Translation]

WASHINGTON, June 4, 1938.

MR. SECRETARY OF STATE: I have the honor to inform Your Excellency that, on May 16 last, the French Government decided to order from the Curtiss-Wright Company one hundred planes of the type Hawk, 75a (a type similar to the type P-36 of the American army). The manufacturers had already definitely assured the French Government that the American regulations would permit the exportation of these planes.

The French air corps intends by this means not only to satisfy its needs in respect to pursuit planes, but also to instruct its technicians in American methods of production which are stated to be the best.

Consequently, the contract will provide permission for missions of French engineers and technicians to be present in the Curtiss factories for long periods. These missions will serve a double purpose—first, the supervision of the production of the planes manufactured for the French Government and, second, the instruction of personnel in the means and methods of production appropriate to these planes.

A first mission, probably composed of Captain Amouroux, Engineer Cambois, and Monsieur Détroyat, will arrive in the United States about the middle of June. Its principal purpose will be to undertake trial flights in planes of the type which the French Government has ordered, either with the permission of the War Department at Wright Field in planes of the type P-36, or at the Curtiss factory at Buffalo in planes of the type Hawk 75. Also, it will visit certain airplane factories.

The second mission, which will probably be composed of Engineer-in-Chief Volpert, Major Badart, Engineer Maillet and two representatives of the Sociétés Nationales, will arrive about the end of June. It is charged with studying, by means of visits to factories, the conditions of production in American industry. Two of its members will be charged, in addition, if authorized by the Departments of War and of the Navy, to spend several weeks in the factories of Curtiss-Wright and Pratt-Whitney, manufacturers of the planes and engines which the French Government has ordered.

I would be grateful to Your Excellency if you would inform me whether the interested Departments have any objection in principle to the plans of these missions, especially in regard to prolonged visits to the factories, dealing with the orders placed by the French Government. Furthermore, I should appreciate it if I might be informed whether the first mission could be authorized to make trial flights in American army planes of the type P-36.

The necessary authorizations for the visits in question will be requested each time in advance by the Air Attaché of the French Embassy, who will furnish all necessary information in regard to the program and dates of these visits.

Accept [etc.]

R. DE SAINT-QUENTIN

851.248/75

Memorandum of Conversation, by the Chief of the Office of Arms and Munitions Control (Green)

[WASHINGTON,] June 6, 1938.

The French Ambassador telephoned Saturday morning asking for an appointment to see Mr. Moffat⁵⁷ and me. He called at Mr. Moffat's office late in the morning. After some preliminary remarks in regard to the intention of his Government to purchase planes in the United States and particularly in regard to the first contract for 100 planes which was recently closed with the Curtiss-Wright Corporation, he handed us a note dated June 4,⁵⁸ of which the original and a translation prepared in CA⁵⁹ are attached hereto.

I read the note aloud.

The Ambassador was informed that this Government had no objection in principle to the plans of the two French air missions outlined in the note; that the War and Navy Departments would be consulted in regard to possible arrangements; and that the Department would communicate with him as soon as the replies of those Departments had been received. He was told that, in all probability, satisfactory arrangements could be made to permit the trial flights referred to in the fourth paragraph of his note, but that, in view of the regulations relating to the safeguarding of military secrets now in effect, some difficulty might arise in making satisfactory arrangements for the prolonged presence of French officers in the Curtiss-Wright and Pratt-Whitney plants.

JOSEPH C. GREEN

⁵⁷ Jay Pierrepont Moffat, Chief of the Division of European Affairs.

⁵⁸ *Supra.*

⁵⁹ Office of Arms and Munitions Control.

851.248/80

*Memorandum of Conversation, by the Adviser on International
Economic Affairs (Feis)*

[WASHINGTON,] June 20, 1938.

Mr. Lamont telephoned me from New York this morning to ascertain whether we had any comment to make on the proposed arrangement for financing the sale of airplane engines to France.

I asked him the question raised in Mr. Hackworth's memorandum⁶⁰ as to whether the account which Morgans would have would be in the control of the Bank of France until used for payment, and he said presumably "yes", though there would be an agreement to maintain it at the amount required to meet the obligation in dollars, and the promise of unrestricted transfer.

I then proceeded to summarize my understanding of the arrangement, to wit:

(1) That the franc deposit would be made immediately, that the French Government would pledge itself to maintain on deposit whatever amount of francs was required to meet the dollar obligation, but that there would be a promise of unrestricted right of transfer in time of peace or war, and that the promises of the French Government would be supplemented by similar promises from the Bank of France.

(2) Further, that payment would be made to J. P. Morgan and Company out of this account in dollars immediately upon delivery of the airplane engines.

Mr. Lamont confirmed all of this, and having done so, I stated that we had no comment to make. Mr. Lamont replied that he took this remark of mine in connection with the one I had made Saturday to the effect that if the Department saw any obvious evidence of violation of the Johnson Act⁶¹ it would so indicate to him.

I told him again that the Department did not undertake the responsibility of acting as interpreter of the Johnson Act. That duty remained with the Department of Justice. I said, however, that if as at various times a prospective transaction seemed obviously to be contrary to the Act the Department so indicated.

Mr. Lamont stated that he wished to assure me he had every wish to lean over backward in this matter, and his counsel assured him there was no question of the Johnson Act.

He said that he would send to the Department a copy of the memorandum setting forth the detailed terms of the transaction.

H[ERBERT] F[EIS]

⁶⁰ Not found in Department files.

⁶¹ Approved April 13, 1934; 48 Stat. 574. For correspondence, see *Foreign Relations*, 1934, vol. 1, pp. 525 ff.

851.248/87: Telegram

*The Ambassador in France (Bullitt) to the Secretary of State*⁶²

PARIS, July 14, 1938—10 a. m.

[Received July 14—8:50 a. m.]

1108. Personal for the Secretary. Bernard M. Baruch who is now in Vichy has asked me to request you to forward to Assistant Secretary of War, Johnson, a paraphrase of a message in the following sense:

"I consider need for air defense so great that I think we should let English and French know our defense mechanism against planes. Should you desire I will personally ask this of the President. Heartiest thanks for your personal telegram. Please talk with Kindel Tripoli as soon as he arrives."

BULLITT

851.248/101

The French Ambassador (Saint-Quentin) to the Secretary of State

[Translation]

WASHINGTON, September 13, 1938.

MR. SECRETARY OF STATE: I have the honor to advise Your Excellency that the French Ministry of the Navy proposes to send to the United States a mission composed of Capitaine de Vaisseau Lartigue, Lieutenant de Vaisseau pilote Lapebie, and the Ingénieur Aéronautique Wetzel.

This mission, which is due to arrive at New York on the 21st of September, is charged with the duty of seeking in this country airplanes for the French Navy, particularly machines for airplane carriers. It expects to visit, for this purpose, the Grumman, Brewster, Chance Vought, Northrop, Curtiss, Glenn Martin, Boeing and Consolidated establishments. The mission would like to examine the machines, the exportation of which at present is permitted by the American regulations.

But it would deeply appreciate facilities which might be given to it to see the machines, the sale of which abroad, appears to be sus-

⁶² Notation on the original by Cecil Wayne Gray, Assistant to the Secretary of State, reads as follows: "July 14, 1938: 2:30 p. m. I communicated the above to Miss Buckingham, Secretary to Mr. Johnson, by handing her the original of the paraphrase attached. Mr. Johnson is out of town and she said she would handle with utmost caution and secrecy. I also explained that the Dept. was not sending this cable to the President unless Mr. Johnson asked us to do so. CWGray."

Notation on the original by the Adviser on International Economic Affairs (Feis) reads as follows: "Miss Buckingham telephoned Mr. Gray at 3:30 July 14, and told him this message had been communicated to Mr. Johnson who requested copy be not sent to the President. H. E. F."

ceptible of being authorized in the early future, namely, the Grumman F3F-2 and the Northrop BT-1.

I would be grateful to Your Excellency if you would be so good as to let me know whether the Departments concerned have no objection to the principle of this mission, and also whether Lieutenant de Vaisseau Lapebie could be authorized to make flights on the grounds of the constructors, with certain machines, namely: Chance Vought SB2U, Grumman F3F, Northrop BT-1, and possibly Curtiss SBC, Brewster. The necessary authorizations for the visits will be requested, each time, in advance, by the Naval Attaché of this Embassy, who will furnish the necessary information regarding the program and the dates of those visits.

Please accept [etc.]

R. DE SAINT-QUENTIN

851.248/121

Memorandum by the Chief of the Office of Arms and Munitions Control (Green)

[WASHINGTON,] October 8, 1938.

During the few days following September 27, on which date the Secretary addressed a letter to the President⁶³ recommending that he consider the advisability of asking the Navy Department to make arrangements to permit the trial flights requested by the French Ambassador in his note of September 13, I had two telephone conversations with Admiral Cook, Chief of the Bureau of Aeronautics, asking whether any decision had been made by the Navy Department in regard to this matter. He told me that Admiral Leahy⁶⁴ was awaiting definite instructions from the White House before proceeding further with the question of trial flights, but that he thought that informal arrangements satisfactory to the French naval air mission would probably be made and that he would let me know as soon as the matter had been decided. Not having heard further from Admiral Cook, I called his office by telephone this morning and was informed that he had left Washington on a long tour of inspection. Therefore I called Admiral Leahy by telephone.

I told Admiral Leahy that I had delayed preparing a definite reply to the French Ambassador's note of September 13, hoping to hear further from the Navy Department in regard to the matter, and asked whether he could give me any information which the Department could pass on to the Ambassador.

The Admiral said that arrangements entirely satisfactory to the French naval air mission had been made, and he gave me some details

⁶³ Not printed.

⁶⁴ Chief of Naval Operations.

in regard to what had been done. He requested, however, that in any written communication to the Ambassador the matter be dealt with in vague and general terms in order that the extent of the exceptional treatment accorded to the French air mission might not be made a matter of record in correspondence with a foreign government.

JOSEPH C. GREEN

851.248/121

The Secretary of State to the French Ambassador (Saint-Quentin)

WASHINGTON, October 11, 1938.

EXCELLENCY: I have the honor to refer to my note of September 17, 1938,⁶⁵ and previous correspondence, in regard to the proposed visit to the United States of a naval air mission charged with investigating the possibility of purchasing airplanes in this country for the French Navy.

It is my understanding that the appropriate authorities of this Government have complied with the requests contained in your note of September 13, in so far as compliance therewith was compatible with the interests of the national defense, and that the arrangements made were satisfactory to the French naval air mission.

Accept [etc.]

For the Secretary of State:
R. WALTON MOORE

STATUS UNDER FRENCH LAW OF AMERICAN CITIZENS OF FRENCH ORIGIN WITH RESPECT TO LIABILITY TO MILITARY SERVICE IN FRANCE⁶⁶

351.117/470

The First Secretary of Embassy and Consul at Paris (Murphy) to the Secretary of State

[Extracts]

No. 1436

PARIS, January 4, 1938.
[Received January 12.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction dated August 18, 1937,⁶⁷ referring to the Embassy's despatches Nos. 166 of December 2, 1936, 243 of December 30, 1936,⁶⁸

⁶⁵ Not printed.

⁶⁶ Continued from *Foreign Relations*, 1937, vol. II, pp. 311-318.

⁶⁷ *Ibid.*, p. 314.

⁶⁸ *Ibid.*, 1936, vol. II, pp. 134 and 137.

345 of February 10, 1937, and 422 of March 6, 1937,⁶⁹ which set forth the results of its efforts to clarify certain provisions of the French nationality law and contained new information as to the French military service requirements. The Department enclosed with its instruction a copy of the proposed new Paragraph 48 of the *Notice to Bearers of Passports*, which it revised after the receipt of the above-mentioned despatches of February 10, 1937 and March 6, 1937, and requested that the Embassy examine it and furnish an opinion as to its accuracy.

Following the receipt of the Department's instruction a copy of the revised paragraph 48 was sent to the Foreign Office for examination and comment. The Foreign Office's reply dated October 26, 1937, is enclosed in copy and translation. The Embassy has studied this reply in the light of the information upon the subject previously obtained from the Foreign Office, and several visits have subsequently been made to the Foreign Office in an endeavor to clarify certain of its statements.

It will be observed that after studying the Department's conclusions, the Foreign Office finds that although the principal points of the French regulations concerning the subjects discussed are correctly presented, there are certain details that are inaccurate, and that rather than take up each detail separately the Foreign Office has found it preferable to review the whole subject.

The Department will further observe that with respect to the loss of French nationality through the possession of a foreign nationality, French legislation recognizes two different standards, one defined by the law of August 10, 1927, and the other defined by the old Article 19 of the Civil Code, and that the latter, although repealed, is still applied in examining the validity of a foreign nationality acquired before August 10, 1927. This fact evidently has not been clearly brought to the Department's attention in the Embassy's previous despatches and therefore apparently was not taken account of in the Department's reckoning.

The Department's attention is particularly called to the Foreign Office's statement that for an individual subject to the old law, no account is taken of the ten-year period envisaged in the Law of 1927, and that for an individual subject to the latter law, there is no question of the integral performance of active military obligations to France. After a careful study of these differences and of the data heretofore collected, the Embassy desires to make the following comments upon the conclusions set forth in the Department's revised Paragraph 48 of its *Notice to Bearers of Passports*.

⁶⁹ *Foreign Relations*, 1937, vol. II, pp. 311 and 313.

A. RECOGNITION BY THE FRENCH GOVERNMENT OF THE
NATURALIZATION ABROAD OF A FRENCHMAN

In its note of October 26, 1937, the Foreign Office agrees in substance with the statements made in its previous notes in respect to the conclusions reached by the Department in its first paragraph. It has stated on page four⁷⁰ that "the foreign nationality acquired without authorization before the expiration of the ten-year period (Law of 1927), or acquired by a man in an irregular military status (old law), remains irregular, even when the ten-year period has passed, or the age of 53 years." And on page six⁷¹ that "until ten years have gone by counted from either incorporation in the active army or the entry on the military liability list in case of exemption from active service, the acquisition of the foreign nationality does not cause the loss of French nationality unless it has been authorized by the French Government." This paragraph refers, however, only to the case of a French citizen naturalized since August 10, 1927. For the French citizen naturalized abroad before that date, no account is taken of the ten-year period.

The evident fact that the Department has had in mind only the provisions of the Act of August 10, 1927, has resulted in some inaccuracies in the statements made in its second paragraph.

The Department's conclusion that the loss of French citizenship under French law, as a result of naturalization abroad, is automatic after the running of the ten-year period mentioned in Article IX (1) of the Law of August 10, 1927, only if the individual concerned is in good standing with the French military authorities, is not in agreement with that set forth in the latest Foreign Office note, since it is stated on page three of that note⁷² that "for an individual subject to the new system, there is no consideration of the integral performance of active military obligations. It suffices that this performance has already commenced, that is to say, that the individual has been incorporated, or, in case of exemption, included in the census of those liable to military service, for the ten-year period to begin. * Thereafter, it does not matter whether the individual has, for instance, deserted. After the expiration of ten years, he will be able to acquire validly a foreign nationality without † previous authorization, and thus free himself automatically from French allegiance and from military

⁷⁰ Paragraph beginning, "In other words, foreign naturalization . . .", p. 320.

⁷¹ Paragraph beginning, "However, until ten years . . .", p. 322.

⁷² Paragraph beginning, "The two systems, . . .", p. 320.

*However, if a sentence had been pronounced against the deserter while he was still French the sentence would continue to be executory in France, even though the foreign nationality acquired in the meantime be recognized by the French authorities. [Footnote in the original.]

†Here, "previous" apparently refers to the acquisition of foreign nationality rather than to the expiration of the ten-year period. [Footnote in the original.]

obligations toward France.["] Reference is also made to the second example set forth at the bottom of page six of the note of October 26, 1937.⁷³

In the Department's third paragraph,⁷⁴ the statements in its first sentence and in its second [*fourth?*] sentence as far as the second semicolon are in agreement with the Foreign Office's note of October 26, 1937, and with its previous declarations; the case envisaged being only that of the individual naturalized abroad after August 10, 1927. Reference is made in this connection to the third example presented on page seven ⁷⁵ of the latest note from the Foreign Office. Example four on pages five and six ⁷⁶ of this note refers to the cases of those individuals still subject to the old law (Article 17 of the Civil Code).

With respect to that part of the third paragraph reading, "and that while thus delinquent he cannot lose French nationality until he is 53 years of age, at which time military defaulters may return to France without encountering difficulties."⁷⁴ reference is made again respectively to example three on page seven,‡ concerning only those individuals naturalized abroad after August 10, 1927, in which it is stated "that the delay of ten years envisaged by the law of 1927, Article 9, cannot have commenced to run for those individuals, never having been incorporated or included in the census of those liable to military service, and it must be concluded that their naturalization abroad will never be opposable by legal right to the French authorities, although being erased from the army rolls (at the age of 53 years), they are no longer subject to any military obligations;" and to the paragraph at the bottom of page three stating that "However, if a sentence had been pronounced against the deserter while he was still French, the sentence would continue to be executory in France, even though the foreign nationality acquired in the meantime be recognized by the French authorities."⁷⁷

The last sentence in the Department's third paragraph is confirmed by example three on page seven of the Foreign Office's note of October 26, 1937.

Persons naturalized through the naturalization of a parent.

No reference has been made by the Foreign Office in its latest note to the status under French law of those persons naturalized abroad

⁷³ Paragraph numbered 2, p. 322.

⁷⁴ *Foreign Relations*, 1937, vol. II, p. 315, paragraph beginning, "However, with regard to French citizens . . .".

⁷⁵ Paragraph numbered 3, p. 322.

⁷⁶ Paragraph numbered 4, p. 321.

‡As to those individuals naturalized abroad before August 10, 1927, and therefore subject to the provisions of the old law (former Article 17 of the Civil Code), see example four on pages five and six of the note of October 26, 1937. [Footnote in the original.]

⁷⁷ *Post*, p. 320.

through the naturalization of a parent. It may be assumed, therefore, that the Foreign Office agrees with the Department's conclusions in this regard, which were based upon the statements made on page two of the § Foreign Office's note of December 23, 1935, enclosed with the Embassy's Despatch No. 166 of December 2, 1936.⁷⁸

[Omitted portion of this despatch consists of a lengthy quotation from *La Nationalité Française, Droit Positif et Conflits de Lois* by Pierre Louis-Lucas, Professor of Law at the University of Dijon, whose interpretation is at variance with that of the Foreign Office as reported above.]

B. RENUNCIATION OF FRENCH CITIZENSHIP BY PERSONS BORN IN THE UNITED STATES OF FRENCH PARENTS

The Foreign Office has failed to comment upon this subject in its note of October 26, 1937. The assumption may be, therefore, that it had nothing to add to the explanation furnished in its note of October 13, 1936, which was reported in the Embassy's despatch of December 2, 1936.⁷⁸

C. DOCUMENTATION OF AMERICAN CITIZENS WHO ARE LIABLE TO MILITARY SERVICE IN FRANCE

The explanation with regard to this subject offered by the Foreign Office in its note of October 26, 1937, appears to agree with that previously furnished to the Embassy, and therefore with the Department's conclusions.

D. EXEMPTION OF AMERICAN CITIZENS OF FRENCH ORIGIN FROM MILITARY OBLIGATIONS IN FRANCE UNDER THE DECREE LAW OF OCTOBER 30, 1935

The note of October 26, 1937, fails to add anything to the information previously furnished by the Foreign Office upon this question. After reviewing that information, the Embassy is in accord with the Department's conclusions. With reference to the Department's concluding paragraph, it is noted that the Foreign Office has stated in its

§ The author's explanation in his first paragraph requires clarification. His words "regardless of what procedure of naturalization is followed in the country whose nationality the person concerned acquired" might be interpreted to include the naturalization of a minor through the naturalization of his parent, and therefore to place the minor in the same position as his parent with regard to the provisions of Article 9 (1) of the law of 1927. If thereby the running of the ten-year period specified in the second paragraph of Article 9 (1) is also necessary as a condition for the minor's loss of French nationality, as it is in the case of his parent naturalized abroad, then it would seem that the naturalization abroad of a minor would not be contrary to French law "except under special authorization by the French Government." [Footnote in the original.]

⁷⁸Note from Foreign Office not printed; for despatch No. 166, December 2, 1936, see *Foreign Relations*, 1936, vol. II, p. 134.

note of October 13, 1936, that "the provisions of the decree-law of October 30, 1935, modifying Article 98 of the law concerning the recruitment of the Army, are only applicable from the time of its promulgation."

Respectfully yours,

ROBERT D. MURPHY

[Enclosure—Translation]

The French Ministry for Foreign Affairs to the American Embassy

[PARIS, October 26, 1937.]

The Ministry of Foreign Affairs has the honor to acknowledge the receipt from the Embassy of the United States of its Note No. 592 of September 2, 1937, and of the document annexed to it, regarding the national situation and the military obligations of persons of French origin who have acquired American nationality by naturalization or by operation of American law.

After a careful study of this document, the Ministry finds that although the principal points of the French regulations on the subject are correctly set forth, there are certain details that do not seem to be quite accurate.

Rather than take up each detail separately, the Ministry has deemed it preferable to summarize in turn the whole question, and takes the liberty of presenting below to the Embassy two concise outlines (A and B), representing the general position of those concerned, on one hand (A) from the point of view of nationality, and on the other hand (B) from the point of view of military service.

It should be specified that, from the French point of view (certain European countries have a different conception), if active military service is not obligatory for every Frenchman, on the other hand, any one discharged from his allegiance to France is, *ipso facto*, freed from all military obligations toward her.

A. NATIONAL POSITION, FROM THE FRENCH POINT OF VIEW, OF PERSONS OF FRENCH ORIGIN, WHO POSSESS A FOREIGN NATIONALITY BY NATURALIZATION, OR BY OPERATION OF THE LAW

It should be understood to what extent the possession of this foreign nationality entails, or not, the loss of French nationality.

In this respect, present French legislation recognizes two different systems—one defined by the law of August 10, 1927 (present system), the other defined by former Article 19 of the Civil Code (former system). This latter text, although repealed, is still applied in certain cases, for the validity of a foreign nationality acquired before August 10, 1927, must be considered in the light of the said former Article 19, and not of the law of 1927.

The two systems, although governed by the same principles (of individual liberty), and by the same concern (of national defense), rest upon two different standards. The old standard consists in the discharge of active military obligations, an individual standard, the application of which varies in each case, the active obligations not having the same duration for all. The new standard consists, on the contrary, in the lapse of an indispensable period of ten years, reckoning from a fixed date, in principle, the date of incorporation in the active army. The two policies are therefore somewhat different and cannot be combined. For an individual subject to the old system, no account is taken of the ten year period; for an individual subject to the new system, there is no consideration of the integral performance of active military obligations. It suffices that this performance has already commenced, that is to say that the individual has been incorporated, or, in case of exemption, included in the census of those liable to military service, for the ten year period to begin. Thereafter, it does not matter whether the individual has, for instance, deserted. After the expiration of ten years, he will be able to acquire validly a foreign nationality without previous authorization, and thus free himself automatically from French allegiance and from military obligations toward France.

However, if a sentence had been pronounced against the deserter while he was still French, the sentence would continue to be executory in France (like any common law sentence), even though the foreign nationality acquired in the meantime be recognized by the French authorities. This is only the application of a general principle of law, and is applicable whatever be the standard adopted for the loss of French nationality.

Likewise, any acquisition of foreign nationality had under irregular conditions (whatever be the system applicable) remains irregular, even if the required conditions, not brought together in the beginning, eventually are (brought together).

In other words, foreign naturalization acquired without authorization before the expiration of the ten year period (new system), or acquired by a man in an irregular military status (former system), remains irregular, even when the ten year period has passed, or the age of 53 years, at which the military offence which caused the irregular situation is prescribed. Naturally those nationalities irregularly acquired can always be regularized, however, by special decree of liberation from the ties of allegiance.

These common principles being specified, the differences between the two systems are set forth as follows:

I. *Provisions of the Civil Code (former Article 17)*

“Lose French nationality:

"The Frenchman who is naturalized in a foreign country or who acquires, at his request, foreign nationality by operation of the law.

"If he is still subject to the obligations of military service in the active army, naturalization in a foreign land will only cause the loss of French nationality if it has been authorized by the French Government;"

A jurisprudence practically invariable, and regularly followed by the French judicial authorities, assimilates in this regard the former "reserve of the active army" to the active army properly so called.

The deduction then is:

1) Individuals never having served in France, or having served, finding themselves still classed in the active army, or in the reserve of the active army at the time of their naturalization abroad—

Their naturalization is not by legal right opposable to the French authorities.

2)* Individuals having been declared defaulters when they were still in the active army (or in the reserve of the active army)—

They cannot henceforth be validly naturalized abroad until they reach the age when their names are erased from the army rolls. In fact, until that time, and by reason of their default, they must be considered as "being still subject to the obligations of active military service", since there was a refusal to discharge those obligations, a refusal established precisely by the declaration of default;

3) † Individuals who have been declared in default when they had already left the active army, (and the reserve of the active army)—

Contrary to the preceding case, this declaration would not present an obstacle to subsequent foreign naturalization of the persons concerned; their subsequent default does not in fact preclude their having satisfied, hypothetically (in theory), their active military obligations.

4) Individuals who have passed the age limit for military service. Whatever has been their military past, even as defaulters, they are then struck off of the army rolls. Under these conditions they are no longer subject to any military obligations, active or non-active, and consequently no obstacle exists, under the provisions of the Civil Code, to their naturalization in a foreign country.

*Example 2 has been interpreted to mean that the individuals concerned have, through failure to respond, been declared defaulters while the recruitment class to which they belong is still considered a part of the active army, or of the reserve. [Footnote in the original.]

† Example 3 has been interpreted to mean that the individuals concerned, having completed the prescribed term in the active army, and in the reserve, may have been declared as defaulters because they subsequently failed to respond when called for duty in time of emergency, and their "insoumission tardive", that is, their "subsequent (or delayed) default" when called in time of emergency does not preclude their having hypothetically (or in theory) satisfied their active military obligations. [Footnote in the original.]

II. *Provisions of the Law of 1927 (Article 9, Paragraph 1)*

“Lose French Nationality :

“The Frenchman who is naturalized abroad or who, on his own request, acquires a foreign nationality by operation of the law, after the age of twenty-one years.

“However, until ten years have gone by, counted from either enlistment in the active army or the entry on the military liability list in case of exemption from active service, the acquisition of the foreign nationality does not cause the loss of French nationality unless it has been authorized by the French Government;”

Under this regime, it will be well to distinguish :

1) The individuals having been incorporated or included in the census of those liable to military service, and naturalized abroad less than ten years after that date.

Their naturalization is not opposable, by legal right, to the French authorities.

2) The individuals having been incorporated, or included in the census of those liable to military service, and naturalized abroad more than ten years after that date.

Their subsequent foreign naturalization is opposable to the French authorities, even if they have been declared defaulters, or deserters, after a beginning of the performance of active service.

It suffices that they have been effectively included in the census of those liable to military service (or incorporated), and that ten years have since elapsed. Likewise, it is not necessary to discern whether the declaration of default occurred during or after this delay of ten years; in both cases it is of no consequence from the point of view of nationality.

3) † The individuals never having been incorporated, or included in the census of those liable to military service.

The delay of ten years envisaged by the law of 1927, Article 9, cannot have commenced to run, and it must be concluded that their naturalization abroad will never be opposable by legal right to the French authorities, although being erased from the army rolls, they are no longer subject to any military obligations.

† Here, Example 3 has been interpreted to mean that the period of ten years provided by Article 9 of the Law of 1927 can never have commenced to run since it could only commence to run from the date of incorporation in the army or the inclusion in the census of those liable to serve, and that consequently the naturalization of individuals concerned will never be opposable automatically to the French authorities although those individuals, having been erased from the army rolls for the reason that they have passed the age of 53 years, are no longer subject to any military obligation. They must obtain the consent of the French authorities to naturalization abroad even after 53 years of age. [Footnote in the original.]

B. MILITARY SITUATION, FROM THE FRENCH POINT OF VIEW, OF YOUNG MEN POSSESSING BOTH FRENCH AND AMERICAN NATIONALITY

Two cases to be envisaged :

- a) French citizens possessing at the same time American nationality by reason of birth in the United States.
- b) French citizens possessing American nationality for other reasons.

The former are governed by Article 99 of the Law of March 31, 1928, concerning the recruitment of the army ;

The latter are governed by Article 98 of the same law.

According to the provisions of Article 99 of the Law of March 31, 1928, the young men who, by the fact of their birth in the United States are both American and French, are exempted from military service in France if they prove, by the production of an official document delivered by the competent American authorities, either that they have complied with the military requirements of the United States, or that obligatory military service is not established there.

The above-mentioned certificate is drawn up in duplicate. The original is kept by the person concerned, to permit him, in case of need, to prove his position before the French military authorities. The duplicate is delivered to the French Consulate at the place of residence of the person concerned in order to enable that functionary, at the time of the performance of the census, to take the action necessary with the competent French authorities so that the person concerned may be in order with the French military law.

Should the young men concerned fail to produce the above-mentioned certificate, they are subject to the provisions of Article 98 (amended by the decree-law of October 30, 1935) of the law of March 31, 1928, concerning the army recruitment applicable, in the particular case :

- a) To the young Frenchmen born abroad and residing there ;
- b) To those who have settled in a foreign country before the commencement of operations for the examination of recruits for the class of their age, or after that date if they have not been able, because of physical unfitness, to enlist as provided in Article 63 of the above-mentioned law of March 31, 1928.

The young men included in one or the other of these categories are exempted from actual presence under the colors on the production of a certificate, delivered by the French Consul within whose jurisdiction they have their domicile, proving that they fulfill the required conditions.

However, if, prior to having attained thirty years of age, they find that, by reason of a change of residence, they are no longer in a position to benefit by this exemption, they are held for the full duration of the active service imposed on the recruitment class to which they belong.

In cases where, by reason of unexpected changes in the order of cantonment of the French troops, these young men find that they are no longer in the required position to benefit by the exemption, they would be, if they have not attained the age of thirty years, incorporated for a period of time, not to exceed six months, in the body of troops nearest their residence.

The young men exempted from actual presence under the colors, by application of Article 98 of the recruiting law, are authorized, without losing the benefit of the exemption, to remain three months in France each year, during the period of obligatory residence abroad.

The permitted three months visit to France which the young men have not taken advantage of during the course of a year or for several years may accumulate, provided, however, that no visit can exceed one year in duration.

These young men are required to report to the Consulate, within the jurisdiction of which they are residing, any change of address, as provided in Article 55 of the recruitment law.

Authorizations for sojourns of more than three months may be granted for purpose of studies.

Requests for these authorizations must be made to the Ministry of War (2nd Bureau—Infantry Section) through the intermediary of the French Consul, within whose jurisdiction the interested person is residing.

The young men who have benefitted by authorizations for sojourns exceeding three months must reside abroad after thirty years of age for a period equivalent to the duration of the sojourns made in France, shortened by three months per year of sojourn, failing which they would be incorporated for the legal period of active service.

351.117/465

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

No. 819

WASHINGTON, May 3, 1938.

SIR: The Department has received the Embassy's despatch No. 1436 of January 4, 1938, and enclosures, relative to the French laws covering nationality and military service.

The information which has been submitted considerably clarifies this question, and a new Paragraph has therefore been prepared for

use in a later edition of the *Notice to Bearers of Passports*. A copy of the new Paragraph is enclosed ⁸¹ and you are requested to inform the Department whether it corresponds with your understanding of the matter.

One point which has not been brought out in the new Paragraph is the status of children who were naturalized through the naturalization of their parents prior to August 10, 1927. This has purposely been omitted since it is not known whether under Article 17 of the French Civil Code the loss of French citizenship by a parent as a result of his naturalization as a citizen of the United States causes *ipso facto* the loss of French citizenship by his minor child naturalized as an American citizen through the parent; or whether such loss is conditioned upon compliance by the minor child with any military obligations to France to which he may have become liable.

Another point which the Department desires to have verified relates to the status of a minor who was naturalized as a citizen of the United States through the naturalization of his father after August 10, 1927; that is, whether under Article IX (1) of the Law of that date the loss of French nationality by a minor in such a case is in any way contingent upon the question of the minor being liable to French military obligations. In other words, does a minor child in such a case lose French nationality if at the time of his naturalization, through the naturalization of his father, he is delinquent under the French military service laws? It may be remarked in this connection that in the note from the French Foreign Office of December 23, 1935 (enclosure No. 8 to your despatch No. 166 of December 2, 1936),⁸² the statement is made that the status of an individual who has acquired American citizenship during his minority as a result of the naturalization of his parents varies accordingly as this naturalization has or has not been authorized by the French Government. The Foreign Office note also states that if the parents have remained French citizens under French law their children have likewise remained French citizens and that if on the other hand the French Government has given its authorization the minor child follows the status of its parents. These statements of the Foreign Office would appear to mean that a minor child naturalized through the naturalization of his father as a citizen of the United States automatically loses French citizenship if his father has lost it. However, in the copy for the *Notice to Bearers of Passports* which was sent to you as an enclosure to the Department's instruction of August 18, 1937,⁸³ the statement is made that ". . . The minor child also loses French citizenship provided such minor child is not

⁸¹ Not printed.

⁸² Note from Foreign Office not printed; for despatch No. 166, see *Foreign Relations*, 1936, vol. II, p. 134.

⁸³ *Ibid.*, 1937, vol. II, p. 314.

delinquent under the French military service laws", and the further statement is made that ". . . If their minor children who acquire American citizenship through the naturalization of their parents are not delinquent under the French military service law, such children would also lose that nationality". It is noted that the copy in which appear the above quoted statements was shown to the French Foreign Office which apparently did not comment on them, which might lead to the assumption that they were acquiesced in.

Upon receipt of information from you clarifying these two points, arrangements will be made to incorporate them in a later edition of the *Notice to Bearers of Passports*.

Very truly yours,

For the Secretary of State:
G. MESSERSMITH

351.117/487

The First Secretary of Embassy and Consul at Paris (Murphy) to the Secretary of State

No. 2881

PARIS, August 31, 1938.
[Received September 9.]

Subject: Status under French Law of American Citizens of French Origin and Their Liability to Military Service.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 819 dated May 3, 1938, enclosing a copy of a revised paragraph relative to the above subject, with the request that the Embassy examine it and inform the Department whether it corresponds to the Department's understanding of the matter.

In accordance with the Department's further instructions the Embassy has undertaken to verify definitely the nationality status under French law of the minor children of French origin who were naturalized as American citizens through the naturalization of their parents, prior to August 10, 1927 and after that date. The Foreign Office's note of July 29, 1938, transmitted herewith in copy and translation, is self-explanatory and is believed to clarify fully the question. The Department has remarked that its conclusions upon the subject of the status of minor French children naturalized as American citizens through the naturalization of their parents, which conclusions were based upon previous information obtained from the Ministry of Foreign Affairs, were not commented upon when communicated to the French Foreign Office, in the Embassy's note of September 2, 1937, which might lead to the assumption that they were acquiesced in. An examination of the latest note from the Ministry of Foreign Affairs will reveal, however, that the Ministry's notes of December 23,

1935,⁸⁶ and previous, furnished an incomplete and inaccurate presentation of the subject and that consequently the Department's section devoted to this question in its memorandum, must be completely revised.

The Department's conclusions concerning the status under French law of those "Persons Naturalized as American Citizens Prior to August 10, 1927", are in agreement with the Embassy's understanding of the matter. It is suggested, however, that after the second example, set forth on page three of the Department's revised paragraph, there be added the Foreign Office's statement, repeated on page five of the Department's paragraph, that "if a sentence had been pronounced against the deserter while he was still French, the sentence would continue to be executory in France (like any common law sentence) even though the foreign nationality acquired in the meantime be recognized by the French authorities". This principle is applied in the case of any deserter from French military service, whether he was naturalized as a citizen of the United States prior to August 10, 1927, or since that date.

With reference to section "b" of the Department's paragraph entitled "Persons Naturalized as American Citizens Subsequent to August 10, 1927", it is believed that the third example on page five should be amended by adding after the word "nationality" at the bottom of the page the qualification "until their military status is regularized and the required period of ten years has elapsed". Thereafter it is believed that their cases would automatically come within the purview of example two.

The section of the Department's memorandum entitled "Renunciation of French Citizenship by Persons Born in the United States of French Parents" should be broadened, it is believed, to include all persons, born with both French and American nationality, and described in Article 1 of the French law of August 10, 1927, provided that their American citizenship was acquired by operation of American law and without manifestation of will on their part. Support of this is offered in the enclosed copy and translation of a note of March 11, 1938, from the Foreign Office,⁸⁷ in the case of Miss Christiane Huffer, who was born in France of an American father also born in France. Article 1 is specifically mentioned as those persons having dual nationality covered by Article 11 of the law of August 10, 1927, have the right of repudiation in the manner described in that article. This section might even include persons possessing American citizenship through the naturalization of their

⁸⁶ Not printed; see despatch No. 166, December 2, 1936, from the Ambassador in France, *Foreign Relations*, 1936, vol. II, p. 134.

⁸⁷ Not printed.

parents, without their own express adhesion thereto, as the Department will observe in the fourth paragraph of the Foreign Office's note of July 29, 1938.

The Department will further observe, however, from an examination of the same paragraph of the Note of July 29, 1938, that Article 9 (3), notwithstanding its wording, does not permit the interested persons to claim release from French nationality as their right. The release may be granted, within the discretion of the appropriate authorities, or it may be refused, as in the case of Miss Huffer. It is understood that the release from French allegiance, under Article 9 (3), may be refused if it is obvious that the applicant's only reason is to escape military service.

With a view to avoiding any confusion, in the Department's section entitled "Documentation of American Citizens Who are Liable to Military Service in France", concerning the documents to be obtained by those persons intending to visit France, it is respectfully suggested that the Department add to its first paragraph the statement "that such certificate or letters, issued to persons in good military standing, should not be confused with safe conducts which are issued only in the following cases".

In that section of the Department's memorandum entitled "Exemption of American Citizens of French Origin from Military Obligations Under the Decree Law of October 30, 1935", the Department has failed to mention the condition set forth in the second paragraph on page nine of the Foreign Office's note of October 26, 1937.⁸⁸ As French troops might be quartered, at some future date, in French possessions within the vicinity of the United States, it is respectfully suggested that the Department include the omitted paragraph in its memorandum.

It will also be noted that the Department has failed to remark in this section or in the preceding section that authorizations for sojourns in France of more than three months may be granted in certain cases for purpose of study, but that "the young men who have benefitted by authorizations for sojourns exceeding three months must reside abroad after thirty years of age for a period equivalent to the duration of the sojourns made in France, shortened by three months per year of sojourn, failing which they would be incorporated for the legal period of active service". Reference is made for a fuller explanation in this connection to the decree law of October 30, 1935, forwarded to the Department with the Embassy's despatch of December 2, 1936.

Respectfully yours,

ROBERT D. MURPHY

⁸⁸ Paragraph beginning, "In cases where, . . .", p. 324.

[Enclosure—Translation]

The French Ministry for Foreign Affairs to the American Embassy

No. 29

PARIS, July 29, 1938.

The Ministry of Foreign Affairs has the honor to acknowledge to the Embassy of the United States of America the receipt of its Note No. 1116 of July 11, 1938, concerning the national status and military obligations of persons of French origin who have acquired American nationality, through naturalization or by operation of American law.

The Ministry expresses its thanks for the appreciation expressed by the Department of State with respect to its former Note, of October 26, 1937, and hastens to give the particulars requested as to the eventual extension of change of nationality to the minor children of the interested persons. The case of the minor who is personally and expressly included in the change of nationality is naturally excluded, his personal declaration being thenceforth the only consideration under French law.

The same principle—complete independence of the status of minor children with respect to the loss of French nationality by their parents—was strictly applied in all cases before the law of August 10, 1927. In other words, the acquisition of foreign nationality by children, without their own declared intention, was purely and simply not recognized by French law. Administrative practice and that of the Tribunals permitted at most—as a kindness—the male child having reached majority and being still liable to active military service, to request as a favor that he be released from his allegiance to France, in accordance with former Article 17, paragraph 1, of the Civil Code (the child being supposed, at his majority expressly to confirm the acquisition of foreign nationality which he had enjoyed during his minority).

This policy of benevolence—always applicable to ex-minors having acquired foreign nationality before August 10, 1927—has been modified, and extended by Article 9, paragraph 3, of the law, to all persons of either sex, minors or not, liable or not to military service, having acquired foreign nationality without manifestation of will on their part. This acquisition does not entail the automatic loss of French citizenship; it does not even authorize the interested persons to repudiate, *ipso facto*, French citizenship; but it does give them the privilege of requesting as a favor, even as minors, that they be released from their allegiance. On the other hand, as stated above, the minor having expressly manifested his adhesion to the acquisition of the

foreign nationality will be considered as having acquired this nationality of his own free will, and will thereafter be governed by the general regulation of Article 9, paragraph 1 of the law, which does not permit him to sign an application for release from allegiance until he has attained the age of 21 years.

In brief, the acquisition of a foreign nationality by the parents—whether recognized or not by the French Government—never entails automatic loss of French nationality by the minor children. Before the law of August 10, 1927, it was without any effect at all on them (with the exception introduced by the practice cited above). Since this law, however, minor children having followed the status of their parents, according to the laws of the foreign state, without displaying any choice for it, are authorized by French law to present immediately a request for release from allegiance. If, on the contrary, they have manifested their adhesion to the acquisition of the foreign nationality, they are not permitted to present their request for release before having attained their majority.

351.117/487

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

No. 1170

WASHINGTON, November 14, 1938.

SIR: The Department has received the Embassy's despatch No. 2881 of August 31, 1938, relative to the information regarding French nationality laws and military service requirements to be used in the pamphlet entitled *Notice to Bearers of Passports*.

The paragraph to be incorporated in the pamphlet has been revised and it is believed that it now covers the points raised in the despatch and its enclosure. However, in order that there may be no misunderstanding, a copy of the proposed revision⁸⁹ is enclosed for your examination. The Department would appreciate being informed as soon as possible whether the paragraph now corresponds with your understanding of the matter.

Very truly yours,

For the Secretary of State:
G. S. MESSERSMITH

⁸⁹ Not printed.

EFFORTS OF THE GOVERNMENTS OF THE UNITED STATES AND
FRANCE TO EFFECT A RECIPROCAL ARRANGEMENT RELATIVE TO
CLAIMS ARISING FROM SEQUESTRATION OF PROPERTY DURING
WORLD WAR I

763.72113/2745

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

No. 1828

PARIS, March 2, 1938.

Received March 11.

SIR: I have the honor to refer to the Department's instruction No. 457 of September 13, 1937,⁹⁰ and to previous correspondence regarding the claims of American citizens for the release of property sequestered by the French Government. Particular reference is made to the letter of May 19, 1937,⁹⁰ addressed by the Secretary of State to Senator Pittman,⁹¹ enclosed with the Department's instruction No. 322 of June 8, 1937,⁹⁰ to this Embassy, concerning Section 9 (e) of the Trading with the Enemy Act.⁹² The Department's instruction No. 457 advised that the amendment as recommended by the Secretary in the above letter to Senator Pittman had been enacted into the law,⁹³ and that Section 9 (e) as amended now reads as follows:

"(e) No money or other property shall be returned nor any debt allowed under this section to any person who is a citizen or subject of any nation which was associated with the United States in the prosecution of the war, unless such nation in like case extends reciprocal rights to citizens of the United States: *Provided, That any arrangement made by a foreign nation for the release of money and other property of American citizens and certified by the Secretary of State to the Attorney General as fair and the most advantageous arrangement obtainable shall be regarded as meeting this requirement;* nor in any event shall a debt be allowed under this section unless it was owing to and owned by the claimant prior to October 6, 1917, and as to claimants other than citizens of the United States unless it arose with reference to the money or other property held by the Alien Property Custodian or Treasurer of the United States hereunder; nor shall a debt be allowed under this section unless notice of the claim has been filed, or application therefor has been made, prior to the date of the enactment of the Settlement of War Claims Act of 1928 (Act of March 10, 1928, c. 167⁹⁴)."

⁹⁰ Not printed.

⁹¹ Key Pittman, Chairman of the Senate Committee on Foreign Relations.

⁹² Approved October 6, 1917; 40 Stat. 411.

⁹³ Approved August 24, 1937; 50 Stat. 748.

⁹⁴ 45 Stat. 254.

After recalling the position taken by the French Ministry of Foreign Affairs in its note of December 14, 1928,⁹⁶ and in subsequent communications, relating to its willingness to release the property of American claimants listed in the enclosure to the note in question, the Department instructed the Embassy⁹⁷ to renew discussions with the Minister of Foreign Affairs with a view to reaching such a reciprocal arrangement between the two Governments as is contemplated by the above amendment. The instruction further indicated that the reciprocal release arrangement should, in addition to covering the American claims listed with the note of December 14, 1928, and in subsequent communications, set forth specifically that the proper authorities of the French Government will release property of certain other designated categories of claimants. The proposals of the Department were transmitted to the Minister of Foreign Affairs by the Embassy on September 27, 1937.

In reply to the Department's cablegrams Nos. 606 and 21 of December 4, 1937, and January 15, 1938, respectively,⁹⁸ the Embassy by its cablegrams Nos. 1718 of December 10, 1937, and 88 of January 17, 1938, respectively,⁹⁸ informed the Department of the progress of the negotiations.

In a communication dated February 22, 1938, copy and translation whereof are enclosed, the Ministry of Foreign Affairs has indicated that it is prepared to conclude an arrangement on the basis of the Department's written instruction No. 457 of September 13, 1937, and its cabled instruction No. 625 of December 21, 1937.⁹⁸ It will be observed, however, that the Ministry of Foreign Affairs has set forth certain precisions and reservations which it feels are required on particular points to reconcile the terms of the agreement with French jurisprudence.

Before preparing this despatch, occasion has been taken informally to obtain oral clarification at the Office des Biens et Intérêts Privés of the following points in the French reply:

(1) The note indicates willingness to release property to an individual who acquired American nationality before January 10, 1920, but makes no reference to those "who may have retained, under the laws of another country, his or her former nationality." The Embassy has been given to understand, confidentially, that the French Government preferred not to take any official position in this respect, but that, as indicated in the note, consideration would be given to claims

⁹⁶ Not printed.

⁹⁷ Instruction No. 457, September 13, 1937, not printed.

⁹⁸ Neither printed.

upon the proof of acquisition of American nationality provided by the competent American authorities.

(2) The French Government states that it is willing to make restitution in the case of a married woman who at the time of her marriage was a citizen of the United States and who prior to April 6, 1917, intermarried with a subject or citizen of Germany or Austria-Hungary, provided that the property was not acquired from an ex-enemy national subsequent to August 3, 1914. It was explained that this date is fixed by French law as concerns claims made by French nationals on the French Government, and that it would be extremely difficult, if not impossible, for the latter to accept the date of January 1, 1917, as requested by the Department.

(3) As concerns the settlement of claims of American nationals against ex-enemy nationals whose property has been liquidated in France, it was explained that consideration could only be given to individuals whose claims related to operations with an ex-enemy national in France. For instance, no payment could be made from property of German nationals liquidated in France if, to illustrate, the claim related to supplies or deliveries made to a German national in Berlin, but whose property had been seized and liquidated in France.

The last Section of the French communication under analysis embodies the interpretation of the French Government of certain special points relating chiefly to Alsatians and Lorrainers. In this respect reference is made to the Embassy's cablegram No. 1744 of December 17, 1937, and to the Department's cablegram No. 625 of December 21, 1937.⁹⁹

The Ministry of Foreign Affairs asks whether the Embassy is in agreement with the proposals and interpretations set forth in its note. In acknowledging the note the Embassy is indicating that it is being forwarded to the Department for appropriate consideration. Furthermore the Ministry attaches the list of American claims¹ which "appear to it to have been notified under the conditions" set forth in its note, and "which appear susceptible of being taken into consideration". The request is made that this list be completed, if necessary, and that the Ministry of Foreign Affairs be provided with the list of claims which French nationals have laid before the American authorities.

With respect to the list of American claims attached to the French note, it was considered desirable informally to request information with respect to the bases of the list, for the reason that certain names which appear in the list of December 14, 1928, and in subsequent communications, are omitted. It was stated, in the first place, that the list attached to the French note of December 14, 1928, had disappeared from the archives of the French Government; secondly,

⁹⁹ Neither printed.

¹ Not printed.

that the list was not intended in any way to be restrictive, and that, as indicated above, the French Government invites the American Government to complete it, if necessary.

Respectfully yours,

For the Chargé d'Affaires ad interim:

H. MERLE COCHRAN

First Secretary of Embassy

[Enclosure—Translation]

The French Ministry for Foreign Affairs to the American Embassy

The Office of Private Property and Interests has the honor to acknowledge receipt of Note No. 800 of the Embassy of the United States of America, dated December 23, 1937, in reply to the verbal request made by the Office on the 16th of the same month with respect to the Embassy's note of September 27, 1937.

The Office of Private Property and Interests desires, as does the Embassy, to reach an agreement establishing a regime of reciprocity for the return of American and French property sequestered during the War by one and the other governments.

As indicated during recent conversations, the Office is prepared to conclude an arrangement on the bases set forth in the notes of the Embassy referred to above, but on particular points it finds itself obliged to provide certain precisions and to make reservations to certain formulae of principle applicable to possible categories of claimants. It should be added that these precisions and reservations have no other object than to avoid a peremptory incompatibility between the formulae proposed and the jurisprudence invariably followed by the French State.

Furthermore, individual cases might be examined with the view of applying to claims the most liberal satisfaction compatible with the principle of equality of treatment between the nationals of the two States.

In this spirit, the Office of Private Property and Interests is prepared to extend to nationals of the United States of America advantages strictly identical to those which the Office extends to French nationals as concerns the release of sequestered property.

As regards the application of the procedure of restitution to the different categories of American physical and moral persons concerned, the claims presented to the Office of Private Property and Interests should fulfill the following conditions:

1. They should have been lodged with the Office before August 17, 1930 (a condition which is imposed by the decree of May 19, 1930, to all claims).

2. They should be based upon the American nationality of the party concerned or of the original claimant.

3. They should not refer to property for the retention and liquidation of which the compensation provided for by a Treaty of Peace has been allowed by an ex-enemy power.

Under this triple reserve, if it has not yet been liquidated, the property will be restituted or released or, if it has been liquidated, the proceeds of liquidation will be restituted or released if the owners:

1. possessed American nationality at the time the property was sequestered,

2. acquired American nationality before January 10, 1920 (the proof of this acquisition to be produced by the competent American authorities),

3. acquired American nationality after January 10, 1920, if prior to becoming an American citizen, they acquired, *ipso facto*, by virtue of a treaty of peace, the nationality of an Allied Power,

4. if the owners are American women who contracted marriage before April 6, 1917, with a national of an ex-enemy power but who resumed American nationality before January 10, 1920, or if their marriage was dissolved before this date, provided that the property was not acquired from an ex-enemy national after August 3, 1914.

5. if the owners are companies, corporations, associations in the United States or outside of the United States and composed exclusively of American nationals or controlled by American nationals at the time of the seizure and at the time of release.

As concerns the property of companies, corporations or associations established in France and partly composed of American nationals, the latter will receive the part of the available assets in proportion to their rights in such companies, corporations or associations.

6. if the owners are beneficiaries of deceased individuals, or of dissolved companies, associations or corporations who would themselves have been entitled to obtain release if they still existed.

Furthermore, under the reserves made concerning the date of deposit of the claim, the qualification of the claimant and, in the absence of indemnification, the Office is disposed to proceed:

1. to the settlement of claims of American nationals against ex-enemy nationals whose property has been liquidated provided that such claims can be made against the sequestrator or the liquidator under the conditions applying to the lien in France or laid down in French jurisprudence,

2. to the delivery of securities, identical in nature and value to those which have been seized, or should the claimants not be in a position to furnish the numbers of the securities which they possessed, to the delivery of the proceeds of their liquidation.

In cases where the number of securities seized is not sufficient to satisfy all claims, the claimant will only have the right to the restitution pro rata of the certificates in existence or sold.

With respect to French claims, the Office of Private Property and Interests takes cognizance that the Government of the United States is prepared to grant to French nationals, physical and moral persons, identical treatment to that which the Government of the United States grants to its own nationals.

Furthermore, the Office interprets as follows the meaning of certain special points which were the subject of the Embassy's note of December 23 last:

1. Only the claims of French nationals which were not secured by enemy property seized or which arose from operations which had no relation with this property, are subject to the restrictions relating to the date of the creation of the right, imposed by the laws in vigour in the United States of America.

Claims of this nature will only be settled if they existed prior to October 6, 1917.

2. The French beneficiaries:

- (a) of French nationals,
- (b) of persons who acquired French nationality as a result of the Peace Treaties,
- (c) of enemy nationals who lost the nationality of an ex-enemy power as the result of the Peace Treaties,

will obtain the restitution of all the property and revenue which they may claim whatever may be the date of the decease of the person from whom they derived their right.

3. French heirs of enemy nationals who have retained their pre-war nationality will receive, when the restrictions imposed by Public Resolution No. 53 have been removed, the total restitution up to 10,000 dollars plus 80 per cent of the excess, plus the income.

4. Alsatians and Lorrainers who, in German territory as it existed on August 2, 1914, acquired American securities after October 6, 1917, but prior to the seizure of same by the Alien Property Custodian, will receive the integral restitution of their property and the income.

5. Alsatians and Lorrainers who, under the conditions set forth in the preceding paragraph acquired American securities, but only after the seizure by the Alien Property Custodian, will receive 80 per cent of their property,—this restriction also applying to American nationals.

6. The French claims not covered in the categories defined above will be taken into consideration even if the right upon which they are based arose after October 6, 1917.

The Office will be very grateful if the Embassy of the United States of America will be good enough to advise it if it is in agreement with respect to the proposals and interpretations set forth in the present note.

The Office attaches herewith the list of American claims² which appear to it to have been notified to it under the conditions set forth above and which appear susceptible of being taken into consideration.

² Not printed.

The Office will be particularly obliged to the Embassy if it will be good enough to complete this list, if necessary, and if it will, in its turn, provide the Office with the list of claims which French nationals have laid before the American authorities.

PARIS, February 22, 1938.

763.72113/2745 : Telegram

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

WASHINGTON, May 13, 1938—6 p. m.

279. Your despatch No. 1828, March 2, 1938, sequestration claims.

You are authorized to address a note to the Foreign Office stating that the arrangement set forth by the French Government in its note of February 22, 1938, is acceptable to this Government with the understanding (1) that the claims mentioned in paragraph 1, page 4 of the translation,³ refer only to debt claims, and the restrictions mentioned apply to debt claims of every nature whether secured or unsecured, and (2) that the reference to the date of October 6, 1917 in paragraph 6, page 5 of the translation,⁴ relates to French claims other than debt claims and merely indicates our willingness to consider claims other than debt claims arising after October 6 without committing us to their allowance, which in all cases must be controlled by the applicable provisions of law.

A note from the Foreign Office concurring in the understanding stated above and expressing its readiness to proceed with the release of the property of American nationals, or the proceeds thereof, will be regarded as a consummation of the arrangement.

Please advise Department of date on which the arrangement comes into force. A list of the French claims⁵ is being sent under separate cover.

HULL

763.72113/2765 : Telegram

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

PARIS, June 16, 1938—4 p. m.
[Received June 16—1:50 p. m.]

942. Department's telegram No. 372, June 15, 11 a. m.⁵ Terms of Department's May 13th transmitted to the Minister of Foreign Affairs

³ Paragraph numbered 1, p. 336.

⁴ Paragraph numbered 6, p. 336.

⁵ Not printed.

May 17. Since then repeated efforts have been made to hasten reply. To this end a member of the Embassy staff has on several occasions carefully gone over with the competent French officials various points which appeared to them obscure or were apparently misunderstood.

Office of Private Property and Interests this morning assured member of the Embassy staff who called there that the text of the French reply will be placed before its managing body for approval early next week and should be in the hands of the Embassy before the end of the month. Responsible official confidentially stated that the reply will indicate acceptance of the conditions which have been outlined in the various exchanges of correspondence since September last and in addition will set forth and summarize the understanding of the French Government of these conditions. It was said that it may also embody suggestions of the French Government with respect to the procedure that might be followed by American and French claimants for the return of their property under the terms of the reciprocal arrangement. In this respect it was intimated that the French Government will propose a plan under which the total amount involved in the claims approved shall be turned over to the one and [*sic*] the other governments for distribution and transmission to their respective nationals. It is felt that such procedure will eliminate complications that would be sure to arise in certain cases if an attempt were made by each Government to deal directly with the nationals of the other.

BULLITT

763.72113/2766 : Telegram

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

WASHINGTON, June 27, 1938—7 p. m.

408. Your 942, June 16, sequestration claims. In order to forestall any suggestions in text of French reply that total amount of claims of one government be turned over to the other government for distribution to its nationals you are requested informally to advise French official who intimated that such a suggestion may be embodied therein that it would be impossible for this Government under the terms of the Trading with the Enemy Act to carry out such a proposal. The act requires that the Alien Property Bureau deal directly with French claimants. Allowance of claims is determined by proof furnished by claimants showing they are eligible claimants under the terms of the act.

WELLES

763.72113/2768 : Telegram

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

PARIS, June 28, 1938—4 p. m.

[Received June 28—2:45 p. m.]

1019. The information contained in the Department's telegram 408 of June 27, 7 p. m., was this morning informally conveyed to the competent officers of the Office of Private Property and Interests.

Confidentially and informally the officers indicated that the text of the French reply was before the Ministry of Foreign Affairs for signature and that it contained a proposal along the line outlined in the last two sentences of Embassy's 942, June 16, 4 p. m. It was especially stressed that even if the position of the Department had been known to it before final completion of the French Government's reply it would have been difficult and even impossible to omit the proposal for the reason that the Office is unable to conceive any other practical method of application of the arrangement.

The French authorities emphasize in conjunction with the proposal outlined in Embassy's telegram 942 that they envisaged the turning over by one government to the other of the amount of claims only as concerned claims which shall have been accepted for payment under existing laws and under the terms of the reciprocal agreement.

The Office of Private Property and Interests fears that at this late date insurmountable difficulties will inevitably face both governments unless such a system is adopted. In the first place as concerns the French authorities it was stated that in many cases advances have been made by them on account of sequestration claims by its nationals against the American Government, and that in each instance the American authorities have been advised. Considerable difficulty is anticipated regarding the recovery of such advances if claims are settled directly. Furthermore as concerns both the French and American Governments troublesome delays and complications are feared for both sides as regards for instance the transfer to the appropriate parties of sums due in the case of successions, bankruptcies, disappearances, companies dissolved, etc. In this connection it was emphasized that the French plan would practically eliminate the almost insurmountable difficulties that would otherwise arise for the one and the other governments in connection with legal formalities, searches, et cetera.

The indication was clearly given in the conversation which a member of the Embassy staff had this morning with the competent officials that direct settlement of approved claims would render the arrangement practically inapplicable from the French viewpoint and the hope

was expressed that the amendment authorized last year to section 9 (e) of the Trading with the Enemy Act as described in the Department's instruction No. 457 of September 13, 1937⁷ will permit the Department to agree to the proposal.

BULLITT

763.72113/2775

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

No. 2644

PARIS, July 20, 1938.

[Received July 30.]

SIR: Referring to the Embassy's telegram No. 1127 of July 19, 1938,⁸ I have the honor to transmit herewith, in text and translation, copies of the undated Note received from the Ministry of Foreign Affairs on July 18, 1938, setting forth the position of the French Government on the terms and conditions of the reciprocal arrangement for the return of property sequestered during the war, following its study of the observations of the Government of the United States embodied in the Department's telegram No. 279 of May 13, 6 p. m., 1938.

As indicated in the last paragraph of the above mentioned Embassy telegram, no acknowledgment is being made of this Note pending receipt of the Department's specific instructions.

Respectfully yours,

For the Ambassador:

H. MERLE COCHRAN

[Enclosure—Translation]

The French Minister for Foreign Affairs (Bonnet) to the American Ambassador (Bullitt)

PARIS [undated].

MR. AMBASSADOR: I have the honor to inform Your Excellency, in reply to your letter of May 17 last concerning the restitution of property sequestered during the war, that my Department accepts the interpretation given by the American Government to the two paragraphs reproduced in this letter, it being understood that the said paragraphs cannot in any case refer to:

(1) The claims of natives of Alsace and Lorraine which were the subject of paragraphs 4 and 5, page 7, of the Note of the Office of Private Property and Interests dated February 22, 1938.⁹

⁷ Not printed; see despatch No. 1828, March 2, 1938, from the Chargé in France, p. 331.

⁸ Not printed.

⁹ Paragraphs numbered 4 and 5, p. 336.

(2) The claim of Paul Giraud (No. 43.828) or cases similar to his: Securities seized by the American Authorities on account of the residence of the owner or of the place of deposit of the securities in French or Allied territory occupied by the enemy.

On the other hand, without raising the question of restricting in any way the scope of the principles set forth and accepted in the preceding Notes, it is necessary to specify that:

(1) if persons, natives of Alsace and Lorraine, on account of measures taken in regard to them by the German Government, are unable to furnish a certificate of ownership, the American authorities will accept any other sufficient proof establishing the rights of the claimants, in the same way as the French Government did for American citizens who were unable to furnish the numbers of the securities claimed.

(2) by analogy with what was agreed to as concerns citizens of the United States who have acquired American nationality before January 10, 1920, the American authorities will accept as proof of the reintegration into French nationality the attestation delivered by the competent French authorities.

(3) those claimants whose names follow, and which do not appear on the list submitted by the Embassy of persons susceptible of benefiting from the agreement, should be included in this list, without, furthermore, this latter having a limitative character:

[Here follows list of claimants.]

Finally, in order to facilitate the application of the agreement, and to permit the Office of Private Property and Interests to obtain the execution of contracts which it concluded several years ago with those interested, it appears indispensable that, after proof of nationality and rights of ownership, each of the two organisations which have charge of the restitution of sequestered property shall receive the dossiers, funds and securities belonging to their nationals.

Under reserve of these observations, the French Government agrees to the provisions envisaged, and the Office of Private Property and Interests will proceed with the liberation of all sums (principal, revenue and interest) belonging to American citizens who satisfy the required conditions as soon as the Embassy notifies the date upon which the arrangement may come into force.

Please accept [etc.]

For the Minister:

JULES HENRY

763.72113/2785 : Telegram

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

WASHINGTON, December 6, 1938—6 p. m.

916. Department's instruction November 3, 1938,¹⁰ sequestration claims. Steps are being taken to liquidate the Alien Property Bureau

¹⁰ Not printed.

as indicated in the Department's telegram of December 4, 1937.¹¹ If the release arrangement is not concluded before the liquidation of the Bureau is completed, the settlement of the French claims, in view of their number, which is in excess of the American claims, may not be possible on terms so favorable to French claimants as the terms of the contemplated arrangement. Every effort should be made to have the arrangement concluded before Congress convenes on January 3. Report present status of negotiations.

WELLES

763.72113/2797 : Telegram

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

PARIS, December 8, 1938—2 p. m.
[Received December 8—1:41 p. m.]

2075. Department's telegram 916, December 6, 6 p. m. The opinion of the Attorney General embodied in the Department's instruction 1159, November 3, 1938,¹¹ regarding the points brought out in the note received by the Embassy from the French Ministry of Foreign Affairs July 18, 1938 and the views of the Department with respect thereto were transmitted to the French Government November 19, 1938.

A member of the Embassy staff called this morning upon the official in charge of the negotiations at the Office of Private Property and Interests and informally conveyed to him the import of the Department's above-mentioned telegram.

This official indicated that the contents of the Embassy's note of November 19th had only recently been received from the Ministry and that he had not yet examined the opinion of the Attorney General in all of its aspects. Nevertheless under this reserve he let it be understood that in the main it appeared to contain nothing to which the office could find serious objection or that might tend to prolong the negotiations. He appeared determined to do all possible to hasten the definite acceptance of the agreement by his Department but explained confidentially that while he would draft the reply of the Government within the next few days he feared that unless the managing committee of the Office of Private Property and Interests was spurred to prompt action delay might occur. For this reason and at his suggestion the import of the Department's telegram is being formally embodied in a note to the Minister for Foreign Affairs.

WILSON

¹¹ Not printed.

REPRESENTATIONS BY THE FRENCH GOVERNMENT AGAINST LEGISLATION PERMITTING USE OF CERTAIN FRENCH WINE NAMES BY AMERICAN PRODUCERS¹²

811.114 Liquor/12144

The Adviser on Political Relations (Dunn) to the Secretary of State

[WASHINGTON,] December 8, 1937.

MR. SECRETARY: Mr. Garreau-Dombasle, Commercial Counselor of the French Embassy, has again expressed the anxiety of his Government over the possibility that the President may decide to appoint a majority of the members of the Federal Alcohol Administration and thus cause Section 506 of the Liquor Tax Administration Act¹³ (H. R. 9185) to become effective. It is Section 506 of that Act which authorizes the use of certain names of French origin (Cognac, Medoc, St. Julien, et cetera) in labeling wines produced in this country. That Section does not take effect until a majority of the members of the Federal Alcohol Administration have qualified and taken office.

Mr. Garreau-Dombasle expressed the hope that something might be done to remove this uncertainty and at the same time afford adequate protection to French names of origin, particularly to "Cognac".

It appears that this matter was brought to the attention of the President in July 1936, and it is our understanding that he was urged at that time not to appoint the members of the Federal Alcohol Administration until an opportunity had been had to revise this legislation or to modify its application in a manner which would offer protection to the French in the use of their own names. Since then, Congress has met in its regular session of this year, and later adjourned without anything apparently having been done toward meeting the French desires in this matter.

We assume that the time will eventually come when the President will find it desirable to appoint the members of the Federal Alcohol Administration. It would appear, therefore, that it might be wise for us to formulate without delay some plan of action which we may pursue, either now or later, toward obtaining for the French the protection of their own names to which in all justice they would seem entitled.

We wondered, therefore, whether you might not wish to discuss the matter with the President. We would like at least to be able to inform the French that we have not lost sight of their request.

JAMES CLEMENT DUNN

¹² Continued from *Foreign Relations*, 1936, vol. II, pp. 125-128.

¹³ Approved June 26, 1936; 49 Stat. 1939, 1966.

811.114 Liquor/1223

The Secretary of State to the Secretary of the Treasury (Morgenthau)

WASHINGTON, May 5, 1938.

MY DEAR MR. SECRETARY: It is understood that some time last fall, the Federal Alcohol Administration held hearings on the question of continuing the present temporary authorization of the use under certain restrictions of the word "Cognac" in labeling brandies produced in this country. In so far as I have been informed, no final decision has yet been reached in the matter by the Federal Alcohol Administrator.¹⁴

The French Embassy has again expressed to me the anxiety of its Government over the possibility of the continuance of the use of the designation "Cognac" on brandies produced in the United States.

I feel, therefore, that in his consideration of this question it might be of value to the Federal Alcohol Administrator to know that a decision permitting the continuance of the use of the word "Cognac" in labeling domestic brandy would have an adverse effect upon our Trade Agreement¹⁵ with France.

At the time of the signature of the Franco-American Trade Agreement, the regulations of the Federal Alcohol Administration prohibited the use of the words "Cognac" or "Cognac brandy" except for brandies distilled in the Cognac region of France, thus effectively preventing the use of those designations for domestic brandies.

While those regulations were in force we accorded to France in the Trade Agreement a reduction in the import duty on brandies of French origin. The French Government considers that this duty reduction is one of the most important of the concessions to France included in the Agreement. This concession was part of the consideration in return for which it was possible for this Government to obtain from France duty and quota concessions on a number of products of importance to American industry and agriculture.

Among those American products which have benefited by the Trade Agreement may be mentioned fresh grapefruit and oranges, dried prunes, peaches, apricots, apples and pears, raisins, motion picture films, preserved salmon and sardines, fresh apples and pears, and canned asparagus.

The French Government feels, however, that the benefits to which it is entitled under the Trade Agreement have been materially and

¹⁴ W. S. Alexander.

¹⁵ Signed at Washington, May 6, 1936. For text, see Department of State Executive Agreement Series No. 146: *Reciprocal Trade Agreement and Protocol of Signature Between the United States of America and France, and Related Notes*; for correspondence, see *Foreign Relations, 1936*, vol. II, pp. 85 ff.

adversely affected by the provisional regulations permitting the use of the word "Cognac" on domestic brandies, and that a continuing and increasingly adverse effect would result if the provisional regulations were made permanent. The French Government cannot see how the interests of the consumer will be served by permitting domestic distillers to use a French geographical name on their labels, and it feels that the present regulations, therefore, permit unfair competition which effectively deprives France of a part of the benefit to which it is entitled under the Trade Agreement.

In consequence, the French Government has been giving consideration to the provisions of the third paragraph of Article 11 of the Franco-American Trade Agreement which provides that in the event either Government adopts a measure which, although it does not conflict with the terms of the Agreement, should, nevertheless, be considered by the other country to have the effect of nullifying or materially impairing any important object of the Agreement, such other Government shall be free to propose negotiations for the modification of the Agreement. In the event an agreement is not reached, the Government making the proposal may terminate the Agreement in its entirety on thirty days' notice.

I need not stress the importance of the many advantages which American interests have obtained as a result of the Trade Agreement with France, and which would be lost in the event that the French Government found it necessary to terminate the Agreement.

I hope, therefore, that pending the coming into effect or the amendment of Section 506 of the Liquor Tax Administration Act, the Federal Alcohol Administrator will not find himself under the necessity of taking any action which might prejudice our Trade Agreement program.

Sincerely yours,

CORDELL HULL

811.114 Liquor/1223

The Secretary of State to the Secretary of the Treasury
(*Morgenthau*)

WASHINGTON, May 26, 1938.

MY DEAR MR. SECRETARY: Referring to a telephone conversation between an officer of the State Department and Assistant Secretary Wayne Taylor, I wish to submit the following comment in supplement to the information contained in my letter of May 5, 1938 on the question of continuing the present temporary authorization of the Federal Alcohol Administrator of the use under certain restrictions of the term "Cognac" in labeling brandies produced in this country.

Over a long period of years the French Government has sought to obtain protection in this country for French geographic appellations of origin of wines. Originally it sought protection for all such appellations, but recently it appears to be inclined to accept at least tacitly the contention of the American authorities that such names as Sauterne and Chablis have become generic in the United States. However, it continues strongly to maintain that "Cognac" has not become a generic term, and it feels that the only reason why a domestic producer could conceivably want to use that term would be in order to deceive the consumer into believing that his product was the same as brandy produced in the Cognac region of France. It feels that this representation of a domestic product as being the same as its brandy, which to a considerable extent owes its qualities to the soil of the Cognac region and which has reached a high state of perfection through many generations of production by the same families, has a definitely adverse effect upon the consumption in the United States of French Cognac brandy.

During the conversations preliminary to the negotiations for a trade agreement with France and during the early stages of the negotiations, the French Government sought to obtain in the proposed agreement adequate protection for French geographical appellations of origin, particularly "Cognac". However, it was not legally feasible to include in the Franco-American Trade Agreement any provision which would prohibit the use of the term "Cognac" to describe domestically-produced brandy. Nevertheless, the French Government proceeded to the conclusion of that agreement which became effective June 15, 1936 and is still in force.

I have been informed by the French Embassy that in proceeding with the negotiation of the agreement notwithstanding our inability to accord satisfaction in the matter of the protection of French appellations of origin, the French Government was influenced by the fact that regulations then in force in the United States effectively prohibited the use of the words "Cognac" or "Cognac brandy" except for brandies distilled in the Cognac region of France.

As stated in my letter of May 5, the third paragraph of Article XI of the Trade Agreement was intended to protect each Government against subsequent legislative or administrative acts of the other which would "have the effect of nullifying or materially impairing any important object of the agreement".

The French Government has made it abundantly clear to us that it considers the action of the Federal Alcohol Administrator in modifying the regulations governing the use of the words "Cognac" and "Cognac brandy" as action on our part which adversely affects the

concession on brandy accorded to France in the Trade Agreement. As evidence of this, there is enclosed a copy of the translation of a note from the French Embassy dated May 20, 1936,¹⁶ written at the time the Congress was considering the Liquor Tax Administration Act.

We found it impossible to obtain a modification of that Act, and after its passage we received further oral representations from the French Embassy but were able to persuade it to defer any formal representations in the matter as the section of the Act which would permit the use of the word "Cognac" in labeling domestic brandies (Section 506) would not become effective until the President had appointed a majority of the members of the Federal Alcohol Administration contemplated in Section 501.

When the Federal Alcohol Administration began to approve labels bearing the word "Cognac" in spite of the fact that Section 506 of the Liquor Tax Administration Act had not become effective, the French Embassy renewed its complaints; but we were again able to dissuade it from immediate formal representations because of the temporary character of the Administration's action.

I can assure you that the concession on brandy which we accorded to France in the Trade Agreement is considered by the French Government as one of the important concessions accorded to France. The brandy interests in France form a strong and articulate minority able to bring great pressure upon the French Parliament. While of course the specific concession relating to brandy consisted in a reduction in the import duty, the French Government nevertheless attaches great importance to retaining the prohibition of the use of the word "Cognac" which existed at the time of the signature of the Trade Agreement.

If Section 506 of the Liquor Tax Administration Act should become effective in its present form and the Commission should then find it proper to permit the use of the words "Cognac" or "Cognac brandy" in labeling domestic products, there would of course be nothing we could do other than accept the fact and face the situation which would then arise.

I wish to repeat my hope, however, that pending the coming into effect or the amendment of Section 506 of the Liquor Tax Administration Act, the Federal Alcohol Administrator will not find himself under the necessity of taking any action which might prejudice the trade agreements program.

Sincerely yours,

CORDELL HULL

¹⁶ *Foreign Relations*, 1936, vol. II, p. 125.

811.114 Liquor/1246

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

No. 1062

WASHINGTON, September 13, 1938.

SIR: There is enclosed for your information a copy of a communication¹⁷ issued by the Federal Alcohol Administration Division of the Treasury Department, addressed to importers and bottlers of distilled spirits, stating that the Secretary of the Treasury has disapproved a proposal to amend the regulations relating to the labeling and advertising of distilled spirits in such manner as to permit brandies produced in the United States to be designated as "Cognac" under certain conditions.

This ruling was obtained by the Department with considerable difficulty, as the result of representations made by the French Commercial Attaché in the United States.

A similar instruction has been addressed to the American Consul at Bordeaux, France.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

CITIZENSHIP STATUS OF CHILDREN BORN IN THE UNITED STATES TO FATHERS WHO AT THE TIME WERE FRENCH CONSULAR OFFICERS

130—Goiran de Trans, Jean Roger

The French Chargé (Henry) to the Secretary of State

[Translation]

WASHINGTON, February 7, 1938.

MR. SECRETARY OF STATE: I have the honor to advise Your Excellency that the Embassy of the United States at Paris has recently communicated to the Ministry of Foreign Affairs that it considered the son of Mr. Goiran, Minister of France to Mexico, as possessing American nationality because he was born at New York.

More detailed information having been requested on this subject by the Ministry, the United States Embassy communicated, in substance, that at the time of Mr. Roger Goiran's birth, on March 12, 1909, his father was not yet a minister plenipotentiary, but only a consul. Now the United States law, from the point of view of the acquisition of American nationality by the *jus soli*, was said to treat the children of foreign consuls as private individuals.

However, that interpretation appears to be in contradiction with the one which is given in the treatise on American law, *Corpus Juris*,

¹⁷ Dated July 29, 1938; for text, see *Federal Register*, 1938, vol. 3, p. 1903.

volume 11, page 780, paragraph 10, on the subject of nationality of children of ambassadors, consuls and army officers, the text of which I have the honor to reproduce below :

“Foreign born children of Ambassadors and Consuls are in theory born within the allegiance of the sovereign power which their father represents and hence take the nationality of the father; but this rule has no application to children, born abroad, of officers in the military service of the Government.”

By reason of this interpretation, I should be very grateful to Your Excellency if you would be good enough to communicate to me the text of the American law which governs the matter.

Please accept [etc.]

J. HENRY

130—Goiran de Trans, Jean Roger

The Secretary of State to the French Chargé (Henry)

WASHINGTON, March 3, 1938.

SIR: I have received your communication of February 7, 1938, requesting information concerning the citizenship status of a child born in the United States of a father who at the time of the child's birth was a French consular officer. Specific reference is made to the fact that the American Embassy at Paris recently advised the Ministry of Foreign Affairs of France that it considered that Jean Roger Goiran de Trans, who was born in the United States of a French father who at the time was a French consular officer, acquired American citizenship at birth. It is added that the opinion expressed in the case seems to be contrary to the statement contained in *Corpus Juris*, Volume 11, page 780, and it is requested that you be advised of the text of the law of the United States governing the matter.

Article XIV of the Amendments to the Constitution of the United States, which is the law applicable to persons born in the United States and subject to its jurisdiction, provides in part as follows:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States . . . ”

It has long been the view of the Department that under this Constitutional provision persons born in the United States of fathers who are in the employ of a foreign government other than in a diplomatic capacity are considered to be born subject to the jurisdiction of the United States and consequently acquire at birth the status of citizens of the United States. Consular officers and their assistants are not considered to have a diplomatic status although, by reason of their office, they may have by law, treaty and usage, privileges not accorded

to other aliens. It is realized, however, that there is contained in *Corpus Juris* the statement that "foreign born children of ambassadors and consuls are in theory born within the allegiance of the sovereign power which their father represents and hence take the nationality of the father", but this statement so far as it concerns children born in the United States of fathers who are consuls of foreign countries is not accurate. It is based largely upon misunderstanding of the cases cited in connection with the statement or upon dicta contained in certain decisions of courts. While for a time controversy existed in the United States whether or not children born in this country of alien parents acquired United States citizenship *jure soli*, this uncertainty was due to a dictum in the opinion in the Slaughter-House Cases, cited in the note to the portion above quoted of *Corpus Juris*, in which it was said that the phrase "subject to its jurisdiction" used in Article XIV of the Amendments to the Constitution was intended to exclude from its operation "children of ministers, consuls, and citizens or subjects of foreign States, born within the United States". This statement was a mere dictum stated in 1873. However, in the case of the *United States v. Wong Kim Ark* (169 U. S. 649), decided by the Supreme Court of the United States in 1898, involving the question whether or not children born in the United States of alien parents were citizens, the Supreme Court made the following statement:

"Mr. Justice Miller, indeed, while discussing the causes which led to the adoption of the Fourteenth Amendment, made this remark: 'The phrase, "subject to its jurisdiction," was intended to exclude from its operation children of ministers, consuls, and citizens or subjects of foreign States, born within the United States.' 16 Wall. 73. This was wholly aside from the question in judgment, and from the course of reasoning bearing upon that question. It was unsupported by any argument, or by any reference to authorities; and that it was not formulated with the same care and exactness, as if the case before the court had called for an exact definition of the phrase, is apparent from its classing foreign ministers and consuls together—whereas it was then well settled law, as has since been recognized in a judgment of this court in which Mr. Justice Miller concurred, that consuls, as such, and unless expressly invested with a diplomatic character in addition to their ordinary powers, are not considered as entrusted with authority to represent their sovereign in his intercourse with foreign States or to vindicate his prerogatives, or entitled by the law of nations to the privileges and immunities of ambassadors or public ministers, but are subject to the jurisdiction, civil and criminal, of the courts of the country in which they reside."

Accept [etc.]

For the Secretary of State:
G. S. MESSERSMITH

130/2035

The French Ambassador (Saint-Quentin) to the Secretary of State

[Translation]

WASHINGTON, May 5, 1938.

MR. SECRETARY OF STATE: By its letter of March 3, 1938, the Department of State was good enough to advise this Embassy of the texts which the American Government takes as a basis for considering, from the standpoint of acquisition of American nationality by the *jus soli*, the children of foreign consuls as private citizens.

It results from these texts that the American authorities have a sound basis in considering as being their national any Frenchman born in the United States to one of our consuls exercising his duties there even when the person concerned does not possess any domicile in America and without regard to any manifestation of will on his part.

This possibility, nevertheless, is certain to present disadvantages and might, in the future, cause difficulties which it would be well to avoid.

It would furthermore appear to be equitable to assimilate, in this regard, career consuls to the members of the diplomatic corps, since both receive official functions for which they assume exclusively the obligation of residing abroad.

I would be very grateful to Your Excellency if you would have the goodness to examine the question and, taking account of the decisions of the Supreme Court of the United States, let me know whether a practical solution could not be contemplated to the end that the children born in the United States to career agents of the French Consular List, on duty in this country, may not be considered as American citizens, at least if there is no express manifestation of desire on their part.

Please accept [etc.]

R. DE SAINT-QUENTIN

130/2035

The Secretary of State to the French Ambassador (Saint-Quentin)

WASHINGTON, May 25, 1938.

EXCELLENCY: I have the honor to acknowledge the receipt of your communication of May 5, 1938, referring to the Department's note to Mr. Jules Henry, Chargé d'Affaires ad interim of the French Republic, of March 3, 1938, concerning the citizenship status of a child born in the United States of a father who at the time of the child's birth was a French consular officer.

I have examined with care the question whether it would be possible to formulate a practicable solution under which children born in the United States to French consular officers of career may not be considered as acquiring at birth the citizenship of the United States but I regret to say that there does not seem to be any practicable solution of the problem since citizenship is acquired by such children under a provision of the Constitution of the United States. I may add that under the provisions of the first paragraph of Section 2 of the Act of March 2, 1907,¹⁸ an American citizen may expatriate himself after attaining majority by taking an oath of allegiance to a foreign state. For your convenience this paragraph of law is quoted:

“That any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state.”

Accept [etc.]

For the Secretary of State:
G. S. MESSERSMITH

130/2109

The French Ambassador (Saint-Quentin) to the Secretary of State

[Translation]

WASHINGTON, October 25, 1938.

MR. SECRETARY OF STATE: By a letter of May 25, 1938, the Department of State was so good as to indicate to me a practical solution for the purpose of giving satisfaction to children born in the United States to agents of the French consular corps on active service in this country in cases where the said children should not wish to keep American nationality.

The Department of State believes that such children cease to be considered American children if, on reaching their majority, they manifest their express desire to renounce American nationality by swearing fidelity to France.

This solution would appear to be satisfactory in principle. Nevertheless, as the formality of the oath of fidelity does not exist in France, my Government has requested me to submit the proposal to Your Excellency that the interested parties be considered as free from American allegiance when they shall have made, at the Department of Foreign Affairs at Paris, if they are residing in France, and before the competent Consul, if they are domiciled abroad, a declaration

¹⁸ 34 Stat. 1228.

affirming their intention to keep American [*French?*] nationality only.

This declaration would then be notified by the Ministry of Foreign Affairs to the American authorities, through this Embassy. It would also be necessary to determine its form and my Government would be very glad to receive the suggestions of the American Government with respect to this.

Nevertheless, in case the Department of State deems best to propose another formality intended to take the place of that of the oath of fidelity and one compatible with French legislation, my Government would be entirely disposed to examine it.

Please accept [etc.]

R. DE SAINT-QUENTIN

130/2109

The Secretary of State to the French Ambassador (Saint-Quentin)

WASHINGTON, November 4, 1938.

EXCELLENCY: I have the honor to acknowledge the receipt of your communication of October 25, 1938, referring to the Department's communication of May 25, 1938, concerning children born in the United States to fathers who at the time were French consular officers. Reference is made to the statement contained in the communication of May 25, 1938, concerning the loss of American citizenship by taking an oath of allegiance to a foreign state, but it is stated in the communication under acknowledgment that while the solution of the problem of the termination of dual nationality arising in this class of cases appears to be satisfactory in principle there does not appear to be any provision of French law providing for the taking of an oath of allegiance to France. The proposal is therefore made that a person who was born in the United States of a father who was at the time a French consular officer be considered as having renounced American allegiance when he shall have made a declaration before certain designated officials of his intention to retain only the nationality of France.

It is regretted that there is no provision in the law of the United States under which citizenship may be lost by following the suggestion contained in the communication under acknowledgment. It may be added, however, that there was submitted by the President to Congress at its last session certain recommendations regarding the acquisition and loss of citizenship in the United States. There was included among the recommendations a provision that an American citizen may, among other methods, cease to be such a citizen by renouncing citizenship before an American consular officer abroad.

It cannot, of course, be anticipated what action will be taken by the Congress upon these recommendations.¹⁹ For the present citizenship in the United States can be lost only under the methods now prescribed by the laws of this country. Consequently, the present proposal could not be accepted nor is it possible for the Department to make any other proposal with a view to terminating dual nationality in the cases of children born in the United States of French consular officers.

Accept [etc.]

For the Secretary of State:
G. S. MESSERSMITH

¹⁹ Recommendations were submitted by President Roosevelt to Congress on June 13, 1938; the resultant legislation was the Nationality Act of 1940, section 401 (b) of which provided for loss of nationality by a person who is a national of the United States, whether by birth or naturalization by "Taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state." (*Congressional Record*, vol. 83, pt. 8, p. 9002; 54 Stat. 1137, 1169.)

GERMANY

PERSECUTION OF JEWS IN GERMANY;¹ REPRESENTATIONS BY THE UNITED STATES REGARDING RIGHTS OF AMERICAN CITIZENS AND THE ORDERING OF AMBASSADOR WILSON TO WASHINGTON FOR CONSULTATION

862.00 P.R./237

*Political Report of the Chargé in Germany (Gilbert)*²

[Extract]

5. *Anti-Semitic Action.* The tendency toward the exclusion of Jews from German economic and professional life which moves forward in periodic waves received a new impetus with the announcement on January 5 that doctors of Jewish race, as defined by the 1935 Nuremberg Laws,³ had been forbidden, as from the beginning of the year, to treat patients belonging to the employees sickness insurance system. This system, to which its members pay a slightly higher contribution and thereby possess a wider choice of doctors than those enrolled with the ordinary compulsory sickness insurance fund, comprises about three million patients. The German press has indicated that the order will affect between 3,000 and 9,000 Jewish doctors throughout Germany, 900 of whom reside in Berlin. A further order published January 16 forbade Jewish dentists, as from the twentieth of the month, from treating patients enrolled with the Ersatzkrankenkassen, or various insurance systems, including that for employees, which serve as substitutes for the compulsory system. For the present, Jewish doctors are to remain with the ordinary government compulsory insurance system, or Ortskrankenkassen, a circumstance which is ascribed to the current shortage of doctors in Germany.

¹ Continued from *Foreign Relations*, 1937, vol. II, pp. 319-327. See also section entitled "Organization of the Intergovernmental Committee on Political Refugees From Germany," *ibid.*, 1938, vol. I, pp. 758 ff.

² Transmitted to the Department by the Chargé in Germany in his despatch No. 3832, January 17, 1938; received February 5.

³ For Citizenship Law of September 15, 1935, see *Foreign Relations*, 1935, vol. II, p. 406.

862.4016/1699

The Chargé in Germany (Gilbert) to the Secretary of State

No. 3852

BERLIN, January 26, 1938.

[Received February 5.]

SIR: With reference to the Department's telegrams No. 111 of October 24 [21], 4 p. m.⁴ and No. 113 of November 1, 1 p. m.,⁵ and the Embassy's telegrams No. 252 of October 25, 5 p. m.,⁶ and No. 256 of October 28, 5 p. m.,⁷ relative to reports that new restrictions had been placed by the German Government upon the issuance of passports to its Jewish nationals, I have the honor to outline the status of the inquiries made on this subject to date.

Immediately following the despatch of its telegram No. 252 of October 25, 5 p. m., transmitting information received from Jewish sources in Berlin, the Embassy circularized, through the Berlin Consulate General, the various consular offices in Germany with a view to ascertaining what practice might obtain in other parts of the country regarding the granting of passports to Jews. The first replies from these offices indicated that while instances had been known in which Jews had been refused passports for foreign travel, policy varied from district to district and uniform regulations specifically prohibiting the granting of passports to Jews had apparently not been promulgated. It appears, however, that, as set forth in the Embassy's telegram referred to above, new passports granted to Jews since the early months of last year had practically without exception been limited to a period of six months' validity. At the same time no general steps were evidently taken to cancel passports which had been issued some time ago with an original period of five years' validity and which had not yet expired; it was observed, however, that the Jewish holders of these passports were reluctant to present them to the police or other German authorities for fear that such action might be taken. In the meantime inquiries were made informally of the Foreign Office and the information received from that source, namely that the Reich authorities contemplated limiting the issuance of passports to Jews solely for purposes of emigration and short business trips abroad, was incorporated in the Embassy's telegram No. 256 of October 28, 5 p. m.

Following the receipt of the Department's telegram No. 113 of November 1, 1 p. m., and after consultation with the Consulate General in Berlin, the Embassy decided to approach the Foreign Office for more specific information which it felt justified in requesting in

⁴ *Foreign Relations*, 1937, vol. II, p. 325.

⁵ *Ibid.*, p. 326.

⁶ *Ibid.*, p. 325.

⁷ *Ibid.*, p. 326.

view of the relationship of the matter to existing American immigration regulations and practice. Consequently a note was dispatched to the Foreign Office on November 9, 1937, which it is believed covered all points raised in the Department's inquiry. There is enclosed herewith a copy of this note,^s to which no reply has as yet been received, which in itself may perhaps imply that final regulations may not yet have been drafted.

More recently, and particularly during the last week in December and the first part of January, reports were received from the Consuls General in Stuttgart and Frankfort which indicated that more stringent measures had apparently been adopted on a universal scale with respect to Jewish applications for passports. Under date of December 21, 1937, the Consul General in Stuttgart reported his understanding that an order, issued by the Reich Minister of the Interior on November 28, 1937, had been put into effect which apparently assimilated local practice to that first instituted in Berlin whereby passports are being issued to Jews only for emigration or for business trips abroad. The Consul General also wrote that Jews will no longer be permitted to take advantage of the different travel agreements between Germany and various countries. He learned that the ordinance provides that Jews desiring to emigrate must sign an undertaking that they will depart within a definite and limited period of time.

The Consul General in Frankfort reported under date of December 20, 1937, that he had been informed from a reliable source that new police regulations were to be put into effect the first of the year which would denote a "change in policy" but would not be published in order to allow the police the widest possible discretion in passing upon individual applications by Jews. These regulations would aim at generally restricting trips by German citizens abroad in order to save foreign exchange, but would bear down on Jews in particular. In accordance therewith, all Jews would have their passports taken up when they return from a trip abroad and no new passports would be issued unless they desire to emigrate or make business trips abroad which the local Chamber of Commerce could endorse as being in the interest of German export trade. Only absolutely necessary foreign exchange would be furnished such an applicant, and no member of his family might accompany him except as a necessary assistant. Writing later, on January 15, the Consul General reports that a local Jewish musician who intended to make a concert tour of the United States had been refused a passport although he assured the police authorities that his visit would bring in foreign exchange in Germany.

^s Not printed.

In the absence of authoritative information from the Foreign Office it is difficult to state definitely what form recent regulations may take. It would nevertheless appear that general orders have been issued for the tightening of restrictions upon the granting of passports to Jews and that in the important German cities they will be able to obtain new passports only for emigration or for single business trips abroad. It would appear, however, that a certain amount of latitude is still permitted the local authorities and reports are current here in Berlin that the police in some districts are lenient in interpreting the regulations and permit the issuance of passports for short trips preliminary to arranging for emigration, or trips undertaken by virtue of urgent personal necessity involving, for instance, the death of a relative abroad. On the other hand it is rumored that in other districts the police, as they did in some parts of southern Germany in 1936, are refusing passports to Jews altogether and indeed are taking up passports which are still valid, on the suspicion that the holders planned to leave the country surreptitiously and thus evade the Capital Flight Tax. (Ordinary German passports are designated as valid for "*In-und-Ausland*", and in some cases the word "*Ausland*" is simply stricken through by the police.) It is difficult, furthermore, to determine to what extent the limitation upon Jewish passports may be merely part of a general restriction upon the issuance of passports to all German citizens, which it was felt that the law empowering the Minister of the Interior completely to revise existing regulations might forbode (see Embassy's despatch No. 3504 of June 3, 1937¹⁰). It is probable, however, that in any general revision of the passport laws occasion would be taken to discriminate particularly against the Jews.

Respectfully yours,

PRENTISS GILBERT

863.4016/172

The Chargé in Austria (Wiley) to the Secretary of State

No. 166

VIENNA, March 25, 1938.

[Received April 5, 1938.]

SIR: I have the honor to transmit herewith a memorandum¹⁰ which the Commercial Attaché, Mr. Richardson, has kindly compiled at my request. It contains most of the authentic information which has been collected by members of the staff in respect of action taken against Jews and their property since the overthrow of the Schuschnigg Government.¹¹

¹⁰ Not printed.

¹¹ See vol. I, pp. 384 ff.

According to a report today received from a reliable Jewish source, three of the most prominent Jewish leaders who have been arrested are in great danger. They are to be charged with high treason.

The premises of the leading Jewish associations, such as the Jewish Community, Jewish Union, Zionist headquarters, etc., have all been closed. The Jewish hospital, the Jewish old people's home, several Jewish schools and three Jewish soup kitchens are open. All Jewish welfare funds in Vienna have, however, been blocked. There is already a condition of great distress.

The aspect of the situation here which makes it more tragic than that which has existed in Berlin is the suddenness of the blow and the fact that relatively few Jews were able to flee the country. The percentage of "non-Aryans" in Vienna is very high, but Jewish wealth here is not comparable with that which existed in Berlin.

There has been a campaign of indignity inflicted upon the Jews. One eminent rabbi had his beard cut off. Hundreds, if not thousands, have been obliged to perform degrading and menial tasks, and practically all of the Jewish population is in a state of acute anxiety and depression. They feel as though they were living in a state of legalized lawlessness without rights or the possibility of appeal to any higher authority. Suicides have been numerous. So far as I know there have been no Jewish deaths by violence.

It has been "suggested" to American companies, such as the Vacuum Oil Company, Czeija, Nissl & Co. (a subsidiary of the International Telephone & Telegraph), etc., to dismiss their "non-Aryan" employees. The Vacuum Oil Company was told, however, to make the dismissals gradually and to keep certain more important Jewish employees for six or eight months so that they could break in their successors.

There are indications that the economic pogrom is somewhat abating. The S. A.¹² is beginning to remove the Jewish boycott signs which were placed on Jewish shops all over the city. There are also signs that exit visas may be more readily forthcoming in the future.

One obvious and tragic feature of the situation is the economic difficulty for many hundreds of thousands of "non-Aryans" to remain in Austria. At the same time there seems to be an equally great difficulty for the vast majority of them to find a haven of refuge abroad.

Attached to the enclosed memorandum are certain self-explanatory exhibits.¹³

Respectfully yours,

JOHN C. WILEY

¹² Sturmabteilung.

¹³ Not printed.

862.4016/1709

The Ambassador in Germany (Wilson) to the Secretary of State

No. 74

BERLIN, April 5, 1938.

[Received April 13.]

SIR: I have the honor to enclose a copy of *Reichsgesetzblatt Part I*, No. 45, of March 30, 1938,¹⁴ containing a law depriving the Jewish religious communities of the semi-public status they have enjoyed as "corporations under public law" (*Körperschaften des öffentlichen Rechts*) and reducing them to the position of private societies. An English translation of this law is likewise enclosed.¹⁴

According to information received from authoritative Jewish sources, the Jewish religious communities, or Gemeinde, have until now possessed in each city privileges in some respects similar to the established churches, receiving protection from the State and being able to depend upon the State to collect taxes for the support of their religious and welfare activities. In the same sense that the Catholic and Protestant clergy are regarded as State officials, the Jewish Rabbis also enjoyed that privilege. As a result of the law referred to above, the Jewish communities now become merely private bodies with a status similar to that of other duly registered associations (*eingetragene Vereine*) or clubs.

It is provided that this change shall take place as of March 31. It may be noted that the law is considered to have become law last January 1, but by virtue of the fact that it was only promulgated March 30, the Jewish communities have thus been deprived of a three months' period of notice which might have made it easier for them to adjust themselves to the new arrangement. Application of the law to Austria remains for the time being in abeyance.

As judged by local Jewish authorities, the law may have the following effects. The Jewish Gemeinde may no longer receive, as of official right, the taxes levied upon their members by the State for the meeting of community expenses, such as the Rabbis' salaries, the upkeep of synagogues, Jewish schools and hospitals, relief work, old age pensions of contributing members and the payment of the salaries and pensions of officials of the community. It is understood, however, that it has been intimated to the officials of the Jewish communities that they may bring civil suit against non-paying members, just as certain other private associations and clubs are entitled to bring suit for the non-payment of dues. With the former legal basis removed whereby contributions were collected as State taxes, it is feared in some quarters that many members of the Jewish communi-

¹⁴ Not printed.

ties, particularly in the degree that they may suffer from the pressure of official and Party economic discrimination, may refuse to pay their contributions voluntarily, and it is perceived that the collection of these contributions by court process would be a costly procedure. On the other hand, certain other Jewish authorities rely upon the *esprit de corps* of the Jewish community members to induce them to continue to pay as contributions the sums they formerly paid as assessed taxes. It may be regarded as of some significance, however, that the competent Government officials have stated that they will refuse to divulge the sums formerly paid to the communities by individual members as taxes which in turn were based upon a proportion of the total income tax paid to the State.

Officials of the local Jewish community perceive that the law may work another hardship in that, following the termination of their public status, the communities may be called upon to pay taxes upon their property such as synagogues, cemeteries, administrative buildings, and so forth. Certain of the communities are understood, moreover, to possess archives and art collections of historic and intrinsic value, but they may not sell these (in order, possibly, to meet rising current expenses) without the permission of the Government.

While the new law in theory reduces the Jewish communities in Germany to the private status they occupy in other countries, it is nevertheless deplored as discriminatory, if taken in relation to the position that the other religious communities enjoy as established churches, and it is counted upon to hamper, to a degree that may possibly be very great, the social and welfare work of the already seriously harassed Jewish Gemeinde.

Respectfully yours,

HUGH R. WILSON

862.4016/1710

The Ambassador in Germany (Wilson) to the Secretary of State

No. 87

BERLIN, April 12, 1938.

[Received April 22.]

SIR: I have the honor to refer to the following exchanges of correspondence between the Department and the Embassy bearing on the question of the status of passports held by German Jewish nationals: Department's telegram No. 111 of October 21, 4 p. m., Embassy's telegram No. 252 of October 25, 5 p. m., Embassy's telegram No. 256 of October 28, 5 p. m., Department's telegram No. 113 of November 1, 1 p. m.,¹⁵ Embassy's telegram No. 270 of November 12, 5 p. m.,¹⁶ Em-

¹⁵ Telegrams Nos. 111 and 252, *Foreign Relations*, 1937, vol. II, p. 325; Nos. 256 and 113, *ibid.*, p. 326.

¹⁶ Telegram No. 270 not printed.

bassy's despatch No. 3852 of January 26, 1938, and Embassy's despatch No. 3903 of March 2, 1938.¹⁷

The Embassy has now received from the Foreign Office a reply to the Embassy's note of November 9, 1937, requesting information concerning the status of German passports held by Jews (see Embassy's despatch No. 3852 of January 26, 1938, referred to above). There are enclosed herewith a copy of the German text of the Foreign Office reply, an English translation thereof, and, for purposes of convenient reference, a copy of the Embassy's original note of November 9, 1937, to the Foreign Office.¹⁸

In the light of the Foreign Office reply and information received by the Embassy from the various American consular offices in Germany, the situation with respect to the holding of German passports by Jews may be summarized as follows. Through a series of internal administrative instructions, the application of which would seem to vary somewhat according to the locality, Jews are finding it difficult to obtain passports for travel to foreign countries except for the following purposes: (1) business trips abroad certified as being in the interest of German economy by some competent governmental authority; (2) definitive emigration; and (3) occasional journeys outside of the country for urgent personal reasons including the intention to arrange for emigration. Jews in this sense would appear to be those defined as such by the so-called Nuremberg racial legislation, namely, persons belonging to the Jewish faith or persons with three or more Jewish grandparents.

The periods of validity of passports granted under the various circumstances outlined above would appear also to vary. In cases falling under category (1) above, the persons concerned are granted passports valid only for a single journey. In cases falling under categories (2) and (3) above, most of the passports issued are limited to six months validity, although instances have been noted in which Jews had obtained passports valid for a year and, in some cases, for two years. (It would appear that pending a definitive revision of the passport regulations, which it is understood is being undertaken, practically all German passports are being limited to two years in the case of men under 45 years of age, which is the upper age limit of potential military service.) It appears that some Jews still hold passports with an original validity of five years which they obtained some time ago, although in certain cases such passports have been cancelled by the police.

From the terms of the Foreign Office note it would appear that Jews are able to have their passports extended by German consular

¹⁷ Despatch No. 3903 not printed.

¹⁸ None printed.

authorities in the United States on condition that the holders have not in the meantime lost German nationality. In accordance with point 3 of the Foreign Office note, all Jews, including those that are considered to have emigrated, are in theory eligible to reenter Germany at any time provided that they still possess German nationality. It is understood, however, that in some cases such Jews have been held up at the border and have been dispatched to *Schulungslager*, which in some instances are concentration camps, where they are apparently "schooled" in the belief that it might have been better for them to remain abroad. This apparently is not a hard and fast practice, but knowledge of cases in which it has been applied seems to be sufficiently general to have discouraged many Jews from returning to Germany.

The considerations determining whether or not a person has emigrated appear to be somewhat indefinite. This status is evidently accepted as established in the cases of persons who have paid the capital flight tax, moved their belongings abroad, etc. From point 4 of the Foreign Office note it may be observed that in addition to these specific acts which might be said to be in themselves determining, consideration is also to be given to a possible "intention of permanently leaving Reich territory", and that this intention may be made a matter subject to assumption. It is indeed learned on good authority that an ordinance has been circulated ruling that Jewish children are to be classified as having emigrated should they remain abroad longer than three months after reaching their sixteenth year. It is understood, however, that the local police authorities at least have informed the leaders of the Jewish community that for the time being they will permit the readmission of children technically falling within the scope of this order if it is intended in good faith that these children should resume residence in Germany.

The possible loss of German nationality, as referred to in points 2 and 3 of the Foreign Office note, is perhaps the crux of the entire question. It may be recalled that the Ministers of the Interior and for Foreign Affairs possess authority by a decree of July 14, 1933, (*Reichsgesetzblatt* 1933, Part I, page 480), arbitrarily to deprive of German nationality persons who have offended against the National Socialist State. This has been done in a series of orders termed *Ausbürgerungen* (which at first were published in the press but are now usually omitted therefrom) setting forth lists of persons, in a large majority of cases, Jews, who are to be deprived of their nationality. It is essential, moreover, to recall that by a law promulgated February 9, 1938, the consistent failure to register with the German consular authorities following prolonged residence abroad is made a possible ground for the revocation of German nationality. (See section 5 of the Law of February 3, 1938, discussed in the Em-

bassy's despatch No. 3878 of February 15, 1938.¹⁹) As stated on pages 3 and 4 of the Embassy's despatch immediately referred to above, it is thought that the operation of this provision may have an important bearing upon certain phases of the admission of German nationals to the United States. In this connection it is believed that the note of the Foreign Office does not contain complete assurances that the Reich Government will permit the return to Germany of all classes of aliens who may be subject to deportation from the United States. It would appear indeed that the above-mentioned provision of the Law of February 3, 1938, might be invoked to establish a claim that an alien had forfeited German nationality by non-fulfillment of the registration obligation, although from the American point of view he had taken no affirmative action to divest himself of German nationality.

What has been set forth above cannot be said to be conclusive inasmuch as it appears that a certain latitude of decision, and indeed caprice, is permitted the local authorities with respect particularly to the issuance of passports to Jews and the readmission into Germany of Jews who might possibly fall under the presumption of having emigrated. It is hoped, however, that the information contained in this and other despatches on the same subject answer as adequately as possible the questions raised in the Department's original inquiry.

Respectfully yours,

HUGH R. WILSON

863.4016/173 : Telegram

The Chargé in Austria (Wiley) to the Secretary of State

VIENNA, April 29, 1938—noon.
[Received April 29—11:30 a. m.]

205. Bürckel²⁰ this morning issued decree emphasizing need of "Aryanization" of Vienna but denouncing certain elements in Vienna for speculation and sharp practices at the expense of the Jews. In consequence he would personally conduct Aryanization himself and initiate necessary measures on an "absolutely legal but therefore all the more thorough basis". He would brook no interference. When he needed help from others he would ask for it. In conclusion he stated that Jewish agitation abroad would be little calculated to contribute to the "increasingly magnanimous character" of Aryanization.

Jewish circles comment ironically that they must look upon Bürckel as their guardian angel but hope for energetic measures to curb physi-

¹⁹ Not printed.

²⁰ Reichskommissar for Austria.

cal violence and terrorism by Austrian S. S.,²¹ S. A. and other lawless elements.

WILEY

362.115/138 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, April 30, 1938—9 a. m.

[Received 10:10 a. m.]

215. Department's 52, April 28, 7 p. m.²² Decree of April 26 as supplemented by instruction of same date embodies the following important principles.

1. Every Jew as defined in article 5 of the First Decree of the Reich Citizenship Law November 14, 1935, must declare and give the value of entire domestic and foreign fortune.

2. Jews of foreign nationality are required to declare domestic (German) property only.

3. The obligation to declare is extended to the non-Jewish marital partner of a Jew.

4. Fortune does not include movable possessions for personal use or household goods which are not luxury articles.

5. No declaration required if total value of property, without taking debts or obligations into account, does not exceed 5,000 marks.

6. Declaration must be submitted by June 30, 1938, but may be prolonged for cause provided estimate is submitted prior to this date.

7. Increase or decrease of fortune subsequent to original declaration must be notified as well as fortunes which subsequently may attain 5,000 marks.

8. Commissioner for 4 year plan authorized to direct use of fortunes so declared "in harmony with requirements of German economy."

9. Sale or leasing of, or acquiring usufruct in an industrial, agricultural or forestry undertaking requires permission if a Jew is a contracting party in the transaction.

10. Establishment of new Jewish industrial undertakings or of a branch of a Jewish industrial undertaking requires permission.

11. Penalty for violation of the foregoing even if committed abroad may be imprisonment up to 10 years and fine; confiscation can also be ordered for undeclared property and can take effect even if no person can be prosecuted.

The Embassy has discussed the interpretation of this decree and its application to non-German Jews with officials of the Foreign Office. However, the latter are not yet prepared to make any interpretative analysis of its provisions. The following comment on certain of the preceding numbered paragraphs may however be of some

²¹ Schutzstaffel.

²² Not printed.

value in estimating the scope of this decree although it must be emphasized that it is not official information.

1. For article 5 cited see page 3 of the enclosure to despatch No. 2474 of November 18, 1935.²³

The general impression here is that the decree will not be applied to corporations.

2. It is being assumed that under this section non-German Jews with German property, even though they be not resident in Germany, are obligated to declare such property.

3. As a corollary of the foregoing it is likewise believed that the obligation to declare also applies to Aryan marital partners of Jews if they possess property in Germany even if not resident therein.

Paragraph No. 8 is obviously of far reaching consequence and the Foreign Office is not prepared to indicate in any manner what disposition may eventually be made of Jewish property declared under the decree.

Comment. Brinkmann²⁴ in talking with the press last night gave the following background information on this decree:

1. All Jews, domestic and foreign, must be eliminated from German economic life and the decree is designed to accelerate this object.

2. There will be no confiscation or expropriation *per se* of Jewish property.

3. Foreign Jews had to be included for the reason that they could continue to operate through straw men and thereby create the possibility of German values leaving the country.

4. German Government is entitled to know what part of the national wealth is controlled by Jews.

5. Consistent Nazi policy demands that Government no longer tolerate continued economic activity of elements not in harmony with the German outlook and racial feelings.

6. The decree was further necessary to prevent the indiscriminate taking over of Jewish property through individual and arbitrary measures of unauthorized party members.

7. Issuance of decree was precipitated by union with Austria because of relatively high concentration of Austrian wealth in Jewish hands.

8. Jewish property taken over will be placed under Aryan control and confided to qualified Nazis. The Jewish owners will be allowed to appraise their own property and this value will be passed upon by an appropriate Government authority. The value of the property will then be certified to owner. In cases of property taken over Brinkmann indicated that the owner might be compensated by Government interest bearing securities.

9. Brinkmann expects the survey resulting from this obligation to declare to be virtually complete by July 15 and estimates Jewish property in Germany including Austria at about 7,000,000,000 marks.

I am inclined to think that it would be useful to submit a note to the Foreign Office requesting interpretation of provisions of this decree

²³ Not printed.

²⁴ Rudolf Brinkmann, State Secretary, German Ministry of National Economy.

which may be applicable to American citizens. I should like the benefit of your advice on this point. Further reports will follow as information is made available.

WILSON

862.4016/1712: Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, April 30, 1938—noon.
[Received April 30—10:16 a. m.]

217. Certain circumstances in connection with the treatment of Jews in Austria appear to be as follows:

For political reasons Hitler does not desire that non-Austrian Germans exercise preponderant authority in Austria. He has asserted that he wished National Socialism in Austria to be an "Austrian National Socialism". This policy is explicit in the filling of the majority of positions in Austria by Austrians and a definite restraint on the German National Socialist Party respecting Austria.

This is resulting during this transition period in less control by Berlin over happenings in Austria than would customarily be expected of a highly centralized government. While not wishing to admit that this is the case, Berlin authorities are obviously handicapped and embarrassed at the moment in giving directions.

The Austrian National Socialists are apparently as groups and individuals working off old hatreds and taking revenge in certain directions. Such "revenge" is chiefly directed against political enemies, including particularly "legitimists", and against Jews. There is also the element of personal gain through forced liquidations of business and, in instances, of outright plunder.

The British Consul General at Vienna who has had long experience in Germany notes that the Austrian National Socialists are more violent and unscrupulous than the party in Germany and believes that to clear up the situation drastic action by the Central German authorities including the weeding out of individuals will eventuate.

It is evident that the entire situation is causing anxiety to the authorities here.

Respecting foreigners the situation is complicated in the popular mind by the fact that large numbers of Jews of Austrian origin or long residence there possess citizenship of other states including for example Jews with Chinese passports.

All Diplomatic Missions here having nationals in Austria including particularly the Italian, are faced with these difficulties. Austria is considered as being in effect in a state of revolution with the characteristic results on settled law and order. Judging from experience

in Germany in 1933 this is nevertheless regarded as a relatively transitory phase.

While this naturally does not suggest any relaxation of our action and pressure in protection cases,²⁵ it does nevertheless affect our tactics here in handling specific questions and cases.

WILSON

362.115/141b : Telegram

*The Secretary of State to the Chargé in France (Wilson)*²⁶

WASHINGTON, May 3, 1938—3 p. m.

250. Referring to the German Decree of April 26, 1938 requiring the declaration of property of Jews including those of foreign nationality apparently for the purpose of taking over such properties, we are anxious to be informed what action if any is contemplated by the French Government.

This Government regards the German contemplated action as violating its treaty signed December 8, 1923.²⁷ You may orally so inform the Foreign Office and also state that a similar inquiry is being made of Great Britain.

HULL

362.115/142 : Telegram

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

PARIS, May 4, 1938—7 p. m.
[Received May 4—2:15 p. m.]

707. Your 250, May 3, 3 p. m. I have discussed this with Massigli.²⁸ He says that the question is under study by the legal advisers and no decision has yet been reached. He expressed the personal opinion without having examined the question that the German decree violates French treaty rights although he could not recall which treaty. In any case it runs counter to French doctrine of non discrimination as between French nationals in a foreign state and nationals of that state. He will advise me when a decision is made.

WILSON

²⁵ See pp. 560 ff.

²⁶ The same, *mutatis mutandis*, on the same date to the Ambassador in the United Kingdom (No. 189).

²⁷ Treaty of Friendship, Commerce and Consular Rights Between the United States and Germany, *Foreign Relations*, 1923, vol. II, p. 29.

²⁸ René Massigli, Director of Commercial and Political Affairs in the French Ministry for Foreign Affairs.

362.115/150 : Telegram

*The Ambassador in the United Kingdom (Kennedy) to the Secretary of State*LONDON, May 6, 1938—4 p. m.
[Received May 6—12:07 p. m.]

380. My 375, May 5, 7 p. m.²⁹ The Foreign Office decision is to have the British Ambassador at Berlin inform the German Government that the British Government presumes the decree regarding declaration of property of Jews does not apply to the property of Jews of whatsoever nationality who are not domiciled in Germany and to ask the German Government for a statement of its intentions regarding effect of the decree on property of British nationals. The Ambassador will likewise say that the British Government feels it must make full reservation in regard to the application of the decree affecting any interests with which it is concerned.

The Foreign Office explained the reservation as motivated by some anxiety as to steps that the Germans may take to compel German Jews resident in England to make declarations of their property before a German Consul. Examination is being made here as to whether such a measure would in any way infringe British sovereignty. The Foreign Office will be glad to inform us of whatever reply may be received from the German Government.

Copy to Paris, also copy of my 375.

KENNEDY

362.115/138 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, May 7, 1938—5 p. m.

63. Your no. 204, April 27, 7 p. m.²⁹ and no. 215, April 30, 9 a. m. Please request an early interview with the Foreign Minister and present the following note, making an oral statement in the sense thereof:

"Excellency: I have the honor to inform Your Excellency that I have been instructed by my Government to bring the following matter to the attention of the German Government.

On April 26, 1938 a decree was issued by the German Government and supplemented by instructions, under which all Jews and their spouses, whether German or foreign nationals, are called upon to declare, subject to certain small exceptions, all property held in Germany, while such declarations are not required from Germans generally nor from other foreigners. It appears further that the Commissioner for the Four-Year Plan is authorized to use the for-

²⁹ Not printed.

tunes so declared 'in harmony with the requirements of German economy'.

The Government of the United States considers that the application of measures of the nature indicated to the property of American citizens of the Jewish race would violate rights accorded American citizens under the Treaty of Friendship, Commerce and Consular Rights between the United States and Germany, signed December 8, 1923. Article I of this Treaty in part provides:

"The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

"The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to the conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation."

The foregoing provisions respecting rights in one country are applicable to all the nationals of the other country without exceptions based on race or creed.

In view of the scope and purpose of the decree and its discriminatory character, the Government of the United States enters emphatic protest against its application to American citizens. It feels that on further consideration of the matter the German Government will agree with the considerations set forth above and will give early assurances that the measures will not be applied to American citizens.

In view of the urgency which this matter presents the Government of the United States would appreciate an early reply from the German Government.

Accept, Excellency, the renewed assurances of my highest consideration."

Please cable all developments.

HULL

862.4016/1710

The Secretary of State to the Ambassador in Germany (Wilson)

No. 34

WASHINGTON, May 7, 1938.

SIR: The Department acknowledges the receipt of your despatch No. 87 of April 12, 1938 and its enclosures, regarding the question of the issuance of passports to non-Aryan (Jewish) German nationals.

It has been noted that German passports valid for return to Germany may be issued by German consular officers to German

nationals who are considered to have emigrated from Germany, provided such persons have not lost German nationality. It further appears that the German authorities may consider a person to have lost German nationality although such person may have acquired no other nationality. It would therefore appear to be necessary to ascertain officially, if possible, the conditions under which the German authorities are likely to consider a person to have lost German nationality without acquiring any other nationality.

It has been further noted that consistent failure to register with a German consular officer may result in the loss of German nationality, and that the Ministers of Interior and Foreign Affairs have authority under a decree of July 14, 1933 arbitrarily to expatriate German nationals who have committed offenses against the National Socialist State.

International comity requires nations to make known the general conditions under which their nationals may be divested of nationality while they are sojourning in foreign countries. Particularly, the temporary admission into the United States of a German national in possession of a valid German passport is predicated upon the fair assumption that such an alien may be permitted to return to Germany upon the conclusion of his visit. Aliens who are sojourning in the United States as non-immigrant temporary visitors are not eligible to become naturalized American citizens. If they are nevertheless likely to be deprived of German nationality and precluded from returning to Germany the Government of the United States would like to be apprised of the conditions under which such expatriation may occur.

You are requested to bring the substance of this instruction to the attention of the Foreign Office and to request further information regarding the conditions under which German nationals visiting in the United States may be deprived of their nationality and precluded from returning to Germany.

You are further requested to make inquiry of the Foreign Office as to whether there is any way by which a German national who entered the United States temporarily in good faith, and who has not acquired any other nationality through naturalization, may be returned to Germany notwithstanding the loss of German nationality.³¹

Very truly yours,

For the Secretary of State:

G. S. MESSERSMITH

³¹ In a note of August 6, enclosed with despatch No. 318, August 27 (neither printed), the German Government referred to criteria for depriving German nationals of citizenship contained in laws of July 14, 1933, and February 3, 1933, and an executive decree of July 28, 1933. The note stated there was no obligation for Germany to accept stateless persons who were formerly German nationals just as a corresponding obligation was not recognized by the United States. (862.4016/1783)

362.115/156 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

[Extract]

BERLIN, May 10, 1938—noon.
[Received May 10—9:25 a. m.]

235. Your 63, May 7, 5 p. m. Ribbentrop³² and Weizsaecker³³ are both in Rome. I felt that your note should be presented at the earliest possible moment in order that it may carry weight during discussions within the German Government on the application of the decree. I therefore presented it to Woermann, Acting Minister for Foreign Affairs, last night. First I presented the case orally and emphatically. Woermann then read the note and said, "Emphatic protest? That is strong, is it not?" I replied that it was strong and designedly so since there was no principle to which the American people clung more strongly than that of a refusal to admit discrimination among our citizens because of race or religion. Woermann replied that he was sorry it had been made so strong as we seemed to have between us a question of interpretation of a treaty. I replied that I felt it went deeper and to assail one of our fundamental principles, namely, that every American citizen had a right to equal treatment. Woermann said that without study he was not competent to answer the matter, that we would have an answer in a short period. He seemed to recall, however, that in analogous cases the German Government contended that legislation affecting one class of people both Germans and foreigners could not be considered discriminatory within the meaning of treaty rights. He did not know whether his Government would advance this contention but it had been advanced in the past. I replied that the wording of the treaty appeared clearly to exclude such interpretation.

In 1933, Geist³⁴ tells me, a decree was issued providing that all persons domiciled in Germany including foreigners must notify to the Reichsbank their liquid holdings abroad and on demand dispose of such holdings to the Reichsbank. After considerable discussion the Finance Ministry while insisting on the notification of foreign holdings, agreed not to demand its sale in the case of American citizens.

It is possible that the German Government will adopt some such course to avoid foreign conflict. On this score a situation frequently characteristic of the German regime exists at present. The decree in question is a party measure. In "Government" circles, both in the

³² Joachim von Ribbentrop, German Minister for Foreign Affairs.

³³ Baron von Weizsäcker, State Secretary in the German Foreign Office.

³⁴ Raymond Geist, First Secretary of Embassy in Germany.

Foreign Office and in the Economics Ministry, efforts are being made towards its modification. The British, French, Swiss, and certain other Missions here are adopting tactics looking to strengthening the hands of this moderate element and to avoid creating at this juncture an open issue. They are thus for the present confining their action to informal discussions or are presenting notes which express the hope that the German Government will see its way to avoid discriminatory action in the application of the decree. We are in contact with a number of Missions who are deeply interested in this matter. In view of this general situation you may wish to consider the desirability of withholding the text of our note from publicity for a period, perhaps until a reply has been received in order to avoid an open issue which might increase the *intransigence* of the extreme elements and in order to give an opportunity for a possibly satisfactory formula to be worked out for foreigners.

In respect of our relationships with other Diplomatic Missions here on this subject, I am responding in confidence to certain inquiries that we have presented a stiff argument based on our treaty rights against discrimination touching one class of American citizens. I feel furthermore that it might serve a useful purpose to disclose to some of my colleagues the text of our note and would appreciate hearing from you as to whether you agree to my doing so.

WILSON

362.115/162 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, May 16, 1938—4 p. m.

[Received May 16—2 p. m.]

247. Department's telegram No. 63, May 7, 5 p. m. As yet the Embassy has received no reply to its note of May 9 regarding the registration of Jewish owned property.

On Saturday noon however the semi official Deutsches Nachrichten Büro in its special service intended for local foreign journalists and for publication abroad issued the following report with regard to the American note.

"The United States of America through their Embassy in Berlin on May 9th presented a note to the Foreign Office in which a protest is lodged against the application of the decree concerning the registration of the fortunes of Jews to American citizens. It is asserted therein that Germany by issuing this decree violated the regulations of the German-American treaty of Friendship, Commerce and Consular Rights of December 8, 1923. This reproach is completely unfounded. In the article of the German-American treaty in question

Germany and America mutually assured each other *inter alia* that they would put the citizens of the other country with respect to the exercising of commerce and trade fundamentally on the same footing as 'inlanders'. By the regulations of the decree, however, foreign Jews are not placed in a worse position than American Jews. The view expressed in the American note that the German-American treaty does not permit of differential treatment of individual groups of citizens of the other contracting party on the basis of race is not supported by the text of the treaty. The American view would in the last analysis lead to the strange result that it would not be permissible in the treatment of citizens of the other contracting party to make any difference with regard to sex, age, or professional training or suitability".

Local American correspondents state the Foreign Office has refrained from comment on the Deutsches Nachrichten Büro statement. Pending the receipt of a reply to our note I am naturally taking no official notice of this statement.

GILBERT

862.4016/1727 : Telegram (part air)

The Chargé in Austria (Wiley) to the Secretary of State

VIENNA, May 31, 1938—6 p. m.

[Received June 2—5 a. m.]

231. Since morning of 27th wholesale arrest of Jews. Many reported sent to Dachau. Action reliably attributed to direct orders of Himmler³⁵ and presumably intended further to demoralize Jews, facilitate spoilation and expedite exodus.

WILEY

362.115/1943

*The Ambassador in Germany (Wilson) to President Roosevelt*³⁶

BERLIN, June 2, 1938.

DEAR MR. PRESIDENT: The German Government has not yet replied to our protest against the decree making obligatory the registration of all property held by Jews, even when those Jews are foreigners. It is impossible to be sure whether their failure to reply is a good sign or the contrary, but I am inclined to think that it is rather favorable than otherwise and that it indicates an attempt to work out some kind of an acceptable solution.

³⁵ Heinrich Himmler, German Chief of the Schutzstaffeln and the Gestapo.

³⁶ Transmitted by the President to the Secretary of State on June 16, 1938, with a note requesting the Secretary to speak to him about the matter concerned at the Secretary's convenience.

If this is not so, however, we may be faced with the extremely difficult position of a blunt refusal to entertain our protest. I have been casting about in my mind as to whether there is anything we can do in the event that such registration should not only be carried out, but be followed by confiscatory measures. I wish there were some way in which we could hold over them the threat of retaliation. It may be entirely unnecessary, but it may be the threat itself would be sufficient, or it may be that we will have to carry out the threat. Certainly we should not make the threat unless we were ready and able to carry it out. I confess that I cannot see what threat we could make, since I should assume that seizure of any property without due process would be unconstitutional. Perhaps however something could be done in respect to German money in the hands of the Alien Property Custodian. But I wanted to suggest the possibility for consideration, since there may be some ingenious way in which we can exercise a restraining influence upon the Germans in this matter by the possibility of retaliation.

If we do contemplate retaliation I suggest that we should put ourselves on firm ground before doing so. If the Germans refuse our protest it will be allegedly because they differ in the interpretation of the terms of the treaty. Such a controversy is clearly justiciable, and I believe before threat of retaliation we should offer to arbitrate. I should think there would be no question that an arbitral court would hold our thesis just. We could then begin to retaliate with full legal right and not on a controversial and debatable ground.

I sincerely hope that it will not be found necessary to utilize such methods. But whether it becomes necessary at this moment or not, I think it would be well to explore the ground as to the possibilities of retaliation, since the mere existence of the possibility will serve as a useful deterrent in the case of a government decidedly prone to take high-handed decisions.

I am [etc.]

HUGH R. WILSON

862.5151/1882 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 8, 1938—5 p. m.

[Received June 8—1 p. m.]

295. Foreign exchange circular order dated June 4 and published last night provides in effect that permission will no longer be granted to Jews to sell emigrants' blocked marks against payment in foreign exchange. Exception, however, is made for foreign Jews and Jews whose total property is less than 5000 marks. The order goes into effect immediately.

With the exceptions noted, this order will have the effect of preventing Jews from receiving upon emigration from Germany even the greatly reduced amounts formerly available to them.

WILSON

362.115/188 : Telegram

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

PARIS, June 11, 1938—noon.
[Received June 11—9:45 a. m.]

913. My 872 June 2, 6 p. m.³⁷ Foreign Office informed the Embassy yesterday evening that French Ambassador in Berlin had completely revised note before presenting it on June 2.

Note as actually presented merely points out that when Franco-German convention of July 28, 1934³⁸ was signed, German legislation had not established any distinction between Aryans and non-Aryans which might be extended to foreign nationals possessing property in Germany. Had such distinctions existed France would have been compelled by a principle of her own internal legislation to refuse signature. Confidence is expressed that German Government will not take any measures which will render questionable the validity of the convention by an innovation difficult of justification from the point of view of international law.

Full text will be sent by mail unless instructed by telegraph. Copy to London and Berlin.

BULLITT

862.4016/1735 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 16, 1938—11 a. m.
[Received June 16—9 a. m.]

307. Evidence is received that since the beginning of the week a fairly large scale series of arrests of Jews has been carried out in Berlin and, according to some reports, in other cities as well. It appears that those arrested are Jews whose names appear on the police records in connection with earlier investigations and offenses including those of the most minor kind presumably settled some time ago. No information is given concerning the number of arrests, the charges to be brought, or the disposition to be made of the prisoners, although it is understood that the latter are being submitted to physi-

³⁷ Not printed; it transmitted the text of a French note to be presented to the German Government (362.115/181).

³⁸ *Reichsgesetzblatt*, pt. II, July 31, 1934, pp. 422-448

cal examinations to determine possibly if they might be sent to concentration camps or be employed to perform forced manual labor.

Jewish leaders are of the opinion that this new wave of persecution which is being directed by the police instead of as formerly by the uniformed party groups can only be intended to encourage emigration. In this latter connection attention is called to a German press report of last week that at the present rate of emigration 30 years would be required before the last Jew had left Germany.

WILSON

862.5034/120 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 18, 1938—2 p. m.

[Received June 18—11 a. m.]

314. Decree dated June 14 has been promulgated which defines "Jewish industrial undertakings" and provides for their registration. Decree also provides that "registration of industrial undertakings in which Jews of foreign nationality are interested requires the approval of the Minister of Economics". Text going forward by pouch of June 23.³⁹

We have no authoritative information as yet as to how this decree will be applied with respect to non-German Jews but will report thereon as soon as possible.

WILSON

362.115/202 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 21, 1938—7 p. m.

[Received June 22—7:45 a. m.]

319. Embassy's 297, June 9, 6 p. m.⁴⁰ Press today publishes summary of executory decree supplementing decree of April 26 on registration of Jewish property. It provides:

1. For persons having their domicile or permanent residence abroad the registration provisions apply only to German nationals.
2. For persons of foreign nationality the registration provisions apply only if they have their domicile or permanent residence in Germany.

³⁹ Despatch No. 197 of June 23, not printed.

⁴⁰ Not printed.

3. Where persons liable to registration have their domicile abroad registration of property should be effected with the Police President of Berlin.

4. Time limit for registration by persons domiciled outside of Germany prolonged until July 31 and for those similarly domiciled outside of Europe until October 31.

Text when available will be forwarded by mail.

To date there is no reply to our note of May 9 nor have we been able to confirm the foregoing in the Foreign Office where evasive replies are made to our questions.

To date possibly only a dozen American Jews have consulted the Embassy, Consulate General and Commercial Attaché with regard to the registration of their property. In each case the inquirer has been informed of the attitude of the American Government in the recent action but interviewing officers have been careful pending a reply to the Embassy's note to the Foreign Office neither to advise for nor against registration. The Embassy has learned that in several cases American citizens are registering their property in accordance with the advice of a local American attorney. They are, however, attaching to their registration form a protest sworn to before an American consular officer against the application of this decree because of their American citizenship and the provisions of the German-American Treaty of Commerce.

The Embassy has been unable to date to obtain a ruling as to whether the registration decree applies to corporate persons as well as natural persons.

WILSON

362.115/203 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 22, 1938—7 p. m.
[Received June 23—6:45 a. m.]

320. Embassy's 319, June 21, 7 p. m. The text of the executory decree dated June 18 discussed in my telegram under reference was published this morning. This text by no means corresponds to the press summary issued yesterday. It refers almost exclusively to German nationals liable to registration and stipulates what procedure they must follow particularly when resident abroad. It extends the time limit for registration by German nationals as indicated in 4.

The Embassy immediately took up this matter with the Foreign Office and Economics Ministry asking urgently for clarification in view of pending cases. It was stated in the Economics Ministry that Jews of foreign nationality and residence would not be required to register their property. This information was later confirmed by an official of the Foreign Office who, however, made one exception i. e. that those Jews who had emigrated for political reasons during the past 5 years even though they had acquired foreign citizenship would be required to register. Furthermore, it was stated by the Foreign Office official that American Jews domiciled or resident in Germany would be required to register.

The Foreign Office official said that it had been the desire of the Foreign Office to exempt the property of all Jews of foreign nationality whether the owners were resident in Germany or not but "out of justice" to German Jews the Government decided that foreign Jewish residents of Germany could not be exempted. He said that it would not be "fair" to subject a Jewish shopkeeper whose family had resided in Germany for centuries to this decree while exempting a Polish Jewish decree [*sic*] shopkeeper from its provisions. It was pointed out to the official that contrary to the press announcement the text of the actual executory decree does not mention any exemption for Jews of foreign nationality resident abroad. He admitted that this was not specifically provided for in the decree but insisted that such property would in practice be exempted unless it belonged to German Jews who had emigrated for "political reasons" during the past 5 years irrespective of whether or not during that period they had acquired foreign nationality. He also said that the decree applied only to natural and not corporate persons.

He asserted the bulk of the information regarding Jewish property called for in the registration forms was already in the possession of the German tax authorities. In this connection it may be noted that according to an American lawyer in Berlin while the greater part of the information required under the decree is already available to the German Government from the tax records the decree goes further than the tax laws in requiring a detailed statement of jewels and all personal property.

The official was told that no comment could be made to his statements until the Embassy had a chance to study the written reply of the Foreign Office to its note. The Foreign Office official said that a reply to the note would be sent today or tomorrow.

862.4016/1744

The Ambassador in Germany (Wilson) to the Secretary of State

No. 196

BERLIN, June 22, 1938.

[Received July 1.]

SIR: With reference to the Embassy's telegram No. 307 of June 16, 11 a. m., reporting large scale arrests of Jews, I have the honor to inform the Department that this action was followed on the week-end of June 18 by organized demonstrations in Berlin against Jewish shopkeepers.

Starting late Saturday afternoon, civilian groups, consisting usually of two or three men, were to be observed painting on the windows of Jewish shops the word "Jude" in large red letters, the Star of David and caricatures of Jews. On the Kurfürstendamm and the Tauentzienstrasse, the fashionable shopping districts in the West, the task of the painters was made easy by the fact that Jewish shop-owners had been ordered the day before to display their names in white letters. (This step—which was evidently decreed in anticipation of a forthcoming ruling which will require Jews to display a uniform distinctive sign, disclosed that a surprisingly large number of shops in this district are still Jewish.) The painters in each case were followed by large groups of spectators who seemed to enjoy the proceedings thoroughly. The opinion in informed sections of the public was that the task was being undertaken by representatives of the Labor Front rather than as formerly has been the case by the S. A. or the S. S. It is understood that in the district around the Alexanderplatz boys of the Hitler Youth participated in the painting, making up for their lack of skill by a certain imagination and thoroughness of mutilation. Reports are received that several incidents took place in this region leading to the looting of shops and the beating up of their owners; a dozen or so broken and empty show cases and windows have been seen which lend credence to these reports.

A tour of the city on Sunday betrayed a sorry spectacle particularly in those districts inhabited by Jews where practically the only persons to be seen were policemen patrolling the vacant and besmirched streets. On Monday most of the owners of the painted shops in the West End had cleaned off the signs except in the case of the large stores of Rosenhain and Grünfeld which have long been the envy of their competitors, where a picket by small boys and evil-looking vagrants is still being maintained. On the whole, five years of Jew-baiting in Berlin seems to have exhausted the originality of the methods of public demonstration although the latest measures are significant as being the first attempt since 1933 to revive organized marking and picketing of Jewish shops.

Incidentally it is learned that at least four foreign correspondents, including three Americans and an Englishman, were arrested for taking pictures of the painted Jewish shops. After making known their identity and insisting that they were unaware of any law making it illegal to take pictures of this nature, they were released although it is understood that the automobile and camera of the English journalist were provisionally held by the police.

The Deutsches Nachrichten Büro on Saturday, June 18, published a communiqué with respect to the arrests of last week. It is stated that in continuation of the series of raids at the end of May which had gathered in 317 suspect Jews, a number of new arrests had been carried out on June 16 resulting in the apprehension of 143 additional Jews. The Deutsches Nachrichten Büro claimed that the raids were directed exclusively against criminal elements and were not in the least motivated by political considerations. It was admitted, however, that a number of Jews had been taken into custody for their own safety to protect them against growing popular indignation caused by a new influx of Jews to the capital where the latter had evidently hoped to escape observation. With respect to those arrested it appears that while some of the aged and infirm have been released, the number of Jews still held remains about the same, reaching possibly a total of several hundred; it is understood that those who do not reside permanently in Berlin will be shipped back to the communities from whence they came and that others may be sent to a new work camp near Weimar.

On June 21, after the peak of the demonstrations had momentarily passed, the *Völkischer Beobachter* sought to make short work at one and the same time of the Jews and the foreign press which was portrayed as rushing to their aid. Mentioning that over 3,000 Jews had come to Berlin during the last month, the *Völkischer Beobachter* editorially declared that the population had been forced to adopt measures of self-help particularly as the Jews had taken to insulting women on the street. In the same issue of the paper, Karl Megerle, known chiefly for his writings on foreign politics in the *Boersenzeitung*, compares the moderation of the present measures against the Jews with the outrages perpetrated against the German people by the allied troops of occupation in the Rhineland and the Ruhr which had escaped all mention in the foreign press of that time.

To the already long list of anti-Jewish repressive measures is to be added the order of the Minister of Economics made public June 21 forbidding Jewish traders further access to German stock exchanges and commodity markets; in the interests of general economy the Jewish traders will be permitted, however, to operate for the time

being through properly empowered "Aryan" associates. On the same date it was announced that the postoffices would cease to deliver advertising matter posted by Jewish firms at the usual cheap mail rates, unless this material was addressed to Jewish clients or firms.

In conclusion it may be said that the present anti-Jewish campaign outstrips in thoroughness anything of the kind since early 1933, extending beyond a mere summer exuberance of the Party such as made itself manifest in 1935. Doubtless set off in the first instance by the taking over of the Austrian Jewish population, the current drive is evidently being fanned by the suspicion that many Austrian Jews may have come to Berlin to seek refuge, and by the feeling that emigration has been altogether too slow. Just as the outbursts of 1935 led to the Nuremberg legislation of September of that year, it is expected that the present campaign will also bring forth further legislative measures, and in this connection reference is made to the very clear prediction made by Dr. Goebbels⁴¹ in his speech delivered at the "Summer Solstice Ceremonies" in the Olympic Stadium on June 21.

As reported by the *12 Uhr Blatt*, Dr. Goebbels inquired: "Is it not altogether outrageous, and does it not bring a blush of rage to one's face, that in the last month no less than three thousand Jews have emigrated to Berlin? What do they want here?" Dr. Goebbels then said the task of dealing with the "international Jewry" in Berlin would be carried out according to Party and State laws and not on the street. Legal measures would be provided which in the foreseeable future would break Jewish influence in German economy. Dr. Goebbels "begged" the Jewish population not to act so provocatively in public and "demanded" the general public to maintain its discipline. (In this connection local foreign correspondents state that they have been informed that the "active measures," such as the window-painting of last week, have been called off by the Party.)

It is regarded as possible that the predicted legislation may come after the registration of Jewish property has been completed on June 30 in accordance with the recent decree and may be announced at the forthcoming Party Congress in September, if not before. One measure which is proving effective in anticipation of more general and legal steps is the practice which is known to have been followed in several instances whereby a Party member will approach the Jewish owner of a prosperous business and will "advise" him to sell out at a price named arbitrarily by the prospective "Aryan" purchaser (often the Party member himself).

Respectfully yours,

HUGH R. WILSON

⁴¹ Joseph Goebbels, German Minister for National Enlightenment and Propaganda.

362.115/209 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 24, 1938—6 p.m.

[Received June 24—5 p.m.]

323. Embassy's 320, June 22, 7 p.m. There follows translation of Foreign Office note of June 24:

"In reply to *note verbale* No. 69 of May 9⁴² the Foreign Office has the honor to inform the Embassy of the United States of America as follows:

1. Under section 7 of the decree of April 26, 1938, governing the registration of the property of Jews, Jews of American nationality are obliged to register their property located in Germany. The Foreign Office begs to inform the Embassy, however, that the competent internal administrative authorities will waive application of the registration procedure to Jewish property in the hands of American nationals if the latter have their permanent domicile abroad unless they are former Reich nationals who have emigrated.

2. If the question should arise under section 7 of the decree referred to of using registered Jewish property as a requirement of German economy the Foreign Office begs to inform the Embassy of the United States of America even at this point that in each individual case an investigation will be made as to whether the rights of American nationals guaranteed in the German-American Treaty of Friendship, Commerce and Consular Rights of December 8, 1923 are given consideration."

Upon receipt of the note the Embassy got into touch with the Foreign Office and pointed out that the note differed from the information orally given yesterday. It was then stated that the property of American Jews resident outside Germany would in practice be exempted unless it belonged to Jews formerly of German nationality who had emigrated "for political reasons" during the past 5 years (see Embassy's 320, June 22, 7 p. m.) whereas according to first paragraph of the note Jewish property is subject to the terms of the decree if it belongs to former Reich nationals who have emigrated with no limitations as to the period or cause of their emigration. The Foreign Office official asserted that the information previously orally given could be relied on as official and that the German Government would not require the registration of the property of Jews now of American nationality resident outside Germany but formerly of German nationality provided they had not emigrated from Germany since 1933 for political reasons. He insisted that it was an oversight that some such

⁴² See telegram No. 63, May 7, 1938, 5 p. m., to the Ambassador in Germany, p. 369.

phrase as "Jewish political emigrants since 1933" was omitted from the note.

The Embassy will seek a written confirmation of this information.

WILSON

362.115/212: Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 25, 1938—5 p. m.

[Received June 25—2 p. m.]

326. Embassy's 325, June 25, 9 a.m.⁴³ In an interview at the Foreign Office this afternoon the following points respecting the German note of June 24 were brought out.

1. The Foreign Office hopes that when publicity is given to its note that the text will not be published but rather that the contents will be divulged in the form of information received from the German Government.

2. The Foreign Office again orally confirmed the interpretation that the German Government would not require the registration of property of Jews now of American nationality resident outside of Germany provided they had not emigrated from Germany since January 30, 1933 for political reasons. In reply to a question of what determined a "political emigrant" it was stated that "probably all Jewish emigrants since January 30, 1933" would be so classified although this was not given as a final answer.

WILSON

362.115/218: Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 28, 1938—2 p. m.

[Received June 28—1: 25 p. m.]

331. Without taking any position on the German note of June 24 respecting the registration of Jewish property we continued our consultations with the Foreign Office officials this morning in an endeavor to clarify the various points discussed in my 323 of June 24, 6 p.m. and 326 of June 25, 5 p. m.

To this end we submitted an informal memorandum stating our understanding of the information given us orally on June 24 and 25. We further requested a definition of "political emigrant" and confirmation of the statement that emigration before January 30, 1933 would not be considered as political.

⁴³ Not printed.

With reference to my 321 of June 23, noon,⁴⁴ it was pointed out that the decree of June 18 prolonging the time limit for registration of persons resident outside Germany appeared to apply only to German nationals and inquiry was made as to whether this prolongation would be granted to non-German Jews whom the German Government considered as obligated to register. The officials replied that they were of the opinion that the time limit prolongation would be generally applied to persons resident outside Germany.

The Foreign Office officials agreed to study our memorandum and stated that they would communicate with the Embassy later after renewed consultation with the competent German authorities.

I think it is clear that the German Government is trying to meet our desires in this matter without rescinding the Jewish property registration decree. I believe that under the present circumstances the Embassy will be able to protect American Jewish property from being taken over by the German Government to be used "in harmony with the requirements of German economy."

Nevertheless, in order to keep our record and position clear, I recommend that an acknowledgment of the Foreign Office note be made which will reiterate our objection to discrimination and distinctions made between American citizens in the decree but which will not necessarily call for a reply. The following phraseology is suggested.

"The Embassy of the United States of America acknowledges the receipt of the Foreign Office [note] of June 24 in which it is stated that the German Government will waive application of the registration procedure prescribed under section 7 of the decree of April 26 to Jewish property in the hands of American nationals if the latter have their permanent domicile abroad unless they are former Reich nationals who have emigrated. The Embassy also refers to oral assurances received at the Foreign Office that in the execution of this decree the German Government will also not require the registration of Jewish property of American citizens resident outside of Germany but formerly of German nationality, provided they had not emigrated from Germany since 1933 for political reasons.

According to the note under acknowledgment as supplemented by the oral assurances above referred to, Jewish property in the hands of American citizens resident in Germany as well as such property of American citizens who emigrated from Germany for political reasons since 1933 will still be subject to the provisions of the decree in question. Since therefore there will still remain discrimination as between American citizens, the Embassy is instructed again to record the firm position of the Government of the United States, in accordance with the provisions of the Treaty of Commerce and Consular Rights of December 8, 1923, that the rights of American citizens in Germany should receive full protection without exception based upon race or creed."

WILSON

⁴⁴Not printed.

362.115/220 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, June 29, 1938—7 p. m.

106. Your 331, June 28, 2 p. m. We approve the steps taken to obtain further clarification of the points mentioned.

You are instructed to deliver a third-person note to the Foreign Office phrased in part as suggested by you but incorporating the following changes.

Since Article 7 of the decree of April 26 refers exclusively to the use of property reported under the decree it would seem that the words "Section 7 of" should be omitted thus leaving the reference to the entire decree.

Change the beginning of the second sentence in paragraph 2 of draft to read "Since, therefore, there will still remain discrimination against American citizens, the Embassy is instructed, et cetera."

Please cable when note is delivered and forward copy by mail.

HULL

362.115/221 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 30, 1938—5 p. m.
[Received June 30—2 : 42 p. m.]

336. Department's 106, June 29, 7 p. m. Note delivered this afternoon and copy mailed.

With respect to clarifications of German note which we are trying to obtain the Foreign Office advises that our memorandum has been submitted to the Economic Ministry and that reply will probably not be available before week or 10 days. It was immediately pointed out that today was the last day of registration except for German nationals resident abroad to which response was made that the Foreign Office was "virtually certain" that delay would be granted to persons resident abroad even if not German nationals. This would prolong the time limit to October 31 for persons residing outside of Europe.

WILSON

862.00 P.R./249

*Political Report of the Ambassador in Germany (Wilson)*⁴⁵

[Extract]

1. *Exclusion of Jews from Certain Trades and from Access to Health Resorts.* An amendment to the Trade Ordinance (*Gewer-*

⁴⁵ Transmitted to the Department by the Ambassador in Germany in his despatch No. 246, July 16; received July 26.

beordnung) promulgated as a Reich law in *Reichsgesetzblatt*, Part I, No. 107, of July 8, forbids Jews or Jewish firms from activity in the following occupations:

- (1) House watchman's service.
- (2) Detective work, involving in particular the provision of information concerning the financial and personal affairs of private individuals.
- (3) Sale or purchase of real estate in a professional capacity.
- (4) Activity as real estate or mortgage brokers, as well as house or real estate administrators.
- (5) Marriage brokers, except in the case of marriages between Jews.
- (6) Guides service.

For the present the law will not apply in Austria. The following different time limits, at the conclusion of which Jews must have left the trades specified, have been determined upon: one month for categories 5 and 6 listed above; three months for categories 1 and 2; until the end of the current year for categories 3 and 4. In addition to the above mentioned restrictions, Jews must leave the itinerant trades by September 30 of this year, or in exceptional cases approved by the Reich Minister of Economics, by September 30 of next year. Infractions of the law may be punished by imprisonment up to six months, plus a fine.

In accordance with an order issued by the Minister of the Interior, which was summarized in the German press of July 9, the central government will not itself regulate the visit of Jews to bathing or health resorts but will leave the matter rather to the authorities of the respective resorts. These authorities may forbid Jews access (as most of them appear to have already done) to bathing beaches, *Kurhäuser*, sun baths, et cetera. It is pointed out that Jewish visitors can be made to indicate their race at the time they fill out the usual registration forms for the police and that they then can be provided with special "*Kur*" cards marked with a distinctive color, such as yellow. Jews who abuse the apparently scant privileges accorded them may have their cards withdrawn. In the ordinance the term "*auswärtige*", or non-local, Jews is used, which may mean that the restrictions will be applied against foreign Jews as well.

862.1281/85 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, August 3, 1938—5 p. m.

[Received August 3—3:20 p. m.]

372. The D. N. B.⁴⁶ reports the enactment of an ordinance (not yet promulgated) canceling as of September 30 of this year the licenses

⁴⁶ Deutsches Nachrichten Büro.

to practice of all Jewish physicians. It is not yet clear how this affects their possible practice among other Jews⁴⁷ or foreigners.

GILBERT

862.4016/1774 : Telegram

The Secretary of State to the Consul at Berlin (Geist)

WASHINGTON, August 26, 1938—7 p. m.

1. Referring to despatches Nos. 588, 591 and 594 from Leipzig,⁴⁸ you should take up the question of the issuance of commercial identity cards after September 30 to American citizens of the Jewish race representing business firms domiciled in Germany to obtain from the appropriate authorities assurance that such cards will be renewed. Failure to renew would be contrary to rights accorded in Article 1 of our treaty with Germany signed December 8, 1923.

2. Refer also to Leipzig's despatch no. 584 of June 28⁴⁹ concerning income and house rent taxes and submit as promptly as possible by mail a copy and translation of the Finance Minister's decree dated April 19, 1938 published in *Reich Steuer Blatt* 1938, Part 1, page 409.

Concerning alleged discrimination in granting tax reduction on account of minor children (see case of Borenfreund), ascertain and report for the Department's consideration any other instances of discriminatory treatment as stipulated in clause 3, Article 1, Part 4 of the Act of February 1, 1938 amending the German income tax law. However, in your discretion you may without further instruction discuss Borenfreund's case orally and informally with the competent authorities with the view to affording assistance.

3. If the provisions of the decree of April 19, 1938 mentioned above under (2.) prohibit equitable tax reductions with respect to Jewish real estate and establish discrimination against American Jews in Germany, this matter should be taken up appropriately through the Embassy as being contrary to rights accorded in Article I of our treaty of 1923 and assurances requested that the discriminatory practices will cease. Eugene J. Schwabach of New York, a naturalized American citizen born in Hungary, has furnished a copy of his letter to you of July 26 regarding alleged discrimination in the reduction of his house rent tax. This case should be included in representations made since a copy of the Land Registry office's letter to him of July 21 states his application was rejected since no tax reduction is provided

⁴⁷ From the text of law promulgated on August 4, it appeared that a limited number of Jewish physicians would be permitted to practice among Jewish patients.

⁴⁸ None printed.

⁴⁹ Not printed.

for houses owned by Jews. Please keep the Department informed of developments.

HULL

862.00 P.R./252

*Political Report of the Ambassador in Germany (Wilson)*⁵⁰

[Extract]

1. *Jewish Names Made Compulsory for Jews.* A law promulgated August 18 (*Reichsgesetzblatt*, Part I, No. 130 of August 18, 1938) compels Jews to bear Jewish given names. The law does not apply in Austria nor does it affect foreign Jews living in Germany.

In cases where Jews do not bear those given names designated as Jewish by the Minister of the Interior, they will be forced to adopt, by January 1, 1939, the given name of Israel (in the case of a man) or Sara (in the case of a woman). Jews thus affected will be obliged to inform the registry and police authorities of their change of name before the end of January 1939, and will be compelled to use these added names in all legal and business correspondence. A prison sentence of six months is envisaged for wilful failure to adopt the required Jewish name, a sentence of one month imprisonment for those who fail to do so by negligence, and a sentence of one month imprisonment for failure to notify the competent authorities of the change of name.

A circular instruction (*Runderlass*) of the Ministry of the Interior which has been published in the press designates the following names as Jewish:

[Here follows list of names designated as Jewish.]

The circular instruction also furnishes the registry offices with certain directions which they are to follow in accepting registration of children's names in the future. In order to "further the tribal idea" (*Sippengedanken*), in principle only German given names shall be bestowed upon German children. Certain foreign names, however, which have been sanctioned as German by long usage, will be accepted, examples of these being Hans, Joachim, Peter, Julius, Elisabeth, Maria, Sofie and Charlotte. The names of Björn, Sven, Ragnhild are apparently to be regarded as inappropriate for German children, even though ultra-Nordic.

The procedure of annoying the Jews, the thoroughness of which reflects creditably upon German inventiveness and attention to detail, has been carried out in Berlin to the point of withdrawing low license numbers from Jewish automobile owners who are now being given

⁵⁰ Transmitted to the Department by the Ambassador in his despatch No. 323, August 30; received September 9.

plates higher than the number IA 300,000. (Julius Streicher's *Stürmer* has suggested that driving licenses be withdrawn from Jews altogether.) On Saturday, August 20, a police raid was carried out on a bathing establishment on the Stölpchensee near Berlin where 95 per cent of the bathers were found to be Jewish. The German press reports that 11 foreign Jews were unable to identify themselves and that 99 German Jews, who lacked identification papers, were arrested on the suspicion of representing criminal elements. It appears that while Jews are not permitted to visit German health resorts generally, they are also not being given much peace in those few places allowed them as being predominantly Jewish. According to a recent visitor to a Jewish resting home in Bavaria, the police adopted the custom of calling at three o'clock in the morning to examine the guests' identification papers. This, however, may be an isolated case.

.

862.4016/1784

The Consul at Berlin (Hodgdon) to the Secretary of State

[Extract]

No. 2255

BERLIN, August 31, 1938.

[Received September 9.]

SIR: In compliance with the Department's telegram of August 26, 7 p. m., paragraph 2, I have the honor to transmit herewith a copy of the Circular Order of the Reich Minister of Finance,⁵¹ dated April 19, 1938, entitled "Regulations for Measures of Equity in the Field of the Real Estate Tax (*Richtlinien fuer Billigkeitsmassnahmen auf dem Gebiet der Grundsteuer*), published in the *Reichsteuerblatt* of April 20, 1938 (pages 409-418). Article 4 of Section I provides that tax remissions (reductions) are not to be granted on real estate belonging to Jews. A translation thereof reads as follows:

"No Equitable Remission for Jewish Real Estate

"(1) An equitable remission is not to be granted for taxable property which belongs to Jews. Who is a Jew is defined in Art. 5 of the First Decree under the Reich Citizenship Law, dated November 14, 1935 (*Reichsgesetzblatt* Part I, page 1333).

"(2) Under what circumstances real estate owned by two or more persons or by a juridical person is to be regarded as belonging to Jews will be specially regulated."

Respectfully yours,

A. DANA HODGDON

⁵¹ Not reprinted.

862.4016/1791 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, October 8, 1938—1 p. m.
[Received October 8—10:10 a. m.]

536. The D. N. B. announces the publication in the *Reichsgesetzblatt* of October 7 (not yet received by the Embassy) of an order by the Minister of Interior invalidating passports of all Jews of German nationality within the Reich. The order becomes effective upon publication and persons concerned are obligated to turn in their passports to the appropriate authorities within 2 weeks thereafter. Those Jews now out of the country are required to give up their passports within 2 weeks from the day on which they reenter the Reich. Passports of Jews issued for travel abroad regain their validity if they bear a visa of the passport authorities as specified by the Minister of Interior. In lieu of "internal" passports Jews in Germany are to be supplied with the identity cards described in my dispatch 262 of August 1, 1938.⁵²

The Consulate General reports that several passports presented today for visas by Jews had been marked by the police authorities with a large red letter J. This may be of interest to the immigration authorities.

Sent by mail to London for Rublee.⁵³

WILSON

862.4016/1807

The Ambassador in Germany (Wilson) to the Secretary of State

No. 392

BERLIN, October 26, 1938.
[Received November 5.]

SIR: I have the honor to enclose herewith copies of *Reichsgesetzblatt* No. 165, Part I, of October 14, 1938, containing two decrees which invalidate the licenses to practice law held by Jewish attorneys in the old Reich and in Austria, as of November 30 and December 31, 1938, respectively. English translations thereof, prepared by the Embassy, are also enclosed.⁵²

It will be recalled that as early as 1933 pressure was exerted to oust Jews from the legal profession. Thus, special requirements were enunciated for admission to the bar, and also Jewish attorneys

⁵² Not printed.

⁵³ George Rublee, Director of the Intergovernmental Committee on Political Refugees.

were denied the privilege of acting as notaries public, a measure which, in view of the wide requirements and high charges for notarial services in Germany, constituted a considerable handicap to the Jewish legal profession. Hitherto, however, Jews already admitted to the bar have been entitled to conduct a law practice without specific legal hindrance, although it appears that considerable pressure has been brought to bear indirectly to prevent them from doing so.

The present measure, therefore, is of real consequence. Although no official figures have yet been published, the *Frankfurter Zeitung* of October 16 states that according to the figures maintained by the Reich Rechtsanwaltskammer, there were as of January 1, 1938, 1,753 Jewish attorneys, or approximately 10% of the total number of attorneys, i. e., 17,360. In Berlin, as of the same date, there were 2,718 attorneys of whom 761 were Jews. Although the figures for Austria are admittedly only rough estimates, the *Frankfurter Zeitung* states that the new decrees will affect approximately 1,800 Jewish attorneys there.

Following closely the decree invalidating passports of Jews (Embassy's telegram No. 536, October 8, 1 p. m.), this latest measure appears to represent the continued application of the program announced by the Deutsches Nachrichten Büro on the occasion of the promulgation of the decree excluding Jewish physicians from practice (see Embassy's despatch No. 288 of August 13, 1938⁵⁵)—namely, "The Jewish question in Germany will be solved step by step, but resolutely, by legal ways."

Briefly summarized, the decree states that the profession of attorney is closed to Jews. Licenses of Jewish lawyers now practicing in the old Reich are to be revoked as of November 30, 1938, and in Austria at the latest as of December 31, 1938, although temporary exceptions may be granted in the latter respect by the Reich Ministry of Justice. Jews whose licenses have thus been revoked are forbidden to represent clients in court or to handle legal business of any kind.

A limited group of so-called "Jewish consultants" (*Jüdische Konsulenten*) corresponding strictly in number to the demand for their services, are to be issued permits by the Reich Administration of Justice, which entitle them to conduct legal business for Jews and Jewish firms and to represent them in or out of court. A definite locality is to be allotted to each "Jewish consultant" in which alone he is authorized to exercise his legal functions within the limits of the law. According to the executive order implementing the decree, which has been summarized recently in the press, permits of this sort will be issued to 172 "Jewish consultants" distributed among 72 cities in the Reich. Of this number 46 will be allotted to Berlin. Prefer-

⁵⁵ Not printed.

ence is to be given to front fighters in the choice of those to be placed on the list.

The decree further provides that the "Jewish consultants" are to collect their fees in their own name but for the account of a clearing office operated by the Reich Administration of Justice. In order to provide a measure of financial support for those Jews whose licenses have been revoked and who are not appointed "Jewish consultants," a fund is to be built up through contribution of a specified proportion of their fees by the practicing "Jewish consultants." In accordance with the executive order referred to above, it is stated that 10% of the fees of "Jewish consultants" up to 300 marks, 30% between 300 and 500 marks, 50% between 500 and 1000 marks, and 70% of all fees exceeding the latter amount must be paid into the fund by the "Jewish consultants." Ex-Jewish lawyers may apply to the clearing office for payments from this fund up to a maximum of 200 marks per month for bachelors and 250 marks for married persons. In the distribution of financial assistance, only those are to be considered who can prove their absolute need of such support and within this category, front fighters are to be given preference.

The decree contains a provision, similar to that of the Jewish doctors' law, authorizing former Jewish lawyers to free themselves from leases on premises which they no longer require or are unable to pay for after the giving-up of their law practice. It will be noted, however, that, contrary to the Jewish doctors' law, the right to cancel leases held by erstwhile Jewish attorneys is not granted to landlords under the same circumstances.

In accordance with the Department's circular instruction of July 21, 1938,⁵⁶ two copies of this despatch are being sent to the American Embassy, London, for the attention of the American Representative on the Inter-Governmental Committee for Political Refugees.

Respectfully yours,

HUGH R. WILSON

862.4016/1799 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, October 28, 1938—8 p. m.
[Received October 28—5:22 p. m.]

578. During the course of the day the German police authorities have rounded up a large number of Polish Jews and are issuing orders for their expulsion to Poland. This has taken place in Berlin and we understand in other big cities in the Reich. As far as we can ascertain only male Polish Jews have been arrested and none up to this time have actually been sent over the Polish border. We understand that

⁵⁶ Not printed.

the grounds for the action are a recent Polish decree to the effect that no Polish citizen may reenter Poland after October 30th unless his passport has previously been validated by a Polish Consulate or Diplomatic Mission.

The Polish Embassy states that it is negotiating with the Germans in an endeavor to get them to rescind the expulsion orders. American correspondents report the explanation of the German officials is that the Polish decree produced the probability of Germany having several thousand foreigners without nationality (*staatenlos*) who after October 30th could not be deported. The Polish Embassy sometime ago informally estimated that there were 50,000 Polish Jews in Germany proper and 5000 in Austria.

More specific information should be available tomorrow.

Repeated to Warsaw and London for Rublee.

WILSON

862.4016/1802 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, October 29, 1938—3 p. m.

[Received October 29—11:10 a. m.]

582. Referring to the Embassy's 577 [578], October 28, 8 p. m., Geist was officially informed today at German police headquarters that on October 6 the Polish Government issued a decree by virtue of which all passports of Polish Jews abroad became invalid on October 29. German authorities state they are convinced this decree was shortly to be followed by another expatriating all such persons. To prevent these thousands of Polish Jews from becoming stateless and undeportable the German authorities are expelling all Polish male Jews and expect to finish the deportations by tonight. Women and children are not included, it being assumed they will follow voluntarily their male relatives. Police have assured us that they are not deporting Polish Jews holders American immigration visas.

Repeated to Warsaw and London for Rublee.

WILSON

862.4016/1804 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, October 31, 1938—5 p. m.

[Received October 31—2:48 p. m.]

583. Reference my 582, October 29, 3 p. m. It is learned from American press and other sources that a sort of "armistice" has been reached between Germany and Poland with regard to the banishment from Germany of Polish Jews whose passports were allegedly invalidated by decree of the Polish Government. Negotiations for a final settlement of the matter are to be begun in Warsaw tomorrow.

It is stated that Polish Jews now in German jails have been released and that those who were in the process of being deported but had not yet crossed the border are being returned to their homes. The Polish Government is said to have agreed to permit the Jews already sent to Poland from Germany to remain for the time being.

By mail to Warsaw and London for Rublee.

WILSON

862.1281/90

The Ambassador in Germany (Wilson) to the Secretary of State

No. 406

BERLIN, November 4, 1938.

[Received November 21.]

SIR: I have the honor to inform the Department that in view of a request made of the Embassy by an American visiting here to obtain a permit to enable him to be treated by a German Jewish doctor, it was deemed advisable, in order that the Embassy might have a definite ruling for its guidance in similar cases that may arise in the future, to make informal inquiry of the appropriate German authorities in the premises. A member of my staff accordingly telephoned the official charged with these matters at the Reichsärztekammer (Reich Physicians' Chamber) and, after making it clear that the Embassy was not requesting that an exception be made in the case in question, inquired whether in principle exceptions were made in the case of non-Jewish foreigners who wished to consult German Jewish physicians. The official was emphatic in his reply, stating that the Law of July 25, 1938 strictly forbade German Jewish doctors to treat non-Jewish persons, irrespective of whether they were of German or foreign nationality, and that no exceptions would be made.

Copies of the law quoted above, together with an English translation, were transmitted to the Department with Embassy despatch No. 288 of August 13, 1938.⁵⁷

Respectfully yours,

For the Ambassador:

DONALD R. HEATH

First Secretary of Embassy

862.4016/1813: Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, November 10, 1938—2 p. m.

[Received November 10—10:35 a. m.]

605. My 600, November 8, 4 p. m. and 603, November 9, 5 p. m.⁵⁸ In the early hours of this morning systematic breaking of Jewish owned

⁵⁷ Not printed.

⁵⁸ Neither printed; they summarized German press reaction to the assassination of Vom Rath, German Secretary of Legation in the German Embassy in Paris, by a Polish Jew named Gyrnszpan (862.4016/1808, 1810).

shop windows throughout the Reich and the burning of the principal synagogues in Berlin was carried out. Observers noted no uniforms of Nazi organizations among the perpetrators of this action. Nevertheless, it is not conceivable that this admirable body of police would have tolerated such infraction of order unless general instructions to that effect had been issued.

The noon press nevertheless carries the following release by the semi-official German news agency:

“When news of the death of the German diplomat and Party member Vom Rath at the hands of a Jewish murderer became known spontaneous anti-Jew demonstrations in the whole Reich developed.

“The profound indignation of the German people found expression in considerable anti-Jewish actions in many instances.”

Editorial comment continues along the same lines described in my telegrams under reference which seems to imply a continuation of anti-Jewish measures. Moreover, an order by Himmler is published forbidding Jews to possess arms. This has given rise to considerable apprehension in connection with the return of Vom Rath's body to Germany.

Although no arrests have been reported in Berlin the Consulate in Breslau reports arrests of Jews there this morning.

WILSON

862.4016/1816 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, November 12, 1938—1 p. m.

[Received November 12—8:45 a. m.]

613. The local press this morning features Goebbels' interview yesterday with the foreign journalists in which among other things he asserted that the recent anti-Jewish demonstrations were spontaneous. In spite of Goebbels' official insistence on this point I feel constrained to report that evidence here leads to the contrary conclusion.

WILSON

123W693/570

The Assistant Secretary of State (Messersmith) to the Secretary of State

[WASHINGTON,] November 14, 1938.

DEAR MR. SECRETARY: We did not need Wilson's confidential telegram of November 12 to confirm what we already had to know—that the wholesale arrests, plundering, pillaging and terrorizing of inno-

cent and helpless men and women throughout Germany in the last days was due to orders of the German Government. The cynical statements of Goebbels have insulted the intelligence and outraged the feeling of decency of practically all people outside of Germany and are in their way as mad as the acts undertaken within Germany by the Government against a part of its people. Of all the many acts of the present German Government against innocent and defenseless peoples, these last are the culmination. For a Government to order and to carry through such wholesale action against a part of its people, and to threaten the rest of the world with further action if it should even pass censure, is an irresponsible and mad act that our Government cannot pass unnoticed.

We have throughout our history let it be known where we stand on matters of principle and the decencies. We have not failed to do this recently. Whenever such acts in the past have been committed, or permitted by Governments, in countries which the world has considered less civilized, we have spoken and acted. The proud record of this Government and of our public conscience shows this. (Russia, Turkey, Rumania.) When a country which vaunts its civilization as superior commits in cold blood and with deliberation acts worse than those we have in the past dealt with vigorously, the time has come, I believe, when it is necessary for us to take action beyond mere condemnation.

It is my belief that unless we take some action in the face of the events in Germany of the last few days we shall be much behind our public opinion in this country. We shall run a grave risk of losing the leadership of opinion which our Government now has and this at a time when this leadership is all important in our most vital interests. It is my considered opinion that some action by our Government is called for.

I therefore suggest you consider recommending strongly to the President that Ambassador Wilson be ordered home immediately "for consultation". This step to be taken by cable and the Ambassador told to return by the first sailing. To the Press the President and you could merely say that he had been ordered home "for consultation" and it would not be necessary to make any comment.

I believe that you may be sure that you will find the Press almost unanimously behind such action and that it will read into it all the necessary implications without any comment from this Government. I think you will find general and enthusiastic approval throughout the country of such action. It is my further considered opinion that the country is waiting for something of this kind and that not doing it will be a definite letdown and set us back in our general stand and policy.

As to the effects of such action, I believe that it will be excellent in Germany. It will give heart to the right-thinking people there who

are in the majority, if impotent. It will give the German Government food for thought. It will not stop action against Jews and Catholics, but it will stem the orgy. In England and in France such action on our part can only be helpful as it will be in Europe generally.

Calling back our Ambassador "for consultation" cannot interfere in any way with our relations, political or commercial, with Germany and our interests in Germany will not suffer. We shall be just as well off with the remaining representation there which can amply take care of all of our problems so far as it is possible to care for them. In fact, I am confident it will strengthen our position vis-à-vis the German Government. It can have no appreciable effect on our commercial relations, for Germany is only buying from us what she has to buy and will continue to do so.

It can have no effect on the refugee problem or the efforts of the Intergovernmental Committee, for it has been quite obvious that the German Government does not wish to receive Rublee except to use his visit as a pawn in the game of endeavoring to secure a basis for economic negotiations of a wide character which, in any event, we could not enter into. The only worthwhile result which Rublee's visit to Berlin could have would be to make it possible for the German emigrants to leave with a modicum of their goods. I have felt from the outset that it was useless to think that the Germans could or would make any reasonable arrangement to this end. The events of the last few days put it out of the question for the German Government is now showing its hand fully in the matter of expropriation.

It is my thought that when Wilson comes home, he can be kept in the Department usefully until such time as the President and you may believe it desirable for him to return to Germany.

I need not say that these instructions to Wilson if they are to be effective should be transmitted within the next day or two.

G. S. MESSERSMITH

123W693/571 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, November 14, 1938—2 p. m.

201. The situation within Germany as elaborated in your telegrams and in more detail by press despatches has so shocked the American Government and American public opinion that the President desires you to report to him in person. You are accordingly ordered to the United States for consultation.⁵⁹ In announcing your departure to

⁵⁹ Mr. Wilson left Berlin on November 16, 1938, leaving Mr. Prentiss Gilbert in charge of the Embassy.

the German Foreign Office please confine yourself to the short statement that you are leaving in response to orders from your Government to report to Washington for consultation. You should plan to sail on the first available non-German ship. A subsequent telegram covering travel orders will be sent you.

HULL

362.115/329 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, November 15, 1938—4 p. m.

[Received November 15—2:46 p. m.]

619. There appear to be at least three cases of damage to property in Germany in which from preliminary examination American ownership seems to be well established.

We are actively pursuing pertinent investigation and the establishment of facts with a view to taking as prompt steps as possible to obtain compensation for losses which may have been sustained and at the same time are exploring with other Missions here similarly interested.

Pending such investigations which under the circumstances are felt to be essential, we have today however transmitted a formal note to the Foreign Office notifying it that cases of loss exist and reserving all rights on behalf of American owners.

WILSON

362.115/332 : Telegram (part air)

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, November 15, 1938—7 p. m.

[Received November 17—6:59 a. m.]

621. With regard to the applicability to foreign Jews of Goering's⁶⁰ three decrees published in the press November 13, the following may be noted:

(a) The first decree limits the scope of the 1 billion mark levy to "Jews of German nationality in their entirety".

(b) Referring to the damages resulting from the recent demonstrations the second decree states "the costs of repairs must be borne by the owners of the Jewish business houses and dwellings. Insurance claims of Jews of German nationality will be confiscated in favor of the Reich."

⁶⁰ Hermann Göring, Reich Minister for Aviation and President of the Reichstag.

(c) The third decree prohibiting Jews from operating retail stores and other business activities is drafted to apply to Jews as defined by the Nuremberg laws and to "Jewish undertakings" as defined by the decree of June 14, 1938, (Embassy's despatch 197, June 23, 1938⁶¹).

In an interview with Young of Reuter's on Saturday, Goebbels is quoted by this morning's German press as having answered in reply to the question whether the new laws apply also to British, American and other foreign Jews "British, American and other foreign Jews are to us members of the British, American or other nationalities. Whether or not they are Britishers is not incumbent on us but on the British people themselves to decide. Therefore we cannot apply these laws to Jews of other nationalities. To us they are foreigners."

The account of the interview also added that "the measures against the Jews will of course not be applied to foreign capital and foreign undertakings in Germany."

Repeated to London for Rublee.

WILSON

862.4016/1831 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, November 16, 1938—5 p. m.

[Received November 16—3:18 p. m.]

625. In view of this being a totalitarian state a surprising characteristic of the situation here is the intensity and scope among German citizens of a condemnation of the recent happenings against Jews. This sentiment is variously based upon two considerations. One of utter shame at the action of the Government and of their fellow Germans and the other on a conviction that the happenings constitute bad policy in the internal and more particularly in the external field. Such expressions are not confined to members of the intellectual classes but are encountered here throughout all classes—taxi drivers, servants, et cetera,—and it is understood among the peasantry in the country.

The Embassy has been reliably informed that a group of 10 general officers presented an oral "protest" to General von Brauchitsch⁶² over the happenings. This protest appears for tactical reasons to have been based on grounds of policy but it is nevertheless believed that condemnation of the entire situation is prevalent in the army and the navy.

⁶¹ Not printed.

⁶² Walter Heinrich von Brauchitsch, Commander in Chief of the German Army.

Individual members of the British Embassy express themselves as feeling that these sentiments of the German people will have an effect on Government policy. That is a matter upon which it is extremely difficult to express an opinion inasmuch as it is so deeply involved with the personalities concerned. On the whole, however, I am inclined to be skeptical of at least any immediate effect of this German opinion on Government policy or action.

WILSON

362.115/331 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, November 16, 1938—6 p. m.
[Received November 16—2:30 p. m.]

626. The note referred to in my telegram 619, November 15, 4 p. m., was personally handed by an officer of the Embassy to the appropriate official at the Foreign Office. In the conversation which ensued statements were made by the Foreign Office official concerned on the following three points:

1. American Jews residing in Germany are not required to make contributions to the billion mark indemnity imposed upon the Jewish community.

2. The German decree releasing insurance companies from indemnifying Jewish owners for damages to their property in the recent riots does not apply to foreign holders of policies in Germany.

3. The German decree forbidding Jews to engage in retail and export trade after January 1, 1939 is still undefined as to its application to foreign Jews doing business in Germany.

While points 1 and 2 above cannot be construed as a formal response to our representation in the premises they are nevertheless in line with the decrees themselves and it is believed that these assurances can be counted on. The question raised under point 3 above is being further pursued by the Embassy.

WILSON

701.6211/1054 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, November 18, 1938—7 p. m.
[Received November 18—3:20 p. m.]

637. The following was released by the German news agency this afternoon. It has not yet been published in the Berlin papers.

"The German Ambassador in Washington Dr. Hans Dieckhoff has been recalled to Berlin for consultation.

"The Ambassador will inform the Reich Minister for Foreign Affairs in detail regarding sentiment in the United States and the peculiar (*eigenartig*) attitude toward internal German events as expressed in the various statements of Roosevelt and other influential personages of the United States."

I have naturally taken note of the terms in which his [*this?*] communiqué is couched in particular the reference to the President. I have considered taking it up with the Foreign Office on this score but have felt that under the general set of circumstances I would not do so except under instructions. I would greatly appreciate some early intimation of the policy which it is desired I should pursue in this respect.

GILBERT

841.001 George VI/284½

*Memorandum by the Under Secretary of State (Welles) of a
Conversation With the British Ambassador (Lindsay)*

[Extract]

[WASHINGTON,] November 18, 1938.

The Ambassador told me the President had said to him yesterday that he did not mean to retain Ambassador Wilson in this country for an indefinite period but that he would remain here only a reasonable time. Sir Ronald expressed great concern because of the summons sent Ambassador Dieckhoff by the German Government to return to Berlin, and said he earnestly hoped this would not make Mr. Wilson's return to Berlin less likely. Sir Ronald said that he felt it had already proved to be of the utmost value for the United States to be able to make its voice heard in Berlin, and that it worried him exceedingly lest the absence of the two Ambassadors from their respective posts should continue for any extended period.

I limited myself to replying that it seemed to me the steps which had been taken might prove useful, and that I hoped as a result thereof in the next weeks the German Government might indicate some evidence of a desire to cooperate with the other nations of the world and thus make it easier to try and approach a return to more normal relations between Germany and the United States. I said I had been struck with the newspaper comment in the German press with regard to the British-American trade agreement,⁶³ and that I thought perhaps this agreement might prove a powerful incentive for a more civilized conduct on the part of Germany and for a more accurate

⁶³ See pp. 1 ff.

appreciation on her part of the need for Germany to undertake a radical change in her foreign policy as well. I said that it seemed to me premature for this Government to attempt to reach any decision on the question he raised, and that we would necessarily have to be guided by what Germany herself did during the coming weeks.

The Ambassador told me that he intended to take a long deferred vacation in his own country and that he would probably sail in about two weeks' time.

S[UMNER] W[ELLES]

862.4016/1856 : Telegram (part air)

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, November 19, 1938—10 a. m.

[Received November 21—8:44 a. m.]

638. In respect of the position of Jews in Germany the Embassy is continuously engaged at the present time on two counts:

(a) respecting American Jews, to accord them protection to obtain reimbursement for such property losses as have been sustained and to take steps that they may be accorded a position in general on the same footing as that of other foreigners and in particular in conformity with plan of the German-American Treaty of December 8, 1923;

(b) to consider in a more general way and in the spirit of official pronouncements at Washington what may best be done to alleviate the situation of German Jews in Germany.

As part of the picture here American Jews are frequently received at the Embassy where they state their situation and at the same time express their opinions as to what practical measures might best relieve their situation and also as to what developments in Germany and abroad currently affects that solution. Non-American Jews with whom American officials are informally in contact also express their views along similar lines. Quite apart from the element of the natural sympathy involved I feel it most expedient and indeed incumbent on me thus to become as conversant as possible with the pertinent opinions of the unfortunate individuals directly concerned. Naturally the situation is undergoing constant change. I transmit nevertheless what appears to be the consensus of opinion of responsible individuals in both of the categories mentioned above on two points which are at the moment of concern to them. I may add that in these conversations the wish was expressed that I would acquaint you with their thoughts.

1. They feel that the urgent problem here is to obtain the release of the Jews now held in concentration camps, and affording similar re-

lief to others in like jeopardy. This as far as can be seen at present can be adequately accomplished only by their removal by some means from Germany. In this respect they give consideration to some possible activity on the part of the London Refugee Committee. The so called "Dutch project"⁶⁴ which has furthermore come to their attention through the international press suggests to them that steps are being contemplated for obtaining for them permits for temporary residence in certain European countries pending their eventual settlement elsewhere. They express the hope that seen in the light of an urgent emergency measure effective organized efforts along these or similar lines may be made.

2. There is a growing universal expression of apprehension lest anti-German incidents and expressions in other countries may cause renewed action against them here. In this respect in their extreme anxiety they naturally regard such happenings in their practical aspects as affecting them rather than in a general moral light. On this score several have noted in a recent number of the Paris edition of the *New York Herald Tribune* an account of a reported movement of Americans to provide a fund for the legal defense of Grynszpan. They express regret that the action of Grynszpan which they from every point of view condemn and deplore is thus by inference at least condoned. They do not wish to appear to be associated despite the storming [*stormy?*] circumstances with anything but unqualified condemnation of the act itself. They feel moreover again having regard to their own situation that anything even susceptible of interpretation as a condoning of Grynszpan's act and as attempt to influence French justice would serve definitely to cloud the main issue and to impair to their disadvantage the effectiveness of international indignation over anti-Jewish excesses.

Copy to London for Rublee.

GILBERT

362.115/337 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, November 21, 1938—4 p. m.

[Received November 21—12:22 p. m.]

643. Reference Embassy's 621, November 15, 7 p. m., paragraph c and 626, November 16, 6 p. m., paragraph 3.

I have presented a note under today's date to the German Foreign Office in which, with reference to the decree of the German Government of November 12 for the termination on January 1, 1939 of the

⁶⁴ See telegram No. 145, November 16, 5 p. m., from the Chargé in the Netherlands, vol. I, p. 826.

right of Jews to engage in various commercial activities, there is cited the statement of the German Minister of Propaganda and Public Enlightenment on November 12 to the effect that the various recent decrees affecting German Jews would not be applicable to Jews of foreign nationality and formal assurances are requested that the decree in question would not apply to American citizens.

GILBERT

701.6211/1060

Memorandum of Conversation, by the Secretary of State

[WASHINGTON,] November 22, 1938.

The Ambassador of Germany came in on his own request. I felt no spirit of cordiality and naturally acted accordingly. The Ambassador sat down and said that he was being recalled and had come in to say goodbye. I said I hoped he would have a safe voyage. That ended the conversation. The silence for a brief interval became noticeable. I finally inquired when he was sailing. He said he did not know the exact day but it would be within a few days;⁶⁵ that he had called at this time to say goodbye to me, knowing that I was going away at the end of the week. I then again stated that personally I wished him a safe voyage and health.

C[ORDELL] H[ULL]

362.115/339 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, November 23, 1938—7 p. m.

[Received 8 p. m.]

650. Reference Embassy's 621, November 15, 7 p. m., paragraph a; and 626, November 16, 6 p. m., paragraph 1.

The *Reichsgesetzblatt* published this noon an executive order dated November 21 implementing Goering's decree of November 12 imposing on German Jews a 1 billion mark fine. It is stated therein that this amount will be collected as a capital levy on Jews of German nationality and Jews having no nationality who under the decree of April 26, 1938 (reported in Embassy's 215, April 30, 9 a. m.) were obliged to register with the authorities their entire domestic and foreign capital.

Briefly summarized the executive order provides that a fine equal to 20% of the total value as of November 12, 1938, of the property

⁶⁵ The German Ambassador left Washington November 23, 1938, leaving the Embassy in charge of the Counselor of Embassy, Hans Thomsen.

of the liable party is to be assessed on the basis of the value of the property registered in accordance with the decree last cited. The fine is payable in four installments falling due on December 15, 1938, and on February 15, May 15 and August 15, 1939. Jews the total value of whose property does not exceed 5000 marks are exempted from payment of the fine.

Paragraph No. 3 of section 1 of the executive order states "Jews of foreign nationality are not subject to the payment of this fine."

Mailed to London for Rublee.

GILBERT

362.115/340 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, November 23, 1938—9 p. m.
[Received November 23—8:05 p. m.]

652. Reference Embassy's 621, November 15, 7 p. m., paragraph *b*; and 626, November 16, 6 p. m., paragraph No. 2.

The executive order cited in Embassy's Note 650, November 23, 7 p. m., contains in addition the following provision: "Payments against insurance claims of Jews of German nationality and of Jews having no nationality must be made without delay at the competent revenue office. These payments will be applied to the fine of the Jew entitled to such insurance. Any surplus amounts go to the Reich".

In our relations with the German authorities we are assuming that American citizens are exempted from the foregoing provisions. In other words, that American citizens suffering property damages during the recent anti-Jewish manifestations will be able to collect from [apparent omission] American citizens involved and has advised them as speedily as possible to assess their damage and to present their claims under the policies they hold.

We are agreed that the best procedure is to await the result of this action on the part of the claimants before taking any further formal steps vis-à-vis the German Government.

GILBERT

862.4016/1916 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, November 26, 1938—1 p. m.
[Received November 26—11:05 a. m.]

660. Embassy's No. 643, November 21, 4 p. m. The *Reichsgesetzblatt* received this morning publishes an executive order of November

23 establishing the procedure for the elimination of Jews from Germany and economic life called for by Goering's decree of November 12. In general it requires liquidation of all Jewish owned retail stores and distributing and mail order houses or subject to official approval their transfer to Aryan hands. Liquidation by sale to ultimate consumers is prohibited it being required that goods be offered to the competent semi-official trade associations. In the absence of any statement to the contrary it is assumed that the order becomes effective on the same day as the decrees, i. e., January 1, 1939.

In regard to the applicability of this order only the general term "Jews" is used with no reference to Jews of foreign nationality. There is therefore no change to be made in the Embassy's position respecting the exemption of American citizens from Goering's decree as conveyed to the Foreign Office in its note reported in the telegram under reference. Copy by mail to London for Rublee.

GILBERT

862.4016/1915 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, November 26, 1938—2 p. m.
[Received November 26—10:38 a. m.]

661. In an order dated November 19 published in the *Reichsgesetzblatt* today a section is added to the general Reich regulations regarding relief payments which governs the distribution of relief to Jews. The Jewish Welfare Organization is made responsible for supporting indigent Jews. Only in cases in which the Jewish organization is unable to supply the absolutely necessary assistance will the Public Welfare Organization intervene and then only to an extent specifically limited by the order. It is stated, however, that "assistance in excess of that specified in paragraph 1 can be given Jews if it advances their emigration or is otherwise in the interest of the general public".

Copy by mail to London for Rublee.

GILBERT

862.4016/1969 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 5, 1938—8 p. m.
[Received December 5—3:25 p. m.]

692. Embassy's No. 678, December 1, 5 p. m.⁶⁶ The Embassy is informed by correspondents here that the American press carried in

⁶⁶ Not printed.

full the two orders published on Saturday,⁶⁷ the first signed by Himmler forbidding German Jews throughout the Reich to own or operate motor vehicles and the second issued by the local chief of police prohibiting as of today Jews from entering certain public places in Berlin such as theatres, museums, sport centers, and public baths and closing specified streets to them.

The official commentary relative to the latter order implies that similar action will be taken by other cities of the Reich and indicates quite plainly that the order is only the forerunner of a series of decrees which presumably by July 1, 1939 will have had the effect of concentrating the Jews in restricted areas in the cities.

Both orders contain a provision stating that they are applicable to Jews of German nationality and the official commentary just cited states that "foreign Jews" are exempted.

Copy by mail to London for Rublee.

GILBERT

862.4016/1981 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 6, 1938—6 p. m.
[Received December 6—3:50 p. m.]

698. A detailed decree dated December 3 governing employment of Jewish capital was published in the *Reichsgesetzblatt* yesterday evening a summary of which is given below. The decree became effective on December 3.

1. Industrial Concerns. The holder "Inhaber" of Jewish industrial concerns as defined by the law of June 14, 1938 can be instructed to sell or liquidate within a specified time. The owner must be notified but this can be effected by publication in the *Reichsanzeiger*. Trustees may be appointed to effect the sale or liquidation of such Jewish undertakings. No exemption for foreign Jews is given in the text on this point.

2. Real Property. A Jew, as defined by the Nuremberg laws can be instructed to sell his real property within a time limit under the same trustee conditions. Jews cannot acquire real estate or rights thereto by legal transaction. Disposal of real estate and rights thereto by Jews requires official approval. No exemption in text for foreign Jews.

3. Compulsory Deposit of Securities. Within one week from December 3 Jews must deposit all securities with a foreign exchange bank and newly acquired securities must be delivered within one week of their acquisition. Holders of securities belonging to Jews can only deposit them in the bank for the account of the Jew. Disposal

⁶⁷ December 3.

of securities so deposited requires the approval of the Minister of Economics. It is stated in the text that these provisions do not apply to Jews of foreign nationality.

4. Precious Metals and Jewels. Jews are forbidden to acquire articles of precious metals or precious stones or to pawn or sell them privately. The same applies to jewelry and objects of art if the value exceeds 1000 marks. It is stated in the text that these provisions do not apply to Jews of foreign nationality.

5. General Provisions. It is stipulated textually that approval to sell Jewish undertakings, real property, or other assets "can be granted on conditions that may also consist of payments of money by the purchaser in favor of the Reich." Such approval may also be granted on condition that the Jewish seller be allotted Reich bonds for all or part of the price agreed upon.

The regulations relating to real property are likewise applicable to industrial undertakings and other types of organizations such as societies, foundations, et cetera.

The decree contains also a section which stipulates that orders affecting a Jew of foreign nationality can only be issued with the consent of the Minister of Economics and in the case of agricultural property with the additional approval of the Minister of Agriculture or Forestry Commissioner.

Newspaper commentaries on the decree make it clear that paragraphs 1 and 2 above are intended to apply to Jews of foreign nationality as well as German Jews. For example *Völkischer Beobachter* writes "ownership of houses by Jews of foreign nationality does not constitute an exception. At last an end will now be put to a state of affair[s] in which half of big cities even half of Berlin belongs to Jews of German or foreign nationality. Shareholders in joint stock companies, in limited liability companies, et cetera, will also be reached [apparent omission] Jews of foreign nationality are excluded from the order regarding the sale of jewels and from the compulsion to deposit their securities whereas all the other regulations which have been issued at this time apply also to them." The press describes the decree as an "enabling act" and states that in order to avoid undue disruption of German economy it would be systematically applied under official control. It is stated, however, that the process will be pushed as rapidly as possible within the interests of German economy and that it cannot be surmised that within a year the complete elimination of Jews from German economic life will be achieved.

Full text being mailed via *Queen Mary*.

I am preparing a note to the Foreign Office requesting the exemption of American citizens from the pertinent provisions of this decree.

Copy by mail to London for Rublee.

GILBERT

362.115/348 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 8, 1938—11 a. m.

[Received December 8—7:28 a. m.]

703. Embassy's 698, December 6, 6 p. m. I have under today's date sent a first person note to the Foreign Minister calling his attention to articles 1 and 2 of the decree of December 3 (summarized in paragraphs 1 and 2 of my telegram under reference) and stating that these articles do not by their terms exempt American citizens from their application. Citing article 1 of the German-American Treaty of 1923 I have requested early assurances that the property of American citizens will be exempted from the application of these articles.

The Consulate General here is instructing all Consulates in Germany to compile records of American property in their consular districts which is presumably subject to terms of this decree. This information will subsequently be consolidated in Berlin for possible eventual use in representations to the German authorities.

Copy to London for Rublee.

GILBERT

362.115/355 : Telegram

The Acting Secretary of State to the Chargé in Germany (Gilbert)

WASHINGTON, December 10, 1938—1 p. m.

228. Please address the following note to the Minister for Foreign Affairs:

"I have been instructed by my Government to express its disappointment that Your Excellency's Government has not as yet conveyed the assurances which my Government felt confident would be received concerning non-discriminatory treatment in Germany of American citizens without exception based on race or creed.

"The attention of Your Excellency's Government was expressly invited to this matter in Mr. Wilson's note of May 9, 1938,⁶⁸ and my Government's concern and its desire for the assurances sought therein have been reiterated on several occasions in communications to Your Excellency's Government.

"My Government is concerned with the provisions of the decree laws which if made applicable to American citizens would have the effect of arbitrarily dividing them into special classes and subject them to differential treatment on the basis of such classification. It is one of the fundamental principles of my Government to make no distinction between American citizens on the basis of race or creed, and uniformly in its relations with foreign nations it has emphatically declined the right of those nations to apply on their part such discrimination as

⁶⁸ See telegram No. 63, May 7, 5 p. m., to the Ambassador in Germany, p. 369.

between American citizens. This principle, furthermore, is applied by my Government to nationals of foreign countries residing in the United States, including Germans. The application to American citizens of the measures referred to would be incompatible with this principle.

"My Government believes, therefore, that upon further consideration Your Excellency's Government will decide that American citizens will not be discriminated against in Germany on account of race or creed and that they will not be subjected to provisions of the nature of those embodied in the decree laws in question."

We approve the action thus far taken by you as occasion arose in requesting from the German Foreign Office assurances that the discriminatory decree laws do not apply to American citizens. However, we feel that the action thus far taken should now be supplemented by a general statement of our position. Cable when note has been delivered.⁶⁹

WELLES

362.115/356 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 12, 1938—9 a. m.

[Received 2:30 p. m.]

713. With reference to my telegrams No. 643, November 21, 4 p. m., and No. 703, December 8, 11 a. m., outlining notes transmitted to the Foreign Office requesting the exemption of American citizens from the application of certain decrees depriving Jews in Germany of various business and property rights, I wish to acquaint the Department with the following situation.

Circumstances here indicate that it is unlikely that the German Government will readily give formal assurances along the lines requested. The chief reasons for this are:

1. Respecting procedure: The German Foreign Office in accordance with regular practice transmits pertinent representations from foreign Governments to the Ministry issuing a given decree with the customary request for an indication of the reply desired. No matter how desirous in the light of other relationships the Foreign Office might be to accede to a specific representation it is virtually impossible to obtain a favorable response from any Ministry in question. In so far as I can ascertain no Diplomatic Missions here are receiving written acquiescences to their contentions in their notes dealing with this group of subjects.

2. Respecting the Ministries: (a) Largely staffed by Party members they are totally unwilling for internal political reasons "publicly to

⁶⁹The note, dated December 14, was delivered to the German Foreign Office on that date.

retract" a decree which they have issued. This unwillingness often becomes in effect an inability through the publication of such measures in the Party press with affirmations that they will be rigidly enforced. As a case in point see Embassy's 698, December 6, 6 p. m. paragraph 6. (b) On the factual side these decrees are formulated almost solely on the basis of internal considerations. In the various Jewish questions the American interests involved are usually relatively small compared to those say of Poland and a number of other states. Certain of these states have made formal representations. It is thus perceived as difficult to discriminate for example in favor of United States even where such a desire might exist by granting exceptionally in a formal manner an American request.

I have gone into this matter with Geist at considerable length. He tells me that his experience and that of the Consulate General is in taking up cases with the various Ministries with whom he is in contact that despite the terms of a decree it frequently transpires that either American citizens are in fact quietly omitted in their application or in reference to specific cases a relatively satisfactory adjustment is obtained. He says that he is frequently greatly surprised at this attitude and that he is often enjoined not to disclose say, to the British Consulate or to the French Consulate what has been done in an American case. While the reasons for this might be speculated upon at some length I am here only setting it forth in the form of concrete experience. Attention is called, however, to Embassy's despatch No. 480, December 5, 1938,⁷⁰ wherein the matter is gone into in some detail.

In short the character of the German Government is such that in questions of this type there often are two separate elements i. e. principle and practice: and the Embassy in its efforts in these difficult matters must perforce at all times give parallel consideration to these two factors.

In respect of the future Geist feels that he may easily encounter acquiescence similar to that which he has experienced in the past in response to such steps as he must take in due course either representing the Consulate General or the Embassy in connection with American interests involved in the application of the two decrees under reference and others of a similar nature which may be issued.

Geist naturally agrees with me that the foregoing cannot be construed as a definite forecast. It is based solely on an appraisal of certain conditions together with past experiences. While continuing helpful attitudes are noted we are in possession of neither written nor oral promises or undertakings in this respect on the part of any German authority.

I wish to make clear that the foregoing is submitted purely as informative and not as having any bearing on the appropriate position

⁷⁰ Not printed.

of the American Government in relation to these questions. I do nevertheless feel it to be essentially desirable to acquaint the Department in so far as possible with all of the conditions surrounding these difficult matters.

GILBERT

362.115/357 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 12, 1938—6 p. m.
[Received December 12—3: 15 p. m.]

716. 1. A note dated December 10 has been received from the Foreign Office of which the following is a translation of the text:

"In reference to the *note verbale* of the Ministry for Foreign Affairs of November 29, 846022/11" (reported in Embassy's 677, December 1, noon ¹¹) "the Ministry for Foreign Affairs has the honor to reply to the courteous *note verbale* No. 244 of November 21, 1938 from the Embassy of the United States of America" (reported in Embassy's 643, November 21, 4 p. m.) "as follows:

In accordance with the decree governing the elimination of Jews from German business dated November 12, 1938, all Jews are prohibited from operating retail stores, mail order or forwarding houses as well as from carrying on a trade independently after January 1, 1939. As of the same date they are furthermore forbidden to offer wares or business services, to advertise them or to accept orders for them at markets of any kind, at fairs or expositions.

This decree applies also to Jews who possess a foreign nationality. But in all cases where American citizens are involved the competent internal administrative authorities before taking any measures will take into consideration the provisions of German-American agreements now in force.

In this connection the Foreign Office begs to refer to the remarks in its *note verbale* No. 82-3220-6 of June 24, 1938" (reported in the Embassy's 323, June 24, 6 p. m.)

2. I was this morning preparing to present personally at the Foreign Office the note transmitted textually in the Department's No. 228, December 10, 1 p. m., when I was informed that an uncertainty existed respecting certain words due to garbled code groups. I directed that "services" be immediately requested of Washington on these groups.

Shortly thereafter I was informed by an official of the Foreign Office that a note was on its way to the Embassy and later the note set forth in paragraph 1 above arrived.

I have no way of knowing whether the Department will wish to give further consideration to the note transmitted in its No. 228 in the

¹¹ Not printed.

light of the reply to our note of November 21 given above. In view, nevertheless, of the possibility that such consideration is desired I am delaying its presentation until further instructed by the Department.

3. In conversation relative to the delivery of the note with the Foreign Office official mentioned above I learn that a reply of this character is not being sent at this time to certain other Governments which have made inquiries in these matters similar to our own but that this action may be taken later.

In various connections having a bearing on these matters I believe the Department will wish also to consider my No. 713, December 12, 9 a. m.

GILBERT

362.115/358 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 13, 1938—noon.
[Received December 13—8:35 a. m.]

718. An official of the Foreign Office telephoned the Embassy this morning to state informally that "the German Government would appreciate the withholding from publication for the time being of its note of December 10 (Embassy's 716, December 12, 6 p. m.) inasmuch as no reply had yet been made to similar representations by other Governments."

GILBERT

362.115/361 : Telegram

The Acting Secretary of State to the Chargé in Germany (Gilbert)

WASHINGTON, December 13, 1938—6 p. m.

232. Your 716, December 12, 6 p. m. and 718, December 13, noon. Since the Foreign Office note dated December 10, 1938, is in reply to your note of November 21 dealing with a single decree and since the Foreign Office reply appears not to differ essentially from its previous note of June 24, 1938, in its reference to cases involving American citizens, we consider that the note quoted in cablegram no. 228 of December 10, 1 p. m. should be delivered to the Foreign Minister without change as soon as possible.

We are withholding publication of the German reply of December 10 until hearing further from you.

WELLES

362.115/377

*Memorandum by the First Secretary of Embassy in Germany (Geist)
for the Chargé (Gilbert)⁷²*

BERLIN, December 14, 1938.

I called at the German Foreign Office today by appointment and presented the note as instructed by the Department of State in its telegram No. 228 of December 10, 1 p. m., to Geheimrat Dr. Hinrichs, the competent official in the Foreign Office for the kind of questions raised in the note. While the cordiality and friendliness displayed by Dr. Hinrichs were genuine, he evinced a certain nervousness at having received a note which I gathered he found embarrassing and troublesome. He carefully perused the document I handed him and then abruptly turned to me and asked what our intention was concerning the future of American Jews in Germany and whether or not it was our policy to promote their residence and activity here. He then went on to say that he was sure the position of the German Government vis-à-vis American Jewish interests would become clearer if we understood that the legislation which the authorities in Germany considered now essential was not directed primarily against foreign Jews, though with respect to property holdings that question assumed more formidable dimensions; but against the German Jews whose separation from the German people was decided once and for all. He understood very well the attitude of the American Government which could admit no discrimination between citizens on the basis of race and creed, but at the same time he hoped the American Government would appreciate the fact that the German Government could not discriminate in all these matters in favor of foreign Jews. It had done so wherever that was possible. But what would be the situation if, after the first of January, all German Jews in retail businesses had closed their shops, and here and there foreign Jews were allowed to continue to carry on as heretofore? That was of course the practical side of the difficulty. He said that in general he was prepared to say that the German authorities in understanding our position were desirous of meeting our wishes in all these matters as far as that was feasible, and that he trusted we would endeavor to contribute as much as we could likewise to solutions mutually satisfactory. I then raised certain specific points regarding matters under consideration.

I first brought up the question of damages to property suffered by American Jews in the attacks of November 10, 1938. I said that I

⁷² Copy transmitted to the Department by the Chargé in Germany in his despatch No. 499, December 14; received December 27.

understood that foreigners would have no difficulties collecting damages from the companies with which they were insured. Dr. Hinrichs said that my understanding was correct and then added that he could tell me confidentially that it had been decided to pay such claims.

I then brought up the decree which forbade Jews to engage in retail business, commercial services, et cetera, after the first of January 1939. I observed that this would affect American Jews in Germany while it would not disturb American non-Jews, which obviously constituted a discrimination. Our position on this point was clear and had been emphasized again by the note which I had just handed him. I said that I thought this created a situation the solution of which would call for a recognition of the American standpoint and contention. Dr. Hinrichs said that the German Government was prepared to go as far as it consistently could in the matter, and requested me to make inquiries as to what American Jewish retail firms would still be functioning in Germany after the first of January. I replied that I believed from the reports which we had had from all the American Consular representatives in Germany concerning damages to property in the November riots that the number would be about six and that I would furnish him with a list of the names and addresses of such firms. He hoped that these American Jewish firms would not delay making arrangements to liquidate as soon after the first of January as possible. He thought that difficulties might be experienced if they continued to do business after the end of February. On account of the large number of Polish, Hungarian and other European Jews, whose places of business would be closed after the first of January along with those of the German Jews, if American Jews were favored it would create an untenable position; as already the police had been remarking that if a Jewish store is under American or British protection it might continue to do business (obviously an allusion to the large department store N. Israel, under British protection, which has continued to do business after the November riots). Dr. Hinrichs pointed out that the German Government maintains that it cannot discriminate in favor of foreign Jews; and inasmuch as the action which it takes is against the Jewish race everywhere in Germany, no discrimination is involved when foreign Jews are affected in the Reich the same as German Jews.

I may say that this position I thought was analogous to the German contention often repeated to me with respect to Article I of the German-American Treaty, which finally stipulates "submitting themselves to all local laws and regulations." He called attention, too, to the fact that the question in Germany was primarily not juridical, but practical. It was essentially a matter of practical politics. If

the German Government, out of consideration for its good relations with foreign countries, would endeavor to protect foreign Jews in the enjoyment of rights which had been denied to German Jews, the popular indignation (meaning, as I thought to myself, the trained Nazi followers whose actions and reactions were accepted as an expression of "popular indignation") would cause increasing trouble for such Jews, and in the interest of public order such exceptions could not be made very long.

I then brought up the question of Jewish American property. And in this regard I pointed out that this question was important on account of the fact that it was much more extensive and might involve appreciable sums of money. He said that again this law was not directed against American Jewish property in any way. But when it was realized that an exceeding large proportion of urban property, particularly apartment houses, was in the hands of Jews, and 60 percent of that in the hands of foreign Jews (foreign Jewish money having extensively come in for purchases during the inflation), it was clear that the Government could no longer tolerate this situation. He regretted, however, that the issue was raised with the American Government and here again he said the German Government would be willing to do whatever it consistently could to meet our wishes in this respect.

I made it clear that the American Government would have to take a particularly grave view of the fate of American property in Germany and it would go a long way to assure this protection.

Dr. Hinrichs revealed that he was also very much concerned about this matter and said that he would welcome any opportunity to find a satisfactory solution and would be glad to cooperate in doing so. He said that the final regulations regarding this law had not yet been worked out; but that there was no decision made as yet indicating that expropriation would take place. I said that I had taken steps through our Consular officers in Germany to learn the extent of American Jewish-owned property and that when this data is ready I would be glad to present it to him. He said he would be very grateful for any cooperation we could give in arranging a satisfactory outcome of this matter.

At the conclusion of our conversation I told Dr. Hinrichs that I had noted his exposition of the German position in regard to these matters. I said that the American position had been made so clear in its various notes that a reiteration did not seem necessary. I added that within the terms of the American position we would be very glad to cooperate with him in the fullest possible manner.⁷³

⁷³ Appended note in longhand by Assistant Secretary of State George S. Messersmith reads: "The views expressed by Dr. Hinrichs, as set forth in this memo, can be taken as the indication of the views of a probably decent and harassed official, but in no sense as an indication of German policy."

862.4016/2043 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 29, 1938—1 p. m.

[Received December 29—9:30 a. m.]

764. 1. A German decree of December 14 published in *Reichsgesetzblatt* 1 of December 23 received this morning provides (insofar as we are able to interpret it) for the elimination of Jews as managers (*Betriebs Führer*) of plants or as acting managers.

2. I am sending a third-person note under today's date to the Foreign Office requesting assurances that American citizens will be exempted from its application.

3. I wish to add that I felt it desirable to take this position. We are, however, unable to ascertain as yet whether as a practical issue American citizens are actually affected.

GILBERT

UNSATISFACTORY TRADE RELATIONS BETWEEN THE UNITED STATES
AND GERMANY ⁷⁴

611.6231/1002

The Secretary of State to the Ambassador in Germany (Wilson)

No. 31

WASHINGTON, April 28, 1938.

SIR: The Embassy's despatch no. 3777 of December 15, 1937,⁷⁵ concerning a project for the extension of the special system of cotton barter to the importation of oils into Germany, has been received and studied with interest and a copy thereof has been sent to the Treasury Department for its information.

In response to the request for comment contained in the final paragraph of the despatch under reference, I desire to mention for your confidential information that while the Department of State is interested in finding a means of returning German-American trade to a normal commercial basis it is felt that the Embassy should not become involved in the German system of barter. However, so long as Germany has its present system of control, trade must run along in strictly business channels and such business as can be consummated must rest on the business arrangements which American exporting interests can make with the appropriate German authorities and buy-

⁷⁴ Continued from *Foreign Relations*, 1937, vol. II, pp. 327-348.

⁷⁵ *Ibid.*, p. 343.

ing agencies. Any question as to whether such business arrangements would not be in accord with American customs law would be a matter for the American exporter to work out with the United States Treasury Department, this being the Department charged with the administration of the law.

This Government would have no authority to urge inclusion of any particular commodity in barter trade with Germany and it is felt that an indefinite extension of such barter arrangements would handicap the Trade Agreement policy.

Reports furnishing information of the nature embodied in the despatch under reference are always useful and welcome, and it is hoped that the Embassy will continue to report such projects or developments as they come to its attention from time to time.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

862.51 Bondholders/486 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 28, 1938—5 p. m.
[Received June 28—4: 27 p. m.]

332. Reuben Clark ⁷⁶ conferred with Blessing and Schacht of the Reichsbank and Brinkmann of the Economics Ministry with regard to German and American dollar bonds on June 24 and 25. Clark tells me that he suggested that the Germans resume cash payment of interest on all national and local dollar bonds including possibly corporate bonds beginning with an initial payment of 2% interest which would be built up over a series of coupons to a "reasonable percentage" suggesting that after 3 or 4 years German credit might be sufficiently enhanced to put through a conversion operation. He asserted that apart from the Dawes and Young bonds the other German long term obligations now in the hands of Americans did not total over \$3,000,000 [\$300,000,000?]. Brinkmann is understood to have informed Clark that he approved of the plan and that he would try to send a commission to the United States to negotiate with the Council along these lines. He stated, however, that it would be necessary to find the foreign exchange to meet this outlay and clearly indicated that such an increase in availabilities would have to come through a trade agreement in the United States although he said he thoroughly realized that the United

⁷⁶J. Reuben Clark of the American Bondholders Protective Council, formerly president of the Foreign Bondholders Protective Council.

States did not include debt discussions in its trade agreement negotiations.

Clark's memorandum of his discussions are being forwarded.

WILSON

862.51 Bondholders/486 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, June 29, 1938—1 p. m.

105. Your 332, June 28 and Heath's ⁷⁷ cable for Treasury 333, June 28.⁷⁸ Department is of course desirous that American holders of German bonds receive consideration due them from the German Government, and termination of discriminations to which they are now subject compared with holders of other nationalities. The Council is of course free to conduct any negotiations it wishes toward these ends.

However, in view of Brinkmann's statements that any offer be conditioned upon the obtaining of new trade concessions from the United States we believe it advisable that the Embassy make it distinctly clear to both Clark and to Brinkmann and to other German authorities that it is not prepared to link in any way such debt discussions with trade matters. If the Council permits itself to be put in a position where consideration for American debts is put on this conditional basis, confusion and dissatisfaction will result. It is believed that the despatch of any German mission therefore would not serve a useful purpose.

The preceding concerns the debt of German bonds. In regard to Austrian bonds, the Government's position remains as presented to the German Government in its communications of April 6⁷⁹ and June 9.⁸⁰ It plans to sustain without modification the view that there is no reason why the American investor should be called upon to suffer injury because of the absorption of Austria into Germany; it furthermore expects that American bondholders receive as favorable consideration as may be granted the holders of Austrian bonds of other nationalities in connection with any special agreements the German Government may now be engaged in negotiating.

For your own background. The Embassy will bear in mind that payments to Germany of all kinds from the United States are now permitted free of restriction and control in contrast to the increasing minute and comprehensive restrictions being enforced by the German Government upon payments to American citizens. This is creating a growing amount of dissatisfaction in the United States.

HULL

⁷⁷ Donald Heath, First Secretary of Embassy in Germany.

⁷⁸ Latter not printed.

⁷⁹ See telegram No. 35, April 5, 7 p. m., to the Ambassador in Germany, p. 483.

⁸⁰ See telegram No. 88, June 7, 5 p. m., to the Ambassador in Germany, p. 491.

862.51 Bondholders/487 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 30, 1938—4 p. m.

[Received June 30—3:10 p. m.]

335. Department's 105, June 29, 1 p. m. Clark has left Berlin but from Mann⁸¹ who accompanied him in his interview with Brinkmann and according to the following excerpt from his memorandum of the discussion it was made clear to Brinkmann that the Department is not prepared to link in any way debt discussions with trade matters.

The following is from Clark's memorandum.

"During the course of the conversation the question of trade agreements came up and Mr. Clark reiterated what he had said to Drs. Blessing and Schacht in turn (which was a reiteration of what Mr. Clark had said to them last year) that there was no connection whatsoever between the trade agreements and the long term indebtedness, that the State Department negotiated its trade agreements without any reference to the long term indebtedness; and that any thought that the Germans might have that by withholding service on the long term indebtedness they were bringing pressure to bear in the matter of a trade agreement was wholly unfounded."

According to Mann, Brinkmann replied to this statement by saying that he "had gained the same impression when in Washington 2 years ago and that this attitude had very much surprised him."

I have subsequently discussed these matters with Brinkmann and believe that he fully understands the Department's policy of disassociate action of debt and trade matters as well as our attitude towards Austrian loans⁸² but in compliance with the Department's instruction under acknowledgment will take the first suitable opportunity to reiterate to him our position.

WILSON

862.51 Bondholders/487 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, July 2, 1938—1 p. m.

107. Your 335. When discussing this subject with German authorities, Department believes it advisable that it be understood that its statement "that it is not prepared to link in any way such debt discussions with trade matters" be understood in the broad sense and

⁸¹ Henry Mann, vice president and Berlin representative of Brown, Harriman & Co. of Great Britain.

⁸² See pp. 483 ff.

not merely in connection with a trade agreement. It is to be anticipated that what the German representatives would broach first of all is a reinstatement of Germany to most-favored-nation privileges, even though her removal from the qualifying list rests on the basis of law, and her present trade practices constitute definite discrimination.

HULL

611.6231/1044: Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, August 16, 1938—6 p. m.

[Received 8:50 p. m.]

387. State Secretary Brinkmann, who under Goering is active head of the Economics Ministry, will deliver Wednesday evening, August 17, the address before the American Chamber of Commerce in Berlin which was the subject of my letter to the Secretary of June 28.⁸³

I am informed by the Chamber that the initiative for the meeting came from Brinkmann himself who suggested that it would be timely for him to address the Chamber in favor of better trade relations and if possible a trade agreement between Germany and the United States.

Advance copies in translation of the address have been furnished to the American correspondents. The following is a résumé of the principal features of the address which I feel may be regarded as a considered answer from the German Government to our presentation of economic relationships. It is of course requested that this be kept confidential until August 17 about 10:00 o'clock p. m. Berlin time.

Admitting that an important cause of the decline of German-American trade is the general deterioration in world trade Brinkmann states that German-American relations are burdened by other circumstances "which can be characterized as a result of misunderstandings which still have to be cleared up."

He then proceeds to set forth the following four "misunderstandings" entertained in the United States with regard to German trade and other policies:

1. "Americans feel that the German policy of debt regulation discriminates against them."

He asserts that no one has greater interest than the Germans in meeting contractual services on German loans since "we know that many of the subscribers to the loans were actuated by the laudable motive of helping us." There are however he says "always times in the lives of nations when facts are harder than the good will which tries to overcome them. For the fact that it was no fault of ours that

⁸³ Not found in Department files.

we became poor in foreign exchange is today probably uncontested. The insanity of political tributes robbed us not only of a very sizeable foreign exchange reserve but also contributed to the complete collapse of German business. It was absolutely necessary for us to use every means available including foreign exchange control to eliminate mass unemployment. The existence of the nation was at stake. However, despite our great lack of foreign exchange we could not bring ourselves to stop the transfer of our debt service completely; but we saw ourselves forced to make the extent of this transfer dependent upon the concessions which our partners were willing to grant us in the field of trade. We have many times endeavored to persuade the United States in the interest of the debt service to open her markets to a greater degree to German goods. For in the long run people will come to realize that a state which wishes to collect interest and amortization must give its debtors an opportunity of earning such interest and amortization. If a state does not wish to do this it has only the choice either of postponing its claim for an indefinite period or of reducing the amount of its claim. Therefore I should like to express the hope that the United States will in the future give this viewpoint more consideration and that in the end a solution will be found along the lines I have mentioned that will permit an improvement also in the service of our debt to the United States."

2. "A further misunderstanding of our situation and of our aims is the following reproach: 'the Germans with the aid of a very complicated procedure are conducting a policy of dumping on the world market.'"

"If one regards as dumping a very simple procedure which indeed aims at the maintenance of competitive ability but nevertheless also endeavors to maintain world market prices and if possible even to increase them then I do not know how all those methods are to be characterized which, without any consideration of the situation of the world market, have cheapened exports of a country from one day to the other 20, 30 or even more per cent in the terms of another currency. Of course, we realize that the purpose of the United States in devaluing the dollar was not to secure for itself price advantages on the world market but was undertaken merely for internal economic reasons; nevertheless, it cannot be denied that this devaluation hurt our sales chances on the world market considerably. And if in addition to these difficulties German goods exported to the United States are subject to high special compensatory tariffs which to be sure were canceled again some months later and to anti-dumping tariffs it is hard to escape the impression that the main reason for the imposition of these tariffs is not to be found in the sphere of economics."

"On our side, in any case, there was never any intention of conducting any sort of dumping policy through our price adjustment measures which were forced upon us by the devaluations of other countries. On the contrary we have always respected the world market prices as far as possible and moreover believe that we have considered American creditor interests since the possibility for the realization of blocked balances in Germany was increased."

3. "Americans see a discrimination in the German trade policy as based on Schacht's 'new plan.'"

The situation in which German business found itself before the introduction of the new plan was extremely serious. Current foreign

exchange receipts were by no means sufficient to pay for even the most urgent requirements for foreign raw materials and the increase in the arrears in foreign commodity debts was becoming more and more threatening. A continuation of this would have meant giving up our economic right of self-determination. Moreover, it was in our mind a simple matter of commercial fairness no longer to import goods when the prospects for payment within a definite time did not exist.

Not a whim but the most bitter need forced us to direct our trade relations more towards the principle of bilateralism. Whoever was ready to accept our goods in payment did not have to worry about the sale of his raw materials."

"Therefore we thought we were justified in believing that the American Government, like the governments of other countries, would be willing to give greater consideration to the principle of bilateralism in trade with Germany, a hope in which we were unfortunately disappointed. On the contrary, Germany appeared on the 'black list' of the American Department of State, which, after the recent disappearance of Australia, it now adorns in lovely grandeur. However, since recent American trade policy has been characterized by a remarkable elasticity as expressed, for example, in the recognition of the foreign exchange control system of Brazil, and more recently of Italy, we would like to express the hope that this welcome departure from rigid dogma will also benefit future German-American trade discussions. The only technical difficulty for a new *modus vivendi* might be seen in the determination of the 'representative period' which would have to form the basis for the setting of the foreign exchange quotas for imports. However, with good will it should not be difficult to come to an agreement here."

4. "Among the arguments used against us one special argument must be mentioned which, though not of an economic nature, is nevertheless a strong influence in international economic relations. One often hears the following: 'reject the German "*Weltanschauung*".'

This, we cannot and do not wish to prevent, for we have stated [very clearly and] ⁸⁵ very often that National Socialism is not an article for export and that we do not wish to force understanding for our *Weltanschauung* upon anybody. We have only the desire to be left alone to solve our own problems just as we on our side are ready to respect at all times and without reservation the national forms of life of other countries."

Brinkmann then refers to the complementary character of the two economies and "German potential purchasing power for American commodities." He recalled that Assistant Secretary Sayre recently "stated that in 1927 Germany bought from the United States of America 2¾ million bales of cotton, but in 1937, barely ¾ of a million bales."

"[As regards] ⁸⁵ cotton, Germany is undergoing a process of adjustments, for, if she cannot buy American cotton, she must buy from other countries.

"I want to point out that before the war by far the largest part of American cotton exports went to Bremen, that is to say, not only the

⁸⁵ Corrected on basis of text of speech in translation forwarded by the Ambassador in Germany in his despatch No. 302, August 20; received September 2.

needs of France, but also the requirements of the border states and of the eastern and southeastern countries went there. In my opinion it would be very unfortunate, looking at the situation not only from present circumstances but casting a glance into the future, if the position formerly held by Germany as a buyer of American goods, a position which Germany would willingly resume, should not only suffer through the unsatisfactory relations between the two countries but even disappear entirely."

"I want to make the statement right now that Germany, because of its position as fabricator of textile goods, could easily buy 3 to 4 million bales of cotton from the United States each year, surely a quantity which should mean something to the American cotton producer."

"Germany can also purchase not only metals and finished products, but other things, goods of which the United States has an over abundance. Think only of the amounts of wheat, lard, canned meat and fruit we can buy, if reasonable trade relations can be established between the two countries. I am not at all worried in the long run about liquidating these imports through German exports, for so huge a market as that of the United States can take a few hundred million marks worth of German imports without any difficulty. To be sure, it will be necessary to prepare the technical procedure but with good will on both sides this can be done, and can be done quickly."

He asserts that size and stability of German import demand for American products would "be of excellent service in surmounting internal American difficulties as expressed especially in the unemployment problem."

In conclusion he states: "We are filled with a sincere desire" that a German-American economic understanding "come about as soon as possible" and he called for the cooperation of the Chamber to this end, closing with the following statement.

"For in carrying on foreign trade, we are building, as President Roosevelt so pertinently expressed it, an ever securer foundation for economic well being and are strengthening at the same time the foundation of enduring world peace, which is so essential to the continued progress of civilization and to the well being of the people of every land."

Please convey appropriate portions of the foregoing to Agricultural Attaché Steere now on leave in Washington. Also please repeat pertinent portion to Treasury from Heath.

WILSON

611.6231/1055

Memorandum of Conversation, by the Secretary of State

[WASHINGTON,] September 28, 1938.

The Ambassador of Germany ⁸⁶ called on his own request. He said he came in only to let me know that he was back in Washington and

⁸⁶ Hans Heinrich Dieckhoff.

at my disposal for the purpose of carrying on suitable relations between our two Governments. I thanked him.

He then said that, while in Germany, he sought to lay fully before his Foreign Office the nature and extent of his and my conversations relative to pending problems, including the Austrian debt⁸⁷ and trade problems.⁸⁸ He said that he felt there was a growing interest among the German high officials, from Chancellor Hitler down, in economic and trade relations; that he thought this would gradually increase. I expressed my gratification at what he said, and added that this Government, of course, has held out its trade agreements program alike to every nation in the world; that I, of course, do not expect a country pursuing a policy of autarchy to adopt our program for trade restoration, and I have said that to the Governments of Germany and Great Britain and others alike; that I feel sure that when the German Government might decide to change its course in the different ways that would make it possible for it to eventually adopt and support our liberal commercial policy, it could move in that direction more rapidly than even German officials might imagine; that capital and business men in other countries would immediately discover the basic change of policy on the part of his Government, with the result that manufacturers could soon get credit to make possible the payment for raw materials; that other important steps looking towards the gradual change from autarchy to liberal trade policies could be taken sooner and in greater numbers than might at present be imagined. I added that there are varying impressions as to when and whether his Government might change some of its basic policies under the operation of which his Government would not be interested in pursuing the general course of this Government; that some of these reports represent the head of the German Government as seeking general dominion by force; that I was not raising any question as to the truth or falsity of such reports, but only referring to the obstruction which they constitute to the restoration of confidence on the part of bankers and other business people who would ordinarily cooperate with German bankers and business people in a broad way. The Ambassador said he knew about these phases, and he hastily and almost parenthetically denied the world ambitions of Chancellor Hitler. He proceeded in a brief general sentence or two to say that Germany had a right to interests in the Balkan and Danubian countries and there was no ground on which it should be bottled up. I again made some reference to the question of acquiring dominion generally and in a broad way over territory, and he dis-

⁸⁷ See pp. 483 ff.

⁸⁸ See pp. 502 ff.

claimed as to territory but without explanation or argument. I said that it would be incomprehensible for Europe to commit suicide—all alike. The Ambassador then said that he had talked with Chancellor Hitler and he was taking a genuine interest in this country, its economic and industrial development and policies in particular. He added that Hitler realized certain readjustments of existing practices or policies by his Government relating to trade and also the Jewish situation would be important, if not vital, in the restoration of entirely satisfactory relations between our two countries. I said I was gratified to hear all he was saying; that this country simply stands for friendly and fair and peaceful relations with all other nations and for a like policy among all nations; that it wants nothing from others, but it is deeply concerned about orderly and peaceful conditions and human progress throughout the world.

C[ORDELL] H[ULL]

611.6231/1094

The Ambassador in Germany (Wilson) to the Assistant Secretary of State (Sayre)

[Extracts]

BERLIN, November 10, 1938.

[Received November 26.]

DEAR FRANK: I am writing to you as the Assistant Secretary of State in charge of trade agreements and economic matters, but I am writing you personally because the matter which I have to present is brought to me in a personal and informal method.

Dr. Rudolf Brinkmann is what is known here as Secretary of State for the Economics Ministry, which would be the equivalent with us of Under Secretary of Commerce. Actually he is the executive head of a huge Ministry, which closely regulates and directs not only the greater part of business and industrial activity in the Reich but German foreign debts and foreign exchange as well. . . .

I have gone somewhat at length into the man's character and thoughts because he has submitted a suggestion to us. I haven't the faintest idea as to whether we can regard the suggestion as practicable. In its present form it is frankly a trade balancing device based on a currency not having free international circulation. Indeed, if I read aright the present temper of the United States, it would be difficult for any grounds to be found by which German-American trade

could be encouraged. Hence perhaps all speculation along these lines is premature. Of this, however, the Department will be better judge than I can be. Nevertheless, Brinkmann is the influence in German economic life which is the most friendly to us and should be kept this way by all means in our power. I would say that at the present time, with Schacht's partial retirement, he is probably the strongest single influence towards liberal economic development and organization in the Reich. I might add that he has also endeavored to use his position toward putting the brakes on the economic despoliation of the German Jews and that with his Minister, Funk, he is trying to work out some solution whereby at least refugees from race policy can transfer with them some substantial part of their holdings. In fact his outspoken disapproval of racial persecution in social gatherings has caused some apprehension among his friends lest it should imperil his position.

Thus whatever the fate of his suggestion, I hope that an answer can be given him which is friendly and interested in tone, and which will encourage him to continue to devote his real ingenuity eventually to finding a ground we could consider perhaps as a common one for our two systems.

Brinkmann emphasizes that his suggestion is a purely personal one. He states definitely that he has not spoken to Göring about it. It is in the nature of an exploratory adventure. He asks that it be kept confidential since he has not even mentioned his idea of an "American Mark" to the Reichsbank, which eventually would have to be consulted.

The suggestion takes the form of two letters to me, dated respectively October 31 and November 5. (I suggest that the latter be read first, as it is perhaps of more general character). Brinkmann himself suggested, after sending me his first letter, that this be withheld until he could supplement it with some further thoughts.

With warm regards [etc.]

HUGH R. WILSON

[Enclosure 1—Translation]

*The State Secretary, German Ministry of National Economy
(Brinkmann), to the American Ambassador (Wilson)*

BERLIN, October 31, 1938.

DEAR MR. WILSON: Referring to our conversation, I am sending you herewith the brief memorandum I mentioned, which contains my personal ideas with regard to stimulating German-American trade by

creating an America-Mark. I would appreciate it if you would let me know if you consider it advisable to forward it to Mr. Hull in a suitable, non-official form. At the same time I would request that he be told that this is not a proposal of the German Government but involves my personal ideas.

With best regards [etc.]

BRINKMANN

[Subenclosure—Translation]

MEMORANDUM

I.

The international economic crisis affected trade between Germany and the United States with particular severity. While the United States still exported in the amount of approximately 1.8 billion reichsmarks to Germany in 1929, exports in 1937 barely reached approximately 300 million RM. Germany was one of America's best customers for agricultural products. The decline in American exports to Germany therefore contributed substantially to the difficulty in marketing American agrarian products. On the other hand, Germany is interested in importing American agrarian products, although she is able to import agrarian products from other countries, e. g. from the Balkan countries, if they cannot be imported from America. Moreover, the industrial products of both countries complement each other in various respects, so that it would be possible along this line also to expand German-American trade. In view of this situation it would seem to be in the interest of both countries to restore the normal volume of trade between the United States and Germany as nearly as possible.

II.

The chief difficulty in the way of such normalization of American trade is the discrepancy between the level of American and German prices. This is a result of the unilateral devaluation of the dollar. Germany has been trying to compensate for the devaluation of the dollar by adopting means of promoting exports. At the request of the American Government, this procedure was stopped. Another means of bridging the difficulties would be to consider the creation of a so-called America-Mark. In principle, this would mean that in trade with Germany the dollar would be computed at its former parity, i. e. at 4.20 RM.

III.

If the America-Mark were introduced, the technical transaction of trade between the two countries would be along the following lines:

1. When exporting to Germany American exporters continue to invoice in dollars at normal prices. The German importers convert the amount in dollars at the rate of 4.20 RM and pay the resulting reichsmark amount into a German bank account in favor of the American exporters.

2. The reichsmark credit balance created in this way can be used, as a matter of principle, for purchases of any German goods at normal German prices; that is to say, there would be no selective classification of German goods.

3. The reichsmark credit balance (America-Mark) can be sold to other American interested parties by the American exporters, in which case the rate of 4.20 RM for the dollar would be used as a basis.

4. Assurances would be given that any interested American (firm) or German (firm) can participate in the procedure.

IV.

The arrangement described above would mean a step in the direction of a freer mode of international trade. The restrictions to trade created by foreign exchange control would be considerably relaxed. From this angle, the above proposal might be regarded as a step in support of America's efforts to reestablish free international trade.

[Enclosure 2—Translation]

*The State Secretary, German Ministry of National Economy
(Brinkman), to the American Ambassador (Wilson)*

BERLIN, November 5, 1938.

DEAR MR. WILSON: In addition to the memorandum which I sent you containing my personal ideas concerning the introduction of an America-Mark, I would like to state the following:

1) The introduction of the America-Mark is to be regarded merely as a transitional measure. In my opinion the ultimate solution should necessarily be the complete reestablishment of free trade, with deliveries of goods being paid for on both sides in free foreign exchange.

2) Since any German goods whatever could be purchased at any time with the America-Mark, the latter would furnish the American exporter a guarantee that his export claims in Germany would not freeze up. By means of technical arrangements, provision would be made to the end that German importers would purchase only such amounts of American goods as can be paid for in the America-Marks resulting from American purchases of goods.

3) No funds whatever for facilitating exports would be used for goods purchased with the America-Mark in Germany. Thus the

request of the American Government that subsidies be abolished in connection with German exports to the United States would be fully complied with.

4) Among other things, wheat, lard and, to a certain extent, fruit would be purchased with America-Marks. In this way the excessive supply of agricultural products on the American market would be considerably reduced by the introduction of the America-Mark.

With kind regards [etc.]

BRINKMANN

611.6231/1094

*The Assistant Secretary of State (Sayre) to the State Secretary,
German Ministry of National Economy (Brinkmann)*⁸⁹

WASHINGTON, December 16, 1938.

MY DEAR DR. BRINKMANN: Ambassador Wilson has written me about his talks with you and has sent me a copy of your letter to him of October 31, 1938 enclosing your memorandum setting forth your suggestions concerning German-American trade, together with a copy of your letter to him of November 5, 1938. I remember well our pleasant contacts here in Washington in the summer of 1936 and, because of our personal associations, I am writing you this quite unofficial note rather than transmitting an official reply through our Embassy to the thoughts expressed in your memorandum.

I want you to know, as I have said to you more than once before, that we are glad as always to give sympathetic consideration to any proposal for improving and advancing the general commercial relations between the nations of the world upon a basis of genuine non-discrimination and equality of treatment. I think we both agree that these are the only possible bases upon which a liberal world trade can be built.

I have considered the proposal which you were good enough to suggest in your memorandum of October 31. Unfortunately, there would seem to be no possibility at the present time of entering into fruitful conversations about the matters dealt with in your memorandum. I hope, however, that you will not desist in your efforts to discover means of improving the relations between your country and mine, and that in due time these efforts will bring results of far-reaching importance to both countries and the world.

With kind personal regards [etc.]

FRANCIS B. SAYRE

⁸⁹ Transmitted by Assistant Secretary of State Sayre to the Chargé in Germany in a personal letter dated December 16, with a request that it be delivered informally at an early opportunity.

DETERIORATION IN RELATIONS BETWEEN THE UNITED STATES AND GERMANY; GERMAN REPRESENTATIONS AGAINST AMERICAN CRITICISM OF NAZI OFFICIALS AND POLICIES

811.91262/157 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, March 11, 1938—6 p. m.

[Received March 11—4 p. m.]

110. My 107, March 11, noon,⁹¹ concerning press situation was just being sent when Dr. Boehmer, detached from the Press Section of the Foreign Office to Dr. Goebbels' Propaganda Ministry, called with an urgent message from Dr. Goebbels to me.

The message ran approximately as follows: that two American newspapermen of the International News Service and Tolischus of the *New York Times* are accused of distortion of fact to the point of jeopardizing relations between the United States and Germany and that the Foreign Office had demanded their peremptory dismissal. Under normal circumstances Goebbels would have acquiesced but in view of my very recent arrival he was unwilling to start any action which would jeopardize the success of my mission by embittering relations between the Ministries and the Embassy. He had therefore ruled that the two journalists should be given letters of warning and the matter should rest there.

I replied I think I remember the words as follows:

"Please tell Dr. Goebbels that I thank him for his courtesy and appreciate his attempt to collaborate with my mission. Will you please further tell Dr. Goebbels that I know nothing of the case of Tolischus, but I happen to know something of that of Huss. Say that I am convinced that if Dr. Goebbels himself would take the trouble to go deeply into the case of Huss he would find that it was at the most a mistake but an honest mistake" (for the story of Huss see telegram referred to above).

Boehmer then showed me the Tolischus article published *New York Times* March 6 concerning German censorship of internal news but since he escaped with a warning it is unnecessary to enter into detail.

I then told Boehmer that I had read of course what Hitler had said and what Dr. Dietrich⁹² had said in respect to the press (my despatch number 8, March 9, 1938⁹¹) but that it would be helpful for me to hear from him exactly their conception of what a foreign correspondent might and might not do.

⁹¹ Not printed.

⁹² Otto Dietrich, State Secretary and Head of the Press Division in the Reich Ministry of Propaganda.

Boehmer replied that he could best explain this by citing an example. He cited Deuel, the correspondent of the *Chicago Daily News*, as an American who had written criticism and sometimes sharp criticism of Germany and its institutions. Nevertheless he had always fairly presented the German case. He had never distorted facts. He had written as a citizen of a democracy looking upon an autocratic government. In German eyes his criticism was permissible. In an endeavor to sum up what was permissible Boehmer stated a correspondent may print criticism; when he is unable to obtain facts from government sources he may print facts from any sources he can get them even if they subsequently prove to be erroneous. He can remain a good American and write with an American viewpoint of what he sees. What to the German Government is inadmissible is the following: distortion of fact, the repeated shading of truth for the deliberate purpose of provoking ill feeling, and the publication of matter known to be false.

I replied that I could not contest that writing of the sort last described was deplorable but even on the set of principles Boehmer had laid down the German Government and I would frequently differ on interpretation. Boehmer said that it was his fullest intention to discuss in advance with me any case of this kind that arose and to discuss it in advance as well with the president of the Press Association.

I then told Boehmer that it had to be remembered that error and misstatements were not a one sided matter. Errors were frequently published in the German press in respect to my country. For instance there was the case of an article in the *Angriff* respecting the shipment of arms to the Barcelona Government. To this end I wanted him to read a telegram from Mr. Hull (No. 21, March 5, 3 p. m.⁹³) which I then showed him. Boehmer said he very much regretted this, that he realized that their papers were sometimes at fault and that he hoped in episodes of this kind we would not hesitate to inform him of inaccuracies so that he could have retraction made. I did not take advantage of his offer in this instance as I did not wish to create a possible reciprocal obligation.

I told him that occasionally from an unpleasant incident good might arise. Mr. Hoover had been much upset by the misrepresentation in respect to his conversation with the Chancellor.⁹⁴ Mr. Hoover had found in many conversations here that there was an element of reason in the protest against malicious misrepresentation and that he

⁹³ Vol. I, p. 347.

⁹⁴ Ex-President Herbert Hoover, visiting a number of European countries in the early part of 1938 was alleged by an American press agency to have denounced Fascism in his conversation with Chancellor Hitler on March 8, 1938.

intended on his return to America to say so in public. (In this I was revealing no confidence as I had heard Mr. Hoover say exactly this to Wiedemann, the Chancellor's adjutant.)

I said there was another element in this matter to which Dr. Goebbels should give I thought full consideration. The German Government might feel that it had to get rid of a correspondent who repeatedly and maliciously misinterpreted Germany. In the final analysis this was a decision of the German Government and every state had the right in the exercise of its sovereignty to banish any foreigner it saw fit. Nevertheless, I pointed out that in each case the banishment gave the most widespread advertisement abroad both to the articles in question and to the writer thereof. I told him that I had no doubt that banishment of an American correspondent by the German Government would guarantee to that correspondent an extraordinarily successful lecture tour throughout the United States. Propaganda was after all the weighing of measures to bring about a certain result and if the result in sight was the maintenance of better relations between the United States and Germany then the German Government should exercise extreme care before banishing an American newspaperman when the whole newspaper brotherhood would instinctively take the side of the journalist. Boehmer replied that this was exactly the contention he had been making to Goebbels and that he was glad that I had brought up the argument as it would reinforce his position.

I then asked Boehmer to be good enough to tell Dr. Goebbels that I should like to call upon him both to thank him for his courteous message and to discuss these and kindred types of affairs with him, that I had no specific message for discussion but that inasmuch as these press matters were now to the fore it would be well if Dr. Goebbels and I could understand each other as far as our respective points of view on press matters would permit us.

WILSON

711.62/145

*Memorandum of Conversation, by the Ambassador in Germany
(Wilson)*⁹⁵

Dr. Goebbels received me in his office at the Reichs Propaganda Ministerium at 1:00 o'clock on March 22.

He began the conversation by stating that he was very glad to meet me, as he had wanted for a considerable period to talk over matters with an American representative, that he was not at all

⁹⁵ Transmitted to the Department by the Ambassador in Germany in his despatch No. 41, March 23; received April 11.

satisfied with the press relations between the two countries. He said that he thoroughly understood the limitations upon the activity of our Government in its relations with the free Press; that he had called in men from the Foreign Office who knew America, in order to learn about this, and that he thought he thoroughly understood. There was obviously little that the Government could do in the matter with our Press. Nevertheless it was lamentable that this campaign of hatred should be carried on. He did not in any way expect that Germany would escape criticism, that it would escape misunderstanding,—indeed, it was inconceivable to him that writers in America should be sympathetic with present-day Germany because of the complete contrast of method by which the Government was acting. What he did not expect and what he deeply deplored, were wilful misstatements of fact, and slander and libel against the persons of the Reich Chancellor and those immediately around him. He said that the person of the Führer was venerated by every German. Indeed, he was going to use a word that would astonish my foreign ears, and say that to the German there was something "heilig" about the Führer. Therefore the Germans deeply resented the personal attack upon him.

He continued by saying that he had kept out of the German press nearly all of these attacks because he did not wish to see bitterness grow on bitterness and attack upon attack. The result of such tactics could only be a reiterated embittering of the situation, which might even be a latent cause of war. In any case, it was inconceivable that there could be any improvement in our cultural or economic relations until the press hatred was abated. To bring about this abatement was part of the program for a better general world understanding. He had kept out of attack, in spite of the personal temptation to retaliate in kind, especially on the slanderous attacks upon the person of the Führer, his designation as "bandit" and "robber," even when these attacks were directed against a man of the most unquestionable character and honesty of purpose. He said I was new in Germany, but he was sure that in the coming months I would have frequent opportunity to talk with and know the Führer, and I could not but be impressed with the singleness of purpose and the undeviating honesty of the man's character.

He said again he was glad to have this opportunity to talk matters over with me, because many people in Germany felt that relations with America were so bad through the Press hatred that there was no use trying to do anything about it. But he was not one of those and such a point of view was to him a stultifying attitude. He thought there were possibilities of making it better and believed that if we

could work with some measure of confidence we could bring about an improved relationship.

I replied that before leaving Washington I had talked to Dieckhoff⁹⁶ and we had analyzed together those things which stood in the way of better relationships between the United States and Germany; that in respect to one of our difficulties I had been happy to see shortly after my arrival that orders had been given that German citizens should not enter organizations in America, such as the America-Deutsch Bund, and analogous institutions. I said that I had received a letter from the Secretary⁹⁷ by which I was informed that the Secretary had expressed to Dieckhoff his satisfaction over this matter. I believed that this step the Germans had taken could not fail to have a good effect.

I then said there was no use in blinking difficulties and the Minister's frankness encouraged me in responding with equal frankness. The most crucial thing that stood between any betterment of our Press relationship was the Jewish question.⁹⁸ Thus if we were to work for better relationships we could not expect immediate results. Hatreds so deep as those which existed in my country on this question could not be mitigated in weeks or even months. It was a matter of years before such hatreds would lessen or be forgotten, and then only if new incidents did not give fresh fuel to the flames. I said that he was a politician and that I was a diplomat, and we were capable of saying, each one of us, that what took place within Germany was a matter for Germany and what took place within America was a matter for Americans. Indeed, I should be the first to contest that what took place within America concerned other people. Nevertheless it could not be expected that such objectivity would be felt by the mass of our population or by the writers.

Here Goebbels broke in and said that he had been a writer himself and he knew that every writer must show himself a better general than the commander-in-chief, a better painter than an artist, a better musician than an orchestra director, and, above all, a better politician than the chief of any country. This weakness on the part of writers was understandable and natural.

I replied that I had talked at considerable length with the American representatives here and that I felt that by and large they were a serious group of men trying to tell the truth as they saw it, but that after all the Minister must not forget that they were seeing it through American eyes and they were judging it from an American background.

⁹⁶ Hans Dieckhoff, German Ambassador in the United States.

⁹⁷ Not printed.

⁹⁸ See pp. 355 ff.

Dr. Goebbels agreed with my estimate of the American correspondents and said that in respect to them he would never take stringent action against an American correspondent without talking over first with me what he intended to do and getting my views on the subject. I thanked him for this declaration and said that I felt, as he did, that the way to avoid difficulties was to discuss them frankly before action and that I welcomed therefore what he had just said.

I continued on the matter of general relationships by saying that I had been much struck by noticing that it was much harder for the American people to be indifferent to what took place within Germany than it was even for the citizen of France or England, nations which had borne the brunt of the War. I felt that this arose from that Freudian complex by which deep affection which is shattered turns inevitably to hatred and not to indifference. Americans of my age and generation had been accustomed to see the best intellectuals in our country go to Germany for education in medicine, technical matters, arts, and so on; that thousands of houses, among them mine, had had German girls as governesses for the children, that ten thousands of families had German relatives. Thus the bonds between the two lands went so deep that we could not regard what happened in Germany with indifference. I said, if Dr. Goebbels wished to prove these relationships to his own satisfaction, he had only to summon a dozen of his collaborators and ask them each of the relationship they had with America. He was almost certain to find in every case that each of them had a cousin, a brother, an uncle, or some branch of his family established in our country in the past 100 years. The War had largely shattered this feeling of close contact and affection for Germany. In the years succeeding the War much advance had been made in rebuilding this relationship, but it had again been shattered, primarily—I regretted to have to raise it again—by the Jewish question.

The Minister said that this was an entirely new and interesting point of view. Nevertheless it was startling to him to find the lack of comprehension of what was going on in Germany on the part of American travellers; that over and over again Americans with whom he talked had been astonished and said so when they saw the economic conditions of Germany, the normal life of its people and their satisfaction. It [*He?*] was unhappy that there was so little understanding on the part of the Americans for what took place in this land. I replied that I agreed with him that there was a large measure of misunderstanding and that I myself, although I had tried to study about Germany before I came, had learned a great deal since my arrival. However, I wanted to emphasize that the understanding between the countries must be mutual if it is to be of any use, and that the misunderstanding and ignorance in respect of my land in Germany

was just as striking to an American as the misunderstanding of my people when they came here about Germany. I knew how beset were all public men in this country, how busy they were, nevertheless I hoped that they would find time to try to see what my country was driving at and what my President and Secretary of State were trying to accomplish.

Dr. Goebbels said that he hoped it would some time become possible for responsible American Government officials to show at least their disapproval of the publication of lies. He pointed out that a question had been asked in the House of Commons at London about a report of 30,000 Germans landing to help Franco and the Prime Minister⁹⁹ had replied that their reports were to the effect that there was not a word of truth in these rumors. Dr. Goebbels said that the German officials felt profoundly grateful for this statement of Chamberlain's, as it was a real indication that he was trying to better relations between the two countries.

In conclusion Dr. Goebbels reiterated his statement about talking over with me in advance any radical action respecting our press representatives and begged me to come to him freely when I wanted to talk over any matter. In return I told him that I hoped these relations could be bettered, that unless I cherished this hope I would not have come here, but that I feared that we had a difficult road in front of us and one which would take long and patient labor, if it could be achieved at all.

H[UGH] R. W[ILSON]

711.62/150

*Memorandum by the Ambassador in Germany (Wilson) of a Conversation With the German Minister for Foreign Affairs (Ribbentrop)*¹

When we had disposed of the matter of American citizens in Vienna, concerning which I reported to the Department in my telegram No. 209, April 29, 1938, 7:00 p. m.,² the Minister said he was glad I had called as he had been turning over in his mind whether he would not ask me to come in any case. He said that he wanted to establish between us the practice of talking in the most complete frankness. I acquiesced and said that nothing would give me greater satisfaction, both in the positive and negative sense, that I hoped to be able to say my fullest thought to him and hoped he would do the same to me.

After this preamble he said he had received from his Press Section innumerable clippings from the United States dealing with Germany.

⁹⁹ Neville Chamberlain.

¹ Transmitted to the Department by the Ambassador in Germany in his despatch No. 125, May 2; received May 10.

² *Post*, p. 513.

All of these showed a depth of hostility which had startled and shocked him. There was a lack of comprehension of everything that Germany had done and an immense proportion of complete misstatement of fact. He said that those reports which emanated from accredited correspondents in Berlin were usually reasonable, and even where critical they criticized on facts which were incontestable; but a lot of information about Germany was published in the American press without question when it emanated from sources outside of Germany, particularly from correspondents in London. These reports could only be based on gossip and rumor and usually originated from those who by race or politics were hostile to the régime, and therefore inclined to distort facts.

The Minister added that he had spent a long and happy time in the United States as a boy, as well as in Canada; that he had numerous American friends with some of whom he still corresponded; that no one could spend a portion of his youth in a country without leaving a bit of his heart there; that he had always regarded the ordinary American as a likable fellow with very little interest in what happened outside his business and his family, hence it was doubly depressing to him that this outpouring of wrath should take place against his country.

He then said that when he had been in England he had seen evidences of how much control the Foreign Office had of the press when it chose to exert it, and he could not but feel that some measure of control could be exerted by our Government.

I interrupted here to say that I had also seen the control exerted by the British Foreign Office on the British press, but that I could further tell him that I had run the Bureau of Current Information for four years and I could assure him that there was no such analogous control of the American press. One only had to look at the venom with which in political campaigns our administration and administration leaders are attacked to see that control cannot be exercised, and wherever personal attacks are made against foreign statesmen, those attacks are usually equalled, if not surpassed, by attacks upon our own statesmen in our own press. I said that perhaps there were occasionally grounds for reproach due to undue license in attacking foreign statesmen, but that we were so deeply convinced, and our forefathers had struggled so hard to obtain liberty of speech and press, that we prefer to run the risks of an undue liberty to any measure of check upon freedom of speech and writing.

I then said that he had expressed his unawareness of why this hostility had arisen. I listed for him a number of factors that have contributed to this hostility: The Jewish question, German relation-

ship with Japan³—(I added here that I of course made no complaint as to their policy with Japan, that was a thing for their own decision. I merely pointed out that Germany's agreement at a time when Japan was waging what the American people thought was an unprovoked war in China, caused apprehension and dislike among my people.) I mentioned the discrimination in bond payments. I mentioned the church questions. I mentioned the complete contrast of our two philosophies as to individual liberty. I then said that I deplored, as he did, the bitterness of this outpouring, that I thought nothing useful was gained by giving way to such feeling, but that I wanted him to understand that my people felt they had grounds for it.

The Minister said that this feeling had been particularly bitter since the "anschluss," and I replied that I had seen in a number of our papers the contention that if Austria was Germanic, all right, if it felt it had to join Germany, all right. What they reproached Germany for was the sending of armed forces across the frontier in a sudden and violent manner, which not only prevented any real decision from Austria, but was frightening to the nerves of the world. Von Ribbentrop then said that he could not understand this, that Germany had removed without bloodshed one of the danger points of Europe; that there was nobody in Europe who was not breathing easier that this point had been passed and passed so peacefully. As for the sending in of troops, the situation was such that unless this had taken place they risked seeing a bloody civil war among their own people of Austrian nationality. This was a dreadful thing to contemplate, and how could anybody expect that they would contemplate it when the means of preventing it were at hand?

He said another thing he could not understand was the violence of the criticism and the unobjective way in which we judged this matter. He pointed out that both in England and France, where the public was more directly concerned and where they might feel grounds for apprehension, nevertheless, among these peoples and among these newspapers, there was a higher degree of objectivity and real criticism with knowledge of fact. Certainly there was no such outpouring of hatred as had taken place in America. I remarked in this connection that it was obviously a dangerous thing to express one's feelings too freely in the immediate neighborhood of a danger point. We were far enough off so that an immediate danger of conflict between our countries did not arise.

Von Ribbentrop said that he was convinced, and he believed he had convinced the British, that what Germany had in mind in throwing

³ For agreements between Japan and Germany, signed November 25, 1936, and between Japan, Germany, and Italy, signed November 6, 1937, see *Foreign Relations, Japan, 1931-1941*, vol. II, pp. 153 and 159.

off the trammels of the Versailles Treaty and regaining its rightful place, was entirely compatible with the desires and aspirations of France and Great Britain. He believed that a period was coming in which the four great Western Powers would settle down in real relationship, and he thought it was supremely unfortunate that away across the water a great Power like the United States should be pouring out hatred, which would continue to embitter the situation, when their most ardent struggle and the Führer's deepest desire was to bring about peaceful relations between these great Powers.

He said that the German writers were certainly controlled, but that they were human, even though controlled, and when they read these American attacks they pled for the right to reply to them in their press. So far the German Government had refused to permit it. He defied me, for instance, to find a personal criticism of President Roosevelt, and even pointed out how little hostile criticism or printing of hostile things appeared in the German press. (This was very carefully stated by Mr. von Ribbentrop and could not be denounced as a threat, although the presence of the threat was visible.)

In closing I said that if the relations of our countries were to get better a lot of time would have to pass, we couldn't expect to see this done in weeks or even months. Years would probably have to supervene. In the meantime it was the part of those dealing in foreign affairs to try, so far as they could, to hold their countries in normal and friendly relationships; that this job was not easy between Germany and America, and that we could only hope that time would bring a better relationship.

H[UGH] R. W[ILSON]

BERLIN, April 30, 1938.

711.62/160

Memorandum of Conversation, by the Secretary of State

[WASHINGTON,] July 7, 1938.

The German Ambassador called on his own request to say good-bye before leaving for Germany, where he plans to stay until September. He was affable and agreeable in his personal attitude. I gave him an opportunity to talk if he desired, before saying anything myself. He soon proceeded by stating that the relations between our two countries were not very good when he came here as Ambassador, and that he had come with a special purpose and desire to be instrumental in improving them. He then added that, unfortunately, the relations had not improved but were now worse. The Ambassador went on to state the more objectionable phases from the standpoint of his Government.

The first of these related to the general abuses, as he termed them, of the press in commenting on and criticizing his Government; the second related to what he considered as bordering on personal criticisms, both of his country's form of Government and its rulers combined, by high officials of this Government, which, he implied, was a part of a systematic war between dictatorships and democracies, as our Government officials viewed it; the third related to the indictment of German officials located and residing in Germany, without any notice or any attempt on the part of our Government to deal with the matters otherwise, all of which was keenly disappointing to the Government of Germany; the Ambassador deprecated the charges in this country of the reported organized movement of Germans in the United States under the direction of the German Government, or, in any event, with the object of organizing Germans in this country in support of Germany first. He said that his Government has had nothing whatever to do with such movements, or utterances, or actions, and that that along with the recent indictments of German officials could much better be dealt with by conferences between our two Governments in the first place. The Ambassador said that there were differences of views in certain respects between our two countries and Governments at this time, one of these pertaining to the properties of Jewish nationals in Austria, another to the Austrian debt situation,⁴ and still another, which he termed the so-called persecution of Jews in particular. He stated that, with regard to the latter, France drove 100,000 Germans out of Alsace Lorraine and kept most of their property, adding that his own father was included among this number.

He said that he had heard no loud complaint in the United States when these injustices were taking place, such as is heard in this country at present in regard to German policy toward the Jews; and that his Government did not consider itself liable for the Austrian debts. I replied that I thoroughly agreed with him that the relations between our two countries had become steadily worse and that they were continuing to grow worse; that I had left the United States Senate in order to come to the State Department and aid the President in the general undertaking of carrying forward a broad basic program to restore world order based on law, with a sound economic foundation; that, when President Roosevelt came into office in 1933, the general international and world situation was becoming fundamentally worse—more chaotic and more nearly anarchistic; that most of the principles governing normal and peaceful international relations and sound economics were being violated and abandoned on a steadily increasing scale; that the doctrine of force, militarism and territorial

⁴ See pp. 483 ff.

aggression was being invoked more and more to spread violence throughout the world and to inflict unusual punishments and injuries on people both within and without countries practicing the policy of force; that, in brief, the entire world situation had become dangerous, if not to say desperate, especially from the long viewpoint of the peace and orderly progress of the human race. I said it was in the face of this alarming state of affairs that the President and I had become consumed with a desire to furnish our country's share of leadership, with a broad basic program that would, if humanly possible, be calculated to check the increasing world momentum in a backward direction with the accompanying conditions of chaos and anarchy in world relations in general. I added that the Ambassador must appreciate the inexpressible disappointment I now felt to be obliged to agree with him that the relations between our two countries were worse at present than at any time within recent years.

I said that with reference to the German experience with the French in Alsace and the failure of my people to become vociferous in condemnation, that on account of their aversion to war and especially their disappointment with their own experience in war, they proceeded to get just as far away from the world as possible and to pursue a course of extreme isolation and almost entire indifference to what went on in other parts of the world; that this was their state of mind beyond question during the occurrence to which he referred and that he must clearly understand what would naturally be the situation in those circumstances.

I then proceeded to sum up some of the high points with respect to Germany's course and attitude, by saying that this Government under its broad program of principles in support of world order, such as, equality of opportunity, fair play and fair dealing, noninterference in the internal affairs of other countries in contrast with the doctrine of force, has made every possible effort to bring about relations of understanding, genuine friendliness, and fair dealing in every sense between this and other countries and to encourage other countries to do likewise with respect to each other; that Germany has during past years received from this Government all of the benefits of equality with every other nation; that I, together with many others, have striven constantly to prevail on Germany to treat our country in a like manner; that, greatly to my disappointment and that of my Government, Germany has for some years adopted a succession of policies and practices resulting, in each instance, in unjustifiable injury to this country and in corresponding benefit or advantage to Germany. I continued by pointing out: the default by the German Government upon army of occupation indebtedness⁵ and the so-

⁵ See *Foreign Relations*, 1934, vol. II, pp. 469 ff.

called "mixed claims commission" indebtedness;⁶ the treatment accorded American holders of publicly-held German bonds of many varieties, including the Dawes and Young Loans, where deliberate discriminations against Americans were practiced by Germany;⁷ then the placing of every kind of arbitrary restriction, amounting to discrimination in many instances, on our exports to Germany and the corresponding regimentation in every way possible to give Germany some arbitrary advantage in the matter of our imports from Germany; following that the application of laws and rules which made it virtually impossible for Americans who had inherited in Germany from taking one penny of it out of that country; the prohibition on Americans owning business plants or other profit-producing properties in Germany from bringing one penny of the profits out of that country; the cool announcement of the theory of no liability on Germany's part for Austrian external indebtedness; and after that the legislation requiring Jewish-American nationals to register their property in Germany and hold it at the disposal of the German authorities for purpose undisclosed. After recounting this stream of acts of injury to our country by German policies, all based on the policy of discrimination and other arbitrary practices, to say nothing of the continued bitter attacks on racial minorities and religions, I spoke of the dissemination of much propaganda, as well as the many activities of Germans in the United States, with or without the knowledge and approval of the German Government, which were not at all in harmony with the Constitution and the laws of this country and the institutions which exist here. I said that the German Government could not within 1,000 years convince this Government or the American people that there is any rule of law or right that would justify one country seizing the assets of another country which has been regularly paying its external debt service, and telling the external creditors that they will not be paid one penny; that while the Government seizes the assets, the external creditors must bow their way out of the picture and make a gift to Germany of its honest debts. The Ambassador made some remark about the Austrian indebtedness having been incurred for political purposes, and I commented that our facts about the matter did not at all support this view. I then added that my Government was being besought by a constantly increasing number of people to take drastic action in return; that the tide of opposition to the course of the German Government in the foregoing respects had been steadily rising and continued to rise despite the efforts of the State Depart-

⁶ See *Foreign Relations*, 1937, vol. II, pp. 348 ff.

⁷ See *ibid.*, 1935, vol. II, pp. 428 ff.

ment and the President to hold it back in the hope that amicable relations between our two countries, based on a frank recognition of fair play and equality of treatment on the part of each government toward the other, might be brought about; that it would not be possible for us to continue this course much longer in the face of the seeming German policy to find new methods each week or month calculated to injure this country and correspondingly benefit Germany; that the Ambassador must recognize that the full opportunity and access of his country to our exchange situation, the free opportunity of Germany to carry on shipping with this country amounting to forty or fifty million dollars a year, and to buy fuel without tariffs being added, are naturally among the valuable advantages Germany has been enjoying while pursuing almost every possible method of injury to this country, and the Ambassador must realize that these conditions cannot last unless his Government is disposed to modify its policies.

I went on to say that, of course, the people of this country utterly abhor many of the practices of the German Government within its own territory and they cannot understand them from any practical viewpoint so far as the future welfare and progress of Germany are concerned. I added that our people generally seem to assume that the German people, having undergone disagreeable experiences during the ten or twelve years following the war, naturally, as opportunities were presented to release them from further restraints, moved entirely over to the opposite extreme, in connection with which they give full vent to their emotions and passions and tolerate acts and practices relating to racial minorities and religions which they would not ordinarily and normally tolerate; that, accordingly, the belief has been definite that these are temporary manifestations and abnormalities and that in due time the German people would swing back to a normal state of mind and normal relations with other governments and with their fellow man; that, in the light of this viewpoint, my Government has been earnestly hoping that the German Government would reach a stage where it would decide to support the program of peace and orderly progress and normal international relations, and the principles underlying the same, which this Government has been striving to keep alive and to aid in advancing. I said that there was only one alternative course—the course of force, militarism and territorial aggression, with all the hurtful and destroying practices and methods that accompany the same; that these inevitably are leading the world backward instead of forward; that this course will, sooner or later, bring on a more or less general war, and in this event that there will scarcely be left a trace of the people who brought it on or those against whom it was waged as well, espe-

cially as this relates to human welfare, human progress, and the civilization of this age and this century; that, with this certain situation ahead, I was wondering when nations thus far and at present pursuing the doctrine of force and giving no aid or encouragement to world order based on law, will decide that all of the real interests of their people in the long future call for an abandonment of this fatalistic course. I added finally that the President and I are almost consumed with a desire to have our country make a real contribution to the preservation and promotion of world order and all of the opportunities for human progress, the promotion of human welfare, and the preservation of peace, so far as the program we advocate is calculated to make these great attainments possible.

C[ORDELL] H[ULL]

702.6211/929

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

[WASHINGTON,] November 1, 1938.

The German Ambassador called to see me today and referred to the conversation which the Secretary of State had had on the telephone the previous day with Dr. Resenberg, First Secretary of his Embassy. The Ambassador expressed his regret that he had been ill and unable to talk himself and said that he had wished to come to the Department of State at the first opportunity and speak about the recent address of the German Consul General in New York. The Ambassador said that he fully shared the point of view of the Secretary of State that the address was unfortunate and that it was entirely unsuitable for foreign consular officials in this country to make public addresses on political questions which might be regarded as impinging upon our own institutions or our domestic affairs. He said that he had already reprimanded the Consul General, but that he nevertheless wished to make it clear that the newspaper report of the Consul General's speech had been grossly unfair and that there was no precise or specific point in the speech which he thought warranted any more severe action on his part. He said that what to him had been objectionable had been the fact that the Consul General had made any speech of that character even though it had been made to an audience of German nationals celebrating the annexation of the Sudeten area to Germany and had not been intended for American citizens nor any others but German nationals themselves.

The Ambassador, who seemed to be in a distinctly emotional and nervous condition, went on to say that it was of course very difficult

for any German diplomatic or consular representative to carry out his duties within the United States without suffering a very serious nervous strain. He said that for example he had received this morning a communication from the German Consul General in San Francisco indicating that in the streets of San Francisco a document was being circulated asking for the Consul General's withdrawal by the United States Government. The Ambassador then handed me a copy of the communication which it was alleged was being circulated in San Francisco. I asked the Ambassador if he knew what had motivated this letter since the letter clearly didn't recommend the severance of diplomatic relations with Germany but merely the replacement of the present Consul General by some other German consular officer. The Ambassador said that he did not know but that he was aware that Herr von Killinger had been bitterly attacked by certain sections of the press in California because of his alleged antecedents and his membership in the Nazi Party.

The Ambassador then went on for the better part of an hour and covered almost the same ground as that which he had covered in a conversation with me some eight months ago. Since the conversation is covered in a memorandum of that date⁹ I need merely state here that the theme of the conversation was that the German Government through its recent policy had merely carried out some of the points of the 14 Points¹⁰ of Woodrow Wilson. The Ambassador emphasized and reemphasized the statement that the German Government had now incorporated within its own territory all individuals of German nationality in Central Europe and that the present German Reich had not the slightest intention of extending its sovereignty any further within Europe either through force or through any other method. He insisted that the present drive of Germany for economic and commercial domination in Southeastern Europe was not only natural but legitimate inasmuch as commercial and economic domination in the years prior to the Great War had been possessed in that area by Austria-Hungary and that all that Germany was now doing was to replace the French influence which had succeeded Austria-Hungary's influence after the war. He said that with regard to colonies the question had not even been discussed with England and France and that Germany had not the slightest intention of asking for the Portuguese or Belgian or any other colonies, but merely the restitution to her in accordance with Point 5 of the Wilson 14 Points of the colonies to which she was legally and legitimately entitled. He said that Germany had not only announced but had repeatedly reiterated her

⁹ Not definitely identified; possibly memorandum of March 14, 1938, by the Under Secretary of State, vol. I, p. 442.

¹⁰ *Foreign Relations*, 1918, supp. 1, vol. I, p. 15.

desire to live at peace with her neighbors, especially with France and Great Britain, and that the Munich agreement ¹¹ had made such peace possible. He said that now that the Versailles Treaty ¹² which had lain like an incubus on all of Europe during the past twenty years had been *ipso facto* demolished, Europe had come back to a realistic basis and that with the readjustments which had now taken place a logical and a real peace could be ensured. He said that so far as the United States was concerned, Germany had no interest and no ambition in combatting United States influence either in the Western Hemisphere or in any other part of the earth but that it would seem from the general trend of public opinion in the United States, and especially from the American press, that Germany and the United States were inevitably headed toward a major contention. He said there was no rime nor reason for such a situation and that he was thoroughly disheartened and considered that he had been a complete failure in his own task of trying to bring about a better relationship between the two countries. He concluded by saying that he realized the antagonism which had been aroused in the United States on account of certain features of Germany's "domestic policy" but that he did not feel that this country or any other country was entitled to criticize the internal policy of another nation.

As soon as the Ambassador gave me an opportunity of speaking, which was not for a very considerable period since he seemed to feel it necessary to unburden his soul—although I must emphasize the fact that he did so in an extremely courteous manner—I told the Ambassador that it was absolutely impossible for American public opinion to think that the policy which Germany had been pursuing during these recent years with regard to the Jews within their own borders, with regard to the Catholic Church in Germany and recently in particular in Austria, and with regard, it would seem, to all free exercise of religion in Germany could be regarded as a purely domestic question. I said that any country that forced the emigration from its borders of hundreds of thousands of individuals whom other countries for humanitarian reasons felt it necessary to shelter and to whom they felt obligated to give a refuge, would hardly expect the rest of the world to regard such a policy as this as a domestic policy, particularly when the brutal and inhuman treatment of these individuals horrified all civilized nations. More than that I said the people of the United States taken as a whole were a deeply religious people and a highly idealistic people and the torture of human beings which had been taking place in Germany revolted the best instincts in all

¹¹ Signed September 29, 1938, between Germany, the United Kingdom, France, and Italy; for text, see Department of State, *Documents on German Foreign Policy, 1918-1945*, ser. D, vol. II, doc. No. 675, p. 1014.

¹² *Foreign Relations, The Paris Peace Conference, 1919*, vol. XIII, p. 55.

of them. The Ambassador attempted to argue about the separation of Church and State and the need for such a separation in Germany but I reminded him that that step had been taken in the days of Prince Bismarck and that it could not in our judgment be thought that the situation with regard to the Jews and Catholics in Germany today was in the slightest degree related to a question which had been settled forty years ago. I then went on to discuss the injustices done to our nationals, whether of Jewish origin or not, in Germany by refusing to permit them to take out from Germany the moneys which they possessed and I said I thought it necessary to say in all frankness that public opinion in the United States on this point had reached such a stage that there would inevitably be a general demand in the immediate future for the taking by the United States Government of retaliatory measures against German nationals residing within the United States. Finally, I said the trial of alleged German spies now going on in New York and the recent apprehension of alleged German spies in other territory under American jurisdiction had deeply incensed public opinion in the United States and would continue to arouse the deepest indignation. I concluded by saying that while I personally deplored the nature of the attacks which were being made in certain sections of the American press against the German Government and against German policy, I had had this summer while in Switzerland the opportunity of reading certain German newspapers and I had not seen in the American press anything more insulting or more obscene than the attacks against the American Government in these German papers, with the added difference that in the case of the American press, as the Ambassador knew, the United States Government had no control whatever over it whereas in the case of the German press it was a matter of notorious knowledge that the German authorities to all intents and purposes dictated what was published in it. I said that it was surely not unknown to the Ambassador that occasionally translations of such articles in the German press were reprinted in the American press and this decidedly did not add to good relations.

I said to the Ambassador that what I had cited were facts of which he surely was fully aware. The state of public opinion in this country with regard to Germany was in my judgment primarily due to these facts, and it seemed to me that it would be more useful to try to rectify the situation than merely to keep on deploring it. I said that I knew of no one thing that would do more to ameliorate public indignation in this country than the agreement on the part of the German Government to receive Mr. Rublee¹³ and negotiate with

¹³ George Rublee, Director of the Intergovernmental Committee on Political Refugees.

him some satisfactory arrangement as a result of which refugees from Germany might take out with them a sufficient amount of their property to ensure their being able to go to some other country which would receive them and to keep them for a time long enough to permit them to make a new life and to earn their living in new surroundings, and to permit them to receive the rest of their properties in full within a reasonable period. I said also that the treatment of our own nationals in Germany was a matter which in our judgment must be rectified promptly or we would in reality face the certainty of retaliatory measures here.

At this point the Ambassador became very much impressed and said that he had the same feeling with regard to the latter question as I myself and that he thought steps must be taken promptly by his Government. With regard to the first point he said he had not known that the question of Mr. Rublee's visit to Berlin was pending but that he would do everything within his power to facilitate it.

The Ambassador then went into a very elaborate exposition of his own alleged connection with one of the individuals named as a German spy in the present New York trial. The sum and substance of it was that Schuetz, alias Wiegand as his name is given in the New York trial, was the head of the Nazi party on the steamer *New York* who had come to Washington at his own request as the head of a group of some fifty men from the steamer to be received at the Embassy in the autumn of 1937. At that time Captain Wiedemann, Hitler's confidential aide, had been staying at the Embassy and some of the seamen from the *New York* had at their own request taken photographs of the entire group in front of the Embassy. It was one of these photographs which had apparently been seen by one of the witnesses at the trial. The Ambassador said that was the only time he had ever seen the man and the only connection he had had with him. He said that his own Foreign Office, the German War Department and the head of the German Intelligence Service had all been completely ignorant of any activities of this kind. They were all very indignant that such activities had been undertaken and could only disclaim any responsibility on their own part. The Ambassador said that while the trial was not concluded and he did not know whether the individuals concerned were guilty or not, he took it for granted that they were and that the orders under which they were operating had emanated from persons of lesser authority in Germany who were acting on their own initiative without orders from the top. I said to the Ambassador that while this sort of activities might not have been ordered by the highest authorities in Germany, they were activities which would not be tolerated one moment in the United

States and that I could assure him that the Federal authorities were taking the fullest precautions to see that there would be no further activities of this kind within this country.

S[UMNER] W[ELLES]

711.62/1763

Memorandum of Conversation, by the Acting Secretary of State

[WASHINGTON,] December 21, 1938.

The German Chargé d'Affaires called upon me this morning by instruction of his Government. Dr. Thomsen stated that his Government desired him to make a formal protest to this Government with regard to an address made in Cleveland last Sunday night¹⁴ by Secretary Ickes which was construed by the German Government as a deliberate attack upon the head of the German state by an official member of the Cabinet of the President of the United States. The German Government desired Dr. Thomsen to say that they trusted that the Government of the United States would make public an official expression of regret for the statements made by Secretary Ickes. Dr. Thomsen was instructed to communicate to his Government the reply which I made in the matter.

I stated to Dr. Thomsen that I was unwilling to accept the protest made by the German Government. I said that while I had not read the full text of Secretary Ickes' speech, I had read detailed summaries which had appeared in the press and which I assumed were accurate. I said that there were two phases of the Secretary's speech as I understood it, the first dealing with a criticism on the part of Secretary Ickes of two American citizens because of their acceptance of decorations from the German Government. I said that with regard to a purely domestic question such as the action of two American citizens and the criticism of such action by an American official, I would not agree to discuss such a purely domestic question with the representative of a foreign government. With regard to criticisms of the policies pursued by the German Government or by officials of the German Government which may have been contained or which may have been implicit in Secretary Ickes' speech, I said that Dr. Thomsen and his Government must surely be familiar with the fact that the recent policies pursued in Germany had shocked and confounded public opinion in the United States more profoundly than anything which had taken place in many decades and that such references to this state of public indignation as may have been made by Secretary Ickes certainly represented the feeling of 99½ per cent of the population of the United States.

¹⁴December 18.

I said, however, that it seemed to me that the desire of the German Government to make a protest of this character came with singularly ill-grace. I said that during the past few months I had followed carefully the German press, which I was sure Dr. Thomsen could hardly dispute was completely under the influence and subject to the dictation of the authorities of the German Government, and that I had never read more altogether unjustifiable or shocking criticisms of the members of another government than those which had been made during these recent weeks in the German press against the President and against the members of his Cabinet. I said that so long as attacks of this kind persisted which were unquestionably responsive to the desires of the German authorities, I could not conceive of there being any propriety in a protest on the part of the German Government against a speech of the character made by Mr. Ickes.

Dr. Thomsen stated that he did not consider that criticisms published in the German press were similar to criticisms of the head of the German state made by a member of the Cabinet of the United States. He said that the German press was free to publish what it desired and that only if articles published were considered objectionable by the German authorities was any action taken against the author of such publications.

I stated that on this point the opinion expressed by Dr. Thomsen was certainly at variance with the opinion of the rest of the world since it was notorious that the highest officials of the German Government controlled certain of the newspapers published in Berlin to which I had referred, but more than that, I said, from Dr. Thomsen's own statement, since he had admitted that the German Government could prevent the publication of objectionable articles, the persistent publication over a period of many months of articles in the highest degree offensive with regard to the President of the United States and to members of his Government was convincing proof that the German authorities had desired the publication of this kind of attack upon the Government of the United States.

Dr. Thomsen then stated that even if this were the case, there was a material difference since the articles to which I had referred were attacks upon members of the Cabinet of the United States, and the speech of Secretary Ickes had been a criticism of the head of the German state.

I then stated to Dr. Thomsen that only a few weeks ago I myself heard the Chancellor of Germany, speaking on the radio, make the most offensive and derogatory remarks with regard to the late President Wilson. I stated that Dr. Thomsen should realize that while Woodrow Wilson was dead, his memory was revered by the people of the United States and that this attack by the Chancellor of Ger-

many upon the late President of the United States had been deeply resented in this country.

I concluded the interview by saying that while I personally believed that public recrimination in any country against another country was essentially harmful to a peaceful world and to the good relations between peoples, nevertheless, so long as the kind of attack against members of the United States Government which had been continuing for so long a period persisted in Germany, the German Government could hardly suppose that attacks of the same character would not continue in the United States.

I said to Dr. Thomsen that I should prefer to make no public comment with regard to our conversation, but that if the German Government made public the fact that it had protested against Secretary Ickes' speech, I should feel compelled to make public likewise the tenor of my reply.¹⁵

Dr. Thomsen said that he would communicate with his Government and advise me further.

S[UMNER] W[ELLES]

711.62/178 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 24, 1938—4 p. m.
[Received December 24—1 : 15 p. m.]

753. All of the Berlin morning papers carry articles of a similar tenor which in their concluding passages embody what is unmistakably an officially inspired statement of the German Government to the effect that a decision in some terms has been taken respecting German relations with the United States.

I learn that the American correspondents here, particularly the *New York Times* and the *United Press*, are telegraphing the text of the more significant passages. I may comment that the Berlin papers express themselves with varying shades of emphasis with particular reference to import—certain papers definitely speaking of a break in relations while the *Völkischer Beobachter*, the Party organ, with greater reserve suggests that German policy will be determined by future developments.

I am of the opinion it is strongly probable, although not necessarily certain, that a definite decision has been taken by the Chancellor: (1) To break relations in the very near future, possibly immediately after Christmas, and that a notification of that character will shortly

¹⁵ Upon receipt of information that the German Government had formally announced its protest, the Acting Secretary of State at a Press Conference on December 22, made public the nature of his reply.

be made to me or; (2) such German action will be dependent on what the German Government will construe as an official indication of the attitude of our Government translating this latter in the light of recent happenings. I should say that the German Government would construe a public position taken by a highly placed official of the Federal Government either along the lines of Mr. Ickes' speech or a position that Mr. Ickes' speech represented the official attitude of the American Government as an indication that the United States itself desires a break in relations or acquiesces in German action to that end. It is possible however that the German Government will await the President's message to Congress which it is believed here will deal significantly with American foreign relations. I wish to make clear that my immediate opinion expressed above is based solely on articles in the German papers interpreted in the light of our knowledge of the official character of the German press. I have as yet no indications of German policy from any other source.

Should the German Government take action in the sense described it is impossible to forecast the form or the scope which such action might assume.

GILBERT

711.62/182 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 27, 1938—noon.
[Received December 27—9:10 a. m.]

754. I have the following from a reliable private source.

1. Hitler became exceedingly irate upon being informed of the Acting Secretary's response to Thomsen's presentation of the German protest concerning Secretary Ickes' speech. He stated later that he had reason to believe the Ickes' and similar statements were motivated by internal American political considerations.

2. Ribbentrop is at the moment considering demonstrations termed a retaliation in kind to the Acting Secretary's statements to the German Chargé d'Affaires and to the publicity given thereto. In other words he is devising the adoption of some attitude toward me or the making of some statement to me which may be given corresponding publicity. I have been told that care would be taken not to give the impression that anything was aimed at me personally but that I would be treated solely in my representative capacity. While nothing of this concrete nature may transpire I am informed that the present temper of Ribbentrop and his associates is not to let the Thomsen matter pass without evincing German resentment by some specific

act or perhaps by some attitude to be sustained for a period toward the Embassy in the conduct of its affairs. I may add that to achieve personal satisfaction in such a manner would be characteristic of the regime and in particular of the personalities involved.

While I personally regard the foregoing information as very interesting I am not yet prepared to appraise its bearing on the considerations discussed in my No. 753, December 24, 4 p. m. On this score we are preparing a telegram on the German press which as far as I can note at the moment seems over the weekend at least by its change in emphasis and relative restraint to have retreated from the high point of the Saturday¹⁶ morning outburst.

GILBERT

711.62/189a : Telegram

The Acting Secretary of State to the Chargé in Germany (Gilbert)

WASHINGTON, December 28, 1938—7 p. m.

248. The German Chargé d'Affaires called to see me this afternoon.

Dr. Thomsen said that he had called in pursuance of instructions from his Government. He stated that he wished to make it clear that in his previous interview with me he had not intended to imply that the German Government was complaining about criticism in the United States against Germany but because of the fact that a member of the United States Cabinet had publicly criticized the head of the German state. He also said that in his previous interview he had not intended to imply that the German Government was requesting a public expression of regret from the Government of the United States but merely that it "expected" such an expression of regret.

I said that on the latter point when I was officially informed by the German Chargé d'Affaires that the German Government "expected" an official expression of regret publicly made, I could only construe such a statement as an official request. I said that with regard to the former question, I felt that I need add nothing to what I had stated in my previous interview.

Dr. Thomsen then went on to say that during the time that he had been in Washington he had done his utmost to work for better relations between the two countries, and that he hoped public attacks in both countries would cease. To this I made no comment.

I asked Dr. Thomsen if he had any further instructions. He said that he did not and after I inquired about the health of his wife, who had been ill, the interview terminated.

WELLES

¹⁶December 24.

711.62/189 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 31, 1938—noon.

[Received December 31—10:40 a. m.]

768. A DNB¹⁷ communiqué was given over the radio last night and reproduced in all Berlin papers this morning announcing a strong German protest in Washington against Secretary Ickes' Cleveland address. The communiqué continues by stating "the American Foreign Office did not, which is customary as a matter of course in international relations, dissociate itself from the statements made by the Secretary of the Interior but endeavored rather to shield them. It is now clear that as long as such a procedure, obviously serving Jewish purposes but ignoring real German-American interests, continues in the relations of the United States to Germany, the hope expressed by the American Foreign Office to the German Chargé d'Affaires for an improvement of mutual relations lacks any foundation."

This communiqué is supplemented by a further press attack against the Administration in general and Secretary Ickes in particular. The latter is described as being animated by "blind hatred" against the German people. The German people who desire to live in peace with the American people cannot believe that the majority of Americans support the "hysterical provocative and catastrophic policy" of the Administration which is the tool of the Jews. The whole world knows that these attacks are only a screen to enable Roosevelt to expose a war hysteria and thereby to push through a huge rearmament program which otherwise would have little chance of being approved by Congress.

The press continues by emphasizing the breakdown of the Administration's internal policies and describes the Lima Conference¹⁸ as a complete failure. The entire helium incident¹⁹ is rehashed and Ickes is quoted as having stated that Germany would use helium in an attack against the United States. Even the President's telegram in September to Hitler²⁰ is recalled with the comment that the President might well have saved the "telegraph expenses" as in those critical days Europe had men who knew how to preserve peace. The world today now sees that United States as it is, namely, "An enemy of conciliation, peace and good relations between peoples, a country burdened with unemployed, its public affairs agitated and disturbed by corruption and scandals and its foreign policy guided by persons

¹⁷ Deutsches Nachrichten Büro.

¹⁸ See vol. v, pp. 1 ff.

¹⁹ See pp. 457 ff.

²⁰ For President Roosevelt's message of September 26, 1938, see vol. I, p. 657.

who go from one failure to another; a President who gives free rein to international trouble makers and who is backed by Jewish influence seeking to profit from a colossal rearmament”.

Many recent speeches of American public men which might in any way be construed as opposed to the Administration are emphasized.

No mention is made in the press of breaking off diplomatic relations.

GILBERT

REFUSAL OF THE UNITED STATES TO SELL HELIUM TO THE GERMAN GOVERNMENT FOR USE IN ZEPPELINS

811.659 Helium/101 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, April 13, 1938—5 p. m.
[Received April 13—3:52 p. m.]

179. Prince Bismarck of the Foreign Office brought up with me the question of helium export. He recited the history of the case from his point of view stating that after the *Hindenburg* disaster²¹ the German Government had given orders to cease construction of zeppelins unless it could be arranged that helium would be forthcoming in necessary quantities to operate the dirigible. Negotiations were then undertaken with the United States and I believe in November last assurances were given by which the German Government was persuaded that helium could be purchased from the United States. They then resumed their work on the zeppelins and have gone to considerable expense in this connection. They had understood that authorization would be given to their application for export upon their declaration that the helium would not be used for war purposes. They were ready to fulfill all requirements which had been stipulated.

On March 31 a new set of regulations²² was, however, issued which provided both for the posting of a bond to guarantee the non-utilization of helium for war purposes and for control within Germany by American officers of the disposition of helium.

Both of these conditions Bismarck stated were impossible of acceptance for the reason that they both cast doubt upon the good faith of the German Government in making a promise not to use helium for war purposes.

Bismarck added that he most earnestly hoped that this matter could be worked out both because he wanted to see the dirigible serv-

²¹ The German Zeppelin *Hindenburg* exploded and burned at Lakehurst, New Jersey, in 1937.

²² *Federal Register*, 1938, vol. 3, p. 699.

ice continued between the United States and this country and because he realized what a shock it would be to German public opinion if it had to be explained that a sudden recoil of policy on the part of the American Government had made it impossible to carry out the plans that had been laid.

I told him that I had had no news from Washington in respect to this matter other than that contained in the radio bulletin this morning to the effect that the President had requested further consideration by members of the Cabinet. I added that I would at once cable you regarding his observations. He said he would cable Dieckhoff²³ again and hoped that I would do what I could in this connection.

I only know the details of the history of this matter from the German point of view, but I do know that the German Government is sincere in its belief that the new regulations would constitute an unfair departure from the original understanding and would regard them as evidence of an unfriendly attitude on the part of the United States Government toward Germany. Unless a prompt solution can be found in this matter I believe that so deep a resentment will be created not only among Party men but among Foreign Office men, on whom we must rely in discussion of our cases, that it would be difficult to obtain effective protection and fair treatment for American individuals and interests in the many cases that we are obliged to bring before the Foreign Office.

WILSON

811.659 Helium/101 : Telegram

*The Acting Secretary of State to the Ambassador in Germany
(Wilson)*

WASHINGTON, April 20, 1938—4 p. m.

45. Your No. 179, April 13, 5 p. m. In conformity with the law²⁴ and the regulations, the Department granted on November 23, 1937, an allotment of 17,900,000 cubic feet of helium to the American agents of the German Zeppelin Company and, on January 31, 1938, issued a license to export 2,600,000 cubic feet under the allotment. However, no actual shipment can be made under this license until the helium is purchased from the Government monopoly. The sale of helium is a function vested solely in the Secretary of the Interior²⁵ who, after a conference at the White House on April 19, is reported to have announced—"There are legal and practical questions that have

²³ Hans Heinrich Dieckhoff, German Ambassador in the United States.

²⁴ Helium Act of September 1, 1937; 50 Stat. 885.

²⁵ Harold Ickes.

to be resolved before I can express them in a contract." I cannot determine at this time how many weeks may elapse before the matter is disposed of.

WELLES

811.659 Helium/111 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, April 21, 1938—6 p. m.
[Received April 21—2:29 p. m.]

190. Eckener²⁶ came to see cablegrams in respect to the helium situation. I told him something of your telegram No. 45, April 20, 4 p. m., including the quotation attributed to Mr. Ickes.

Eckener said that he thought he understood the matter, he had received the greatest kindness at the hands of the President and various members of the Cabinet. Nothing could have been friendlier than their treatment of him after the *Hindenburg* disaster. But he noticed that the new law was promulgated immediately after the Austrian *Anschluss*²⁷ and he felt that interests in the United States opposed to Zeppelin competition have been able to work with an outraged public opinion and that therefore the decision had been made "to show the Nazis a measure of disapproval". He hoped that this hostile feeling would gradually subside, but even if permission were obtained tomorrow to ship helium the Zeppelin could not fly until August and he feared this whole summer was wasted. As he remarked, he was 70 years old and hoped to live to see the American-German service really established.

If you have anything that I can tell Eckener personally please advise me.

WILSON

811.659 Helium/120 : Telegram (part air)

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, April 29, 1938—10 p. m.
[Received May 1—9:50 a. m.]

212. In a conversation last night Goering²⁸ raised the matter of helium. He spoke with deep emotion and bluntness. He said that every German felt that after the *Hindenburg* disaster and the engagement to permit the sale and export of helium which had been more favorable, the reversal of policy could only mean deliberate unfriend-

²⁶ Hugo Eckener, president of the German Zeppelin Company.

²⁷ See vol. I, pp. 384 ff.

²⁸ Hermann Göring, Reich Minister for Aviation.

liness on the part of the American Government. Relations between Germany and the United States had been brought to the lowest possible point and this over a matter of minor importance to both nations. He said "I cannot understand what leads a nation to earn the enmity of another over such a little thing". He declared to me with considerable solemnity that as Chief of the Air Service he gave his word of honor that the helium would not be used for war purposes, indeed it would be too stupid to contemplate putting an airship into war service which could be shot down so readily. Germany, however, could not accept a control of its word of honor. If it was impossible to get helium the German people would not forget America's attitude but it would not give up thereby the use of airships and would continue them with hydrogen.

WILSON

811.659 Helium/131 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, May 12, 1938—6 p. m.

67. Your No. 239, May 12, 4 p. m.²⁹ The President yesterday called into conference on the proposed exportation of helium to Germany the Secretary of the Interior, the Solicitor General, the Chief of Staff of the Army, and the Chief of Naval Operations. After the conference, an oral statement was given to the press to the effect that, under the law, an affirmative decision required the unanimous approval of six Cabinet officers, that one of these did not approve, and that as each one had the authority to use his own discretion the President had no authority to decide the matter. As the Secretary of the Interior has been reported in the press to the effect that he cannot approve the sale unless the Helium Act is amended, it would appear probable that the proposed sale will not take place.

HULL

811.659 Helium/136 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, May 14, 1938—5 p. m.
[Received May 14—3:05 p. m.]

245. I feel it incumbent on me to report that feeling is running exceedingly high in German circles among those who are aware of our decision respecting helium.

Thus far restraint has been exercised on the German press and no notice has been published recently regarding helium. There is no

²⁹ Not printed.

way of knowing, however, how long this will last. Expressions of German opinion both in and out of Government circles as reported previously are those of surprise and deep resentment over our abrogating what they feel to have been a definite understanding.

Goering is absent in Austria but I am inclined to believe that on his return his resentment (see my 212 of April 29, 10 p. m.) and that of almost all Germany will be such that it will be difficult for us to obtain favorable decisions in respect of Austrian obligations,³⁰ registration of Jewish property,³¹ et cetera.

I suggest that for a period of time until this matter may have been forgotten we would risk direct rebuffs were we to make any requests for favors from the German Government. This last is peculiarly unfortunate as the police operating in Vienna have taken favorable action for the benefit of numerous persons at our informal suggestion, even when such persons were not American citizens.³²

WILSON

ATTITUDE OF THE GERMAN GOVERNMENT WITH RESPECT TO PARTICIPATION OF GERMAN NATIONALS IN THE GERMAN-AMERICAN BUND

811.00 Nazi/345 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, February 28, 1938—8 p. m.

[Received February 28—4:24 p. m.]

86. Embassy's despatch 3718, October 28, 1937.³³ Due to my temporary indisposition a member of the Embassy staff called at the Foreign Office at the request of Dr. Freytag, Chief of the American Section.

Dr. Freytag referred to his conversation with me reported in my despatch 3876 of February 14, 1938³³ and said that the German Government in the interests of good relations with the United States had decided to take effective measures to insure that there would be no relations of any kind between the German Government, its officials or its citizens in the United States and the America Deutscher Volksbund or any similar German-American organization.

He said that to that end the German Government would make public here tomorrow the following regulation which he hoped would receive due publicity and dispel any belief that the German Govern-

³⁰ See pp. 483 ff.

³¹ See pp. 355 ff.

³² See pp. 506 ff.

³³ Not printed.

ment would encourage in any way any organization affecting the domestic political affairs of the United States or allow its citizens abroad to participate in such organizations or affairs.

“By reason of the various requests from the citizens of the German Reich in the United States it is reasserted that German citizens may not become members of the America Deutscher Volksbund nor of any substitute organization. German citizens who by reason of their lack of knowledge of this regulation have become members of the America Deutscher Volksbund or of the ‘prospective citizens league’ must terminate their membership status immediately”.

Freytag stated that Dieckhoff³⁴ is today calling upon Secretary Hull to communicate officially the attitude of the German Government toward the America Deutscher Volksbund and substitute organizations. He stated that the phrase “substitute organizations” (*Ersatzorganisationen*) was inserted to make sure that the bund would not seek to retain the support of German citizens which he indicated was necessary for its success by organizing under another name. He pointed out that the bund was the successor to the “Friends of the New Germany” which had been dissolved because a previous regulation had forbidden German citizens from becoming members thereof.

In addition to the foregoing regulation Freytag said that the following confidential instructions will be issued.

(1) An instruction to all German Consulates in the United States to see that German citizens do not become members of the Bund or of any substitute organization and authorizing the Consulates to take up the passports of any German citizens violating this regulation.

(2) An instruction recalling to all German officials and members of the National Socialist Party in the United States that they must have no relations with the Bund or affiliated organizations.

(3) An instruction to the German Embassy in Washington to obtain from the Bund the discontinuance of the use of the German flag and emblems or titles of its officers or members which copy or recall National Socialist insignia or forms of organizations.

Freytag said that the confidential instructions above summarized will not be made known to the press.

While the Embassy was informed that Dieckhoff is making a similar communication it was deemed advisable to repeat in detail Freytag’s statements in order that the Secretary may have full information with which to reply to any inquiries that may arise in press conference tomorrow.

The regulation with regard to the Bund is the result of persistent efforts of certain members of the Foreign Office against considerable opposition hence any word of gratification which you might publicly express would be appreciated.

³⁴ Hans Heinrich Dieckhoff, German Ambassador in the United States.

Freytag said that the Foreign Office was doing its utmost and he thought successfully to diminish German press criticism of the United States and inquired whether the Embassy had not noted an "improvement" in that respect. The reply was that a somewhat milder editorial tone had been detected in comment on the United States. Dr. Freytag said that frankly it was difficult to restrain the "natural" impulse of German editors to reply vigorously to foreign criticism but that the Foreign Office was endeavoring unremittingly to "improve" German press treatment of the United States and hoped that a similar attitude toward Germany might develop in the American press. He concluded by saying that he had been much disturbed upon reading what he described as a most unfair description of the Chancellor in an article by S. H. Roberts in the February *Harper's*. He referred with some resentment to the circumstance that Roberts had been given facilities and an interview with the Chancellor during his recent visit to Germany. Incidentally it is understood that Roberts is an Australian.

GILBERT

811.00 Nazi/351

Memorandum of Conversation, by the Secretary of State

[Extract]

[WASHINGTON,] February 28, 1938.

The German Ambassador called upon his own request. After an exchange of a few brief preliminary remarks, he proceeded to say that he came on instructions of his Government to inform me that tomorrow morning his Government would release an official statement in Berlin and it would be distributed to other countries, to the effect that all German citizens resident in this country are notified to refrain from membership in any organization in the United States, which has the slightest plan or purpose to interfere in the domestic affairs of the United States. He named the principal organization in this country which has been accused of offending in this connection and said that the prohibition extended to it, and to all others disposed to interfere in the least in domestic affairs. I expressed gratification and remarked that, as the Ambassador was aware, we have had occasion to make complaint a number of times about unwarranted interference in our domestic affairs by some of these groups and by individual German citizens residing in this country. I said that this should relieve the irritation heretofore arising, at least to a substantial extent. I also added that it would be agreeable to me for the Am-

bassador himself to handle the publicity in this country. He expressed his appreciation of this and indicated that he would do so.

C[ORDELL] H[ULL]

DISAGREEMENT BETWEEN THE AMERICAN AND GERMAN GOVERNMENTS REGARDING INTERPRETATION OF TREATY PROVISIONS AS AFFECTING NATURALIZATION AND DUAL NATIONALITY

711.624/21

The Secretary of State to the Ambassador in Germany (Dodd)

No. 780

WASHINGTON, April 19, 1937.

SIR: With reference to previous communications between the Embassy and the Department on the general subject of nationality and military obligations, the Department encloses herewith a draft of a treaty on this subject between the United States and Germany, for presentation to the German Foreign Office at such time as you may deem appropriate.

The draft covers two closely related subjects. The first relates to the recognition of change of nationality by naturalization, exemption from military obligations accruing after emigration, and the abandonment of naturalization by returning to the State of origin without the intent to return to the State of naturalization. The second subject relates to the exemption from military obligations of certain classes of persons born with dual nationality.

The principal articles in the draft, that is, Articles I, II and III, relating to naturalized citizens, are substantially similar to corresponding articles in the naturalization treaties concluded between the United States and German States about 1868, and especially to articles in the convention between the United States and the North German Confederation, signed February 22, 1868.³⁵

It would seem that the proposal to reestablish the broad principle of the convention of 1868 would readily meet with favor with the German Government. The commitment at present in force between the United States and Germany is entirely unilateral in favor of the United States. You will recall that under the treaty between the United States and Germany restoring friendly relations signed August 25, 1921,³⁶ the United States has and enjoys the rights and

³⁵ William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. II, p. 1298.

³⁶ *Foreign Relations, 1921*, vol. II, p. 29.

advantages stipulated in Article 278 of the treaty of Versailles,³⁷ which reads as follows:

“Germany undertakes to recognise any new nationality which has been or may be acquired by her nationals under the laws of the Allied and Associated Powers and in accordance with the decisions of the competent authorities of these Powers pursuant to naturalisation laws or under treaty stipulations, and to regard such persons as having, in consequence of the acquisition of such new nationality, in all respects severed their allegiance to their country of origin.”

In the event that the enclosed draft treaty is signed and enters into force it will, of course, practically supersede the quoted article. This Government as at present advised is not averse to including in the new treaty an article stating that Article 278 of the Treaty of Versailles is superseded, insofar as the latter relates to persons naturalized in the United States. It would be glad to be advised of your views on that question.

Special mention should be made of the provisions of Article III of the draft, under which a person from either State who obtains naturalization in the other and subsequently resumes residence of a permanent character in his State of origin is presumed to have renounced his naturalization. This Government has no desire to recognize as American nationals, or to extend protection to aliens naturalized in the United States when they have returned to their former State for permanent residence, although the question whether they reacquire nationality of that State depends upon its laws. It of course enters into the same agreement with respect to Americans who have become nationals of foreign countries. This principle is a policy of this Government in its naturalization treaties with every country.

The second subject, namely, the exemption from military obligations in either State of certain classes of persons possessing dual nationality and residing habitually in the other State represents a policy which this Government has followed for many years and the recognition of which by other countries it has constantly sought. The terms of Article IV are similar to the convention between the United States and Sweden, signed January 31, 1933,³⁸ a copy of which is enclosed.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

³⁷ *Foreign Relations*, The Paris Peace Conference, 1919, vol. XIII, pp. 55, 563.

³⁸ *Foreign Relations*, 1933, vol. II, p. 763.

[Enclosure]

TREATY BETWEEN THE UNITED STATES OF AMERICA AND GERMANY
RELATING TO NATIONALITY AND MILITARY OBLIGATIONS *

The United States of America and the German Reich being desirous of reaching an agreement concerning the status of nationals of either State who have acquired or may hereafter acquire the nationality of the other State by naturalization and also being desirous of regulating the liability for military obligations or any other act of allegiance of certain classes of persons having the nationality of both States under their respective laws, have resolved to conclude a treaty on these subjects and for that purpose have appointed their Plenipotentiaries, that is to say:

The President of the United States of America :

.....;

and

The Chancellor of the German Reich :

.....:

Who, having communicated to each other their full powers found to be in good and due form, have agreed upon the following articles:

ARTICLE I

Nationals of the United States of America who have been or shall become naturalized in German territory, shall be held by the United States of America to have lost their former nationality and to be nationals of Germany.

Reciprocally, nationals of Germany who have been or shall become naturalized in territory of the United States of America shall be held by Germany to have lost their former nationality and to be nationals of the United States of America.

The foregoing provisions of this Article are subject to any law of either State providing that its nationals do not lose their nationality by becoming naturalized in another State in time of war.

ARTICLE II

Nationals of either Contracting State who have been or shall become naturalized in the territory of the other State, as contemplated in Article I, shall not, upon returning to the State of former nationality, be punishable for the original act of emigration, or for failure, prior to naturalization, to respond to calls for military service therein

* This title is for purposes of reference only and is not to appear in the final text. [Footnote in the original.]

accruing after bona fide residence was acquired in the territory of the State whose nationality was obtained by naturalization.

ARTICLE III

If a national of either Contracting State, who comes within the purview of Article I, shall renew his residence in the State of which he was formerly a national without the intent to return to the State in which he was naturalized, he shall be held to have renounced his naturalization.

The intent not to return may be held to exist when a person naturalized in either of the Contracting States shall have resided more than two years in the other State; but his presumption may be overcome by evidence to the contrary.

ARTICLE IV

A person possessing the nationality of both of the Contracting States who habitually resides in the territory of one of them and who is in fact most closely connected with that State shall be exempt from all military obligations in the territory of the other State.

ARTICLE V

The word "national", as used in this treaty means a person owing permanent allegiance to, or having the nationality of, the United States of America or Germany, respectively, under the laws thereof.

The word "naturalized", refers only to the naturalization of persons over twenty-one years of age upon their own applications, and to the naturalization of persons under twenty-one years of age through the naturalization of a parent. "Naturalization" does not apply to the acquisition of nationality by a woman through marriage. Minor children of persons naturalized in either Contracting State shall not acquire the nationality of the State in which the parent was naturalized until they shall have established their habitual residence in that State.

ARTICLE VI

The present treaty shall be ratified and the ratifications thereof shall be exchanged at It shall take effect on the day of the exchange of ratifications and shall continue in force for the term of ten years from that day.

If within one year before the expiration of ten years from the day on which the present treaty shall come into force, neither High Contracting Party notifies the other of an intention of terminating the treaty upon the expiration of the aforesaid period of ten years, the treaty shall remain in full force and effect after the aforesaid period

and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of terminating the treaty.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present treaty and have affixed their seals hereto.

DONE in duplicate, in the English and German languages, both authentic, at , this day of , 1937.

711.624/24

The Ambassador in Germany (Dodd) to the Secretary of State

No. 3744

BERLIN, November 18, 1937.

[Received November 30.]

SIR: I have the honor to refer to the Department's instruction No. 780 dated April 19, 1937, transmitting a draft treaty, Series No. 890, relating to nationality and military service obligations for presentation to the German Foreign Office at such time as may be deemed appropriate, and the Embassy's despatches No. 3470 and 3583 of May 13 and July 30, 1937, respectively,³⁹ in which mention was made of the citizenship case of one Ransom Otto Theodore Rupprecht, under discussion between the Foreign Office and the Embassy, and the Department's approval was sought to withhold the presentation of the treaty draft pending the final outcome of the Rupprecht case in order that the Embassy might ascertain the German attitude towards certain citizenship points involved in both matters.

In instruction No. 864 of September 27, 1937⁴⁰ (file No. 624:23), the Department approved the Embassy's view that it would be desirable to defer presentation of the draft treaty until the Rupprecht case had been settled, with the added direction that in case settlement thereof was delayed more than two or at the most three months, the Embassy should again advise the Department and request instructions, reporting at the same time the current situation and prospects.

As the Embassy has just been informed by the Foreign Office in a note dated November 9th that some time may elapse before a decision in the Rupprecht case is reached, which is interpreted to mean not within the two months stated by the Department, it has been thought advisable to present the facts in that case as they now appear and to request any further instructions as might seem necessary, in the light of such facts, regarding the presentation of the draft treaty.

The Rupprecht case was originally turned over to the Embassy by the Consul General in Berlin in a letter of April 22d, in which refer-

³⁹ Neither printed.

⁴⁰ Not printed.

ence was made to the Department's instruction of July 3, 1936⁴¹ (file No. 362.117:349), addressed to the Consulate General.

On the basis of the information at hand a note presenting the case was addressed to the Foreign Office on May 4, 1937, and after various oral discussions involving minor points and references, the Foreign Office replied in a note dated August 30, 1937. Copies of both notes and a translation of the latter are transmitted herewith,⁴¹ and it may be seen from the Foreign Office reply that the German attitude at that time was that Rupprecht's mother, who resumed her American nationality, was, upon being found the blameless party to a divorce proceeding, entitled to the care of the child's person under the German laws, but not to parental authority or legal representation of the child. In this connection reference was made to Section 1635 Par. 2 and Section 1684 of the German Civil Code, which reads as follows, in translation:

"Section 1635, Par. 2:

"The right of the father to represent the child remains unaffected."

"Section 1684:

"The mother is entitled to parental authority:

1. if the father is dead or declared dead;
2. if the father has forfeited parental authority and the marriage is dissolved.

"In case the father is declared dead, the parental authority of the mother begins on the date on which the father is deemed to have died."

It was further stated that Rupprecht could have lost his German citizenship by the acquisition of American citizenship only in case his application for the latter had been filed at the time by his legal representative competent under German laws, i. e. the father, and then only with the approval of the German court for the protection of wards. In this connection reference is made to Section 25, par. 1 and Section 19 of the Reich and State Citizen Law, both of which are quoted below in translation:

"Section 25, Par. 1:

"A German who has neither his domicile nor his permanent residence in Germany loses his citizenship when he acquires a foreign citizenship, if such acquisition takes place upon his application or upon the application of the husband or of the legal representative, but the wife and the person represented lose theirs only if the conditions obtain under which discharge might be applied for under Sections 18 and 19."

"Section 19:

"The discharge of a person subject to parental authority or under the care of a guardian can only be applied for by the legal representa-

⁴¹Not printed.

tive and only with the consent of the German court for the protection of wards. The office of the prosecuting attorney is also entitled to (enter a) complaint against the decision of the court for the protection of wards; further complaint against the decision of the court of appeal is permissible without restriction.

"The consent of the court for the protection of wards is not required if the father or the mother applies for discharge for himself or herself and, on the strength of parental authority, for a child at the same time and if the applicant is entitled to the care of the person of that child. If the care for the person of the child is included in the duties of an assistant appointed to aid the mother, the mother requires the consent of the assistant to apply for the discharge of the child."

The note then goes on to say that Rupprecht must be regarded as a German citizen so long as he does not prove that in his case the above-mentioned conditions for losing German citizenship were met and as a German citizen he is subject of German military service, although he may possess American citizenship in addition to German citizenship. The order for Rupprecht's presentation for military training was temporarily withdrawn, however, pending the presentation of authentic information indicating that he had legally been released from German citizenship, and it was alleged that investigation to ascertain that information could not be carried on by the German authorities, who then suggested that the Embassy take the necessary steps in that direction.

After correspondence with the Consul General at Munich, in which office the case originated, a copy of a letter dated July 6, 1921 addressed by Colonel Rupprecht, Ransom's father, to the American Consulate General in Zurich, was submitted, in which it was indicated that the father at least had the intent to comply with the German law in releasing his son from German citizenship.

On the basis of this information and other data which had been compiled in the meantime, the Embassy replied to the Foreign Office note outlined above in a note of September 18, 1937, which was handed personally to the proper official in the Foreign Office and at that time the case was once more discussed. A copy of this note, as well as a copy of the memorandum of the conversation dated September 21, 1937, is transmitted herewith for the Department's information.⁴²

The Department may note from the memorandum mentioned, as well as from the two Embassy notes on the subject, that no written mention was made of the provisions of the treaty of August 25, 1921 between the United States and Germany which are based on Article 278 of the Treaty of Versailles and which read as follows:

"Germany undertakes to recognize any new nationality which has been or may be acquired by her nationals under the laws of the Allied and Associated Powers and in accordance with the decisions of the

⁴² Neither printed.

competent authorities of these Powers pursuant to naturalization laws or under treaty stipulations, and to regard such persons as having, in consequence of the acquisition of such new nationality, in all respects severed their allegiance to their country of origin."

The Embassy is fully aware of the fact that Rupprecht must be considered as having American citizenship only, on the basis of the provisions of the treaty paragraph quoted above, irrespective of any other considerations. However, these provisions have not been referred to as yet by the Embassy in its formal representations to the Foreign Office for two reasons.

First, while the German-American treaty of 1921 is in itself an independent instrument dealing with relations between the two countries only, nevertheless the paragraph quoted above provides for unilateral advantages accruing to the United States on the basis of Article 278 of the Treaty of Versailles. For this reason the immediate reaction in the German mind when reference is made to Versailles is one involving victor and vanquished and signatory *force majeure*. Such reactions have been exhibited on a number of occasions in the past in the dealings of the Embassy and the Consulate General with German officials. In this respect, the Embassy does not envisage a relationship between the technicalities of the case in hand and the anti-Versailles attitude—it is simply the background described which influences the presentation of these cases.

It is desirable to point out, nevertheless, that from the beginning of the Rupprecht case the Embassy has had the full intention to utilize the provisions of the Treaty of 1921, as intimated in the conversation with the Foreign Office covered by the attached memorandum of September 21, 1937, in case the final decision by the German authorities was unfavorable.

Second, it is noted that certain articles of the draft treaty, particularly Article I, envisage the supersession of Article 278 of the Treaty of Versailles as incorporated in the German-American treaty of August 25, 1921. If Germany has the intention to disregard or in effect to abrogate unilaterally the treaty provisions in this respect, it might seem desirable to test such attitude in the settlement of a particular case. The Foreign Office is naturally fully aware of the provisions of the German-American treaty of 1921, and the final settlement of the Rupprecht case will probably indicate definitely whether the draft treaty should be presented in its present form or whether certain sections thereof should be revised.

It is hoped that the above explanation of the situation regarding the Rupprecht case and the draft treaty will enable the Department to judge as to the advisability of definitely withholding the presentation of the latter to the Foreign Office until the former is finally settled.

Respectfully yours,

WILLIAM E. DODD

711.624/24

The Secretary of State to the Ambassador in Germany (Dodd)

No. 890

WASHINGTON, December 10, 1937.

SIR: The receipt is acknowledged of your despatch no. 3744 of November 18, 1937, concerning the proposed treaty between the United States and Germany relating to nationality and military service obligations in relation to the case of Ransom Otto Theodore Rupprecht.

The Department concurs in the Embassy's views and desires that the presentation of the draft treaty be postponed until the final decision of the German authorities in the Rupprecht case has been made known.

When such decision has been reached the Department desires that the Embassy submit its recommendations as to whether the draft treaty should be presented in its present form or whether it should be modified prior to presentation.

Very truly yours,

For the Secretary of State:
HUGH R. WILSON

711.624/26

The Ambassador in Germany (Wilson) to the Secretary of State

No. 120

BERLIN, April 30, 1938.

[Received May 10.]

SIR: I have the honor to refer to the Embassy's telegram No. 32 of January 28, 7 p. m., 1938, despatch No. 3744 of November 18, 1937, and the Department's telegram No. 16 of February 11, 7 p. m., 1938,⁴⁸ regarding the citizenship case of Ransom Otto Theodore Rupprecht.

The Department pointed out in its telegram of February 11, 7 p. m. that the Government of the United States was of the firm conviction that Mr. Rupprecht possesses American citizenship solely unqualifiedly, the basis being the rights and advantages which the United States has and enjoys under certain provisions of the Treaty between the United States and Germany Restoring Friendly Relations, signed August 25, 1921. The view held was expressed to the German Foreign Office in a note despatched on February 12, 1938, reading as follows:

To the Ministry for Foreign Affairs, Berlin.

No. 1387

The Embassy of the United States of America has the honor to acknowledge the receipt of a note from the Ministry for Foreign Affairs dated January 26, 1938 (No. R 1207) in further reference to the citizenship case of Ransom Otto Theodore Rupprecht, and it is noted

⁴⁸ Telegrams Nos. 32 and 16 not printed.

that the Ministry states that, even giving full consideration to the arguments in the Embassy's note No. 1227 of September 18, 1937, the legal premises for losing German citizenship by a minor do not exist in this case, reference being made once more to Section 25, Par. 1 and Section 19 of the Reich- and Citizenship Law of July 22, 1913.

The Government of the United States is of the firm conviction that Mr. Rupprecht possesses American citizenship solely unqualifiedly, the basis of this conviction, among other things, being the rights and advantages which the United States has and enjoys under certain provisions of the Treaty between the United States and Germany Restoring Friendly Relations, signed August 25, 1921. This treaty contemplated that the naturalization of a German citizen in accordance with the laws of the United States would not only result in the loss of his German nationality but also in the severance of his allegiance to Germany.

In view of the fact that Rupprecht, having acquired full rights as an American citizen, thus lost German citizenship, the Embassy awaits an expression from the Ministry of the attitude of the Reich Government toward this case in the light of the treaty provisions.

Berlin, February 12, 1938.

On April 11, 1938 the Foreign Office replied as follows (free translation) :

Foreign Office

No. R 3102

To The Embassy of the United States of America.

Note Verbale

The Embassy of the United States of America states in its *Note Verbale* of the 12th ult.—No. 1387—that in the view of its government Ransom Otto Theodor Rupprecht, by acquiring American citizenship, lost his German citizenship in accordance with the provisions of the German-American Treaty of August 25, 1921, and desires to learn the view of the German government on this point.

The Foreign Office has the honor to inform the Embassy as follows:

The government of the United States of America, in taking this attitude, apparently has in mind Article 278 in Part X of the Treaty of Versailles, which was taken over into the German-American Treaty referred to in its Article II No. 1 par. 1. Article 278 has usually been interpreted in German literature and administration of justice, and applied in practice, as intending not to declare a loss of German citizenship but to extend regulations regarding protection, which are laid down in the preceding Articles 276 and 277 in favor of citizens of the former Allied and Associated Powers on German territory, to apply to the new citizens of these Powers and in particular to exempt them from those German taxes which are levied only on Germans. This was inferred from the fact that Article 278 is not in Part III of the Treaty of Versailles containing the provisions as to citizenship but in Part X (Economic Provisions), and in Chapter 4 thereof (Treatment of Citizens of the Allied and Associated Powers). Whenever, on the other hand, the view has been taken that under Article 278 an acquisition of the citizenship of one of the Allied and Associated Powers results in

the loss of German citizenship, the view has always been held in Germany that the Article can only be intended to apply to new citizenship acquired through the transfers of territory provided in the Treaty of Versailles or through the treaties concluded to carry out the Treaty of Versailles, or in other words only in consequence of the provisions of the Treaty of Versailles.

By neither of the two interpretations could the naturalization of Rupprecht, carried out independently of the Treaty of Versailles, cause him to lose his German citizenship. The German government does not, accordingly, feel able to recognize that Rupprecht lost his German citizenship by acquiring American citizenship.

Berlin, April 11, 1938.

A copy of the German text of the Note from the Foreign Office is enclosed herewith.

In the meantime the German Military authorities have summoned Mr. Rupprecht, who is now living in Switzerland, to report for military duty on May 11, 1938. Consequently a note was sent to the Foreign Office at once requesting that the date of Mr. Rupprecht's appearance, as specified in the summons, be postponed so as to allow the Department opportunity to consider the German reply. The Embassy's note of April 21, 1938 reads as follows:

No. 53

To the Ministry for Foreign Affairs, Berlin.

The Embassy of the United States of America has the honor to refer to a *Note Verbale* from the Ministry for Foreign Affairs dated April 11, 1938, No. R 3102, which is in reply to a note from the Embassy dated February 12, 1938, No. 1387, in further reference to the citizenship case of Mr. Ransom Otto Theodore Rupprecht. The Ministry informs that it has reviewed the status of the citizenship of Mr. Rupprecht in the light of the treaties existing between the United States and Germany and that the German Government does not feel able to recognize that Mr. Rupprecht lost his German citizenship by acquiring American nationality.

The Ministry is informed that Mr. Rupprecht has been ordered by the Wehrbezirkskommando Muenchen II, under date of March 28, 1938, to report at Ingolstadt on May 11, 1938, at two o'clock in the afternoon for training in the "4. (E). Pion. Batl. 27" until July 9, 1938. The Embassy believes, however, that the questions raised in the Ministry's note of April 11, 1938, with regard to the interpretation of the provisions of the German-American Treaty of August 25, 1921, are of immediate interest to the Government of the United States to which the Embassy desires to refer the matter for further consideration. In view of the fact that it is Mr. Rupprecht's desire to retain his American citizenship and to pursue his career in the United States and that upon his taking the oath of allegiance when enrolling in the German army he would lose his American citizenship, it would be appreciated if the Ministry for Foreign Affairs would request the German military authorities to postpone the summons sent by the Wehrbezirkskommando Muenchen II until the Government of the

United States will have had an opportunity to consider the statements made in the note from the Ministry for Foreign Affairs dated April 11, 1938.

Berlin, April 21, 1938.

Reverting to the note of the German Foreign Office dated April 11, 1938, it is the view of the Embassy that the arguments advanced have the effect of confusing the issue to the extent of nullifying the plain language of Article 278 of the Treaty of Versailles, which provides expressly for the loss of German citizenship when a citizen or subject of one of the Allied or Associated Powers acquires another nationality.

It can hardly be held that this article applies only to persons whose citizenship has been affected by a transfer of territory; if so, the provision would be so expressly stated. Furthermore, if it had been intended that the provisions of Article 278 applied only to persons affected by the transfer of territory the article would, in all probability, have been placed in Part III, and not in Part X. It seems, therefore, contrary to the arguments advanced by the German Foreign Office that the reverse of what the Germans contend is true.

Besides, it is not believed that the general provisions of the articles contained in Chapter IV of Part X of the Treaty of Versailles relate exclusively to persons whose immediate citizenship status was affected by transfer of territory, or in some other way, as for instance, minority status within the German state; but that the provisions accrue in a much wider sense, as the language itself infers, to the advantage of all nationals of the Allied and Associated Powers whose interests are affected by, or directly involved with the laws of the German State.

Finally, with regard to Article 278, there is nothing in the Article itself or in the context of the chapter in which Article 278 appears, to indicate that the scope of application is so limited as to exclude American nationals from the enjoyment of the rights guaranteed under the provisions; otherwise there would have been no purpose in incorporating these advantages in the German American Treaty of 1921, which has been invoked in the Rupprecht case; and which the German Foreign Office affirms applies only to citizens of the former Allied and Associated Powers affected directly by other provisions of the Treaty, notably those providing for a transfer of territory.

Respectfully yours,

HUGH R. WILSON

711.624/26

The Secretary of State to the Ambassador in Germany (Wilson)

No. 125

WASHINGTON, October 11, 1938.

SIR: The Department has received your despatch No. 120 of April 30, 1938, referring to the case of Ransom Otto Theodore Rupprecht,

and concerning the attitude of the German Government with respect to the provisions of Article 278 of the Treaty of Versailles, which was incorporated in the treaty of August 25, 1921, between the United States and Germany restoring friendly relations. The Department has observed that in its note to the Embassy of April 11, 1938, the German Foreign Office takes the position that Article 278 of the Treaty of Versailles is not intended to declare a loss of German citizenship but to extend regulations regarding protection which are laid down in the preceding Articles, 276 and 277, in favor of citizens of the former Allied and Associated Powers on German territory, to apply to the new citizens of those Powers, and in particular to exempt them from those German taxes which are levied only on Germans. It is argued that the German view is inferred from the fact that Article 278 is not in Part III of the Treaty of Versailles containing the provisions as to citizenship, but in Part X, entitled "Economic Clauses" and in Chapter IV of such Part under the heading "Treatment of Nationals of Allied and Associated Powers". It is observed further that whenever the view has been taken that under Article 278 the acquisition of citizenship in one of the Allied and Associated Powers results in the loss of German citizenship the view has always been held in Germany that the Article can only be intended to apply to new citizenship acquired through the transfer of territory provided in the Treaty of Versailles, or through the treaties concluded to carry out the Treaty of Versailles, or, in other words, only in consequence of the operation of the provisions of the Treaty of Versailles.

The Department has very carefully considered the arguments contained in the note of the German Foreign Office. It considers that these arguments are illogical and untenable. The principal argument seems to be that because Article 278 is contained in Part X of the Treaty of Versailles, which is entitled "Economic Clauses" and not in Part III which is entitled "Political Clauses for Europe", which contains provisions as to citizenship, Article 278 is not intended to declare a loss of German citizenship but to extend regulations regarding protection to the new citizens of the Allied and Associated Powers resulting from the Treaty of Versailles, and in particular to exempt them from German taxation. The Department is of the opinion that it is illogical to draw any inference from the fact that the provisions of Article 278 are contained in Part X rather than Part III of the Treaty. There is no reason why such a provision should have been contained in Part III. An examination of Part III of the Treaty indicates that citizenship is treated specifically in connection with the provisions concerning each of the various territories, sovereignty over which was transferred to another state or to a new state or concerning which a plebiscite was to be held. Thus having dealt specifically with

citizenship in each situation, there would have been no purpose in placing such a provision as Article 278 in Part III. It seems particularly appropriate, however, that the provisions of Article 278 be contained in Part X, Chapter IV, under the heading "Treatment of Nationals of Allied and Associated Powers". Under Articles 276 and 277 contained under such heading Germany made certain undertakings with regard to nationals of the Allied and Associated Powers. It was particularly appropriate that under such Chapter a provision should have been made under which the question whether a person was a national of an Allied and Associated Power could easily be determined. The provision is clear and unequivocal. It has no relation to the question of the mere right of a person to be protected in Germany as a national of one of the Allied and Associated Powers. Under it Germany specifically undertakes to recognize any new nationality which has been or may be acquired by her nationals under the laws of the Allied and Associated Powers or under treaty stipulations, and further, it specifically undertakes to regard such persons as having in all respects severed their allegiance to Germany. The provision is unambiguous. It is not limited as to time.

With regard to the second argument of the German Foreign Office that whenever the view has been taken in Germany that under Article 278 the acquisition of the citizenship of a person of German origin in one of the Allied and Associated Powers results in the loss of German citizenship the Article can only be intended to apply to new citizenship acquired through the transfer of territory provided in the Treaty of Versailles or through the treaties concluded to carry out the provisions of such Treaty, or, in other words, only in consequence of the operation of the provisions of these treaties, the Department considers again that the argument is illogical and untenable. It apparently has been overlooked that under Article 278 Germany undertook to recognize any new nationality which had been or may be acquired by her nationals under the laws of the Allied and Associated Powers and in accordance with the decisions of the competent authorities of these Powers pursuant to naturalization laws or under treaty stipulations and to regard such persons as having in all respects severed their allegiance to Germany. Under this provision Germany specifically undertook not only to recognize a new nationality acquired in consequence of the operation of the provisions of the Treaty of Versailles but also any new nationality acquired "in accordance with the decisions of the competent authorities of these Powers pursuant to naturalization laws".

While the Department considers that the arguments of the German Foreign Office are both illogical and untenable, it may be stated that when considering the provisions to be incorporated in the treaty which

was finally signed on August 25, 1921, restoring friendly relations between the United States and Germany, the Department gave very careful consideration to those provisions of the Treaty of Versailles under which rights, privileges, indemnities, reparations, or advantages were given to the United States as one of the principal Allied and Associated Powers. During the course of the negotiations resulting in the treaty of August 25, 1921, it was made clear to the German authorities that the Peace Resolution of July 2, 1921, portions of which were incorporated in the treaty of August 25, 1921, indicated clearly the views of the Congress that the rights, privileges, indemnities, reparations, and advantages, accorded the United States under the Treaty of Versailles should be secured to the United States and that this Government would not enter into any treaty which failed to secure them. Among other things the Department considered the provisions of Article 278 of the Treaty of Versailles. While it was considered that the provision of this Article obligating Germany to recognize any new nationality acquired by her nationals under the laws of the Allied and Associated Powers is unilateral, in explicit terms and eliminated all questions of dual nationality of persons of German extraction who acquired the nationality of one of the Allied and Associated Powers, it regarded Article 278 as a substitute for a naturalization treaty. As indicated, the Article is unilateral but under the laws of the United States the right of expatriation is freely recognized; hence, any American citizen who is naturalized as a German citizen loses his citizenship in the United States as a result of such German naturalization. No question was raised by the German authorities at the time negotiations were being carried on as to the view of the German Government with regard to the meaning of Article 278 of the Treaty of Versailles, nor had it even been intimated up to the time when the case of Mr. Rupprecht arose that the German Government took a view as to the meaning of the provisions of Article 278 other than what its unambiguous and specific terms indicate, that is, that Germany would recognize any new nationality which had been or may be acquired by her nationals under the laws of the Allied and Associated Powers and in accordance with the decisions of the competent authorities of these Powers pursuant to naturalization laws and to regard such persons as having in consequence of the acquisition of such new nationality in all respects severed their allegiance to Germany. The Department considers that Article 278 of the Treaty of Versailles has been incorporated as a part of the treaty of August 25, 1921, and that under it Germany is obligated to recognize the naturalization of a German citizen in the United States as resulting in the loss of German nationality.

It is suggested that you communicate the foregoing views to the appropriate German authorities and express the hope that Ransom Otto Theodore Rupprecht will not only be recognized as having been

naturalized as a citizen of the United States under the laws of this country and in accordance with the decision of the competent authorities of this Government as previously conveyed to the German authorities but that in accordance with the provisions of Article 278 of the Treaty of Versailles he will be regarded as having in consequence of the acquisition of citizenship in the United States in all respects severed his allegiance to Germany.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

[In despatch No. 1034, June 21, 1939 (711.624/28), the Chargé in Germany reported that the Department's views as given in instruction No. 125, October 11, 1938, *supra*, were embodied in a note sent to the German Foreign Office on January 9, 1939, and that in a reply dated June 13, 1939, the German Foreign Office stated that the German Government after careful study upheld its position as explained in its note of April 11, 1938, quoted in despatch No. 120, April 30, printed on page 472. In reply, the Department in instruction No. 415, November 14, 1939, directed the Embassy to postpone indefinitely the presentation of the draft treaty to the German Government (711.624/28).]

DECLARATION BY THE GERMAN GOVERNMENT THAT INHERITANCE CLAIMS OF AMERICAN CITIZENS TO ESTATES OF PERSONS DECEASED IN GERMANY WILL BE TRANSFERRED TO BENEFICIARIES

362.113/2020

Memorandum of Conversation, by the Acting Secretary of State

[WASHINGTON,] December 20, 1938.

The German Chargé d'Affaires called to see me this morning by instruction of his Government.

Dr. Thomsen reminded me of a conversation which I had had with Ambassador Dieckhoff shortly before the latter's departure⁴⁵ in which I had taken up with the Ambassador in considerable detail the question of the manner in which American citizens residing in Germany were not receiving treatment equal to that received by German citizens residing in the United States. Among the matters taken up by me in that conversation was the way in which American citizens because of German exchange restrictions were unable to receive in full legacies from the estates of persons deceased in Germany.

⁴⁵There has been found in the Department files only one memorandum of a conversation between Mr. Welles and the German Ambassador just prior to the latter's departure from the United States. See memorandum of November 1, p. 446.

Dr. Thomsen handed me an *aide-mémoire*,⁴⁶ which reads as follows:

"In reply to your communication to Ambassador Dieckhoff⁴⁷ concerning the treatment of inheritance claims of American citizens to the estates of persons deceased in Germany, I am in a position to state that all inheritance credits of this kind, reciprocity provided, will be transferred to the beneficiaries in full extent."

I stated to the German Chargé d'Affaires that I assumed and gathered from the text of the communication he had given me that the assurances so provided related to all American citizens without distinction. The Chargé d'Affaires replied that my understanding was correct.

The Chargé d'Affaires concluded the interview by stating that he believed Ambassador Dieckhoff's conversations in Germany would be useful. He stated that he believed his Government was beginning to understand that the Government of the United States would not agree to any discrimination between American citizens in Germany. He stated that he thought it was useful for this Government to continue "to affirm that position".

I thanked the Chargé d'Affaires for the communication he had made to me and for the interest which Ambassador Dieckhoff and he had taken in this question. I said I hoped the assurances given would prove to be the forerunners of other more general assurances to the effect that the rights of all American citizens in Germany without distinction would be scrupulously observed.

S[UMNER] W[ELLES]

362.113/2021

Memorandum by the Assistant Secretary of State (Messersmith) to the Acting Secretary of State

[WASHINGTON,] December 21, 1938.

MR. WELLES. It is quite possible that a part of the Press in this country will give undue significance to the action of the German Government in indicating yesterday in the *aide-mémoire* left with you by the German Chargé that they intend on the basis of reciprocity to permit transfers of legacies to Americans in Germany irrespective of the exchange regulations. This act may be interpreted as a beginning of a change in the discriminatory practices of Germany.

I do not believe that the German Government has any intention of changing or is in any position to change these discriminatory practices in any material way as they concern transfers and exchange.

⁴⁶ Dated December 16, 1938.

⁴⁷ No such communication has been found in the Department files. This may have been an oral representation.

I believe that this action of the German Government is due to the remarks which you made to Ambassador Dieckhoff prior to his return to Germany and the fact that he undoubtedly carried home with him also information which he may have gleaned here that measures may be proposed before the next Congress providing a wider base for retaliatory action by this country. The fact that such measures are being studied and will be proposed in the next Congress has been touched on in the Press here and I have reason to know that members of the staff of the German Embassy here have for some time been much concerned over this probability. Your remarks to Dieckhoff prior to his departure must have emphasized to him what he had been getting through various sources.

The real significance of yesterday's *aide-mémoire* lies in its being an expression of the growing exchange problem in Germany. We have information as to the greater pressure of the exchange problem on German industry and economy in recent months. With falling exports and constantly greater need of exchange, the German Government must try to keep open every source of exchange. This transfer of inheritances by Americans from Germany to this country is unimportant as the amount in a year is small in volume. On the other hand, the transfers of inheritances to Germany from this country are appreciable in total volume and they are, of course, being made freely. While we have no accurate figures showing what these transfers of inheritances are, we do know that the volume is considerable. The recent court decision in Philadelphia restraining such a transfer may have accelerated, but I do not believe was the direct cause of the *aide-mémoire* of yesterday.

The present Government in Germany understands only one language and that is the one which it is using—that of force and direct action. The significance of the *aide-mémoire* of yesterday lies, I believe, not in this minor matter of transfers of legacies, but as an indication that the only weapon which can be effectively employed in getting away from these discriminatory practices by Germany in a real measure is the knowledge by her that similar measures can and will be used by us when we consider it expedient to do so.

G[EOERGE] S. M[ESSERSMITH]

362.113/2019a : Telegram

The Acting Secretary of State to the Chargé in Germany (Gilbert)

WASHINGTON, December 28, 1938—8 p. m.

249. In view of German *Aide-Mémoire* of December 20 [16] promising transfer to beneficiaries of all inheritance claims of American

citizens (Radio Bulletin No. 296, December 20), Department is receiving inquiries as to the machinery by which such transfer can be accomplished. Department assumes that no extensive special machinery may be established, and wishes to avoid raising any *a priori* questions as to the execution of the assurance, but desires Embassy and Consuls to follow developments and report them promptly.

WELLES

362.113/2019 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, January 4, 1939—4 p. m.

[Received January 4—1:25 p. m.]

10. Department's 249, December 28, 8 p. m. Before the receipt of this telegram both the Embassy and the Consulate General here had received several letters relative to the means of transferring inheritances from Germany under the *aide-mémoire* of December 20 [16]. In view of these communications and bearing in mind the Department's telegram under reference the following information was obtained in an interview with a competent official of the Foreign Office.

1. The transfer of inheritances to American claimant will be centralized in the "Devisenstelle Berlin beim Oberfinanzamt Präsident Berlin".

2. Both executors and heirs can file requests for inheritances with the office just mentioned.

3. The German *aide-mémoire* speaks of "estates of persons deceased in Germany"; as we have already had one case brought to our attention respecting claims to an estate in Germany which, however, was the estate of a person deceased outside of Germany I inquired whether the *aide-mémoire* covered the transfer in such cases.

It was stated that such inheritances would be transferred if the testator had his "legal residence" in Germany. Inheritances deriving from testators with a legal residence outside of Germany did not fall within the *aide-mémoire* according to the interpretation of the Foreign Office.

4. The Consulate General here will inform Consuls of the foregoing and instruct them in line with Department's 249.

GILBERT

**PROBLEMS ARISING FROM THE ANNEXATION OF AUSTRIA BY
GERMANY⁴⁸**

I. Refusal of Germany To Assume the Obligation of the Austrian Indebtedness

863.51 Relief Credits/362a : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, April 5, 1938—7 p. m.

35. Please deliver the following note to the German Foreign Office.

"In view of the announcement made to the Government of the United States by the Austrian Minister on March 17, 1938,⁴⁹ my Government is under the necessity for all practical purposes of accepting what he says as a fact and accordingly consideration is being given to the adjustments in its own practices and procedure in various regards which will be necessitated by the change of status of Austria.

In this connection I have to notify the German Government that the Government of the United States will look to it for the discharge of the relief indebtedness of the Government of Austria to the Government of the United States under the Debt Agreement signed May 8, 1930,⁵⁰ and the Moratorium Agreement signed September 14, 1932,⁵¹ between the Government of the United States and the Government of Austria.

This debt was incurred by the Government of Austria for value received through the purchase of flour under the authority of the Act of Congress approved March 30, 1920,⁵² which authorized the United States Grain Corporation to sell flour on credit to relieve populations in countries of Europe or countries contiguous thereto, suffering for the want of food. It was first represented by an obligation of the Government of Austria dated September 4, 1920, in the amount of \$24,055,708.92, which with other obligations of a similar tenor issued at the same time in favor of several other governments was by the express terms thereof a first charge on all the assets and revenues of Austria. On June 9, 1923, the Secretary of the Treasury of the United States, under special authority conferred by joint resolution of Congress approved April 6, 1922,⁵³ subordinated the lien of this obligation upon the assets and revenues of Austria to the lien of the Austrian Reconstruction Loan of 1923, which has since been re-

⁴⁸ For other correspondence concerning the annexation of Austria see vol. I, pp. 384 ff.

⁴⁹ The Austrian Minister informed the Department that Austria had ceased to exist as an independent nation and had been incorporated into the German Reich; see instruction No. 27, March 19, 3 p. m., to the Ambassador in Germany, vol. I, p. 456.

⁵⁰ *Annual Report of the Secretary of the Treasury on the State of the Finances for the Fiscal Year Ended June 30, 1930* (Washington, Government Printing Office, 1931), p. 316.

⁵¹ *Annual Report of the Secretary of the Treasury . . . 1932*, p. 307.

⁵² 41 Stat. 548.

⁵³ 42 Stat. 491.

deemed, and of the so-called Czechoslovakian Conversion Loan, upon certain revenues of the Government of Austria. On July 2, 1930, the Secretary of the Treasury, under special authority of an Act of Congress approved February 4, 1929,⁵⁴ subordinated the lien of the Austrian relief bonds held by the United States to the lien of the Austrian Government International Loan of 1930.⁵⁵ Except as thus subordinated to prior liens pursuant to the Acts of Congress of April 6, 1922 and February 4, 1929, the Austrian relief obligations held by the United States are expressly secured by a first lien on all the assets and revenues of Austria.

In addition to the sums owed this Government from the Austrian Government, consideration is required for the various dollar obligations of Austrian borrowers which are in private hands. The Austrian Government itself borrowed in the American market in 1930, the issue being part of the Austrian Government International Loan of 1930 and being secured by a first charge upon the gross receipts of the Austrian Customs and Tobacco Monopoly, subject at the present time only to the charge on these revenues in respect of the Czechoslovakian Conversion Loan. Furthermore, substantial amounts of bonds publicly issued in the American market by several Austrian political subdivisions and corporations, payable in dollars, are owned by citizens and residents of the United States.

On these dollar bonds in private hands, the Austrian Government and the other Austrian debtors have been making regular payments pursuant to the terms of the obligations. This Government will expect that these obligations will continue to be fully recognized and that service will be continued by the German authorities which have succeeded in control of the means and machinery of payment in Austria. The welfare of numerous American citizens is directly affected and this Government will appreciate prompt assurances on the subject."

We plan to give text to the press at 1 p. m. Washington time April 6th.

Please repeat to Vienna for information.

HULL

863.51 Relief Credits/362b : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, May 7, 1938—3 p. m.

62. Department's 35, April 5, 7 p. m. What is pertinence of Berlin press despatches of May 3 reporting German decree prohibiting the transfer of service moneys respecting all Austrian loans?

HULL

⁵⁴ 45 Stat. 1149.

⁵⁵ See *Foreign Relations*, 1930, vol. I, pp. 391 ff.

863.51 Relief Credits/388 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, May 10, 1938—11 a. m.
[Received May 10—8:45 a. m.]

234. Department's 62, May 7, 3 p. m. Press reports mentioned were based on *Frankfurter Zeitung* article stating that certain German laws respecting capital transfer would be applied to Austria.

Text of German decree of April 29 effective April 30 now available. It provides that the following German laws will be applied *mutatis mutandis* in Austria.

1. Law of June 9, 1933 governing payment obligations abroad as amended by decree of February 23, 1935 (the latter introduces foreign exchange control and payment restrictions into the Saar).

2. Law of May 27, 1937 regulating capital repayments owed abroad and decree of October 11, 1937 based on this law.

3. Law of June 26, 1936 governing foreign currency bonds.

4. Decree of December 5, 1936 governing debts in foreign currencies.

All of foregoing have been subject of reports from Berlin.

WILSON

863.51 Relief Credits/391 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, May 14, 1938—2 p. m.

69. J. P. Morgan and Company have informed the Department that a meeting of the Committee of Control of the Guarantor States to be held at Geneva on May 17, will discuss the Austrian loan situation. Morgan states that the ranking of loans on the pledged revenues of Austria is as follows (and this judgment seems to the Department correct) :—

First charge: Czechoslovakian conversion loan II of which the equivalent of less than \$2,200,000 was outstanding on June 30, 1937; and the dollar *tranche* of the 1923 loan, so far as bonds of that loan have not been presented for redemption from funds in trustees' hands, pending settlement of gold clause dispute.

Second charge: 1930 loan.

Third charge: relief bonds.

Fourth charge: the guaranteed loan of 1933-1953, guaranteed loan of 1934-1959, *pari passu*.

Please point out to the German Government before Committee meeting of May 17 the prior standing of the unguaranteed loans and

emphasize that this priority should be observed in payment, and without discrimination between the payments made to nationals of different countries. Please take the matter up in this sense to insure that German authorities understand the priority situation of loans not represented on Guarantor Committee.

HULL

863.51 Relief Credits/393 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, May 16, 1938—7 p. m.
[Received May 16—4:35 p. m.]

248. The substance of the Department's telegraphic instruction No. 69, May 14, 2 p. m. was communicated by a member of the Embassy staff today to Ministerial Director Wiehl, head of the Commercial Policy Division of the Foreign Office, who said that the Foreign Office was unaware of the meeting of the Committee of Control of the Guarantor States at Geneva on May 17 but would give due examination and consideration to the question of the priority standing of the unguaranteed loans of the Austrian Government.

To an inquiry as to when a decision might be expected in the matter of debts owed by Austria to foreigners he replied that an *aide-mémoire* was handed to the Financial Attaché of the British Embassy several days ago in which the German Government denied legal liability for Austrian debts but stated its willingness to discuss the matter in the trade and payment negotiations with Great Britain beginning May 24. He stated that reply had been first made to Great Britain because that country was the principal creditor of Austria. He said further that he understood that in response to an inquiry in the House of Commons the text of the German *aide-mémoire* was to be made public today and would probably appear in this evening's London papers. He thereupon handed the Embassy's representative a copy of the *aide-mémoire* in question which in translation reads as follows:

"The German Government following a careful examination of the pertinent precedents and principle of international law is not of the opinion that there is a legal obligation upon it to assume the foreign debts of the former Austrian Federal Government. It does, therefore, not regard itself as being in a position to give the desired assurances that the interest and amortization payments on these debts should continue to be paid. It repeats, however, its willingness also to take up the problem of Austrian foreign indebtedness in the negotiations with the British Government beginning on May 24."

Wiehl said that the second sentence in the foregoing *aide-mémoire* referred to an oral request from the British Financial Attaché that

interest and amortization payments on British owned Austrian bonds be continued at the contractual rate at least until the end of the negotiations beginning May 24. Wiehl further said that while the German Government had taken the stand that it was not obligated under international law to assume the foreign indebtedness of the Austrian Government it had as yet taken no position on the question whether the indebtedness of the former central Government of Austria was now a debt of the Austrian Province of the German Reich.

GILBERT

863.51 Relief Credits/397 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, May 28, 1938—11 a. m.

80. Your 252, May 18, 5 p. m.⁵⁶ Morgan and Company, who are making every effort to obtain full service of the 1930 Loan on an international basis, have been told from Bank of England quarters that the German Government is most unwilling to recognize Austrian Government loans at all and may only be forced to do so under threat of clearing, although the British continue to make every effort to secure international solution.

Morgan's has telegraphed Schacht,⁵⁷ and while basing their main presentation on the merits of the 1930 Loan, have added that "so far as we can secure the information from presentation of coupons, it would appear that in American hands there are left outstanding an amount equivalent to only about \$10,000,000." Our Department of Commerce specialists in international accounts had estimated from all available information that there might be little more than \$3,000,000 of 1930 bonds now owned in the United States.

Have you any information regarding developments with respect to obtaining non-discriminatory international solution for 1930 bonds?

HULL

863.51 Relief Credits/412 : Telegram (part air)

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, May 28, 1938—4 p. m.

[Received May 30—9:50 a. m.]

278. Department's 69, May 14, 2 p. m.; Embassy's despatch 157 of May 19, 1938.⁵⁸ Although the British delegation to discuss the modi-

⁵⁶ Not printed.

⁵⁷ Hjalmar Schacht, Director of Reichsbank and Minister without Portfolio.

⁵⁸ Latter not printed.

fiction of British trade, debt and payments arrangements with Germany to include Austrian trade and debts has been here several days, discussions on the Austrian debts have not yet occurred. It is learned that Leith-Ross in his double capacity of Chairman of the British Trade Delegation and Chairman of the Committee of Control of the Guarantor States of the Austrian Loans repeated on his arrival here the British position that the Austrian guaranteed loans should be the subject of joint international negotiations with the Guarantor States. The Germans expressed surprise at repetition of this request in view of the German Government's previous statement to the British that it did not consider the Austrian loans an obligation of Germany, would not consent to their being the subject of joint international discussions, but would discuss the matter of the British *tranche* of these loans in the present bilateral negotiations with the British delegation. The Germans did not definitely refuse again however to consider joint negotiations but said that they would give an answer on the point shortly which is expected will be forthcoming on May 30. The British delegation believes it will be a second refusal to accept joint negotiations coupled with an offer to discuss the British *tranche* of these loans in connection with the present trade negotiations.

The Financial Attaché of the British Embassy said that Morgan Grenfell⁵⁹ had communicated to the Belgian [*German?*] Government its understanding of the ranking of the various loans on the pledged revenues of Austria. He said that the Germans in conversations although not in an official note still maintained that the Reich had no responsibility for the Austrian loans citing the precedent that the mandate powers did not accept the debts of the former German colonies and asserting that the guaranteed loans to Austria were political in nature designed to "bolster up" Austria and prevent its union with Germany.

WILSON

863.51 Relief Credits/413 : Telegram (part air)

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, May 31, 1938—6 p. m.

[Received June 1—9 a. m.]

281. Department's 80, May 28, 11 a. m. Leith-Ross, Chairman of the British Trade Delegation here, informed a member of the Embassy staff today that, as he had feared, the German Government in a formal note addressed to him, as President of the Committee of the Guarantor States of the Austrian Loans, refused to recognize any

⁵⁹ Morgan Grenfell & Co., Ltd.

legal obligation to assume Austrian foreign indebtedness or to enter into joint international negotiations concerning it. The text of the German note is being sent in a separate telegram. The note is in reply, Leith-Ross explained, to a communication of the Committee of Guarantor States proposing that upon the recognition by Germany of its responsibility for the guaranteed loans the Guarantor States would agree to elimination of the so called "political clauses" and provisions respecting supervision of Austrian finances.

Leith-Ross said that he thought the German refusal was final and that there was no option but for the individual states to make the best terms they could for their own bond holders. He said that he had pointed out to the Germans that by agreeing to joint negotiations German credit would be enhanced and that the net cost to Germany would have been only slightly greater, say the difference between 95 and 100%, since the principal creditors of the guaranteed loans by reason of their strong trade position vis-à-vis Germany are in a position to enforce their claims by blocking trade payments to that country. Leith-Ross said that not only did the Germans refuse to accept liability in principle for the loans or to engage in joint international negotiations concerning them but had given no indications that they were prepared to make any reasonable settlement with the British holders in connection with the present trade negotiations. He said that in informal conferences Germans had thrown out the idea that if substantial cuts were made in the interest rates of the Dawes and Young plans' loans,⁶⁰ that Germany might consent to pay something of the Austrian indebtedness. He said the whole tone of the negotiations were very discouraging, that they are really being conducted by Goering⁶¹ and that Goering apparently held the idea that it would be immoral to assume any responsibility for the foreign loans to Austria. He said that it was obvious that Brinkmann,⁶² who is negotiating for the Germans, had little to say in the matter and was in effect Goering's messenger boy. Leith-Ross said that he regretted the absence of Schacht in these negotiations because while the latter was a difficult man to negotiate with, he did have a conception of the value to Germany of endeavoring to maintain its credit and an understanding of where Germany's real economic interests lay. He said he was greatly disappointed that Italy had retired from the Committee of the Guarantor States and added he had been unable to find out whether Italy had reached a private understanding in the matter with the Reich, remarking that, in any case the Austrian debt to Italy was a small matter.

⁶⁰ See *Foreign Relations*, 1924, vol. II, pp. 1 ff., and *ibid.*, 1929, vol. II, pp. 1025 ff.

⁶¹ Hermann Göring, Reich Minister for Aviation, and President of the Reichstag.

⁶² Rudolf Brinkmann, State Secretary, German Ministry of National Economy.

Leith-Ross also indicated that Germany had not shown a disposition to meet the trade concessions sought by the British, namely, an increase in the present percentage of 55 of the proceeds of German exports to Great Britain which must be set aside for payment of imports from the latter country and an increase in German imports of wholly manufactured British goods.

As a result he said, Great Britain would probably denounce the present payment agreement with Germany giving her the required one month's notice and threaten to block payments to Germany in order to enforce its desiderata as regards trade and debts. While he did not so state, the Embassy learned from other sources that the British Trade Delegation has definitely recommended the denunciation of the payments agreement and the breaking off of the trade agreements and a decision from the British Government is expected possibly today, June 1.

A member of the Embassy staff later spoke with the Commercial Counselor of the Italian Embassy who said that Italy had had no discussions regarding the long term debt of the Austrian Government to Italy for the debt no longer existed. The Italians had since 1935 bought up all of the bonds of the Italian *tranche* of the Austrian guaranteed loans and had used them to extinguish Italy's trade debt to Austria.

The Italian Government had, however, asked the German Government to assume responsibility for the Austrian guarantee debt since Italy was still liable as one of the guarantor states for the repayment of this loan in case of default. The Counselor said that at first the German Government had refused to accept liability for these loans but later asked Italy to wait until the Reich had completed its negotiations on the subject with the other Guarantor States which are the principal creditors indicating that the question of repayment of these loans would be solved in these negotiations. Italy agreed to wait.

Copy to London.

WILSON

863.51 Relief Credits/414: Telegram (part air)

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, May 31, 1938—7 p. m.
[Received June 1—9:05 a. m.]

282. Embassy's 281, May 31, 6 p. m. Following is the pertinent portion in translation of the German note to the Committee of Guarantor States of the Austrian loans:

"Sir Frederick Leith-Ross, President of the Committee of Guarantor States of the Austrian Loans.

The German Embassy at Rome has forwarded to the Ministry of Foreign Affairs your letter of the 19th May, together with the enclosed proposal of the 19th May and the draft of an agreement.

In reply, I have the honor to inform you that the German Government, having regard to former precedents of international law and to the principles applied therein, are not of opinion that they are under a legal obligation to take over the external debts of the former Austrian Federal Government. Moreover, they are unable to share the view that the abovementioned loans contributed to the financial reconstruction of the former Austrian Republic, inasmuch as the economic and financial relations under the regime of international financial assistance did not succeed in restoring Austria to a sound condition. For these reasons the German Government think it unnecessary to go further into the details of the proposal of the Committee of the Guarantor States which you forwarded to them."

WILSON

863.51 Relief Credits/413 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, June 7, 1938—5 p. m.

88. Your 281, May 31, 6 p. m., 282, May 31, 7 p. m., and 284, June 1, 10 p. m.⁶³ The Department is informed by the Foreign Bondholders Protective Council that the June 1, 1938 monthly service installment on the Austrian Government International Loan 1930 has not been paid. Although no reply has been received to your note of April 6⁶⁴ notifying the German Government that the Government of the United States will look to the German Government for the discharge of the relief indebtedness of the Government of Austria to the Government of the United States, and pointing out that the lien of this relief indebtedness upon the assets and revenues of Austria has been subordinated by the United States to the lien of the Austrian Government International Loan 1930 upon the same assets and revenues, the Department has learned from your reports that the German Government has taken the position that having regard to former precedents of international law and to the principles applied therein, the German Government is not under a legal obligation to take over the external debts of the Austrian Federal Government.

The Government of the United States does not wish to omit, on the occasion of the failure of the German Government to make the contractual monthly payment due June 1 on the Austrian Loan of 1930, in spite of the express charge which it enjoys on the assets and revenues of Austria taken over by the German Government, to state

⁶³ Telegram No. 284 not printed.

⁶⁴ See telegram No. 35, April 5, 7 p. m., to the Ambassador in Germany, p. 483.

its dissent from the indicated position of the German Government as to its legal responsibilities in the premises, and to express the hope that Germany may yet undertake the payments incumbent on it both under international law and under equity.

It is believed that the weight of authority clearly supports the general doctrine of international law founded upon obvious principles of justice that in case of absorption of a state, the substituted sovereignty assumes the debts and obligations of the absorbed state, and takes the burdens with the benefits. A few exceptions to this general proposition have sometimes been asserted, but these exceptions appear to find no application to the circumstances of the instant case. Both the 1930 loan and the relief loans were made in time of peace, for constructive works and the relief of human suffering. There appears no reason why American creditors of Austria should be placed in any worse position by reason of the absorption of Austria by Germany than they would have been in had such absorption not taken place. The United States Government therefore, while recognizing that the German Government is at present engaged in negotiations with numerous governments covering this and related questions, regrets that the service of the loan, affecting many American holders, should have been interrupted, reasserts its own position, and requests that as early reply as possible may be made by the German Government.

Please address a communication in the foregoing sense to the German Government.⁶⁵

HULL

862.51/4618 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, July 12, 1938—1 p. m.

113. Your 341.⁶⁶ I wish you to carry your effort to secure a reply to our communication regarding Austrian debts personally to the highest officials concerned with the matter and with firmness to seek to get some satisfactory recognition of the right of this country to receive fair and non-discriminatory treatment.

For your guidance there follows a summary of presentation made by me on July 7 to the German Ambassador as part of a general conversation about the other elements of which you will receive a memorandum in due course:

[Here follows substance of the third paragraph of the memorandum of July 7, by the Secretary of State, printed on page 441.]

HULL

⁶⁵ For text of note as delivered June 9, 1938, see Department of State, *Press Releases*, June 18, 1938, p. 694.

⁶⁶ July 8, 4 p. m., not printed.

863.51 Relief Credits/468 : Telegram (part air)

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, July 15, 1938—3 p. m.

[Received July 16—7:44 a. m.]

348. Your telegram No. 113, July 12. Ribbentrop⁶⁷ is absent on leave, I therefore took up the matter of the Austrian loans with Weizsäcker⁶⁸ in the first instance. I am endeavoring to arrange to discuss the matter with the Minister of Economics and possibly with others subsequently.

I presented the claims vigorously and fully in accordance with your conversation with Dieckhoff⁶⁹ including the pressure on you for retaliatory measures. Weizsäcker took careful notes. I closed by urging him not to allow this matter to poison further the relations between our two countries and to that end to occupy himself with seeing that we got a prompt and favorable reply to our note of April 6.

Weizsäcker said that on a matter of this kind I would not expect him to make an immediate answer, that he would of course study the matter. In the meantime he mentioned precedents for German action and political complexion of loans. Both of these arguments I believe I destroyed as far as any application to the United States was concerned. He closed the subject by stating that he understood my argument that he naturally now could not give his agreement to it but that the whole matter would be examined in the light of our mutual desire to eliminate those matters which jeopardize the relationships of the two countries.

WILSON

863.51 Relief Credits/479 : Telegram

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, August 5, 1938—5 p. m.

[Received August 5—2 p. m.]

377. Department's 130, August 4, 2 p. m.⁷⁰ Heath⁷¹ today inquired of Wiehl of the Commercial Policy Division of the Foreign Office whether, in view of the agreements with Great Britain and France for the payment of their nationals holdings of Austrian bonds, it was not possible for the German Government to reply to the Embassy's notes of April 6 and June 9 concerning the American holdings.

⁶⁷ Joachim von Ribbentrop, German Minister for Foreign Affairs.

⁶⁸ Baron von Weizsäcker, State Secretary in the German Foreign Office.

⁶⁹ Hans Heinrich Dieckhoff, German Ambassador in the United States.

⁷⁰ Not printed.

⁷¹ Donald R. Heath, First Secretary of Embassy in Germany.

Wiehl indicated that it was the intention of the German Government to take up the matter of the American holdings of Austrian issues after finishing negotiating with Great Britain, France, the Netherlands and Switzerland in the matter. He said he thought that negotiations with Switzerland, which have already begun and those with the Netherlands would be completed by the end of August. He would not say definitely, however, that a reply would be given at that time but obviously sought to convey the impression that better terms for the United States would be [possible?] after completion of negotiations with the other countries mentioned.

The Embassy is making arrangements to see Brinkmann of the Economics Ministry from whom it is hoped more definite information may be obtained.

Please repeat appropriate portions to Treasury from Heath.

GILBERT

863.51 Relief Credits/487a : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, October 18, 1938—5 p. m.

182. Please deliver the following communication in a note to the German Government: ⁷²

The failure of the German Government to reply to my notes of April 6 and June 9 regarding the cessation of service upon Austrian dollar bonds still comes persistently to the front in the United States as a disregard of just rights of the bondholders and an inequitable consideration of an American interest. During the 6 months that have elapsed my Government has entertained the hope that the German Government would be considerate of the welfare of the numerous American citizens directly affected and resume service on these debts. This hope has been increased by the fact that the German Government is currently making payments on the service of similar Austrian obligations in the hands of British, French, and other nationalities. Its disappointment at the continued neglect of the German Government is therefore all the greater.

My Government takes this occasion to call attention to the fact that it permits payments of every variety to be made from its territories to residents of Germany without hindrance or impediment, including payments on obligations held by German citizens. It also believes itself to be correct in stating its knowledge that various German dollar bonds selling in the American market at extremely low prices because of lack of payment continue to be repatriated by Germany, exchange being made available for that purpose. The German Government

⁷² Note was addressed to the German Foreign Office on October 19.

must recognize that a continuation of this situation is certain to intensify a feeling of injustice and discrimination.

My Government hopes that the German Government will not further delay informing American investors of its intentions in regard to these issues.

HULL

863.51 Relief Credits/497 : Telegram (part air)

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, November 18, 1938—11 a. m.

[Received November 19—7 a. m.]

634. Department's 182, October 18, 5 p. m. The following note dated November 17, 1938 (translation by this office) was received from the Foreign Office in reply the note and reminder communications which the Embassy was instructed to deliver with respect to Austrian dollar bonds in the Department's telegraphic instruction No. 35, April 5, 7 p. m.

"In reply to your communication No. 216 of 1938 relative to service on the Austrian dollar loans, I have the honor to inform Your Excellency as follows:

Replying to your note No. 37 of April 6, 1938, I had promised you in my letter of April 23, 1938—WIIISE2787—that I would revert to the matter as soon as the discussions with the internal authorities were brought to a close. In the meantime, the Embassy has been informed several times orally of the German opinion respecting the Austrian Government debts. When the *aide-mémoire* May 16, 1938⁷³ was submitted Ministerial Direktor Wiehl informed Secretary of Embassy Heath of the declaration which the German Government gave the English Government on May 12, 1938. In accordance with this declaration the German Government after a careful study of the pertinent procedures and principles based on international law, was not of the opinion that it was under any legal obligation to assume the foreign debts of the former Austrian Federal Government; for that reason it was not in a position to give the desired assurances that interest and amortization installments on these debts would continue to be paid; however, it repeated its willingness to include the problem of the Austrian foreign debts in the coming negotiations with the Royal British Government.

In a conversation on July 15, 1938, which dealt with the contents of your note of June 9, 1938—No. 103—you were told, Mr. Ambassador, by State Secretary Freiherr von Weizsaecker that the German Government, supported by historical procedures, took a generally negative stand with regard to the debts of the Austrian Government, since they

⁷³ For substance of *aide-mémoire*, see telegram No. 69, May 14, 2 p. m., to the Ambassador in Germany, p. 485.

were brought about in order to support the incompetent Austrian State artificially created by the Paris Treaties.

Later on the question was again the subject of conversations between you, Mr. Ambassador, and Reich Minister of Economics Funk and State Secretary Brinkmann, and again between Mr. Wiehl and Mr. Heath on August 5, 1938. During this conversation Mr. Heath was informed that the German Government would await the outcome of the negotiations with the main creditor countries before replying to your notes. At that time the negotiations with England and France had been concluded, while those with Holland and Switzerland were expected. In the meantime, a conclusion has been arrived at with Holland also; the negotiations with Switzerland are, however, still pending.

In view of these several oral statements, I must decidedly protest against the fact that in your communication of October 19,⁷⁴ the circumstance that your two previous notes had not yet received any written reply should be termed a disregard of the just rights of the American bondholders, an inequitable consideration of an American interest and a continued neglect. On the contrary, the German Government has been seeking a way which would make it possible for it, in spite of its fundamental rejection of any legal obligation, to give consideration to the American creditors of certain Austrian Government debts in a similar manner as that meanwhile arranged for various other creditors. It has not been possible, however, to find such a way as yet, for the following reasons:

Your communication of October 29 [19] refers to the payments which the creditors [of] certain Austrian Government loans in England, France and several other countries receive on the basis of agreements concluded meanwhile with these countries. These agreements, however, were only possible because of the fact that trade with all these countries results in a considerable export surplus for Germany from which foreign exchange for these payments can be drawn and because special provisions could be agreed upon which guaranteed that the trade surplus would always permit the withdrawal of such foreign exchange. On account of the extremely passive condition of German trade with the United States, which already requires an outlay of considerable amounts of foreign exchange to pay for German imports from the United States, a similar treaty adjustment for payments to American creditors can naturally not be made.

The German Government has made investigations as to whether it might not be possible to make some other adjustment in favor of the American creditors. So far the investigations have not led to any solution; but they are being continued. The German Government would welcome it if the American Government would also undertake similar investigations, and in such a case it would be prepared to enter into negotiations with the American Government also regarding a solution acceptable to both parties.

Accept, Mr. Ambassador, the renewed assurances of my highest consideration. Woermann."

GILBERT

⁷⁴ See *supra*.

863.51 Relief Credits/497 : Telegram

The Secretary of State to the Chargé in Germany (Gilbert)

WASHINGTON, November 23, 1938—6 p. m.

209. Your 634, November 18, 11 a. m. Please address the following note to the German Minister for Foreign Affairs:

"I am instructed by my Government to make the following reply to Your Excellency's note of November 17 which was itself a reply to the American Ambassador's note of April 6 notifying the German Government that the Government of the United States will look to it for the discharge of the relief indebtedness of the Government of Austria to the Government of the United States, and setting forth the expectation of the Government of the United States that dollar bonds of the Austrian Government and other Austrian debtors in American hands would be fully recognized and their service continued by the German authorities.

"In my note of June 9, my Government took cognizance of the reported position of the German Government that it is not under a legal obligation to take over the external debts of the Austrian Federal Government, and stated its dissent from the position of the German Government as to legal responsibilities of the latter in the premises. My Government hereby for all legal effects and having particular regard to its status as creditor in respect of the relief indebtedness of the Government of Austria, reaffirms its position as to the responsibility of the German Government for the payment of the indebtedness of the Government of Austria, and its intention to look to the German Government for payment thereof. This inter-governmental indebtedness, incurred to obtain food for the Austrian people at a time of distress and lack of means or ordinary credit for the most necessary payments, and specifically secured on assets and revenues of Austria, has not disappeared or been annulled by the fact of the taking over of these assets and revenues by the German Government.

"With respect to other funded indebtedness of the Austrian Government, note is taken of the statement in the communication under acknowledgment that the German Government has concluded negotiations with England, France, and Holland, under which the creditors of certain Austrian Government loans receive payments, and that the German Government has been seeking a way which would make it possible for it, in spite of its fundamental rejection of any legal obligation, to give consideration to the American creditors in a similar manner but that in view of the dissimilarity of the German balance of trade with the United States and with the other countries named, a similar adjustment for payments to American creditors can naturally not be made. The United States Government has also observed the offer of the German Minister of Finance published in the *Deutscher Reichsanzeiger und Preussischer Staatsanzeiger*, No. 249, October 25, 1938, which refers to an extensive list of bonds of the Austrian Government and after stating that the capital and interest service of these bonds is suspended after October 2, 1938, offers to indemnify holders by exchanging 4½% bonds of the German Government, payable in Reichsmarks, for the Austrian Government bonds, at specified rates,

e. g., 262 Reichsmarks par value of the German Government issue for each \$100 par value of bonds of the American *tranche* of the Austrian Government loan of 1930. In so far as concerns bonds of this issue, which is the only issue now outstanding floated (in part) in the United States and payable in dollars, it appears that this offer of indemnification is open to holders irrespective of their nationality or residence provided that they deliver the Austrian Government bonds to a German credit institution before January 31, 1939, under cover of a form letter obtainable from the credit institution.

"It appears therefore that with respect to bonds of the Austrian Government which are held by citizens or residents of the United States, the German Government while disclaiming legal responsibility is prepared to make *de facto* provision for payment as a charge on the German Government, and that it has caused the suspension of capital and interest payments by the agencies charged therewith prior to October 2, 1938. This confirmation of the position that holders of the bonds of the Austrian Federal Government must look to the German Government for the discharge of these obligations might reduce the question of legal responsibility to an academic question were adequate provision, acceptable to the bondholders, made for the payment of the obligations. Unfortunately, under the foreign exchange laws and practices of the Reich, the Reichsmark securities of the German Government tendered by the offer of October 24, 1938, as the terms of the offer are interpreted by my Government from the published text, could be accepted by residents of the United States only at the cost of a prohibitive sacrifice of the market value and income yield of securities they hold, while the German Government states in its note under acknowledgment that it has not been able to find an adjustment providing for payments in the United States comparable to the provisions made for other foreign holders of Austrian bonds.

"Your Excellency's note does not specifically mention the treatment of dollar bonds of Austrian political subdivisions and corporations. It is presumed that under the German laws extended to Austrian territory the respective debtors continue to pay the reichsmark equivalent of contractual interest and amortization payments into the *Konversionskasse*, but it is not known whether any provision whatever has been made with respect to the rights of individual American holders of the obligations, and my Government has been unable to answer inquiries of this sort. Holders of these securities, as well as holders of the Austrian Government Loan of 1930, had been receiving full interest service in dollars up to the time of the absorption of Austria into the German Reich.

"My Government notes Your Excellency's statement that the German Government is continuing its investigations as to whether it might not be possible to make in favor of the American creditors some adjustment of a different type from those made with other countries. It sincerely hopes that these studies may produce in the near future a positive result so that the American holders of Austrian securities will not long remain the only important group of holders of Austrian bonds for which no provision for payment has been made.

"In connection with this matter I am instructed to suggest that the German authorities charged with the study of the foreign indebtedness of Germany must by this time be well informed as to the amounts of

Austrian dollar obligations now owned by holders in German territory. The estimates available to the United States Government indicate that the subtraction of such amounts and of the amounts held in other countries with which Germany has payments agreements would show that the transfer of bond service to American holders would not be a large or difficult problem. It would cost little for the German Government to provide payments for the bonds of the Austrian Government actually outstanding in American hands such as it already provides for its own dollar bonds in the United States.

"My Government has frequently stated its position with reference to the negotiation of adjustments of defaulted foreign bonds. It is not its practice in such situations to conduct adjustment negotiations with foreign debtors for American bondholders or other private creditors. It uses its good offices when it appropriately can to promote and facilitate such negotiations between the creditors and the debtors. It most seriously protests and objects to acts or policies of foreign governments which discriminate against American creditors and give other foreign creditors more favorable treatment than Americans.

"My Government has received numerous complaints from its citizens who have suffered through the sudden interruption of service of Austrian bonds, and the ensuing uncertainty and absence of any recourse either for information or payment. It hopes that the matter has now so far developed that the German Government will feel that it need no longer postpone effective attention to their legal and equitable claims."

Telegraph any formal charges [*changes?*] you deem it necessary to make and any changes made in note of October 19 from Department's 182, October 18, 6 p. m. Department is planning to publish these with German note of November 17.⁷⁵

HULL

863.51 Relief Credits/508 : Telegram (part air)

The Chargé in Germany (Gilbert) to the Secretary of State

BERLIN, December 9, 1938—11 a. m.
[Received December 10—8:50 a. m.]

706. Wiehl, Director of the Commercial Policy Section of the Foreign Office, asked me to call on him today and discussed the matter of Austrian loans in the following terms. He said that at the time of the despatch of the German note of November 17 he had intended to make certain oral observations to the Embassy which could not well be included in the note itself but he had been prevented from doing this at the time on account of absence from Berlin. He stated that the unexpectedly prompt American reply had perhaps lessened the usefulness of what he had intended to say but that in any event he would now tell me what had been on his mind.

⁷⁵ See Department of State, *Press Releases*, December 3, 1938, pp. 375-379 for texts of notes, which are substantially the same as telegrams printed.

Respecting the guaranteed Austrian loans of 1933 and 1934 he said that although each was guaranteed in a different way Germany had made agreements for interest and amortization with Great Britain, France and the Netherlands and also had come to certain arrangements with Sweden and Denmark.

These arrangements included adjustments both of a financial and a commercial nature which he would not discuss in detail as they have for the most part now been published. The arrangement which is being negotiated with Switzerland was taking a somewhat different form and was related to the question of Rhine navigation expenditures. While Germany could not recognize any legal responsibility for Austrian loans it was, as its negotiations concerning various loans with other states had indicated, ready to enter upon negotiations to effect if possible a mutually satisfactory settlement with any state.

He said that the purpose of the German note of November 17 was to indicate this attitude to the American Government and to say in effect that Germany while it had been giving the matter careful consideration had arrived as yet at no definite proposals which it felt might be acceptable to the United States and was also in effect intending to invite suggestions or proposals from the American Government. He added that such proposals might be of a commercial or financial character. As to financial he made reference to the Dawes and Young loans for which a precedent with Great Britain for example existed.

He then said that in view of the attitude of the German Government as expressed in the note of November 17 and as he had just presented it he was somewhat dismayed that the United States without notifying the German Government had published the note in question as well as the reply thereto. He continued by saying that this publication which popularly brought these notes into association with other difficulties between the two countries had evoked popular feeling in the United States against the German position in the matter of Austrian loans. He stated that this occurrence might render more difficult continued negotiations on this subject which he had intended to keep alive. He said that he had hoped to keep the Austrian loan question on a technical basis entirely separated from political issues and thus to work quietly toward its possible solution.

He said that the results of publication of the notes seemed to shut the door on further negotiations [for] which if such were the case he could only express his deepest regret.

I said to Wiehl that the American position respecting Austrian loans had been so fully and so frequently placed before the Foreign Office that I would not at this time repeat to him our point of view but that I had listened with interest to what he had said and would convey his views to Washington.

863.51 Relief Credits/512

The Acting Secretary of State to the German Chargé (Thomsen)

WASHINGTON, December 23, 1938.

SIR: I am requested by the Secretary of the Treasury to transmit to you the attached statement showing the amounts due on January 1, 1936 to January 1, 1938, inclusive, and on January 1, 1939, payable by the Government of Germany on account of the indebtedness of Austria under the terms of the Debt Agreement of May 8, 1930 and the Moratorium Agreement of September 14, 1932, between the Federal Government of Austria and the Government of the United States.

In this connection reference is made to the notification delivered by the American Ambassador at Berlin to the German Foreign Minister on April 6, 1938, that the Government of the United States will look to the Government of Germany to discharge the relief indebtedness of the Government of Austria to the Government of the United States, and to the subsequent correspondence between the two Governments relating to the matter.

Accept [etc.]

SUMNER WELLES

[Enclosure]

Statement of the Amounts Payable by the Government of Germany in Respect of Austrian Indebtedness, Maturing January 1, 1936 to 1938, Inclusive, and January 1, 1939

FUNDING AGREEMENT

| | <i>Principal</i> | <i>Interest</i> | <i>Annuity under Moratorium Agreement</i> |
|----------------------------------|------------------|-----------------|---|
| Amount due January 1, 1936 . . . | \$460,093.00 | | \$34,767.23 |
| Amount due January 1, 1937 . . . | 460,093.00 | | 34,767.23 |
| Amount due January 1, 1938 . . . | 460,093.00 | | 34,767.23 |
| Total | 1,380,279.00 | | 104,301.69 |

Amount due January 1, 1939:

| | |
|---|--------------|
| Principal of bond No. 11, dated January 1, 1928, due January 1, 1939, under agreement of May 8, 1930, between the United States and Austria | \$460,093.00 |
| Sixth annual annuity due January 1, 1939, under moratorium agreement of September 14, 1932, between the United States and Austria | 34,767.23 |
| Amount due | \$494,860.23 |

863.51 Relief Credits/512 : Telegram

The Acting Secretary of State to the Chargé in Germany (Gilbert)

WASHINGTON, December 29, 1938—9 p. m.

250. On December 23 the Department, by request of the Secretary of the Treasury, transmitted to the German Embassy a statement of the amounts due and payable by the Government of Germany on account of the indebtedness of Austria. No publicity has been given to this, which is the customary routine before debt instalment due dates.

Your 706, December 9, 11 a. m. The Department desires and intends to respect the right of every government to withhold the texts of its diplomatic communications from publication and would not knowingly disregard the wishes of the German Government in this respect. The notes published November 26 contained information which the American Government and public had been endeavoring for nearly 8 months to obtain, and which was of especial urgency because of inquiries from American bankers, fiscal agents and others feeling responsibility for informing bondholders regarding the German offer of October 24, the possible American bearing of which came to the attention of the American financial community (and of the Department) only about November 15 when mail advices were received from Europe. The Embassy, which was informed by the Department's telegram of November 23 of contemplated publication, may judge how far to go in explanation to Wiehl.

The Department does not perceive that the fact of publication need cause any difficulty to the German authorities in their consideration of the American reply and their action on its suggestion that the German Government proceed to negotiate with bondholders' representatives.

WELLES

II. Representations by the German Government Regarding the Removal of Austria From the List of States Enjoying Tariff Concessions on the Basis of Trade Agreements Act ⁷⁰

611.6331/165

The German Embassy to the Department of State

[Translation]

By direction of his Government, the German Ambassador has the honor to advise His Excellency the Secretary of State of the following:

⁷⁰ For previous correspondence respecting trade relations between the United States and Austria, see *Foreign Relations*, 1936, vol. II, pp. 4 ff. For text of Trade Agreements Act of June 12, 1934, see 48 Stat. 943; for text of Joint Resolution approved March 1, 1937, extending the Act, see 50 Stat. 24.

On April 7, 1938, the text of a letter from the President of the United States to the Secretary of the Treasury, of April 6th,⁷⁷ was published in the American newspapers, in which letter the President instructed the Secretary of the Treasury to remove the word "Austria" from Section 2 of his letter of March 15, 1938,⁷⁸ regarding the application of the tariff concessions in the trade agreement concluded with Czechoslovakia; ⁷⁹ in other words, to remove, effective May 6, 1938, Austria from the list of those states which enjoy tariff concessions on the basis of the Trade Agreement Act of June 12, 1934.

Despite reunion with the Reich, Austria has remained for the present an independent tariff area, at the border of which tariffs are collected according to Austrian laws and treaties. Even for imports from Germany, the tariff line has been maintained for the time being. In this state of affairs, according to Article 2 of the Law on the Reunion, all Austrian treaties with third states concerning trade and payments actually continue to be applied, on the presupposition of reciprocity.

Under these circumstances, the German Government therefore considers itself justified in expecting that upon importation into the United States of America, Austrian goods will continue to be granted the tariff concessions on the basis of the "Trade Agreement Act". The United States Government will be notified in due time by the German Government of the time at which the German tariff and exchange regulations will be extended to Austria.

The German Ambassador would be obliged to the Secretary of State of the United States if all steps required under these circumstances were taken to bring it about that the country of Austria is, up to that time, left on the list of those countries enjoying the tariff concessions of the "Trade Agreement Act", the instructions issued to the Treasury Department being changed.

WASHINGTON, April 14, 1938.

611.6331/165

The Department of State to the German Embassy

The Secretary of State acknowledges the receipt of the communication of the German Ambassador dated April 14, 1938, requesting that the instructions issued to the Treasury Department by the President April 6 to remove the word "Austria" from Section 2 of the President's letter of March 15, 1938, regarding the application of the tariff con-

⁷⁷ Department of State, *Press Releases*, April 9, 1938, p. 474.

⁷⁸ *Ibid.*, March 19, 1938, p. 371.

⁷⁹ Signed March 7, 1938, Department of State Executive Agreement Series No. 147, or 53 Stat. 2293; for correspondence, see pp. 223 ff.

cessions in the trade agreement concluded with Czechoslovakia be changed to bring it about that the country of Austria is left on the list of those countries enjoying the tariff concessions of the Trade Agreements Act until such time as the German Government notifies the Government of the United States of the time at which the German tariff and exchange regulations will be extended to Austria. The Ambassador's communication has received careful consideration.

The letter of the President to the Secretary of the Treasury dated April 6 to which the Ambassador refers as published in the American newspapers on April 7, 1938, has since been published in printed *Treasury Decisions* issued April 14, 1938, with Treasury Decision 49502. This action was taken pursuant to the provisions of the Trade Agreements Act of June 12, 1934, as extended by joint resolution of Congress, approved March 1, 1937, and amends Treasury Decision 49458 published in printed *Treasury Decisions* issued March 24, 1938. The most pertinent provision of the Trade Agreements Act reads as follows:

"The proclaimed duties and other import restrictions shall apply to articles the growth, produce, or manufacture of all foreign countries, whether imported directly, or indirectly: Provided, That the President may suspend the application to articles the growth, produce, or manufacture of any country because of its discriminatory treatment of American commerce or because of other acts or policies which in his opinion tend to defeat the purposes set forth in this section; and the proclaimed duties and other import restrictions shall be in effect from and after such time as is specified in the proclamation."

On March 14, 1938, the German Ambassador, under instructions of his Government, notified the Government of the United States⁸⁰ of the Reich law of March 13, 1938, concerning the union of Austria with the German Reich, which provided in part that "Austria is a State of the German Reich". On March 17, 1938, the Minister of the Republic of Austria informed the Department of State⁸¹ that Austria had ceased to exist as an independent nation and had been incorporated in the German Reich. On April 5 the State Department notified other Departments of the United States Government that for all practical purposes the disappearance of the Republic of Austria as an independent State and its incorporation in the territory of the German Government must be accepted as a fact, and on April 6 the American Ambassador to Germany informed the German Government⁸² in the same sense and stated that consideration was being given by the Government of the United States to the adjustments in its practices

⁸⁰ Communication not printed, but see memorandum by the Under Secretary of State of conversation with the German Ambassador, March 14, vol. I, p. 442.

⁸¹ See telegram No. 27, March 19, 3 p. m., to the Ambassador in Germany, vol. I, p. 456.

⁸² See telegram No. 34, April 5, 6 p. m., to the Ambassador in Germany, vol. I, p. 473.

and procedure in various regards which would be necessitated by the change of status of Austria. It is in this relation that the President's letter of April 6 directed the elimination of Austria from the list of countries to the products of which the duties proclaimed on March 15, 1938, in connection with the Trade Agreement signed on March 7, 1938, with Czechoslovakia, and all other duties theretofore proclaimed in connection with trade agreements (other than the trade agreement with Cuba signed on August 24, 1934,⁸³ and the trade agreement with Nicaragua signed on March 11, 1936⁸⁴) signed under the authority of the Trade Agreements Act shall be applied.

In view of the above-stated facts regarding the incorporation of Austria into the German Reich, the Government of the United States does not regard as conclusive on, or even as pertinent to, the execution of the Trade Agreements Act the extent to which German tariff and exchange regulations have been extended to Austria. It may be remarked, however, that prior to the action taken on April 6, it had been reported to the United States Government that by a law published on April 1, 1938, the Austrian Minister of Finance was authorized to reduce or abolish customs rates on German products entering Austria from other German territory and such reductions would not be applicable to third countries, while Austrian products have been admitted to other German territory duty-free by decree effective March 28. The Austrian Ministry of Finance had also published on March 25, 1938, a notice that the State Government had issued a foreign exchange decree which assimilates the principles of already existing Austrian regulations to the German foreign exchange regulations. It was announced that the foreign exchange office in Vienna would allot foreign exchange for payment of all imports legally contracted before March 18. It was also announced that Austrian foreign trade figures for February and thereafter would not be published but would be incorporated in and considered a part of German trade figures. It was evident that Austrian trade and payment regulations were being progressively assimilated to the Reich regulations and the effects were immediately felt on American trade.

The action taken under Treasury Decision 49502 was a necessary practical adjustment to the change of status of Austria, in a situation where action was important for the information and guidance of persons engaged in trade between Austria and the United States. The Decision provides the customary period of notice, and is not effective until May 6, 1938.

WASHINGTON, April 29, 1938.

⁸³ *Foreign Relations*, 1934, vol. v, p. 169; for correspondence, see *ibid.*, pp. 108 ff.

⁸⁴ Department of State Executive Agreement Series No. 95, or 50 Stat. 1413; for correspondence, see *Foreign Relations*, 1936, vol. v, pp. 782 ff.

III. Informal Representations to the German Government With Regard to the Treatment of United States Citizens in Vienna

363.11/2984 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, March 18, 1938—5 p. m.
[Received March 18—3:50 p. m.]

136. Yesterday afternoon Wiley⁸⁵ called from Vienna by telephone and stated that he was finding it difficult to get into touch with people of authority in the matter of protection-of-interest cases. It could be assumed from what Wiley said that this pertained to normal cases which might occur under any circumstances and also to cases which had arisen due to the abnormal conditions in the country.

Yesterday afternoon I called upon Weizsäcker⁸⁶ who had returned from a brief visit to Vienna in the company of Ribbentrop⁸⁷ and told him of Wiley's difficulties. He said that he appreciated that such difficulties existed in view of the rapid transition which was taking place in the management of affairs at Vienna but said that Baron von Stein, the former German Chargé d'Affaires at Vienna, was remaining there to "administer the Ballplatz". He said that he felt that Von Stein would be in a position to take care of such questions and said that he would telephone him at once and apprise him of what I had said.

Later in the evening I called Wiley by telephone and gave him the results of my interview.

Previous to the telephone call from Wiley as outlined above I had already made an appointment to see Von Mackensen⁸⁸ this morning. In view of its importance I still felt it desirable to take up with Mackensen also this question of the protection of American interests in Austria. I therefore recited to him what I had said to Weizsäcker and said I had wanted to bring the matter to his attention both because there might be difficulties during the period of transition and because it would be regrettable if any event occurred which would give the impression to the American public that adequate protection was not being accorded our nationals. Mackensen replied that doubtless authorities in Austria did not yet know just where their competence began and ended and were thus reluctant to assume responsibility. He was sure, however, that Von Stein could work out this matter and

⁸⁵ John C. Wiley, Chargé in Austria until closing of the Legation on April 30, 1938. Mr. Wiley remained at Vienna as Consul General.

⁸⁶ Baron von Weizsäcker, Head of the Political Department of the German Foreign Ministry until April 1, 1938, when he became State Secretary.

⁸⁷ Joachim von Ribbentrop, Reich Minister for Foreign Affairs since February 4, 1938.

⁸⁸ Hans George von Mackensen, State Secretary in the German Foreign Office.

added that Von Stein had been given explicit instructions by Von Ribbentrop to accord members of the Diplomatic Corps all necessary facilities.

Mackensen then took occasion to state that of course I was already in a position in virtue of the union of the two countries to make representations here in respect of American interests in Vienna but as to the local attention to those interests he felt sure that Wiley would encounter no difficulties. He then added that the Italian Ambassador here had already undertaken the protection of Italian interests in Austria and was represented in Vienna by consular officials.

I stated to Von Mackensen that my Government had taken no position in respect of the developments in Austria and that I was thus in no way dealing with matters of policy but only with the purely practical question of the protection of our nationals. Mackensen said that this he thoroughly understood.

Repeated to Vienna.

WILSON

363.11/2987

The Chargé in Austria (Wiley) to the Secretary of State

No. 162

VIENNA, March 20, 1938.

[Received March 30.]

SIR: I have the honor to report that as a result of the incorporation of Austria into National Socialist Germany the offices of this Legation swarm with applicants for assistance of one kind or another. Since Saturday, March 12, until today, March 20, the cases of over 2500 persons have been dealt with. Needless to say, it has been necessary in order to deal with this crowd for every officer of the combined offices to devote himself almost exclusively to protection work and to keep the Legation open until late at night as well as Saturday and Sunday. In this emergency the Commercial Attaché Mr. Richardson has also very generously placed himself and staff at the disposal of the Legation. All the members of the Commercial Attaché's staff have responded wholeheartedly to the situation and have proved of real value to the Legation. In addition to Commercial Attaché Richardson, Assistant Commercial Attaché Stebbins and Commercial Attaché's clerk Mr. Boxberg merit special praise for their efficient and untiring labors.

The first rush reaching the Legation Saturday on the heels of the collapse of the Schuschnigg government consisted chiefly of persons without ties in Vienna and with the means to leave on short notice—tourists, temporary residents, etc. By Monday these comparatively

simple cases had given way to a flood of permanent residents, American and Austrian, by far the greater percentage of whom were Jews. The corridors and halls soon filled with would-be emigrants and persons who had some claim, often far fetched, to American nationality, or some American affiliation, often very vague. These persons urgently requested visas, passports, (in most cases issuable only under rule *g*⁸⁹) registration, certificates of American ownership to paste on the doors of their homes and warehouses, letters to the police to facilitate their obtainment of exit visas, letters to the press and film control authorities, letters to the National Bank for foreign exchange permits, letters identifying them as representatives of American firms, etc., etc.

At the same time, reports began to come in of raids on apartments, seizures of money, jewelry, silver, bank books, securities, clothing, automobiles, the arrest of Austro-Jewish representatives of American press services and American business enterprises as well as the arrest of three American citizens. Since the officers dealing with visa and passport matters were necessarily held to their desks it has fallen to the officers of the Legation section to answer outside alarms. These officers have been present at house searchings, arrests and questionings, have interviewed police, S.S.⁹⁰ and S.A.⁹¹ leaders, uniformed and ununiformed, Austrian and German, and in an effort to build up informal working contact with the security authorities, have also made personal calls on the higher officials of the municipal police, the State police, and the secret police.

A city more heavily policed than Vienna cannot be imagined. Police of every conceivable kind, Austrian and German, abound. The result, however, has been extraordinary confusion. Officers with whom contacts have been made in the morning, have been relieved of their office in the afternoon, or transferred to some other district or to some totally different work. Persons arrested by one branch of the police have been turned over to another branch and the second branch has professed complete ignorance of the case. One authority would state that So-and-so was not in a particular prison and another would declare that no matter what the first authority said the person was in the particular prison in question while the prison authorities themselves would usually state that information could be given out only by one of the authorities already consulted.

In these circumstances progress in arrest cases has frequently been discouragingly slow but I am glad to be able to report that all Ameri-

⁸⁹ Rule *g* reads as follows: "That they have made definite arrangements to return immediately to the United States permanently to reside." *Passport Regulations: Rules Governing the Granting and Issuing of Passports in the United States*, revised to March 31, 1938, p. 39.

⁹⁰ Schutzstaffel.

⁹¹ Sturmabteilung.

cans arrested have now been released and that the attitude of the authorities is now somewhat more accommodating than at first in those cases where American interests are affected by the arrest of non-Americans. There are now no cases on hand involving American citizens other than one or two cases concerning the return of personal property seized by irresponsible persons in the first days of the overturn. The police are apparently making some progress toward straightening out their organizational difficulties and I expect a corresponding lightening during the coming week in the Legation's difficulties in connection with arrest cases. There is, in fact, already noticeable some slackening in cases of this type and in applications for passports. Visa applications, however, continue very high. Casual travelers now appear very rarely and we are called on less frequently for assistance by the press. American special writers and photographers left on Friday and Saturday for the most part and the established agencies are already taking steps to move, in most cases to Budapest.

All in all the pressure on the Legation continues heavy but with the expected arrival of Vice Consul Dutko and the return to duty of Vice Consul Flack, I feel that we can continue to meet the situation creditably.

Respectfully yours,

JOHN C. WILEY

362.1113/33 : Telegram

The Chargé in Austria (Wiley) to the Secretary of State

VIENNA, April 25, 1938.

[Received April 25—3:25 p. m.]

Following telegram has been sent to the Embassy at Berlin :

April 25, 6 p. m. Hermann Nagler, American citizen, passport No. 480,173, states that on April 24 he was beaten by uniformed S. S. officer when attempting to enter cafe Jaegerhof, not badly hurt.

Mrs. Amalia Garfen, American citizen, passport No. 279,998, was assaulted by two women this morning while walking in the Obere Donaustrasse, not badly hurt.

Max Heller, American citizen, passport No. 253,695, alleges he was forced at the point of a gun by uniformed S. A. officer to carry anti-Jewish poster when leaving cafe Hotel Continental April 23rd. Later in the day on entering his house he was again obliged to carry poster.

I am informing Stein in the sense of the foregoing.

I am making thorough investigation.

Repeated to Department.

362.1113/34 : Telegram

The Chargé in Austria (Wiley) to the Secretary of State

VIENNA, April 26, 1938.

[Received April 26—1:30 p. m.]

Following telegram has been sent to the Embassy at Berlin:

April 26, 1 p. m. Legation's April 25, 6 p. m. Heller again seized yesterday evening by uniformed S. S. man. On notification by wife Legation took up case simultaneously with police, Von Stein, District S. A. Commando and Party political organization. Police replied they had no authority to intervene; S. A. disclaimed all responsibility insisting action must be due to illegal persons; political organization stated they would make immediate investigation. An officer of the Legation was also immediately sent to Heller's home where he found Heller had just been returned after a beating. Public Health Surgeon reports that Heller shows evidence of having been beaten severely about the head. Question of permanent injury cannot yet be determined. Heller this morning reported that he had been beaten until he promised to pay 1,700 schillings to S. A. District Commando before 2:00 p. m. today. Legation has instructed him not to make payment and is taking matter up urgently with Stein. Heller's affidavit and report Public Health Surgeon will be forwarded today by express mail.

Repeated to the Department.

WILEY

362.1113/35 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, April 27, 1938—11 a. m.

[Received April 27—8:45 a. m.]

200. Vienna's April 25, 6 p. m. I have presented a memorandum to the Foreign Office giving circumstances. Consul General is discussing matter with Gestapo authorities requesting that rigid instructions be issued immediately to S. A. and S. S. organizations in Austria to respect American citizens.

I have written Wiley requesting completest possible details in all cases of this nature in the form of sworn affidavits. Geist⁹² is of the opinion that this is essential for adequate presentation of cases to Gestapo.

In respect to Vienna's April 26, 1 p. m., I shall await such detailed information and consultation with Wiley before taking further action.

WILSON

⁹² Raymond Geist, First Secretary of Embassy in Germany.

362.1113/36 : Telegram

The Chargé in Austria (Wiley) to the Secretary of State

VIENNA, April 27, 1938—11 a. m.
[Received April 27—10:45 a. m.]

197. Legation's April 26, 1 p. m. to Berlin. Heller made an affidavit that on April 23rd he was twice forced to carry anti-Semitic placards once or twice at the point of gun though on each occasion he exhibited American passport. On the same day Anton Horiky tenant of apartment in the house inherited by Heller from father in May 1937 demanded return of 1700 schillings premium allegedly paid for apartment to Heller's father 6 years previously. Horiky threatened to bring matter to the attention of National Socialist Party if payment not made by April 26th. Evening April 25th Heller arrested by S. S. man and taken to S. A. headquarters Second District Vienna where 15 to 20 uniformed S. A. men gave him protracted and savage beating forcing him to sign an IOU for 1700 schillings payable to S. A. district leader not later than 2 o'clock p. m. April 26th.

Legation at once requested intervention Von Stein and the party political organization for Second District to prevent extortion and afford protection to Heller. In the meantime we gave him and wife asylum in the Legation. No satisfaction from the political organization, Stein expressed regret and stated he would take up the matter immediately with competent authorities.

At 6 o'clock p. m. having received no further information from Stein, inquiry was made whether Heller could return and remain at home in safety. An official of ex-German Legation replied that though it had taken up the matter urgently it could give no assurances of safety due to the "unusual conditions" in Vienna. I accordingly permitted Heller and wife to remain in the Legation where they still are. Am actively pursuing case this morning and will report further. Embassy at Berlin fully informed.

Newly appointed Reichs Kommissar for Austria Bürckel has returned to Vienna and ex-German Legation hopes that his authority may put an end to present "irregular situation".⁹³

WILEY

362.1113/37 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, April 27, 1938—2 p. m.
[Received April 27—11:55 a. m.]

201. My 200, April 27, 11 a. m. Geist has seen Best, acting head of Secret Police, and impressed upon him the seriousness of the situa-

⁹³ See telegram No. 205, April 29, noon, from the Chargé in Austria, p. 364.

tion in Vienna involving the assault on American citizens. Best stated that he would get into immediate touch with the responsible authorities in Vienna and that an order would be issued to the S. S. and the S. A. under no circumstances to molest foreigners including American citizens. Best said that he would do everything possible to put a stop to such attacks and asked that his attention be called to any further cases.

WILSON

362.1113/34 : Telegram

*The Acting Secretary of State to the Ambassador in Germany
(Wilson)*

WASHINGTON, April 27, 1938—7 p. m.

49. Referring to Vienna's telegrams to you of April 25, 6 p. m. and April 26, 1 p. m. which were repeated to the Department, we are greatly disturbed by the attacks on American citizen in Vienna.

See first paragraph Embassy's telegram No. 172, October 17, 6 p. m. (1933).⁹⁴

While we approve the action already taken as reported in your No. 200 of April 27, 11 a. m. we feel that upon the receipt of essential detailed information from Wiley you should take up the matter urgently with a higher authority. You should then call the attention of the Foreign Minister to the statement made by the Chancellor to the Ambassador on October 17, 1933 and request assurance that such attacks on Americans in Vienna will cease and that the guilty persons will be punished.

WELLES

362.1113/38 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, April 29, 1938—6 p. m.
[Received April 29—2: 55 p. m.]

208. In the course of a conversation with General Goering⁹⁵ I took up with him strongly the matter of treatment of Americans in Vienna. I said that local forces seemed to be out of hand according to Wiley's reports. Goering replied that he was conversant with the matter; that he felt that no molestation of Americans as such had been intended, but that the situation was effervescent and hatred of Jews

⁹⁴ *Foreign Relations*, 1933, vol. II, p. 396. In this paragraph Ambassador Dodd reported that in an interview with Hitler he had protested against assaults in Germany upon American citizens and had been assured by the Chancellor that he would personally see that such offenders would be punished to the limit of the law.

⁹⁵ Hermann Göring, Reich Minister for Aviation, and President of the Reichstag.

running strong. He added that a number of Jews with no right thereto had been wearing American flags. He closed by saying that he had already and on his own initiative issued stringent orders to Buerckel that order was to be maintained and foreigners were not to be molested.

Cipher text to Vienna.

WILSON

362.1113/39 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, April 29, 1938—7 p. m.
[Received April 29—2:51 p. m.]

209. Referring to Department's 49, April 27, 7 p. m., I impressed upon the Minister for Foreign Affairs in an interview today our demands respecting American citizens in Vienna and the molestation to which they have been subjected. I informed him that it gave me satisfaction to learn from General Goering that stringent orders had been issued that foreigners were not to be molested. I then cited the assurance of Hitler to which your telegram refers and stated that I would keep him in touch with events and evidence in subsequent incidents if unhappily the stringent orders did not prove a final solution.

In respect to punishment of the guilty parties I did not raise this specifically at this interview inasmuch as the evidence before us does not show sufficient proof of identity. I thought it better to await a case, if a case arose, in which there was no question of identity or of the seriousness of the facts.

Cipher text to Vienna.

WILSON

362.1113/40 : Telegram

The Consul General at Vienna (Wiley) to the Secretary of State

VIENNA, May 3, 1938.
[Received May 3—10:09 a. m.]

Following telegram has been sent to the Embassy :

May 3, 11 a. m. My April 25, 6 p. m. After conference with ranking Gestapo officials yesterday afternoon we returned Hellers to their home. Shall report if they are further molested.

Last paragraph your 209, April 29, 7 p. m., Heller case seems clear cut and assailants presumably easy to identify; Horkey, Party member, and most of local S. A. Orts group⁹⁶ involved. Nagler informed police that he was attacked by S. S. man Riedel.

⁹⁶ Ortsgruppe, a local group of the Nazi Party, comprising all Party members in a certain town or city.

Your 208, April 29, 6 p. m., Gestapo heads have had no instructions from Berlin regarding Hellers or apparently treatment of foreigners in general.

We have taken up cases only when Americans possessed and exhibited valid American passports. No instance of non-American Jew wearing American flag has been reported to this office.

Repeated to the Department.

WILEY

362.1113/40 : Telegram

The Secretary of State to the Ambassador in Germany (Wilson)

WASHINGTON, May 4, 1938—7 p. m.

57. Vienna's May 3, 11 a. m., concerning Heller. If you have not already done so, you should at once seek a personal interview with the Acting Foreign Minister and formally request assurances that attacks on American citizens in Vienna will cease and the necessary instructions to this end will be issued to the competent authorities immediately, and that those identified as responsible for the attacks on Heller be promptly punished.

We feel that the evidence unequivocally fixes the identity of the guilty parties and that further delay in their punishment is indefensible and calculated to invite a repetition of unwarranted attacks. You may orally request a written reply.

Please cable the result of your interview.

HULL

362.1113/41 : Telegram

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, May 7, 1938—11 a. m.

[Received May 7—9:10 a. m.]

228. Referring to Department's 57, May 4, 7 p. m., statement made in Vienna's May 3, 11 a. m. to the effect that Gestapo heads had no instructions from Berlin regarding Heller's case or apparently concerning treatment of foreigners in general, desire to state that assurances given Geist by Gestapo heads referred to disciplinary measures sent out to S.A. and S.S.

Geist was in Vienna day before yesterday and saw Gestapo officials there who informed him that three assailants of Heller were under arrest and would be punished.

Am convinced that police authorities have acted promptly not only to proceed with punishment of Heller's assailants but have taken measures to stop similar unwarranted attacks. Therefore, believe

no action in addition to previous apparently successful protest should be taken at this juncture in view of measures authorities have taken in this and in other cases. Please note final paragraph Embassy's 217, April 30, noon.⁹⁷

WILSON

362.1113/46 : Telegram (part air)

The Ambassador in Germany (Wilson) to the Secretary of State

BERLIN, June 3, 1938—4 p. m.
[Received June 4—5:45 a. m.]

287. Department's 79, May 27, 7 p. m.⁹⁸ Wiley reports from Vienna that Gestapo orally states four S.A. men who attacked Heller served 14-day sentences and Orts group [*Ortsgruppe*] severely reprimanded. Written confirmation of this has been promised by Gestapo here.

WILSON

⁹⁷ *Ante*, p. 367.

⁹⁸ Not printed.

GREECE

PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND GREECE, SIGNED NOVEMBER 15, 1938 ¹

611.6831/190

The Secretary of State to the Minister in Greece (MacVeagh)

No. 445

WASHINGTON, March 8, 1938.

SIR: The receipt is acknowledged of your despatch No. 2009 of December 23, 1937, transmitting a copy of a note No. 26458 of December 18, 1937, from the Greek Prime Minister and Minister for Foreign Affairs, concerning Greek-American commercial relations.²

The Department has given careful consideration to the views expressed in the note of the Greek Government and has reexamined the whole question of Greek-American trade relations in an effort to devise an arrangement which would meet the desire of the Greek Government to avoid the general commitments embodied in the proposed *modus vivendi* and at the same time serve to obtain the substantial equivalent of non-discriminatory treatment for American trade interests in Greece. As a result of the studies made in this regard, the Department has decided to submit a proposal, based upon our past experience with Turkey, which it believes will meet the expressed desire of the Greek Government, as reported in the Legation's despatch No. 1892 of October 4, 1937,³ of granting to the United States all the practical advantages which would result from the *modus vivendi* "without agreeing to any theoretical or doctrinaire principles."

Accordingly, there is enclosed herewith the text of a note which it is requested that you address to the Greek Minister for Foreign Affairs. As you will observe, the note expresses this Government's view that the method best suited to regulate the trade relations between Greece and the United States is an exchange of assurances incorporating the substance of the proposed *modus vivendi* but that, as a temporary arrangement, written assurances by the Greek Government would be acceptable that all articles of special interest to American trade, enumerated in a list attached to the note, shall be exempted from all prohibitions and restrictions on importation into,

¹ For previous correspondence, see *Foreign Relations*, 1937, vol. II, pp. 406 ff.

² Despatch not printed; for enclosure, see *ibid.*, p. 424.

³ *Ibid.*, p. 420.

or sale within, Greece; that sympathetic consideration will be given to requests for additions to this list; that all other articles from the United States shall be granted facilities in accordance with the principles embodied in the draft *modus vivendi*; and that exchange in payment for imports from the United States shall be made available, when payments fall due, without any restriction or condition, at rates and charges no higher than those applicable in the case of payments for like articles from any third country.

In presenting this note to the Minister for Foreign Affairs you are requested to state that your Government appreciates the good-will manifested by the Greek Government in expressing its readiness "to consider the granting of special facilities calculated to eliminate in practice any discrimination which might eventually be found at the expense of American importations into Greece." It should be made clear, however, that your Government does not consider such an arrangement a satisfactory method of regulating the commercial relations between the two countries if by it is meant a continuance of the present practice of bringing individual cases involving discriminatory treatment to the attention of the competent Greek authorities for adjustment.

You should state that whenever the Government of Greece feels so disposed your Government is prepared to enter into negotiations for the conclusion of a *modus vivendi* embodying the same principles of policy as contained in the text which was proposed in your note of July 19, 1937,⁴ and that pending such an exchange of assurances your Government is prepared to accept as the substantial equivalent of non-discriminatory treatment the arrangement set forth in the present note, which is based to some extent upon measures applied by the Turkish Government to American trade immediately prior to the removal by that Government on July 15, 1937, of all quota restrictions and prohibitions on importations from the United States.

A memorandum⁵ is enclosed for your confidential information outlining the steps which led up to the favorable treatment applied by the Turkish Government to American trade. Unless you perceive objection, you should emphasize the fact, without referring to the trade-balancing feature of the measures, that Turkey found it possible to apply this liberal treatment to American trade at a time when, like Greece, it not only had considerable funds blocked in Germany, but obtained, and still obtains, far less foreign exchange than Greece from its trade with the United States and from "invisible" items in the balance of payments between the two countries.

⁴ See first paragraph of despatch No. 1876, September 20, 1937, from the Chargé in Greece, *Foreign Relations*, 1937, vol. II, p. 416; for text of draft *modus vivendi*, see *ibid.*, p. 414.

⁵ Not printed.

You should also state that unless the Greek Government takes prompt and effective steps to eliminate the present features of the Greek import control system which discriminate against American trade, your Government will be forced to consider withholding from Greece the benefits of the concessions which are now granted, or which may be granted in the future, to Turkey and other countries under trade agreements entered into under the authority of the Act of June 12, 1934.⁶

It may be stated for your confidential information that it is of course not known at this time which of the items contained in Table 3 attached to the note will be the subject of actual concessions in the proposed trade agreements with Turkey,⁷ the United Kingdom,⁸ Czechoslovakia⁹ and Canada,¹⁰ or whether such concessions as may be granted will consist of duty reductions or bindings of the present tariff treatment. For this reason, the Department feels that now is the most strategic time to press for definite assurances on the part of the Greek Government looking toward an alleviation of the adverse effect of the present Greek restrictions on American trade.

It is believed that the note and the list of products and the tables¹¹ to be attached thereto require no further comment by the Department. You are authorized to incorporate in the note which you address to the Minister for Foreign Affairs any more recent statistical data available to the Legation with respect to the decline in the share of the United States in the import trade of Greece than are contained in the enclosed draft of the note. If the note contains passages that are obscure to you or statements that in your opinion should be altered, or if you feel that changes should be made in the list of products, you should withhold action and consult with the Department by telegraph.

If after presenting the note to the Greek Minister for Foreign Affairs you should learn that the Greek Government prefers to give further consideration to an exchange of assurances in the form of a *modus vivendi*, you are authorized to inform the Minister for Foreign Affairs that your Government is prepared to propose a new text which would embody the same principles of policy as the text proposed in your note of July 19, 1937, but which would be more flexible in certain aspects. The Department will transmit to you shortly the text of such a new *modus vivendi*. However, in the event that the Greek Government intimates that neither the present proposal nor the proposed new *modus vivendi* would be acceptable, and it offers no

⁶ 48 Stat. 943.

⁷ See pp. 1052 ff.

⁸ See pp. 1 ff.

⁹ See pp. 223 ff.

¹⁰ See pp. 164 ff.

¹¹ List of products and tables not printed.

definite counter proposals, you are authorized to address a note to the Minister for Foreign Affairs stating that your Government is willing to accept, as a temporary arrangement, the procedure indicated below:

(1) The Royal Hellenic Government would give written assurance that it would not limit or control by import licenses or permits or by any other method the amount of importation from the United States of any article, unless the importation of such article from all other countries is similarly limited or controlled.

(2) The Royal Hellenic Government would present to the Government of the United States a list of all articles of interest to American trade, the importation of which from the United States and other countries is to be subjected to any form of quantitative limitation or control, and would indicate in such list: (a) the amount of importations of each listed article from the United States which it intends to permit during a specified period of not less than three months; and (b) the global amount of the importations of each listed article from all countries which it intends to permit during such period. In the event that the share of the total permitted importations which is thus allotted to the United States should appear to the Government of the United States to be inadequate, the two Governments would enter into discussions with a view to an adjustment of the matter in accordance with the principles embodied in the draft *modus vivendi*. At least one month before the expiration of the period during which such list is valid, the Royal Hellenic Government would present to the Government of the United States a similar list for the ensuing period of not less than three months. This procedure would be repeated one month before the expiration of every such period.

(3) The Royal Hellenic Government would give written assurance that exchange would be made available in payment for imports from the United States, when payments fall due, without any restriction or condition, at rates no less favorable than those applicable in the case of payments for like articles from any third country.

It is requested that you report by telegraph the results of your conversations on this matter with the Minister for Foreign Affairs.

Very truly yours,

CORDELL HULL

[Enclosure]

Draft of a Note To Be Addressed to the Greek Minister for Foreign Affairs

EXCELLENCY: I have not failed to inform my Government of the contents of the Royal Ministry's note of 26458 of December 18, 1937,¹² relative to trade relations and the proposed *modus vivendi* between Greece and the United States to replace the pro-

¹² *Foreign Relations*, 1937, vol. II, p. 424.

visional commercial agreement concluded by exchange of notes on December 9, 1924.¹³

My Government has noted with gratification the reiteration of the Royal Hellenic Government's desire to improve Greco-American trade relations and the expression of its willingness "to consider the granting of special facilities calculated to eliminate in practice any discrimination which might eventually be found at the expense of American importation in Greece". My Government notes with regret, however, that the Royal Hellenic Government apparently is unwilling at the present time to enter into negotiations for the conclusion of a *modus vivendi* on the basis proposed by the United States.

In reply to the Royal Ministry's note my Government has instructed me to state to Your Excellency that it is most anxious to regularize the trade relations between Greece and the United States, and that in this spirit it proposed the *modus vivendi* which was presented to you on July 19, 1937.

My Government feels that, in the absence of formal agreement as to what in fact shall be considered as constituting non-discriminatory treatment in respect of the various forms of control of trade and of commercial payments, the method of procedure whereby the Legation of the United States shall in practice bring to the attention of the competent Greek authorities each concrete case of discriminatory treatment has not proved, and will not prove, a satisfactory method of regulating the trade relations between Greece and the United States. In support of this position, the attention of the Royal Hellenic Government is called to the fact that, despite frequent representations made by my Government with respect to discriminatory treatment of imports into Greece from the United States, the share of the United States in the import trade of Greece has declined. According to the official statistics of the Royal Hellenic Government, imports into Greece from the United States during the first ten months of 1937 were valued at only 511,103,000 [651,939,000]¹⁴ drachmas, or 4.1 [4.3] percent of the value of total imports, compared with 730,387,000 [845,891,000] drachmas, or 7.5 [7.1] percent of the value of total imports, for the corresponding period of 1936 [for 1936]. This decline in the Greek purchases of American goods has resulted in a shift of the United States from third place to seventh place as a supplier of the Greek import trade. Moreover, as was indicated in the statistical analysis of Greek imports from the United States which I presented to Your Excellency on November 29, 1937,¹⁵ the decline which has

¹³ *Foreign Relations*, 1924, vol. II, pp. 279-281.

¹⁴ In the note sent to the Greek Minister for Foreign Affairs on April 1, the American Minister modified the import figures as indicated in brackets in this sentence (611.6831/195).

¹⁵ Not printed.

taken place in imports into Greece from the United States has occurred in those groups of articles which are the subject of import control by the Royal Hellenic Government.

On the other hand Greece has enjoyed full opportunity, on a basis equal with that of any other most-favored-nation, of participating in the expanding market of the United States. The beneficial effects of this liberal treatment to Greece is apparent from an examination of the provisional American foreign trade figures for 1937, which show that the value of the United States general imports from Greece totalled \$17,773,000 as compared with \$10,700,000 for 1936, or an increase of 66.1 percent. As the comprehensive trade agreements program on which my Government has embarked continues to develop it is reasonable to assume that the American purchases of Greek products will continue to expand materially.

The broad scope of the reductions in duties made in connection with the agreements so far negotiated by the United States with foreign countries under the Trade Agreements Act of 1934 was indicated in my note to Your Excellency of July 19, 1937. Since that date my Government has published formal notices of intention to negotiate trade agreements with the Governments of Turkey,¹⁶ the United Kingdom,¹⁷ Czechoslovakia¹⁸ and Canada.¹⁹ With each of these notices there has been published a list of products upon which the United States will consider granting concessions to the country in question. Products of importance in the imports into the United States from Greece with respect to which the benefits of trade agreement concessions are now extended to Greece, or with respect to which concessions may be granted in the contemplated agreements referred to above, are shown in the three tables attached hereto. As summarized in Table 1, these products accounted for 81.3 percent of the value of total imports of Greek products into the United States in 1936.

My Government has also instructed me to inform Your Excellency that it is a fundamental principle of United States commercial policy to extend the benefits of the duties proclaimed under the Trade Agreements Act of 1934 only to those countries which do not discriminate substantially against American trade.

While my Government is still strongly of the opinion that the method of procedure best suited to regularize the trade relations of Greece with the United States is by an exchange of assurances incorporating the substance of the *modus vivendi* proposed in my note to Your Excellency of July 19, 1937, it has taken cognizance of the fact

¹⁶ Department of State, *Press Releases*, January 15, 1938, p. 108.

¹⁷ *Ibid.*, January 8, 1938, p. 45.

¹⁸ *Ibid.*, September 4, 1937, p. 195.

¹⁹ *Ibid.*, January 29, 1938, p. 156.

that the Royal Hellenic Government would prefer to grant special facilities to imports from the United States with a view to eliminating the discriminatory effects of the Greek import control system. My Government therefore is willing to accept, as a temporary arrangement, written assurances by the Royal Hellenic Government that all articles of special interest to American trade in Greece, enumerated in the attached list, shall be exempt from any prohibitions, customs or tariff quotas, import licenses, or any other form of quantitative regulation of their importation into, or sale within, Greece; that sympathetic consideration will be given to requests by the United States Government for additions to this list; that articles the growth, produce or manufacture of the United States which are not enumerated on this list shall be granted facilities in accordance with the principles embodied in the draft *modus vivendi*; and that exchange in payment for imports from the United States shall be made available, when payments fall due, without any restriction or condition, at rates and charges no higher than those applicable in the case of payments for like articles from any third country.

My Government feels that unless the Royal Hellenic Government takes prompt and effective steps to remedy the present unsatisfactory situation with respect to Greco-American trade relations it will regretfully have to give consideration to the question of withholding from Greece the benefits of the concessions which are now accorded, or which may be accorded in the future, under the trade agreements program. As considerable time has elapsed since my Government first broached the matter of regularizing Greco-American trade relations on a new basis, I should be most appreciative if Your Excellency would inform me at an early date regarding the measures which the Royal Hellenic Government contemplates instituting with a view to alleviating the adverse effect of the present Greek restrictions on American trade.

611.6831/192 : Telegram

The Minister in Greece (MacVeagh) to the Secretary of State

ATHENS, April 1, 1938—1 p. m.

[Received April 1—9:30 a. m.]

21. Department's instruction No. 445, March 8th. I handed note to Prime Minister this morning emphasizing Department's desire for a prompt reply.

MACVEAGH

611.6831/163 : Telegram

The Minister in Greece (MacVeagh) to the Secretary of State

ATHENS, April 6, 1938—noon.
 [Received April 6—9:14 a. m.]

23. Department's instruction No. 445, March 8. The Prime Minister called me to the Foreign Office this morning and read me a first person note, which he subsequently handed me, accepting our proposal that we proceed immediately to the negotiation of an accord incorporating the substance of the proposed *modus vivendi* of July 19, 1937.^{19*} I informed him that the Department is forwarding me a new text embodying the same principles as that already proposed but more flexible in certain respects. To this he replied that his Government remains at my disposition, but I would be grateful if the Department would inform me as to the probable date of arrival of the new text.

MACVEAGH

611.6831/190

The Secretary of State to the Minister in Greece (MacVeagh)

No. 454

WASHINGTON, April 13, 1938.

SIR: With reference to the Department's instruction No. 445 of March 8, 1938, concerning Greek-American trade relations, there is enclosed herewith the new draft *modus vivendi* which it is requested that you submit to the Greek Minister for Foreign Affairs under cover of an appropriate note of transmission.

The new draft *modus vivendi*, which embodies the same principles of policy as contained in the text of the draft which was proposed in your note to the Greek Minister for Foreign Affairs on July 19, 1937, is designed to secure, for the trade between the United States and Greece, mutual equality of treatment in respect of all forms of trade control measures. The following observations may be useful in the clarification of those provisions of the new *modus vivendi* which are designed specifically to accomplish this objective.

Article I embodies the general most-favored-nation clause and except for the addition of the word "taxation" after the word "sale" in the seventh line, the Article is identical with paragraph 2 of the proposed draft of July 19, 1937. The provisions of this Article are designed primarily to assure to each country equality of treatment with third countries in the application and administration of customs duties

^{19*} See footnote 4, p. 517.

and other charges imposed on or in connection with the importation or exportation of merchandise.

The provisions of Article II are designed to insure, as nearly as possible, the equivalent of most-favored-nation treatment with respect to the importation of goods subject to quantitative restrictions. The provisions of this Article differ in certain respects from and are somewhat more flexible than the corresponding provisions of the *modus vivendi* previously proposed to the Greek Government.

The first section of the Article provides for a generally-recognized application of the most-favored-nation principle, in the broadest possible terms, to quantitative restrictions. The second section of the Article is intended to prevent quantitative restrictions from being administered by either Government as an instrument for diverting or canalizing trade at the expense of the other country and provides, at the option of the country which imposes the restriction, for two alternative methods of procedure. The first method, which is described in sub-paragraph (a) would, in effect, involve the imposition of a global quota on imports from all sources without any restriction on the share of this quota which may be supplied by the other country. The second method, which is provided in sub-paragraph (b), involves the allotment of shares among the various exporting countries and provides that the share allotted to the other country party to the agreement shall be, as nearly as may be determined, the same as the relative share which it would supply in the absence of quantitative restrictions.

The method of determining allotments which is provided for in sub-paragraph (b) differs in form from paragraph 3 of the proposed *modus vivendi* of July 19, 1937, which provided that the country which adopts import restrictions shall allot to the other country a share of the total permitted importations equivalent to the share of the total importations supplied by the other country in some previous representative period. The present Article avoids laying down this formula, which may in some cases be unduly rigid and in others unduly ambiguous, but states the purpose which underlies any such formula, namely, that the share allotted to the other country shall be equivalent to the relative share which would be supplied by it in the absence of quantitative restrictions. In addition, it sets forth certain factors which must be taken into consideration in determining this share.

The provisions of Article III approach the problem of exchange control in a different manner than that contained in paragraph 5 of the proposed *modus vivendi* of July 19, 1937. In this connection your attention is called to the fourth paragraph of the Department's instruction No. 392 of May 24, 1937.²⁰ The Department now feels that, if possible, the new provision on exchange control should be incorpo-

²⁰ *Foreign Relations, 1937, vol. II, p. 407.*

rated in the proposed *modus vivendi*. Article III provides that exchange shall be granted without restriction, at a uniform rate with respect to both products and countries, in payment for all goods permitted to be imported subsequent to the effective date of the *modus vivendi*. Its purpose is to prevent the accumulation of blocked balances in connection with such products as are actually imported from the other country. It means that exchange control shall not be used for the purpose of controlling, directly or indirectly, the volume of goods imported from the other country. Any quantitative regulation of imports from the other country must be in accordance with the provisions of Article II. In effect, the new exchange provision transfers the full burden of insuring non-discriminatory treatment with respect to both quantitative restrictions and exchange control measures to the quota article.

The first paragraph of Article IV is designed to insure to the other country a fair and equitable share of the market if the government of one country establishes or maintains a monopoly for the importation or sale of a particular commodity or grants exclusive privileges to an agency to import or sell a particular commodity. This article is an application of the principles outlined in the section on monopolies contained in the note which you presented to the Greek Minister for Foreign Affairs on July 19, 1937. This Article in no way affects the right of either country to maintain or expand a monopoly régime; its sole purpose is to guard against arbitrary diversion of trade on other than purely economic grounds.

The second paragraph provides for most-favored-nation treatment with respect to government purchases generally, but does not prevent either Government from giving preference to its own nationals with respect to such purchases.

Your attention is called to the fact that the provisions of Articles III and IV were included in the temporary commercial arrangement concluded between the United States and Italy on December 16, 1937,²¹ a copy of which is enclosed.

In the event that Article III of the new *modus vivendi* proves to be unacceptable to the Greek Government you are authorized to substitute therefor the provisions of paragraph 5 of the *modus vivendi* of July 19, 1937. If Article IV of the new *modus vivendi* proves to be unacceptable to the Greek Government you are authorized to withdraw that Article in its entirety.

If the text of the new *modus vivendi* contains passages that are obscure to you or provisions which in your opinion should be altered you should withhold action and consult with the Department by tele-

²¹ Department of State Executive Agreement Series No. 116, or 51 Stat. 361.

graph. Immediately upon presenting the new *modus vivendi* to the Minister for Foreign Affairs you should inform the Department of your action by telegram.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

[Enclosure]

Draft Modus Vivendi Between the United States and Greece

SIR: I have the honor to make the following statement of my understanding of the agreement reached through recent conversations held at Athens by representatives of the Government of the United States of America and the Government of the Kingdom of Greece with reference to the treatment which the United States of America shall accord to the commerce of the Kingdom of Greece and which the Kingdom of Greece shall accord to the commerce of the United States of America.

These conversations have disclosed a mutual understanding between the two Governments which is that the United States of America will accord to the commerce of the Kingdom of Greece and the Kingdom of Greece will accord to the commerce of the United States of America, its territories and possessions, non-discriminatory treatment.

Accordingly the two Governments have agreed upon the following provisions:

I

With respect to customs duties or charges of any kind imposed on or in connection with importation or exportation, and with respect to the method of levying such duties or charges, and with respect to all rules and formalities in connection with importation or exportation, and with respect to all laws or regulations affecting the sale, taxation or use of imported goods within the country, any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America or the Kingdom of Greece 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 Kingdom of Greece or the United States of America, respectively.

II

1. Neither the Government of the United States of America nor the Royal Hellenic Government shall regulate by import licenses or permits the importation into its territory of any article in which the other country has an interest, or by any method maintain limitation

or control of the amount of importation of any such article, unless similar action is taken with respect to the importation of such article from all other countries.

2. If imports of such an article from the other country are, directly or indirectly, restricted by such regulation, limitation, or control, the Government taking such action shall establish in advance, and inform the other Government of, the total amount permitted to be imported from all countries during any specified period, which shall not be shorter than three months, and of any increase in such amount during the specified period, and shall either—

(a) Impose no limitation on the part of such total amount which may be imported from the other country; or

(b) Establish in advance, and inform the other country concerning, the quota of such article which shall be permitted to be imported from the other country during the specified period. Such quota shall be, as nearly as may be determined, equivalent to the proportion of the total importation in such period which the other country would supply in the absence of such regulation, limitation, or control. In calculating such quota, account shall be taken of the proportion of the total importation of such article which the other country supplied during previous periods, of the trend of the trade in such article, and, in the case of a quota period shorter than a year, of seasonal variations, if any, in the trade. Where a quota for importation from the other country is established, no obstacle, administrative or otherwise, shall be placed in the way of importation sufficient to fill the quota allotted to the other country. If the total amount permitted entry from all countries is increased during any quota period, the quota established for the other country shall be increased proportionately.

3. If the Government of either country establishes or maintains such regulation, limitation, or control of the importation of an article in which the other country has an interest, it shall—

(a) Make public the regulations regarding the issuance of licenses or permits, or regarding any other method of limitation or control, before such regulations are put into force;

(b) Administer any system of licenses or permits or any other method of limitation or control so as not to discriminate against importation from the other country, and in no manner, directly or indirectly, influence importers regarding the country from which they shall seek permission to import any such article;

(c) Ensure that there shall be no undue delay in the issuance of licenses or permits;

(d) Ensure that any importer seeking to establish new, or to re-establish old, trade connections with the other country, or to maintain such trade connections, shall be given reasonable opportunity to import any such article; and upon request inform any such importer whose application is rejected of the reasons for such rejection;

(e) At all times upon request advise the Government of the other country of the amount of any such article, the growth, produce, or

manufacture of each exporting country which has been imported, or for which licenses or permits for importation have been granted.

4. The provisions of this Article shall also be applicable with respect to any regulation, limitation, or control imposed by either Government upon the importation of such article at a particular rate of duty or charge.

III

In the event that the Government of the United States of America or the Royal Hellenic Government 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, condition, or delay on the transfer of payment for imported articles the growth, produce, or manufacture of the other country, or of payments necessary for and incidental to the importation of such articles;

(b) Accord unconditionally, 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 all articles the growth, produce, or manufacture of the other country, treatment no less favorable than that accorded in connection with the importation of any article whatsoever the growth, produce, or manufacture of any third country; and

(c) Accord unconditionally, 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, treatment no less favorable than that accorded in connection with the importation of the like articles the growth, produce, or manufacture of any third country.

IV

1. In the event that the Government of the United States of America or the Royal Hellenic Government 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.

2. It is agreed that the Government of each country, in the awarding of contracts for public works and generally in the purchase of supplies, shall not discriminate against the other country in favor of any third country.

V

1. The advantages now accorded or which may hereafter be accorded by the United States of America or the Kingdom of Greece 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 Kingdom of Greece may become a party, shall be excepted from the operation of this Agreement.

2. 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.

3. 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, 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 or health; (3) relating to prison-made goods; (4) relating to the enforcement of police or revenue laws.

4. Nothing in this Agreement shall be construed to prevent the adoption of measures prohibiting or restricting the exportation 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, and it is agreed, further, that nothing in this Agreement shall be construed to prevent the adoption or enforcement of measures relating to neutrality.

VI

The present Agreement shall replace the exchange of notes between the Government of the United States and the Government of the Kingdom of Greece of December 9, 1924, and shall become operative on this day of,, 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, Sir, etc., etc.

611.6821/197 : Telegram

The Minister in Greece (MacVeagh) to the Secretary of State

ATHENS, April 28, 1938—noon.
 [Received April 28—9:25 a.m.]

29. Department's instruction No. 454, April 13. New *modus vivendi* submitted this morning.

MACVEAGH

611.6831/201

The Minister in Greece (MacVeagh) to the Secretary of State

No. 2258

ATHENS, May 14, 1938.
 [Received May 31.]

SIR: In connection with the Department's instruction No. 454 of April 13, 1938, and following my telegram No. 29 of April 28, 1938, I have the honor to report that Mr. Metaxas, the Greek Premier and Minister of Foreign Affairs, informed me on May 5 of his appointment of a Commission to discuss with me the proposed *modus vivendi* in commercial matters. The Commission named was composed of Mr. Arvanitis, Minister of National Economy, president, Mr. Varvaressos, Vice Governor of the Bank of Greece, and Mr. Argyropoulos, Director of the Trade and Treaty Section of the Foreign Office. In communicating the appointment and composition of this commission, Mr. Metaxas stated that his Government believed that the surest grounds for an accord would be found, by common consent, in the draft *modus vivendi* submitted by the American Government on July 19, 1937, and expressed his hope that an agreement might be reached on the basis of that text.

At the first meeting, which took place yesterday, May 13, I informed the Commission that my Government prefers the second draft, and in our discussions the various points were taken up in order as they appear in that text. Mr. Varvaressos, who is credited with being the Premier's most influential adviser in financial matters, acted as spokesman for the Commission. He stated at once that the Greek Government accepts Article I as it stands and that the inclusion of the word "taxation" in line 7 offers no barrier. He said, however, that as the Greeks desire to sign something which will "contribute to our future relations," and not "give rise to endless discussions," the principle of the representative period contained in our first draft appears to them superior to the corresponding provisions in the second. In this connection, he urged that it might be found impossible to agree on what American imports of a given commodity would be if no

restrictions existed, whereas it should not be difficult to arrive at the actual proportion of such imports in a representative period of record. As a basis for the application of this proportion to each future quota period he proposed the total import figure of the next preceding period.

To these remarks I replied that the present form of Article II had been proposed by my Government to meet Greek objections to the "doctrinaire" quality of the earlier proposal, and that my Government considered it, in fact, superior, as being in some respects less rigid and in others less ambiguous, but that if the Greek Government now felt very strongly that a reversion to the earlier draft was desirable in this matter, I could only offer to submit the matter to Washington. At the same time I stipulated that any proposals in this connection should be put forward concretely as part of a definite draft which the Greek Government would be prepared to sign, since so much time has already elapsed in the discussion of general principles. I also stipulated that any proposal involving the representative period should include the question of trade trends and the importation of articles for which no representative period exists.

Mr. Varvaressos agreed to both these stipulations, and said that it was his Government's aim to evolve a text on the basis of our proposals which will work under the conditions imposed on Greece by her present situation. He admitted that Greece had violated our *modus vivendi* of 1924, but said that she had been forced to do so, and that she desires not to sign anything now which she cannot be sure to be able to live up to in the future. In regard to Article III, he accepted the principle that exchange control should not be used to influence competitive relationships, but entered strong objections to the strict provisions of paragraph (b), claiming that it is impossible to combine real non-discrimination with absolutely equal treatment of exchange transactions involving sound and fictitious currencies. Furthermore, in regard to Article IV, he said a government must, in some cases, be guided by other considerations than those of price, such as quality or credit. I replied that our *modus vivendi* was intended to be administered by reasonable men, but that if the Greek Government objected to the provisions of these articles, it might re-draft Article IV (I did not propose to drop it altogether), and in regard to Article III, adopt the corresponding article on exchange control of our first draft, which Mr. Varvaressos found unexceptionable.

Mr. Varvaressos then said that Article V was agreeable to his Government but that in reciprocation it desired that similar exception be made of Greek commerce with the Balkan states.

The Commission then reverted to sub-paragraph (d) of paragraph 3 of Article II, and Mr. Varvaressos explained that his Government

desires to keep within limits the number of licensed Greek importers, and that this is both an internal regulation and one which does not effect any discrimination against the sources of supply. In the past, however, such regulation has certainly, in some cases, been administered to our detriment, and I hope that the forthcoming Greek proposals will be found to include a provision that if a limitation of this sort is adopted or maintained by either country, it shall not be applied so as to discriminate against the other.

Finally, Mr. Varvaressos alluded to the first paragraph of Article II, which states that neither government shall limit etc. the importation of articles "in which the other government has an interest", and asked whether we have an interest in coffee, sugar and sardines, on the importation of which from free exchange countries the Greeks now charge a premium. To this I replied that at the present moment it may be that we have no interest in the exportation of these articles to Greece, but that I could not tell about the future, particularly as regards sugar, and would have to refer the matter to Washington. Furthermore, I pointed out that the agreement under consideration is a general one, as well as one that aims to be applicable over a long period, and makes no attempt to specify the individual articles of interest to either party, so that I felt the determination of this question belongs properly outside the scope of our discussions. I gathered that Mr. Varvaressos might make a special request for information in this matter in a separate communication.

It is my understanding that the Commission is now engaged in formulating its suggestions along the lines indicated above. As soon as it is ready, I expect that further conversations will take place, probably the end of this week, and I hope to have a definite Greek draft for forwarding with comments by the next pouch.

Respectfully yours,

LINCOLN MACVEAGH

611.6831/203

The Minister in Greece (MacVeagh) to the Secretary of State

No. 2298

ATHENS, June 10, 1938.

[Received June 21.]

SIR: With reference to my despatch No. 2258 of May 14, 1938, and my telegram No. 32 of May 26, 12 noon,²² I have the honor to submit herewith the Greek draft of the *modus vivendi* in commercial matters together with explanatory notes by the competent Greek authorities. As the Department will observe, parts of this draft have been drawn from the Department's first draft, submitted to the Greek

²² Not printed.

Government by this Legation on July 19, 1937, and others from the Department's second draft similarly submitted on April 28, 1938, while others again represent Greek modifications or additions.

In Article I, paragraph 1 is from the Department's first draft; paragraph 2 from the second.

In Article II, paragraph 1 is from the Department's second draft; but paragraphs 2 and 3, while introducing the representative period principle from the Department's first draft, attempt to accommodate it to the present Greek system of import control; paragraph 4 is a rephrasing in more general terms of paragraph 3 (*d*) in the Department's second draft; and paragraph 5 is paragraph 4 of that draft.

In Article III, paragraph (*a*) reproduces the corresponding paragraph of the Department's second draft with slight verbal differences and one proviso which would appear unexceptionable; paragraph (*b*) represents paragraph (*b*) of the Department's second draft, but has been redrawn to express the principle laid down in paragraph 5 of the Department's first draft; paragraph (*c*) is the same as paragraph (*c*) of the Department's second draft.

In Article IV, the redrafting of the corresponding article of the Department's second draft has been so thorough-going as to draw most of the latter's teeth. However, situations are conceivable in which the present draft might prove useful and I have therefore thought best to retain it for what it may be worth, instead of dropping it altogether as authorized in the Department's instruction No. 454 of April 13, 1938.

In Article V, all the paragraphs are the same as the corresponding paragraphs of Article V of the Department's second draft, except that to paragraph 2 there has been added a clause extending reciprocally to the Balkan Entente²³ the exceptions granted in the case of Cuba, etc.

The Minister of National Economy, Mr. Arvanitis, who is also President of the Commission responsible for the enclosed draft, has emphasized to me the tentative nature of Article II in so far as its wording may have to be altered when practical methods for applying the representative period principle have been agreed on. While giving him no assurance that a return to this principle will itself be acceptable to the Department, I have acceded to his wish that the Legation examine, in collaboration with his Ministry, the practical possibilities in this connection. As a result, the Legation has formed some ideas in regard to Article II which the Department may care to have, should it find the Greek proposals acceptable in principle.

In this connection, the Department will not fail to note the distinction drawn in Article II between general quotas and special licenses

²³ Yugoslavia, Rumania, and Turkey.

or extra quotas. This distinction is of course in line with present Greek practice, and the Greek position is that no discrimination is involved when total imports of a given commodity are limited by a quota divided among local importers who are then free to purchase from any country up to the limit of their allotments. Theoretically this position may be sound, but in actual practice imports from Germany of general quota products have not been, and are not now limited to such quotas, while imports from the United States are held very closely to the proportion of their allotments which importers desire to utilize for their American goods. Though the present wording of Article II, paragraph 1, may possibly be construed to prohibit such discrimination, the extent to which the Greeks are accustomed to the practice would seem to make it the part of wisdom to cover the point more specifically in any final draft.

The Legation also feels that in any final draft of this article a more adequate definition should be given to the "special or individual licenses or extra quotas" mentioned in Part B of paragraph 2, making clear that these cover all quota allotments in excess of the general quotas mentioned above.

Finally, the Legation feels, after thorough-going investigation into the practical aspects, that the only application of the representative period idea which gives definite promise of aid to American products and at the same time fits into the existing Greek quota machinery, is to relate it to the 15 "global" quotas which Greece has already established for certain imports from the United States. The present Greek plan of setting up a separate quota based on the representative period for every article subjected to special or individual licensing would seem not only to be terrifically cumbersome but also to provide an endlessly fertile ground for manipulation, error and dispute. The Director General of the Ministry of National Economy appears to favor the three years 1928-1930 as a representative period, and this seems reasonable. The present group of 15 "global" quotas total about 190 million drachmas in value as actually applied during the calendar year 1937. During the same period, Greek imports of American commodities subject to quantitative limitation were 368 million drachmas less than our 1928-1930 share (8.06 percent) in total imports of this category of products would have given us. By increasing the 15 "global" quotas in question for the next 12 months to figures more nearly commensurate with current demand, and using the balance of the 368 million drachma "quota shortage" to cover new developments during the same period, our shortage for 1937 could be made up.

The above scheme could be covered in general terms in the *modus vivendi* more briefly than the present proposal outlined in Part B of paragraph 2, Article II, and I enclose with this despatch a tentative

wording for this paragraph along these lines. In case it or something like it were adopted, paragraph 3 of the same article of the present Greek draft would become superfluous.

Respectfully yours,

LINCOLN MACVEAGH

[Enclosure 1]

Tentative Wording of Portions of Article 2

In the event that either Government regulates the importation into its territory or sales therein of any article in which the other country has an interest, by import licenses or permits, or by quota allotments in excess of the general import or customs quotas covered by paragraph 1 of this article, or subjects to specified conditions the importation of articles for which general quotas have been fixed, the Government taking such action shall:

(a) Accord to the other country a share of the total permissible importation of all such products of that country as are not specifically exempted from quota and import license requirements involving quantitative restrictions, which shall not be less than the share in the total trade in all such products which that country enjoyed in a previous representative period. Such representative period, as well as the share of the other country therein and the method of applying such share to each future quota period, shall be established by agreement between the two Governments prior to the beginning of such quota period.

(b) Administer such regulations so as not to discriminate against importation from the other country either as to the persons permitted to import, or by delays in the issuance of license or allotments, or as to the individual articles which may be imported, or as to any other specified conditions of importation.

(c) Inform the other Government currently, upon request, of all licenses and allotments for the importation of its products which may be granted or rejected under the provisions of this paragraph.

[Enclosure 2—Translation]

*Greek Draft of Modus Vivendi*²⁴

I

1. In respect of import, export and other duties and charges affecting commerce, as well as in respect of transit warehousing and other facilities, the United States of America will accord to the Kingdom of Greece and the Kingdom of Greece will accord to the United States of America, its territories and possessions, unconditional most-favored-nation treatment.

²⁴ The portions printed in brackets, following articles II, III, and IV of this draft, appear in the original in a column parallel with the text.

2. Accordingly, it is understood that with respect to customs duties or charges of any kind imposed on or in connection with importation, or exportation, and with respect to the method of levying such duties or charges, and with respect to all rules and formalities in connection with importation or exportation, and with respect to all laws or regulations affecting the sale taxation or use of imported goods within the country, any advantage, favor privilege or immunity which has been or may hereafter be granted by the United States of America or the Kingdom of Greece 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 Kingdom of Greece or the United States of America respectively.

II

1. Neither the Government of United States of America nor the Royal Hellenic Government shall regulate by import licenses or permits the importation into its territory of any article in which the other country has an interest, or by any method maintain limitation or control of the amount of importation of any such article, unless similar action is taken with respect to the importation of such article from all other countries.

2. If such regulations or restrictions of imports of such article are established or maintained the two Governments agree as follows:

A. In the event that either Government regulates the total quantity of importations into its territory or sales therein of any article, in which the other country has an interest, by establishing or maintaining general import or customs quotas, the Government taking such action shall:

(a) Establish in accordance [*advance*], and inform the other Government of the total amount permitted to be imported from all countries during any specified period, which shall not be shorter than three months.

(b) Impose no limitation on the part of such total amount which may be imported from the other country by persons authorised to import such article and within the general quotas allocated to them for such article.

(c) Administer such regulations so as not to discriminate against importation from the other country, and in no manner directly or indirectly, influence importers regarding the country from which they shall import any such article.

B. (a) In the event that either Government regulates the importations into the territory or sales therein of any article, in which the other country has an interest, by granting special or individual licences or extra quotas, or submitting to special conditions the import of articles for which general quotas are granted the share of the other country on the total permissible importation of any such product during a specified period shall not be less than the share in the trade in such product which such other country enjoyed in a previous

“representative period”. Such “representative period” as well as the share of the other country shall be established by agreement between the two Governments.

(b) In order to establish the “total permissible importation” of products, with respect to which importation is permitted by special licences or extra quotas during a specified period, on which total importation the share of the other country shall be calculated, the total quantity of the same product shall be taken, which has been actually imported during the previous equal period. In fixing such previous equal period account shall be taken of seasonal variations.

(c) The total amount of each product so established, for which import licences or permits shall be granted to the other country, as well as the regulations covering the issuance of such licences or permits shall be communicated to the interested Government in due course and before the beginning of the period to which they apply.

3. If either country should have an interest for the importation in the territory of the other country of articles for which no “representative period” can be established, the share of this country on the total permissible importation of such articles shall be established in each case by agreement between the two Governments.

4. If either country controls or limits the establishment of new or re-establishment of old trade connections by local importers, this control or limitation shall not be operated so as to effect discrimination against the other country.

5. The provisions of this article shall also be applicable with respect to any regulations limitation, or control imposed by either Governments upon the importation of such article at a particular rate of duty, or charge.

[The purpose of the proposed drafting of article II is:

(a) To combine the interest of establishing a non discriminating treatment of American importations in Greece with the necessity of maintaining the general system of regulations and control now in force in Greece.

(b) To endure [*ensure*] that any importer who has an interest for the importation of American products should be informed, in advance and in all cases, of the total amount of any article which may be imported from U. S. of America during each specified period.

In order to arrive at this result one ought to consider the differences in regulating and controlling imports now in application in Greece viz:

1. In the case of articles the importation of which is unrestricted or for which general import quotas are established, it has been considered sufficient, for the purpose, to ensure that the Government should in no way influence importers with respect to the export country, in which they may decide to use the quotas accorded to them.

2. With respect to articles for the importation of which special licences are granted individually and from case to case, or the grant-

ing of extra-quotas, is necessary, it is evident that the establishing in advance of the total permissible quantity, to be imported during any period is impossible. In order to meet this difficulty, it has been considered advisable to take as a basis, for calculating the share to be allotted to American imports, the total quantity which has been actually imported under such system during a similar period, e.g. in order to calculate the share of American imports of articles under this item during the half year, July–December 1938, the total amount of respective articles which has been imported during the half year July–December 1937 shall be taken.

With regard to the method of establishing the percentage on the total permissible imports which ought to be reserved to imports from the U. S. of America it has been thought advisable to try and find some objective basis out of which such percentage will derive automatically and without further discussions or differences of opinion.

Such basis is given by the first draft of the Government of the U. S. of America which provides for a “representative period” to be determined by agreement between the two Governments. Any other method, and especially the proposal to find by abstraction what the situation would be if no restrictions or control should exist, will give rise to endless discussions during which any opinion may be defended without the possibility of supporting it by objective facts.

The case of new articles for which such method is not applicable is provided under paragraph 3 of article II.]

III

In the event that either Government establishes or maintains, directly or indirectly, any form of control of the means of international payments, it shall, in the administration of such control :

(a) Impose no prohibitions, restrictions, conditions or delay on the transfer of payment for imported articles of the other country, or of payments necessary for and incidental to the importation of such articles, provided that such articles have been imported in accordance with the regulations in force.

(b) Establish all rates of exchange taxes and surcharges applying to exchange transactions in connection with payments for or payments necessary or incidental to the importation of articles of the other country, in conformity with the situation of the respective markets and the real value of the respective foreign exchanges and in a manner that no discrimination to the disadvantage of the other country, shall be created.

(c) Accord unconditionally, 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 of the other country, treatment no less favourable than that accorded in connection with the importation of the like articles of any third country.

[The proposed drafting of clause (b) of article III is considered necessary, in view of the fact that under present conditions the of-

cial rates of some foreign exchanges, as quoted in their national or even in the international exchange market, differs substantially from its real purchasing power. It is argued that a Government which, in fixing the parity of its national currency with respect to a foreign exchange, takes into account the real purchasing power of such foreign exchange, cannot be accused of a discriminatory treatment of the commerce of a third country.]

IV

In the event of purchases of supplies made by, or on account of the Government or Government monopolies or monopolies exercised by public bodies or institutions, or in the event of contracts for public works being awarded, it is agreed that the Government of each country shall not discriminate against the other country in favor of any third country. In order to determine if a discriminating action has taken place, account shall be taken of all circumstances under which the purchase has been made or the contract has been awarded.

[In drafting article IV the following facts have been taken into consideration :

It is evident that any Government of public body or institution have a principal interest to secure the best possible terms of their purchases or contracts with regard to prices, quality etc. But it is also true that public requirements and consequently public supplies are of such special nature and involve such general interests, that, even under a system of complete freedom of trade, the right of any Government to reserve for itself unlimited freedom of decision with regard to purchases and contracts has never been disputed.

We think that it cannot be denied that the considerations which may induce a Government etc. to decide for a supply are not identical with those which are taken into account by a private commercial enterprise.

What in such cases is of real interest is to ascertain if a Government which has decided for any purchase or contract has done so in order to protect their general interest or in acting with the intention to discriminate against any third Government.

Article IV, referring to all circumstances under which the purchase has been made or the contract has been awarded intends to cover the above considerations.]

V

1. The advantages now accorded or which may hereafter be accorded by the United States of America or the Kingdom of Greece 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 Kingdom of Greece may become a party, shall be excepted from the operation of this Agreement.

2. 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.

It is also agreed that the advantages which may be accorded by the Kingdom of Greece to countries which are now or may hereafter be members of the "Entente Balcanique" in order to facilitate inter-Balkan economical relations shall be excepted from the operation of this agreement.

3. 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, 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 or health; (3) relating to prison-made goods; (4) relating to the enforcement of police or revenue laws.

4. Nothing in this Agreement shall be construed to prevent the adoption of measures prohibiting or restricting the exportation 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, and it is agreed further, that nothing in this Agreement shall be construed to prevent the adoption or enforcement of measures relating to neutrality.

IV [VI?]

The present Agreement shall replace the exchange of notes between the Government of the United States and the Government of the Kingdom of Greece of December 9, 1924, and shall become operative on this day of 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, Sir, etc., etc.,

611.6831/207

The Secretary of State to the Minister in Greece (MacVeagh)

No. 484

WASHINGTON, September 29, 1938.

SIR: The receipt is acknowledged of your despatch No. 2298 of June 10, 1938 transmitting a copy of the Greek draft of the proposed *modus vivendi* in commercial matters together with explanatory notes by the competent Greek authorities.

The Department has given careful consideration to the draft *modus vivendi* proposed by the Greek Government as well as to the Legation's comments and suggestions thereon. The Department feels that the Greek proposals fall short in certain essential respects of providing for satisfactory treatment of American trade, as indicated in the comments contained herein. Certain modifications of the Department's second draft *modus vivendi*, which was enclosed in its Instruction No. 454 of April 13, 1938, are suggested below. With these modifications, the Department desires that you endeavor to obtain the assent of the Greek authorities to a *modus vivendi* more nearly in accord with the second draft proposed by the Department.

With respect to Article I, while the Department would prefer the form of its second draft, it is prepared to accept the Greek draft of this Article, which combines the provisions of the Department's first and second drafts. In paragraph 2, commas should be inserted after the words "sale", "favor", and "America", in the eleventh, thirteenth and last lines, respectively.

With respect to Article II, it would appear that the objection of the Greek authorities to the acceptance of paragraph 2 of the Department's second draft is based on the belief that its provisions do not conform to the existing Greek system of import control and regulations and that these provisions would tend to give rise to endless discussions with respect to the methods of establishing the United States percentage share of total permitted importations.

As to the first of these points, the Department feels that it is neither necessary nor desirable to distinguish between the various types of quantitative restrictions, such as "general quotas" and "customs quotas" on the one hand, and "special licenses" and "extra quotas" on the other, as is done in the Greek counterproposal. In this connection, you should point out to the Greek authorities that the quota article proposed by the Department in its second draft *modus vivendi* makes provision for "extra" or supplementary quotas during a quota period in the phrase in Article II, paragraph 2 (page 2, lines 2 and 3) "and of any increase in such amount during the specified period";²⁵ and in the last sentence of subparagraph (b) of the same paragraph, which reads as follows: "If the total amount permitted entry from all countries is increased during any quota period, the quota established for the other country shall be increased proportionately." Therefore, the quota article proposed by the Department does not require, as stated in the explanatory notes accompanying the Greek counterproposal (pages 3 and 4),²⁶ that the total amount of permitted imports of a particular product, including "extra" or supplementary quotas,

²⁵ Page 527, lines 9 and 10.

²⁶ Paragraph numbered 2, bottom of p. 537.

shall be established in advance of the given quota period. Under the Department's proposed draft of Article II, paragraph 2, the Greek Government could continue its present policy of establishing in advance for a given period what is referred to, under the Greek import regime, as a "general quota", and of subsequently granting "special licenses" or allotting "extra quotas" for merchandise imports in excess of the original (or "general") quota.

With respect to both original (or "general") global quotas (the word "global" referring to the total amount of a given product permitted to be imported from all countries) established prior to the quota period, and the supplementary (or "extra") global quotas established during the given quota period, the Article provides, at the option of the country which imposes the restriction, for two alternative methods of procedure, namely, the global quotas by products may be (a) unallocated, or (b) allocated by countries, as described in the Department's instruction No. 454 of April 13, 1938, pages 2 and 3. In this connection, the Department understands that the Greek Government's draft *modus vivendi* under reference proposes that, with respect to any article imported into Greece subject to quantitative restrictions, the original or "general" global quota shall be unallocated by countries, whereas the supplementary or "extra" quotas shall be allocated by countries; at least that the United States' share in such supplementary quotas shall be allocated. While such a quota system is theoretically possible, the Department feels that a less cumbersome method of quantitative restriction of imports, which would be more satisfactory to Greek importers and United States exporters, would be a system which provided, with respect to any given product, for either an unallocated global quota (including both original or "general" and supplementary or "extra" quotas), or an allocated global quota. However, under the Department's proposal, if a quota for any product should be allotted by the Greek Government to any third country, an allotment would have to be made to the United States, including both original and any supplementary quotas, on the basis of trade in past years. In any event, the phrase "the total amount permitted to be imported from all countries during any specified period . . . and of any increase in such amount during the specified period" includes all imports of the regulated article. This means that the global quota for any product with respect to which the United States would be assured a share based upon trade in past years, must cover all permitted imports of the product in question, including such imports as may be made through public or private clearing, compensation, or payment arrangements from all countries, including Germany. This point should be made clear to the Greek authorities. In discussing it you may wish to invite their attention to the first paragraph

(page 4) of the "Memorandum of Interpretation of Article VIII" contained in the Temporary Commercial Arrangement between the United States and Italy of December 16, 1937, a copy of which was enclosed with the Department's instruction No. 454 of April 13, 1938.

With a view to meeting the second point of objection of the Greek Government regarding the method of establishing the proportion of the total importation of specific articles which shall be allotted by the other country you are authorized to propose to the Greek authorities the following alternative draft of Article II, paragraph 2, subparagraph (b) :

"(b) Establish in advance, and inform the other country concerning, the quota of such article which shall be permitted to be imported from the other country during the specified period. Such quota, as originally established or subsequently changed, shall be equivalent to the proportion of the total importation of such article which the other country supplied during past years, account being taken in so far as practicable in appropriate cases of any special factors which may have affected or may be affecting the trade in that article. Where a quota for importation from the other country is established, no obstacle, administrative or otherwise, shall be placed in the way of importation sufficient to fill the quota allotted to the other country. If the total amount permitted entry from all countries is increased during any quota period, the quota established for the other country shall be increased proportionately."

This new language is designed to meet the Greek views for the application of a formula based on the Department's earlier proposal of a "representative period" and is believed to be sufficiently flexible to cover, among other things, newly developing trade in certain products.

If the Greek Government should be inclined to accept Article II, paragraph 2, with the suggested modification of subparagraph (b), but should hesitate to do so on the ground that such a formula would still leave too much uncertainty as to the treatment to be accorded to various articles imported from the United States, the Department would consider the possibility of setting forth in an annex to the *modus vivendi* a list of articles of important interest to us and the percentages of total permitted imports of such articles which would be allotted to the United States if or so long as allocations were made to any third country. Provision might also be made for periodic revision of such a list and the minimum percentages prior to the beginning of each quota period. Your comments on this possible solution would be appreciated.

With respect to the Legation's proposal contained in enclosure No. 1 to despatch No. 2298 of June 10, 1938, that we ask the Greek Government to accord us a share of the total permitted imports of all

products subject to quantitative restrictions (such a share would, of course, have to be based on the value of the trade in the products subject to restrictions), the Department feels that such a provision would tend to perpetuate the discriminatory treatment with respect to specific products imported into Greece from the United States during recent years under the existing Greek quota system. It is the Department's understanding that the advantages expected from the special semi-annual "lump value" quotas granted by the Greek authorities to cover imports into Greece from the United States of items in Greek quota groups B, F, and G have been frequently nullified by the practice of arbitrarily shifting items, either from the quota-free list or from some other quota group, to one of the aforementioned quota groups during the quota period to which the lump value quota is applicable, with the result that discrimination against imports from the United States has continued. Moreover, with respect to specific products, discrimination against imports from the United States has also occurred through the practice of allotting the lump value quota to those particular items which the Greek authorities desire shall be imported from the United States, while at the same time withholding the issuance of import licenses for those products the importation of which from the United States the Greek authorities wish to restrict or prohibit.

Although the Legation's proposal, by requiring a lump value quota for all products subject to quantitative restrictions, would presumably preclude the continuance of the former practice on the part of the Greek authorities of nullifying advantages obtained in the form of lump value quotas by the shifting of items within the various quota groups, it would leave the Greek authorities entire freedom to make arbitrary allocations of the lump value quota with respect to specific items, and thus would provide no definite assurance that non-discriminatory treatment would be accorded imports into Greece from the United States of individual products subject to quantitative restrictions.

With respect to Article II, paragraph 3, of the Department's second draft *modus vivendi*, no reasons are given in your despatch No. 2298 under reference for (1) the omission from the Greek draft of subparagraph (c); and (2) the changes in subparagraphs (a) and (e), which are apparently contained in modified form in Article II, paragraph 2 B (c) of the Greek draft. The Department feels that the substance of subparagraph (e) should be incorporated in the *modus vivendi*, and that Article II, paragraph 2 B (c) of the Greek draft is not a satisfactory substitute for Article II, paragraph 3, subparagraphs (a) and (e) of its second draft for the following reasons: (1) Greek importers should be informed regarding all regulations relating to the issuance of licenses or permits before they are put into

force, which would be required under the provisions of subparagraph (a) of the Department's draft, whereas the Greek draft provides merely that such regulations "be communicated to the interested Government"; (2) subparagraph (e) of the Department's second draft provides, in certain circumstances, for the communication to the Government of the other country of "the amount of [an]²⁷ article, the growth, produce, or manufacture of each exporting country which has been imported or for which licenses or permits for importation have been granted" (underscoring added), whereas the Greek draft provides only that the "amount of each product [subject to regulation]²⁷ for which import licenses or permits shall be granted to the other country" (underscoring added) shall be communicated to the other Government.

As to the modifications of Article II, paragraph 3, subparagraph (d) of the Department's second draft, contained in Article II, paragraph 4, of the Greek draft, the Department has noted the comments relating thereto contained in your despatch No. 2258 of May 14, 1938 (page 4, paragraph 3²⁸). In view of the possibility of discrimination against imports from the United States, particularly with respect to those products for which the global quotas may be unallocated by countries, by allotting licenses to importers in such a manner as to favor imports from some third country, such as Germany, with which close trade connections have become established during recent years when imports of such products from the United States have been so greatly restricted, the Department would prefer that subparagraph (d) of its second draft be retained in the *modus vivendi*, rather than Article II, paragraph 4, of the Greek draft. Moreover, the Greek draft appears to weaken the commitment more than is necessary to fulfill the condition stated in your despatch No. 2258 under reference, namely, that the Greek Government "desires to keep within limits the number of licensed Greek importers", since it provides that "if either country controls or limits the establishment of new or re-establishment of old trade connections by local importers", et cetera. It may well be, however, that this was not intentional on the part of the Greek authorities, but was simply an attempt on their part to adapt the language of the text, as nearly as possible, to that contained in subparagraph (d) of the Department's draft. In view of the aforementioned comments relating to this subparagraph contained in your despatch No. 2258, the Department would be willing to accept subparagraph (d) of its second draft with the addition of the words "duly qualified" before the word "importer" in lines 1 and 6, respectively. This modification should meet the views of the Greek authorities.

²⁷ Brackets appear in the original instruction.

²⁸ Paragraph beginning "The Commission then reverted", p. 531.

You should therefore inform the Greek authorities that your Government feels that the Greek counterproposal with reference to Article II does not give adequate assurances for non-discriminatory treatment of American trade and that it believes that provisions such as those contained in Article II of the draft *modus vivendi* presented to the Greek Government on April 28, 1938, modified as suggested above in respect of paragraph 2, subparagraph (b) and paragraph 3, subparagraph (d), should be included in the proposed temporary agreement.

With respect to Article III, paragraph (a) of the Greek draft, the meaning intended by the addition of the phrase "provided that such articles have been imported in accordance with the regulations in force" is not clear to the Department. If the phrase is intended to refer to the regulations relating to quantitative restrictions (quotas, licenses, etc.) it is unnecessary, since such regulations are covered by the provisions of Article II. If the phrase is intended to refer to the regulations relating to exchange control, it would appear to permit regulations which would greatly weaken the commitment. What is desired is an agreement with the Greek authorities in regard to the principles which shall govern this matter. It would of course be understood that whatever regulations the Greek authorities might see fit to issue would conform to those principles.

With respect to Article III, paragraph (b), the Department feels that the Greek draft is unsatisfactory in that the meaning intended by the phrase "in conformity with the situation of the respective markets and the real value of the respective foreign exchanges" is vague, notwithstanding the explanatory notes of the Greek authorities accompanying the paragraph.

Therefore, the Department would appreciate receiving further explanatory comments describing specifically how the Greek authorities would expect to apply the provisions of paragraphs (a) and (b) in practice. In the absence of a satisfactory explanation and of a more precise phraseology, the Department feels that the substance of Article III, paragraphs (a) and (b) of its second draft should be retained in the *modus vivendi*.

It is noted that the Greek draft of Article III omits the words "growth, produce or manufacture" contained in the Department's second draft in every instance. For purely technical reasons the Department would prefer that these words be included.

With respect to Article IV, the Department feels that the Greek draft is unsatisfactory, particularly in view of the second paragraph (page 9) ²⁹ of the explanatory note of the Greek Government relating

²⁹ Paragraph beginning "It is evident that any Government," p. 539.

thereto. You should, therefore, point out to the Greek authorities that your Government is of the opinion that non-commercial factors should not be permitted to influence decisions with respect to foreign purchases by governmentally-controlled or authorized monopolies, or with respect to governmental purchases of foreign supplies or the awarding of governmental contracts to foreigners in connection with public works, and that therefore it feels that reciprocal assurances in accordance with the terms of Article IV of its second draft should be incorporated in the *modus vivendi*.

With reference to the statement by the Greek Government in its explanatory note to the effect that "the right of any Government to reserve for itself unlimited freedom of decision with regard to purchases and contracts has never been disputed", you may wish to invite to the attention of the Greek authorities that pledges of non-discriminatory treatment in respect of these matters is an appropriate subject for inclusion in treaties or agreements between sovereign states, regardless of their size. In this connection, it may be desirable to point out that provisions similar to those proposed in Article IV of the Department's second draft are incorporated in the trade agreement between the United States and Czechoslovakia, and in draft general provisions of trade agreements now in the course of negotiation. Practically every international agreement involves limitations on freedom of action, but these reciprocal limitations are voluntarily undertaken by each of the parties, and provision customarily is made for regaining freedom of action, by termination of the treaty or agreement, in case of necessity.

If the Greek authorities continue to oppose the inclusion in the *modus vivendi* of Article IV of the Department's second draft in its entirety, you are authorized to propose the deletion of the second sentence of paragraph 1, with a view to making the language of the Article more acceptable to the Greek authorities, but on the understanding that the deletion of that sentence in no way changes the interpretation we would give to the Article. If the Greek authorities should reject this proposal and continue to resist inclusion of the Article, you are authorized to withdraw it in its entirety. However, at the same time, you should make it clear to the Greek authorities that your Government does so without prejudice to its right to make representations to the Greek Government in the event that circumstances should arise in which it appears to your Government that fair and equitable treatment, with reference to the provisions of its proposed Article IV, has not been accorded by the Greek Government to imports from the United States. In your discretion, you might add that if, in such circumstances, representations did not lead to a satisfactory

adjustment of the matter, your Government would feel free to terminate the *modus vivendi* in accordance with the provisions of Article VI.

With respect to the last sentence of Article V, paragraph 2, of the Greek draft, the Department is giving consideration to the question of accepting an Article containing provisions which would except the advantages which may be accorded by Greece to the members of the Balkan Entente, but desires certain additional information before reaching a decision. The Department's information indicates that provisions excepting from most-favored-nation treatment the advantages which may be accorded by Greece to the members of the Balkan Entente have so far been incorporated in only two accords, namely, in the Commercial Agreement between Greece and Lithuania which was signed at Kaunas on December 1, 1937³⁰ and ratified by Greece on January 28, 1938 (your despatch No. 2168, March 11, 1938,³¹ Provisional Entry into Effect of Commercial Agreement between Greece and Lithuania, enclosure 2, Official Gazette of February 5, 1938, page 192), and in the exchange of notes accompanying the signature of the Convention of Commerce and Navigation between Greece and Latvia which was signed at Riga on January 15, 1938,³² and ratified by Greece on April 15, 1938 (your despatch No. 2271, May 24, 1938,³³ Ratification of Commercial Treaty between Greece and Latvia, enclosure 2, Greek Government Gazette of April 20, 1938, pages 990-991).

Moreover, in each instance, the provisions are qualified. In the Agreement between Greece and Lithuania of December 1, 1937 (Article 2) each of the Balkan countries is named with respect to which advantages accorded are to be excepted, thus restricting the excepted advantages to those accorded the present members of the Balkan Entente. In the exchange of notes with Latvia of January 15, 1938, the acceptance of the Balkan clause by Latvia is made conditional upon its incorporation in two treaties of commerce "to be concluded" between Greece and one of the "Great Powers" (Germany, France, or Great Britain), and the other between Greece and one of the Baltic countries. The Department's information does not indicate whether the Commercial Agreement between Greece and Lithuania mentioned above fulfills the second condition in the exchange of notes with Latvia, namely, the incorporation of the Balkan clause in an accord with one of the Baltic countries. Inasmuch as the Commercial Agree-

³⁰ League of Nations Treaty Series, vol. cxciii, p. 185.

³¹ Not printed.

³² League of Nations Treaty Series, vol. cxcv, p. 19.

³³ Not printed.

ment between Greece and Lithuania, although signed on December 1, 1937, was not ratified by Greece until January 28, 1938, whereas the Convention of Commerce and Navigation between Greece and Latvia was signed on January 15, 1938, it appears that the former agreement may fulfill this condition. You should therefore ascertain from the Foreign Office, and inform the Department whether such is the case. According to the Department's information, however, Greece has not yet concluded an accord with either Germany, France or Great Britain containing the Balkan clause, so that the clause in the accord between Latvia and Greece is presumably not yet effective. In this connection, you should endeavor to ascertain from the Foreign Office whether negotiations are in progress with any other countries for agreements which the Greek Government hopes will contain the Balkan clause. You should also inform the Department how much importance, in your opinion, the Greek authorities attach to the inclusion of the Balkan clause in the proposed *modus vivendi* with this country, and how far they would be willing to go in restricting the scope of the clause, with reference to both countries and articles.

If it should be decided to accept an Article containing provisions which would except the special advantages which Greece accords to the members of the Balkan Entente, the Department would prefer that such advantages be restricted to those accorded to the present members of the Balkan Entente and only to those articles with respect to which advantages are accorded on the effective date of the *modus vivendi*, as was done in the provisions relating to Danubian preferences in the trade agreement between Czechoslovakia and the United States which became provisionally effective April 16, 1938.³⁴ In this connection, the Department desires that you submit a report, as soon as possible, of the preferential advantages, including those relating to all forms of quantitative trade control (import quotas and licenses, exchange allotments, clearing and compensation arrangements, etc.) as well as tariff concessions, which Greece now actually accords to Bulgaria, Rumania, Turkey or Yugoslavia, with references to the pertinent conventions, decrees, etc. relating thereto.

You are also instructed to (1) delete, for purposes of uniformity, the words "It is understood that" at the beginning of Article V, section 2; and (2) to insert preceding the word "exportation" in Article V, section 4, of the Department's second draft *modus vivendi* the words "importation or".

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

³⁴ Department of State Executive Agreement Series No. 147, or 53 Stat. 2293.

611.6831/205

The Secretary of State to the Minister in Greece (MacVeagh)

No. 492

WASHINGTON, October 12, 1938.

SIR: The receipt is acknowledged of your despatch no. 2361 of July 16, 1938⁸⁵ with reference to a communication which you have received from the Greek Minister of National Economy, requesting that a special customs surcharge which is now imposed on coffee, sugar, and sardines in brine be excepted from the provisions of Article I and Article II, paragraph 5 of the Greek draft *modus vivendi* submitted with your despatch No. 2298 of June 10, 1938.

In this connection, you should make it clear to the Greek authorities that Article II, paragraph 4 of the Department's second draft *modus vivendi* enclosed with its instruction No. 454 of April 13, 1938, which was repeated as Article II, paragraph 5, of the Greek counter-proposal submitted with your despatch No. 2298 of June 10, 1938, relates solely to tariff quotas and, therefore, would not cover the special Greek customs surcharges on coffee, sugar, and sardines in brine.

With respect to sugar, the statements contained in the first paragraph quoted from the aforementioned communication are not entirely clear, since, according to the Department's information (Commercial Attaché's Economic and Trade Note No. 94, November 10, 1937,⁸⁶ "Further Modifications in the Greek Import Regulations on Sugar"), imports of sugar into Greece from the United Kingdom, as well as from clearing countries, are accorded preferential treatment by reason of the additional charge, equivalent to three-quarters of any difference in the c. i. f. price of sugar imported from countries other than the United Kingdom compared with the c. i. f. price of sugar of British origin on the same date, which is levied on imports of sugar from non-clearing countries other than the United Kingdom. Presumably the Greek authorities desire also to except this preferential treatment accorded imports of sugar from the United Kingdom.

Although for broad reasons of policy the Department would be reluctant to except these preferences from the provisions of Article I of the proposed *modus vivendi*, it is of course true that the United States has very little interest in the trade in the products concerned. Therefore, if the Greek authorities should be disposed to conclude a *modus vivendi* substantially along the lines proposed by the Department in its instruction no. 484 of September 29, 1938, the Department would be willing to consider including a paragraph along the following lines in Article V:

⁸⁵ Not printed.

⁸⁶ Not found in Department files.

“Without modifying its position on the principle of unconditional most-favored-nation treatment, the Government of the United States of America agrees not to invoke the provisions of Article I of this Agreement in respect of the special and temporary advantages now accorded by the Kingdom of Greece to imports from certain countries of coffee in beans, sardines in brine, and sugar.”

Your comments with reference to this proposal will be appreciated. The Department would also appreciate receiving complete information regarding the operation of the regulations with respect to the application of these premiums on coffee, sardines in brine, and sugar.

Very truly yours,

For the Secretary of State:

FRANCIS B. SAYRE

611.6831/208 : Telegram

The Minister in Greece (MacVeagh) to the Secretary of State

ATHENS, November 8, 1938—5 p. m.
[Received November 8—2: 10 p. m.]

61. Department's instruction No. 484, September 29. I am happy to report that the Greek Government accepted today the Department's second draft with only the substitution of the new subparagraph (b) of paragraph 2 of article No. II contained in the Department's instruction under reference and the insertion of the suggested words "duly qualified" in subparagraph (d) of paragraph 3 thereof, as well as the modifications desired by the Department in article No. V. No Greek modifications or suggestions whatsoever. The Balkan clause was dropped. An exchange of notes following the Department's prescribed language with only the authorized changes above cited is being prepared for prompt signature, the agreement to become operative January 1, 1939, when the new Greek quota period begins.

MACVEAGH

611.6831/209 : Telegram

The Minister in Greece (MacVeagh) to the Secretary of State

ATHENS, November 15, 1938—6 p. m.
[Received November 15—2: 25 p. m.]

64. *Modus vivendi* signed. As it seemed preferable not to include exceptions in the body of the agreement, I have proposed and request the Department's permission to address a note to the Minister for Foreign Affairs incorporating the language suggested in the Department's instruction 492, October 12 except for the omission of "sardines in brine", which the Greeks are willing to drop.

MACVEAGH

611.6831/208 : Telegram

The Secretary of State to the Minister in Greece (MacVeagh)

WASHINGTON, November 18, 1938—7 p. m.

58. Your 61, November 8, 5 p. m. and 64, November 15, 6 p. m.

1. Since, according to your 61, the effective date of the *modus vivendi* is not until January 1, 1939, we assume that minor changes were necessary in the text of Article VI. In order that public announcement of the conclusion of the *modus vivendi*, including the publication of the text, may be made here as soon as possible, please telegraph immediately any changes however minor from the text as indicated in your 61, date of signature, and the name and title of the person signing on behalf of the Greek Government.

2. Your 64. We had expected that any exceptions would, after consideration here in the light of the report requested in the last paragraph of instruction number 492, be included in Article V. However, in the circumstances, and since sugar and coffee are of no practical importance in our export trade with Greece, the authority requested by you is granted. The note should of course contain an appropriate introductory phrase referring to the exchange of notes signed, presumably, on November 15. Please telegraph the text of this note, by reference to instruction number 492 if possible, in order that it may be published here along with the text of the *modus vivendi*.

3. Please expedite report requested in last paragraph of instruction number 492.

HULL

[For text of provisional commercial agreement signed November 15, 1938, and supplementary note from the American Minister to the Greek Minister for Foreign Affairs dated November 19, 1938, see Executive Agreement Series No. 137, or 53 Stat. 2046.]

HUNGARY

PROPOSAL OF HUNGARIAN GOVERNMENT FOR A NEW DEBT SETTLEMENT AGREEMENT WITH THE UNITED STATES

800.51W89 Hungary/176

*The Hungarian Legation to the Department of State*¹

AIDE-MÉMOIRE ON HUNGARY'S RELIEF DEBT TO THE UNITED STATES

1. Hungary, normally a wheat and flour exporting country, was faced in 1920 with a threatening famine. It became necessary therefore to purchase on credit from the United States Grain Corporation 13,890 tons of flour at a price of \$121.37 per ton and the Hungarian Government became indebted to the American Government for the cost of this purchase in the amount of \$1,685,835.

This debt was funded into interest-bearing bonds in 1924. The funded principal amount of these bonds was \$1,939,000 since there was included in the total an amount of \$253,000 which had accrued as interest between 1920 and 1924.

The Hungarian-American debt settlement² was worked out on the same basis as the British-American debt funding settlement,³ containing none of the concessions which were later granted from those terms to other countries. The total principal to be repaid included, as has already been remarked, a large element of accrued interest. Furthermore the annual payments becoming due on the new principal from the very beginning of the agreement contained a large element of interest payment.

This is in contrast to the settlements reached with other Danubian countries which had likewise incurred relief debts to the American Government at about the same time and for similar purposes. In these other funding arrangements the annuities provided for the years between 1924 and 1931 were all on account of the principal amount of indebtedness.

On the other hand, as a result of this difference in terms, of the \$468,466.32 which the Hungarian Government paid during these years,

¹ Handed to the Secretary of State by the Hungarian Minister, February 8, 1938.

² For correspondence, see *Foreign Relations*, 1924, vol. II, pp. 325 ff.; for complete text of agreement, see *Combined Annual Reports of the World War Foreign Debt Commission 1922-26*, p. 132.

³ For text of agreement dated June 18, 1923, see *ibid.*, p. 106.

only \$73,995.50 was applied to reduction of principal, the other \$393,717.78 being charged as interest. Thus the nominal unpaid principal of the Hungarian debt now stands at a substantially higher total than it would, had Hungary enjoyed the terms later granted to other Danubian countries.

The failure of Hungary to effect payments to the United States under the terms of its debt contract had no relation whatsoever with the defaults of other debtors of the United States. In December, 1931, six months before the Hoover Moratorium expired, the sudden withdrawal of foreign short-term credits completely exhausted the gold and foreign exchange reserve of the National Bank of Hungary and forced the Government, in order to safeguard the financial stability of the country, to decree a transfer moratorium on all foreign debts.

The annuities due under the funding agreement of 1924 were included, however, by the Hungarian Government in every budget passed by Parliament from 1932 to 1937, and on each payment date the United States Government was informed that in lieu of transfer, Treasury bills in the national currency were deposited in its favor.

Since the summer of 1937 the Hungarian Government has been emerging from the moratorium which for several years has interrupted payments on all kinds of Hungarian foreign debts to all classes of creditors in all parts of the world. Arrangements on a provisional and temporary basis have been worked out with various groups of creditors. Concurrently a payment of \$9,828.16 was made to the American Government on December 15, 1937.⁴

2. Responsive to the repeated indications given by the American Government to the effect "that this Government is fully disposed to discuss, through diplomatic channels, any proposals which your Government may desire to put forward in regard to the payment of this indebtedness, and to assure you that such proposals would receive careful consideration with a view to eventual submission to the American Congress", the Hungarian Government is now prepared to offer to the United States Government to pay in full the total original amount borrowed.

It therefore tentatively formulates for the consideration of the American Government a possible basis of a new debt arrangement between the two countries to replace completely the debt agreement of 1924 and accruals thereunder.

The forms and terms for effecting this new settlement which are under consideration as the basis of a possible offer to the American Government are as follows:

⁴ Similar semiannual payments were made up to December 15, 1941.

(a) That all payments hitherto made by the Hungarian Government under the debt settlement of 1924 to the United States (approximate amount \$478,000) should be recalculated as credited against original principal (\$1,685,000).

(b) That the original principal (\$1,685,000) of the amount borrowed less the preceding amount paid (\$478,000) or \$1,207,000 be paid in full in a series of annuities.

(c) The sum total of these annuities shall be equal to this reduced principal and shall be in the form of dated non-interest-bearing notes falling due at specified dates. These annuities shall run for a period of approximately thirty years (and hence each would be approximately in the amount of \$39,000).

3. The Hungarian Government wishes to point out that the sum total of these annuities, taken together with amounts previously paid by the Hungarian Government under the debt agreement of 1924, would be identical with the whole original amount borrowed, and thus represent an exact and full discharge of the debt.

The Hungarian Government hopes all the more that this offer will prove acceptable to the American Government as it very closely approximates the basis for payment annuities already accepted in the Austrian settlement of May 8th, 1930⁶ for the discharge of a relief indebtedness of the same character and referring to a country whose capacity to pay can hardly be considered inferior to that of Hungary.

In announcing the signature of said agreement with Austria, the Treasury Department stated that "The settlement compares favorably with the settlements made by the United States with the Governments of Greece, Italy and Yugoslavia".

The Hungarian offer would be even more favorable to the United States Government as in contrast to the terms of the Austrian settlement the Hungarian Government offers complete repayment of its relief obligation within the present generation.

WASHINGTON, February 7, 1938.

[The President in his message to Congress on March 28, 1938, declared:⁶

"I believe the proposals of the Hungarian Government should receive the most careful consideration of the Congress. They represent

⁶For text of agreement, see *Annual Report of the Secretary of the Treasury on the State of the Finances for the Fiscal Year Ended June 30, 1930* (Washington, Government Printing Office, 1931), pp. 316-322.

⁶*Congressional Record*, vol. 83, pt. 4, p. 4182.

a noteworthy wish and effort of the Hungarian Government to meet its obligations to this Government."

In telegram No. 35, January 12, 1940, 5 p. m., to the Ambassador in France, it is stated: "Congressional leaders have always been indisposed to find time for consideration of the Hungarian debt proposal even by Ways and Means Committee, which has initial jurisdiction." (800.51W85 Hungary/210)]

ITALY

UNSATISFACTORY TRADE RELATIONS BETWEEN THE UNITED STATES AND ITALY¹

611.6531/409

*The Italian Ministry for Foreign Trade and Exchange to the American Embassy in Italy*²

[Translation]

PRO MEMORIA

In application of the stipulations of the *modus vivendi* concluded with the United States of America on December 16, 1937,³ the attached list of import contingents to be assigned to the U. S. A. for the year 1938 has been compiled.⁴

The said contingents have been calculated on the basis of the terms of Art. 8 of the Treaty under discussion with the U. S. A. which prescribes that if one of the contracting Parties imposes or maintains any form of limitation or control of the importation of any article in which the other contracting Party has a considerable interest, it shall allot to the other contracting Party, during a specified period, a proportion of the total quantity of each article admitted for importation equivalent to the proportion of the total importations of the said article which the other contracting Party supplied during a previous "representative" period.

For the purposes of such calculation, the year 1934, in which Italian commerce presented substantially the characteristics required in accordance with the Memorandum of Interpretation of Art. 8, has been chosen as the "representative" period.

ARTICLES SUBJECT TO LICENSE

As regards articles subject to the regime of "licenses" for importation into Italy, the contingents fixed in the accords in force with all other countries on January 1, 1938, with intervening modifications, have been kept in mind.

¹ For correspondence on trade relations between the United States and Italy, see *Foreign Relations*, 1937, vol. II, pp. 435 ff.

² Transmitted to the Department by the Ambassador in Italy in his despatch No. 819, March 4, 1938; received March 17.

³ Department of State Executive Agreement Series No. 116, or 51 Stat. 361.

⁴ Not printed.

The contingents granted to other states are established by "weight" with certain countries and by "value" with the majority of the others. Inasmuch as Art. 8 establishes that the contingents for the U. S. A. must be expressed in quantity, it has been decided for the purpose of calculating the quota pertaining to the U. S. A. to change the contingents of the various countries from "value" to "weight" on the basis of the average customs valuations as shown by the statistics of importation for 1937.

For contingents not made by agreement, account has instead been taken of those established independently by Italy; on these, the quota pertaining to the U. S. A. has similarly been calculated on the basis of the participation which it had in the chosen representative period.

Since in the list of specific contingents established with various countries several items are occasionally grouped together for a single quantity of importation; or sometimes the participation of the U. S. A. is greater in a sub-classification not always segregated in the accords with other countries, whereas such participation in the whole item may have slight importance; due account has been taken of these circumstances in determining the contingents to be allotted to the U. S. A.

In the attached list have been included only the articles judged to be of "considerable interest" in the schedule of Italian importation from the U. S. A. Therefore, articles have been left out whose contingents are less than 25,000 dollars in value. However, reservation is made for the possibility of examining (*si fa riserva di esaminare*) case by case the requests for importation pertaining to articles left out of the list which may come to this Ministry on the part of interested single concerns.

Among the commodities indicated in the attached list are included also the products subject in Italy to monopoly regime: (copper, tin, nickel, coal, coke, tobacco, wheat), as well as those subject to special import regimes (combustible mineral oils and lubricants, solid bitumens (soft petroleum pitch), colors, radio valves, cotton). For certain articles (dried prunes, lard, bacon, typewriters, machines and apparatus for heating, distilling, etc., files and rasps, radio valves, solid bitumens, common lumber, solid paraffin, resins, perfumery, acetone, printing ink, raw skins for fur making and tanned skins without hair) (See Annex. A.), it has been necessary to reduce the contingents due on the basis of application of the terms of Art. 8; this resulting from the amount of the contingents previously agreed upon with other countries, as well as from national requirements for the said articles envisaged for 1938. Especially in the calculation of the contingents for lard and bacon, the pure and simple application of the terms of Art. 8 would have led to results entirely out of proportion with respect to the average of purchases of these products effected in

normal times and to the capacity of consumption of the Italian market. The contingents pertaining to the U. S. A. for such articles would, in fact, have been more than 310 per cent in the case of lard as compared with the quantity imported in 1934 (from 26,225 qtls. in 1934 to 81,530 qtls. in 1938) and 457 per cent in the case of bacon (from 5,904 qtls. to 26,960 qtls.) whereas the total requirements of said products from abroad for 1938 are appraised at an amount far below those of 1934—taking also into consideration the development of national production in this field.

Altogether, the reduction in contingents of the products indicated above, calculated on the basis of customs import valuations in Italy for 1937, amounts to about 118 million lire. In compensation for this reduction the contingents for the following products have been increased by an equal total amount: scrap iron and steel (49.3 million lire increase), crude mineral oils (41 million lire), raw skins not good for fur-making (20 million lire), salted intestines (2 million lire), lamp black (5.6 million lire).

ARTICLES SUBJECT TO "BOLLETTA"⁵

As regards articles subject to the regime of "bolletta" which are admitted for importation into Italy—especially in relation to the necessities of procedure of the customs operations—on the basis of a fixed, single percentage with respect to 1934, for all articles subject to the said regime, it has been arranged, with few exceptions resulting from accords with single countries, to allot to the U. S. A. for 1938 a single percentage equal to 65 per cent of the quantities imported in 1934.

The average percentage resulting from the application of the principle contained in the terms of Art. 8 of the Treaty under discussion to products subject to "bolletta" imported from the U. S. A. would actually have been 57 per cent as compared with 1934; but taking into consideration that for certain articles, specified in Annex "B", the said percentage has been reduced to 30 per cent of 1934, it has been resolved to compensate such reduction, which represents approximately 5.4 million lire in value, with an increase in the importation of all other products subject to "bolletta", from 57 per cent to 65 per cent, which increase corresponds approximately in value to the above mentioned amount.

Item 809—"Tanned Skins Without Hair", at present subject to the regime of "bolletta", has been transferred to the license regime and therefore is included in the list of contingents relating to articles of

⁵ "Bolletta" articles were those admitted for importation by permits issued to individual importers or organizations on basis of a percentage of prior importations of the same articles by the same importers.

the latter group. A measure is in course for the transfer of the item in question to the license regime as regards all sources of supply.

ROME, February 19, 1938.

665.116/350 : Telegram

The Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, March 7, 1938—2 p. m.

21. Embassy's telegram No. 41 of February 26, 11 a. m.⁶ If the Embassy sees no objection you are requested to inform the appropriate authorities that the Department is appreciative of the willingness of the competent Ministry to discuss the proposed quota allotments before they become definite. As our studies of these proposals after they are received here may be expected to take some time, and as it would be undesirable to leave traders in doubt meanwhile of the status of quotas in which they are interested, you are requested further, if you see no objection, to express the hope that there will be no delay in publication by the Italian Government of the tentative quota allocations to the United States and in the issuance of the necessary import permits against those allocations, without prejudice, however, to possible requests we may make for revision in accordance with the terms of the temporary commercial arrangement.

HULL

611.6531/410

Memorandum of Conversation, by the Assistant Secretary of State (Sayre)

[WASHINGTON,] March 10, 1938.

Participants: Fulvio de Suvich, Italian Ambassador and
Mr. Sayre
Giuseppe Cosmelli, Italian Counselor and
Mr. Hamlin of EU⁷ also present

The Italian Ambassador called upon me at 11:30 a. m. today by appointment at his request.

After preliminary remarks, particularly on the favorable reaction of the American press to the Trade Agreement with Czechoslovakia,⁸ the Ambassador said he had heard that the Italian Government had

⁶ Not printed: it reported the receipt on February 23 of the text of the *pro memoria* of February 19 from the Italian Ministry of Foreign Trade and Exchange, printed *supra*.

⁷ Division of European Affairs.

⁸ For correspondence, see pp. 223 ff. For text of agreement signed March 7, 1938, see Department of State Executive Agreement Series No. 147, or 53 Stat. 2293.

suggested to us that the remaining articles of the proposed commercial treaty be put into effect by means of another *modus vivendi*, but that this had not been found possible.

I explained in detail that we could not do this because (1) it was questionable whether it would be constitutional and (2) it was inadvisable politically. I said the only sound procedure was to continue with the treaty negotiations, which I hoped could be done.

The Ambassador then inquired about the present status of the commercial treaty negotiations. I explained that we are practically in agreement except on the preamble and the article on military service. In regard to the preamble I said we proposed a compromise which we had hoped Italy would accept, but that it had not been found possible to do so. The Ambassador replied that the preamble was part of a larger question, which might be cleared up through conversations with the British after which it might be possible to find a solution satisfactory to both parties concerning the preamble.

I asked the Ambassador if he had any news about the British conversations⁹ to which he replied he knew nothing special, but he was optimistic over the outcome, because there was no fundamental problem with the British.

Next the Ambassador referred to Mr. Hull's statement of March 7, 1938 in the press about trade relations with Germany and inquired about the present status. I told him that Mr. Hull had accurately stated the situation. I added that Germany has not seen its way to accept one of the cornerstones of our policy, that of equal treatment to all nations; Germany preferred bilateral treatment, for example, as in regard to foreign exchange. In reply to a direct inquiry, I stated that the door is still open, however, to go ahead with discussions when Germany is ready to negotiate on the basis of equal treatment.

The Ambassador then brought up the matter of trade agreement negotiations with Italy. I explained that we are quite convinced that the only sound procedure is to conclude the commercial treaty first—the only real obstacle in the commercial treaty negotiations has already been overcome through agreement on Article VIII—and then go ahead with the Trade Agreement.

F. B. SAYRE

611.6531/413 : Telegram

The Acting Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, April 23, 1938—3 p. m.

40. Your 41, February 26, and despatch No. 819 of March 4.¹⁰ Although the Temporary Arrangement clearly permits the choice of

⁹ See pp. 1 ff.

¹⁰ Neither printed.

a separate "representative period" for each product subject to quantitative limitation whenever the facts so warrant, we are disposed, in deference to the wishes of the Italian Government, to agree that for the purpose of Italian quotas for the calendar year 1938, the year 1934, with certain exceptions, is generally acceptable as representative of the participation by the United States in Italian imports of products of considerable interest to American exporters. This Government therefore requests for each product listed in the *Pro Memoria* which is subject to license, including those on which Italy has proposed long and short quotas, except items 96 and 181a, a quota based upon the actual proportion of Italian imports supplied by the United States in 1934. As regards the global quotas proposed by Italy, this Government requests assurances that they are inclusive of permitted imports from all countries, including imports permitted by public or private clearing, compensation, or payment arrangements.

Inasmuch as countries of the Danubian basin in Southeastern Europe are the only regions where prunes are produced commercially outside of the United States, there appears to be no basis for the 27.6 percent share offered by Italy, except on the ground of preferences to Danubian countries. It is suggested that the share of Italian imports of dried prunes (tariff item 96) enjoyed by the United States during the three year period 1932-1934, namely 64 percent, is representative of this country's participation in the trade and a quota on this basis is requested.

Raw cotton (181a). This is the most important single item in American trade with Italy and is of major importance to our national economy. However, the proportion of Italian imports from the United States during 1934 is not representative of our trade position because during that year participation by the United States, with one exception, was the lowest in the 8 years from 1929 to 1936. United States participation during the 3 year period 1932-1934, namely 71.5 percent is deemed representative and a quota on this basis is requested.

Zinc, etc. (386a). With reference to the informal official explanation of this item, please point out that item 386b is not of interest because of the small participation therein by the United States and request that a quota be established for item 386a based upon United States participation during a previous representative period.

The Italian comment concerning exposed motion picture films (948b) has been noted.

Careful consideration has been given to the list of products in Annex A of the *Pro Memoria* for which Italy, on the ground of prior commitments to other countries, proposes to reduce the quotas to amounts less than those to which we would be entitled on the basis

of the United States share of imports in 1934. The effect of this proposal is to request this Government to agree to discriminatory treatment of a sizable proportion of American exports of important products in violation of the terms of the Temporary Arrangement, the definite understandings reached during the negotiations and the well-known fundamental principles of American commercial policy. One of the major issues during the negotiations was the strong objection of this Government to the preferential treatment accorded by Italy to the products of other countries. The Temporary Arrangement was entered into only after explicit assurances of the Italian Government, in particular in its communication of November 24, 1937,¹² that all preferences would be totally abolished as of December 31, 1937, except those reserved for Austria. In these circumstances, this Government finds the reduced quotas in reference unsatisfactory, and, moreover, in the light of the facts just cited, is at loss to understand the viewpoint of the Italian Government in this regard.

With reference to Italy's proposal to increase contingents for certain raw materials and semi-manufactured products (also listed in Annex A), we do not concur with the principle that enlarged quotas for certain products can compensate for reduced quotas on other products. Moreover, this Government would find it extremely difficult to justify to American exporters the acceptance of this principle. We seek only an allocation for each of these products calculated on the basis of the proportion of the trade enjoyed by the United States during the year 1934, the general previous representative period chosen. The spirit and intent of the Temporary Arrangement is to assure a fair share of trade in each product rather than to permit the arbitrary redistribution of trade along the lines proposed.

Attention is invited to the following products, subject to import licensing restrictions, which were not mentioned in the *Pro Memoria*: Mules (2), honey (42a), wheat flour (70a), dried fruits n. o. s. (97), spinning machinery (414a and b), sewing machines without stands (426a), milling cutters, reamers, twist drills (470), aniline derivatives (748), and leather shoes (888).

Inasmuch as all of these articles are of considerable interest to the trade of the United States, it is requested that the total quantity of each product permitted to be imported be established and that a proportionate share of each be allocated for the United States. The year 1934 is satisfactory as a representative period for each product except wheat flour.

Although this country has not been an important supplier of wheat flour to Italy in recent years, the United States was the chief source

¹² See telegram No. 488, November 24, 1937, 6 p. m., from the Ambassador in Italy, *Foreign Relations*, 1937, vol. II, p. 466.

of Italian imports during the period 1928 to 1933. During that period our share ranged from a low of 41 percent in 1931 to a high of 61 percent in 1929. Hence, the United States participation of 21 percent in 1934 can hardly be considered representative. It is suggested that the average share enjoyed by the United States during the 3-year period 1932-1934, namely 40 percent, is representative and a quota on that basis is requested.

As regards the regime of "bolletta" the Temporary Arrangement does not permit the restriction of imports solely upon the basis of a fixed percentage of prior importations. In fact, the provisions of the Arrangement clearly provide that whenever importations are subjected to a regime of regulation by permits issued to individuals or organizations, appropriate quotas shall be allocated on the basis of the proportionate share formula. Therefore, as regards the articles listed in Annex B of the *Pro Memoria* as well as those set forth hereunder, all of which are subject to "bolletta" and are of considerable interest to the United States, this Government requests that the total quantity of each product permitted to be imported during a specified period be established and that a proportionate share of each be allotted for the United States on the basis of a previous representative period. The additional *bolletta* items in reference are waxed cotton fabrics (197), chains and parts of iron and steel (323a), fine tools and implements (476b), cameras, except lenses (482), electric measuring instruments (491), telephone and telegraph apparatus [not radio] (497), parts of automotive vehicles (523), parts for airplanes (Ex 536), electric carbons (552), manufactures of asbestos fabric (598), manufactures of wood, n. o. s. (623), natural vaseline (652a), sulphuricnates of ammonium, etc. (664), greases for machines, containing lubricating oil (666a), organic chemical products, n. o. s. (769), medical specialties (782a), specialties for arts and domestic use, prepared for retail sale (804), hides in strips, for hat bands (811-b-1), rubber tubes, combined with textiles (828-b-1), rubber thread (830a), rubber tires and tubes (834), rubber transmission belting (835), rubber manufactures, n. o. s. (843b), emery paper (847-I), vulcanized cardboard (848-e), and small wares, n. o. s. (911e).

Unless you perceive objection, please present the substance of the foregoing to the appropriate officials in writing¹³ and at the same time express the hope of this Government that Italy can find its way clear to readjust the proposed quotas and *bolletta* restrictions so as to bring them in line with the provisions of the Temporary Arrangement. You may say also that if the administrative steps necessary for the transfer of the *bolletta* items to the quota list will require con-

¹³ Presented to the Ministry for Foreign Affairs as *note verbale* No. 628, April 25, 1938.

siderable time, this Government would appreciate having first attention given to its requests concerning quotas on products now subject to license. That is to say, we do not wish to have action concerning products on the license list unduly delayed because of our requests concerning the *bolletta* items.

WELLES

611.653/62 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, May 23, 1938—4 p. m.
[Received May 23—1:40 p. m.]

116. The Embassy has received the following communication from the Ministry of Foreign Affairs:

"During the month of April the customs officers of New York demanded deposit of guarantee to clear through the customs certain Italian manufactures, pending investigations to determine whether or not anti-dumping duties should be applied to imports of such articles. The manufactures affected by the measure are: table runners, bedspreads, carpets, wall velvets and panels, lace and crocheted gloves, and also it appears straw hats because of the extremely small quantity of cotton lace contained therein and it seems possible that cotton lace and stockings will be subjected to similar treatment.

These measures follow upon those which, as was then pointed out to the Embassy of the United States (see Embassy's No. 551, December 28, 1936 and Department's telegram No. 197, December 29¹⁴), were taken by the American customs authorities at the time of importation of such Italian products as cheese and tomatoes seriously jeopardize the possibilities of Italian exports to the United States since the exporter on the one hand refuses to make shipments in the absence of any definite idea as to the duties which will be applied to his products and the American importer on the other hand also refuses to place further orders because of the burden represented by the sum demanded as deposit until the value of the imported goods has been finally appraised.

It further appears that the investigations conducted in Italy by officials of the American Treasury concerning the production and sales prices not only of certain of the aforesaid products, namely, tomatoes and cheese but also of other articles exported from Italy to the United States such as cigarette papers, felts for hats, and rayon have caused such a feeling of uncertainty among industrial circles in Italy as to induce not a few exporters to relinquish the American market.

The situation which has thus been created with regard to Italian exports with the attendant aggravation of the long standing unfavorable balance in Italy's trade with the United States cannot be regarded as normal or as in harmony with the principles which inspired

¹⁴ Neither printed; data within the parentheses apparently inserted by the Ambassador.

the Italian Government in establishing import quotas for American products in application of the *modus vivendi* of December 16th last.

The Royal Government despite the unfavorable outcome of its previous requests in individual cases nevertheless continues to hope that an accurate understanding of the necessities of the Italian export trade to the United States will in the interest of the trade between the two countries suffice to remove the insurmountable obstacles today being placed in the way of the more important and traditional currents of its export trade".

The note concludes with an intimation that unless the situation can be remedied some restrictive measures might have to be taken by the Italian Government and with the request that the foregoing information be conveyed to the American Government.

In acknowledging this note the Embassy has requested information concerning specific cases complained of.

PHILLIPS

611.653/66 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, June 17, 1938—1 p. m.
[Received June 17—8: 35 a. m.]

150. From Henry Grady.¹⁵ I have seen various Italian officials here both in the Foreign Office and the Ministry for Foreign Trade and Exchange and feel that it is important that efforts be made to expedite decision on Italian imports with reference to which the Treasury has held up entry and is making investigation and with reference to which the Italian Government has already made protest, see Embassy's telegram 116, May 23, 4 p. m. Uncertainty in this respect is complicating the problem of Italo-American trade relations already somewhat strained. Would it be possible to release goods if the authorities here would agree to send experts to Washington to adjust the matter as was done in the case of Germany? ¹⁶ [Grady.]

PHILLIPS

611.653/68 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, June 20, 1938—7 p. m.
[Received June 20—3: 50 p. m.]

154. In a conversation which the Commercial Attaché had today with the Minister for Foreign Trade and Exchange, Livengood was impressed by the seriousness with which our long delays in settling

¹⁵ Vice Chairman, United States Tariff Commission.

¹⁶ See *Foreign Relations*, 1936, vol. II, pp. 210 ff.

cases involving appraisal of exports to the United States are being regarded by the Italian authorities.

In view of the difficulties surrounding our general relations with Italy I think it would be helpful if Grady's suggestion contained in my telegram No. 150 June 17, 1 p. m. could be favorably acted upon.

PHILLIPS

611.6531/419 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, July 1, 1938—11 a. m.

[Received July 1—9 : 45 a. m.]

162. Department's telegram No. 64, June 30, 2 p. m.¹⁷ Although the Embassy has on repeated occasions urged upon Italian officials the importance of bringing the temporary arrangement into operation in accordance with the Department's desires, no reply to the Embassy's note of April 25 has yet been forthcoming. It has been explained that the delay has been due to the pressure of work on the limited staff of the Ministry for Foreign Trade and Exchange.

As indicated in the Embassy's telegram No. 156, June 22, 7 p. m.,¹⁷ the Minister has decreed in compliance with the Department's request that importation of all articles which are of considerable interest to the United States will be placed as of July 1 on a license basis and that the total quantity of each product permitted to be imported shall be established. The list of these articles, quotas for which it is understood will be calculated on the basis of 65% of imports in 1934, is not yet complete but it will be forthcoming shortly. It is also understood that as in the case of other countries whose imports are on a contingent basis the importation of articles from the United States for which specific quotas have not been established will not be permitted.

With respect to goods from the United States which were ordered under the "bolletta" system and any other, had already been shipped prior to the promulgation of the new order, the Embassy has been informed verbally that importation will be permitted under the old system. The Embassy will continue to press for an early reply.

PHILLIPS

611.653/79 : Telegram

The Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, July 11, 1938—6 p. m.

69. Department's 68, July 8, 1938.¹⁸ Treasury states that when the German representatives came to Washington in the summer of 1936,

¹⁷ Not printed.

¹⁸ Not printed; it stated that it was not possible to indicate the date on which a reply on the appraisal of Italian merchandise might be expected (611.653/73).

when countervailing duties were imposed upon certain German products, they did not negotiate any arrangements with the Treasury Department. They only obtained information concerning the requirements of our countervailing duty law.

The Treasury expresses doubt that a visit of Italian experts to Washington would aid in solving the current difficulties except in the way of familiarizing these experts with the requirements of our laws and to the further extent to which they could be helpful to their exporters by facilitating the investigations which must be made in Italy by Treasury agents to meet the requirements of our tariff laws. If the Italian Government believes that it is insufficiently informed as to the United States Customs requirements or if the Italian exporters believe themselves to be insufficiently informed, the Treasury Department will be glad to do all that is possible in assisting qualified representatives to a better understanding of our laws and regulations and for this purpose may be called upon at any time.

The Treasury has reiterated its promise to expedite its reply on the general question of delays in appraisements.

HULL

611.653/80 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, July 16, 1938—11 a. m.
[Received July 16—8:04 a. m.]

177. Embassy's telegram No. 116, May 23, 4 p. m. The following communication has just been received from the Ministry of Foreign Affairs with further reference to the treatment of Italian products in New York:

"In March the firm Michele Perego di Resate Brianza was informed by cable by its New York representative Signor Darista of the firm Trinacria Importing Company that the customs authorities of that town had assessed an anti-dumping surtax upon cotton bed covers and carpets which had been shipped and requested payment of the invoices as a guaranty, in addition to the duty, pending the completion of an investigation which had been ordered under the imputation that the invoiced prices were too low.

A similar communication has been received from the Podesta of Chieri pointing out that the industries of that town were seriously hurt by the said measure.

Information from New York confirms the ruling adopted with regard to the above-named firm and indicates that the customs authorities of that town had claimed the guaranty or threatened that it would also be applied to other cotton fabrics as specified in *note verbale* of May 20.¹⁹

¹⁹ See telegram No. 116, May 23, 4 p. m., from the Ambassador in Italy, p. 565.

The spreading of such news among the national exporters has caused a notable standstill in shipments which annually total approximately 50 million lire.

The Central Customs Department of Washington must be aware of the prejudice caused Italian exports by the grievous measures and also that the charge of dumping brought against said products is groundless. The American customs authorities have also knowledge of other concrete cases showing recurrent applications of the anti-dumping law which is manifest in the claim of guaranty deposits pending threatened investigations pertaining to typically Italian export products."

PHILLIPS

611.653/81

The Secretary of State to the Ambassador in Italy (Phillips)

No. 351

WASHINGTON, July 27, 1938.

SIR: Reference is made to the Embassy's telegram No. 116 of May 23, 1938, 4 p. m., and to subsequent correspondence, regarding the concern of the Italian authorities in general with past delays attendant upon the appraisal of certain named Italian exports and, in particular, with the delays which are at present being experienced in connection with exports of cotton and woolen goods from Italy. This matter was referred to the Secretary of the Treasury who caused a thorough study to be made of the situation.

There are enclosed two copies of a letter, dated July 21, 1938, from the Acting Secretary of the Treasury,²⁰ in which the results of the Treasury's investigations are set forth. It will be noted especially that the Treasury states that the suspensions in appraisements in question were occasioned by the mandatory requirements of our Customs laws or by specific requests for such suspensions either by domestic importers or by Italian representatives in this country; that except when the question of fraud is raised (this question is not believed to be included in the complaint of the Italian Government), the suspension of appraisements in and of itself in no way interferes with or retards the delivery of merchandise to importers; and that there has been no discrimination against Italian products.

With the exception of the reference to the confidential report of the Consul General in Florence in the first paragraph and in the last sentence of the final paragraph, you are authorized to use the information contained in the letter from the Acting Secretary of the Treasury as you may see fit in your conversations with the Italian authorities in regard to this matter.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

²⁰ Not printed.

611.6531/420 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, August 3, 1938—7 p. m.

[Received 8:20 p. m.]

193. Department's No. 40, April 23, 3 p. m. Italian reply dated August 1 received yesterday. Text in translation reads as follows:

"The Royal Ministry of Foreign Affairs has the honor to advise the Embassy of the United States in answer to *note verbale* No. 628 of April 25, 1938 that the propositions and objections regarding quotas admitted and to be admitted for American imports into Italy contained in that note have been carefully examined in consultation with the Royal technical administrations.

It has been ascertained by the latter after a careful examination in order to determine the real importance and possible consequences of accepting the requests formulated by the Embassy of the United States in so far as they concern the integral and automatic application of the criterion of article 8 to all items of American imports into Italy that not only would imports be largely out of proportion with the requirements but also that the resulting effects would be prejudicial to the country's economic structure.

Besides as known to the Embassy of the United States it was understood during the negotiations that the provisions of article 8 regarding quotas would not be interpreted absolutely rigidly but in a spirit of comprehension of the needs of Italy's economic position and in harmony with adequate concessions which on the basis of expected negotiations the United States Government was to grant to Italian exports.

The criterion adopted, that is to reduce certain items of American imports equitably compensated by adequate increases of others, is therefore in accord with the spirit of the agreement and the understanding that led to its acceptance.

With this premise the Ministry of Foreign Affairs has the honor to advise that the competent Royal administrations do not consider it possible to recede from the reductions proposed for the goods indicated in enclosure A (first list) to the *pro memoria* dated February 19, 1938 of the Royal Ministry for Foreign Trade and Exchange, these reductions being compensated by corresponding increases to be granted to other goods (enclosure A second list to the above-mentioned *pro memoria*).

However in order to meet similar requests of the Embassy of the United States formulated in the *note verbale* in question provision has been made for the allocation of further quotas for American imports into the Kingdom as per list attached.

In compiling this list the following desiderata of the United States Government have been taken into consideration:

- (1) The requested eight (*sic*) items not contained in the former list, being of a value less than \$25,000, have been included.

(2) The requested 35 products which up to the present were admitted on the 1934 quota basis ('bolletta') have been included in view of the opposition of the United States to accepting the 'bolletta' (quota) system.

(3) Provision has been made to revise the zinc quota by including it in customs sub item 386*a*; the quota in the attached list substitutes therefore the quota indicated in the first list.

This list contains the quotas allotted to the products of the United States as of considerable interest to American exporters with the exception of the following six items for which the reduction of approximately 50% as indicated in the *pro memoria* of February 19 has been maintained: 497 subparagraph *c* loud speakers and amplifiers et cetera; 497 subparagraph *d* space parts for radio telegraph apparatus; item 551 manufactures of emery; item 798 varnishes and enamels, liquid or in paste; 947*a*1, photographic films not exposed sensitized; 948*a* [947*a*?] motion picture films not exposed.

These reductions are justified by the reasons explained and motivated by the situation of the national production in relation to the requirements of the home market.

In compensation of the reductions effected with regard to the six above-mentioned items estimated at approximately 6 million lire the Royal Government is disposed to grant a quota of 192,000 quintals, already allotted, for item 650 solid paraffin which previously was reduced to 150,000 quintals, this constituting an increase in value of about 8 million lire and largely compensating the reductions made in the six stated items.

The Royal Ministry of Foreign Affairs has the honor to state that in conformity with the desire expressed by the Embassy of the United States a special higher quota has been granted for phosphates in the amount of 47,500 tons; the quota for manufactured tobacco imported through the Italian tobacco monopoly has likewise been increased as a result of special agreements concluded by the above mentioned monopoly with American manufacturers from 11,655 kilos, the amount allotted, to 35,000 kilos.

The increases granted evidences the favorable disposition of the Royal Government to examine with large comprehension every request of American exporters to which the provisions of article 8 justly interpreted may be applied when such requests are not in opposition to the present compelling needs of Italian economy, bearing in mind also the exchange sacrifices which the increasing deficit of the trade balance with the United States at present imposes."

Careful examination of Embassy's records discloses nothing which confirms understanding mentioned in third paragraph of the foregoing.

List of additional quotas follows . . .

Please advise Commerce.

PHILLIPS

611.653/83 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, August 8, 1938—10 a. m.
[Received August 8—6:12 a. m.]

195. Department's instruction No. 351, July 27. Italian Foreign Office's notes of May 20 and July 14 would seem to require formal reply in writing. However, the Department's instruction under reference apparently authorizes use of information furnished by the Treasury Department only in conversations with the Italian authorities. Would there be objection to my addressing a note to the Foreign Office in the sense of second paragraph of the instruction and enclosing therewith a memorandum containing that information.

PHILLIPS

611.6531/421 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, August 8, 1938—7 p. m.
[Received August 8—5:40 p. m.]

196. The Acting Commercial Attaché²¹ called on the Minister of Foreign Trade and Exchange last Saturday to discuss difficulties encountered in obtaining permits to import United States merchandise under the provisions of the temporary commercial arrangement of December 16, 1937. Guarnieri²² took the occasion to make certain observations on the general subject of Italian-American trade stating that he was talking in a friendly and frank way and not attempting any diplomatic exchange of views. The more significant of his statements are reported by Hooper to be substantially as follows:

"You Americans and your Government must get it into your heads that either we mutually assist each other or there can be no talk of a commercial agreement. I repeat what I have said many times: either you make it possible for us to pay for imports from your country by importing from us, and your existing tariff system be handled with greater vision and comprehension of our difficulties—or there will be no importation. We refuse to import unless we can pay and we refuse to be placed in a position of inferiority." (Professor Guarnieri repeated the phrase "we refuse to be placed in a position of inferiority" in an emphatic manner.) He said: "Italy is today a country whose loyalty cannot and shall not be questioned. We pay to the last cent for all we import and that is our system—but we must export. When that is made impossible there will be no issuance of import permits for any of the commodities listed which we have so carefully and

²¹ Malcolm P. Hooper.²² Felice Guarnieri, Italian Under Secretary for Foreign Trade and Exchange.

painstakingly prepared. We can and we shall have to import from elsewhere. There is no other solution to this problem."

Professor Guarnieri then referred to the visit of Mr. Grady of the Tariff Commission and stated that he had very plainly set forth Italy's earnest and ardent desire to reach a fair and impartial commercial agreement with the United States. He said that evidently what he had said, and continues to say, is not taken at its face value. He again emphasized that Italy would stand by the hard and fast axiom: importation and exportation, not merely importation.

Continuing, Professor Guarnieri stated:

"We have had in our house the unwelcome presence of United States Treasury agents and other federal officials for more than 18 months. Knowing the American law in this connection I have had to house these representatives. I do not want them. We never dream of sending our treasury or customs officials to the United States, either requesting or making it a hard and fast rule that they be given access to all accounts and books of any company. We now have hats, tomato paste, and cheese the subject of an inquiry which should have lasted 15 days dragging on for a period of 18 months. It is unheard of. A condemned man is informed that he will meet his end in 24 hours; well and good, he could expect nothing more: but if that 24 hours is protracted over as many months the condemned man is no longer such—he is a tortured man. I do not mean to say that we are tortured but (with emphasis) we are in an unnecessary predicament caused by an unwelcome inquiry. It has ruinously affected some of our staple exports and manufacturers are asking us where to turn and what to do in connection with the United States. (Again with emphasis) That is a situation which cannot be permitted to continue. We would be the first to break down all barriers which impede friendly and fecund relations if others would do the same."

When Guarnieri had finished speaking the Acting Commercial Attaché brought to his attention the fact that certain importers had reported that they had received no import permits for United States merchandise during the second quarter of this year. Guarnieri answered "that is perfectly true. I have refused to issue or cause to be issued, certain permits and I shall continue to hold up permits for all commodities unless a decision is reached in connection with the long drawn out customs inquiry which is being conducted in the United States."

Hooper states that there was nothing in Guarnieri's statements or manner to indicate whether he was in possession of the information furnished Suvich by the Department as mentioned in the Department's telegram No. 73, July 26, 7 p. m.²³

PHILLIPS

²³ Not printed; it stated that substance of the Treasury Department's letter, referred to in instruction No. 351, July 27, p. 569, had been given to the Italian Ambassador (611.653/81).

611.653/83 : Telegram

The Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, August 9, 1938—4 p. m.

76. Embassy's 195, August 8, 10 a. m. The Department perceives no objection to addressing a note to the Foreign Office in the sense suggested and enclosing therewith a copy of the Treasury's letter dated July 21, 1938,^{23a} with the exception of the first paragraph and the last sentence of the final paragraph which should not be communicated to the Italian authorities.

In reply to the communication from the Italian Foreign Office citing specific cases which was transmitted with the Embassy's telegram No. 177, July 16, 11 a. m. the Treasury in a letter dated August 2, 1938 states in part that

"The advice received by the Italian Ministry of Foreign Affairs that the customs authorities at New York had 'assessed an anti-dumping surtax upon cotton bed covers and carpets which had been shipped and requested payment of the invoices as a guaranty, in addition to the duty, pending the completion of an investigation which had been ordered under the imputation that the invoiced prices were too low' appears to be based upon some misunderstanding of the facts. No finding of dumping has been made against cotton bed covers and carpets from Italy and there is no authority at the present time for the assessment of special duties on such merchandise.

"Official reports indicate a probability that cotton and other goods are being exported from Italy to the United States at prices below those contemplated by the Anti-dumping Act, 1921 (U. S. Code, title 19, secs. 160-173) and importations of such goods are therefore, being released under special bonds to secure the payment of additional duties in the event that the shipments are hereafter determined to be subject to the anti-dumping law. Our customs authorities are also investigating indications that exports to the United States from Italy receive the benefits, bounties, or grants within the purview of our countervailing duty law (U. S. Code, title 19, sec. 1303)."

You may wish to use the information contained in the Treasury's letter of August 2 in case you contemplate a separate answer to the specific cases cited by the Foreign Office.

HULL

611.6531/423 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, August 19, 1938—10 a. m.
[Received August 19—9: 14 a. m.]

204. Embassy's telegram 196, August 8, 7 p. m. With a view to further clearing up conflicting understanding and misapprehensions

^{23a} Not printed; but see instruction No. 351, July 27, to the Ambassador in Italy, p. 569.

on the part of importers of American products formerly under "bolletta" and now transferred to Ministerial license as of July 1, 1938, a very friendly conversation was held at the Ministry of Foreign Trade and Exchange today by the Acting Commercial Attaché, the substance of which was that while the various confederations and federations were promptly informed of the principle of the new permit regarding [imports?] the practical notification of items and quotas had not actually reached these bodies, as the Embassy had been previously given to understand, due solely to mechanical reasons. Certain federations owing to lack of information from the Ministry had merely protected themselves before importers by making non-committal forms of the negation.

We are now informed that no question of actual suspension of imports is implied or intended by the delays and that a further 15 days would be required before all federations had workable data in their hands.

PHILLIPS

611.6531/426 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, August 31, 1938—1 p. m.
[Received August 31—8:40 a. m.]

219. Embassy's telegram 204, August 19, 10 a. m. In a subsequent conversation between the Acting Commercial Attaché and the Ministry of Foreign Trade and Exchange concerning the question of delayed import permits for American shipments in the third quarter of 1938, both the Minister and Director of Foreign Commerce of the Ministry stated emphatically that the Embassy could inform all importers that the Ministry would allot every ounce provided for on the contingent lists from the United States.

PHILLIPS

611.6531/428 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, September 2, 1938—11 a. m.
[Received September 2—9:20 a. m.]

224. My 193, August 3, 7 p. m. The Embassy has encountered difficulties in the determination of commodities which should be regarded as falling within the category of "considerable interest" in the allocation of quotas. Since the figures used are those of the Italian statistics which are in lire the rate of exchange at which the 1934 figures should be converted into dollars in order to meet the \$25,000 minimum

requirement obviously plays a role of great importance. The Embassy feels that the rate of exchange prevailing in 1934, namely, 11.68 lire to the dollar should be the rate employed. The Italian authorities on the other hand maintain that the conversion should be at the current rate of exchange, i. e. 19 lire to the dollar. Such method of conversion tends to exclude from the category of goods of "considerable interest" many commodities which are important to us and the Embassy received frequent complaints on this point from local importers. If the Department perceives no objection the Embassy would like to urge upon the Italian authorities the acceptance of its view as a fair and equitable interpretation of the agreed definition of what constitutes a commodity of interest to us.

Advise Commerce.

PHILLIPS

611.6531/428 : Telegram

The Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, September 21, 1938—7 p. m.

89. Your 224 of September 2. It appears from the *Pro Memoria* of February 19, 1938 and the Commercial Attaché's comment thereon that the Italian Government took the general position that only those products for which the proposed quotas would be equivalent in value to not less than \$25,000 annually, estimated on the basis of 1937 import price levels, are of "considerable interest" to the United States within the meaning of the Temporary Arrangement.

The Department in its No. 40 of April 23, 1938, requested that quotas be established for products not mentioned in the *Pro Memoria* and, insofar as could be determined, not coming within the Italian formula in certain cases, but it purposely did not agree to the formula or comment thereon. The chief reasons for this were—(1) the value of exports for any product for a given period is not the only factor in determining whether it is of "considerable interest"; and (2) it is probably impracticable if not impossible to devise a formula which would be inclusive of all cases which might arise. For example, a quota for typewriters might be warranted on a value basis but may not be warranted for typewriter parts on the same basis. Yet typewriter parts would be of considerable interest because old machines could not be serviced without them and sales of new machines would be adversely affected if there were doubt about the future availability of parts for repairs.

It will be noted from the foregoing that it is advantageous not to attempt to agree upon a specific formula for determining which prod-

ucts are of considerable interest, if that can be avoided. On the other hand, since it is impracticable to determine in advance all of the factors which may exist in specific cases, it is necessary to follow broadly some general rule in preparing preliminary desiderata. In this connection you are informed that the additional products mentioned in the Department's No. 40 of April 23, 1938 are for the most part those in which the trade amounted to \$25,000 in 1934, calculated on the basis of 11.68 lire to the dollar. This criterion seems equitable and reasonable, but in view of the fact that it was not followed strictly and the fact that Italy has agreed to establish quotas for additional products as requested by this Government, it is desired that you avoid making an issue of the question of which products are of "considerable interest." Hence, if the Embassy is in doubt concerning complaints from the trade with respect to any product not referred to in the Department's No. 40 of April 23, 1938, it is suggested that you report to the Department in each case.

HULL

611.6531/446 : Telegram

The Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, October 25, 1938—3 p. m.

105. Your 193, August 3. Unless you perceive objection, you are requested to address the following note to the Ministry of Foreign Affairs: ²⁴

"The Embassy of the United States of America has the honor to reply to the Royal Ministry of Foreign Affairs' *Note Verbale* No. 227214/92 of August 1, 1938 and to express the appreciation of the Government of the United States of America that in response to its *Note Verbale* No. 628 of April 25, 1938, action has been taken to establish satisfactory import quotas for the additional products not mentioned in the *Pro Memoria* of February 19, 1938, which were formerly subject to the regime of 'bolletta'. Likewise, the Government of the United States is gratified that adequate quotas have been established for zinc in scrap, ingots, etc., (386a); and for products not mentioned in the *Pro Memoria* classified under Tariff Numerals (2), (42a), (97), (414a and b), (426a), (470), (748), and (888).

It is noted that phosphates have been segregated from the other products classified under Tariff Numeral 565 and that a quota of 47,500 tons has been established for the United States. This quota amounts to that percentage of the global quota of 421,000 tons which is equivalent to the percentage of total Italian imports of phosphates supplied by the United States in 1934, and is satisfactory.

As regards the proposed new contingents for solid paraffin (650), and manufactured tobacco (115b/1), information is requested as to the amount of the new global quotas for these products.

²⁴ The *note verbale* as presented was dated November 2, 1938.

Although the quotas established for certain of the additional products in reference which were formerly subject to the regime of 'bolletta' are less than the amounts required by the terms of the Temporary Commercial Arrangement of December 16, 1937, no readjustment with respect thereto is requested insofar as concerns allocations for the present calendar year.

The Government of the United States of America, however, profoundly regrets that the Royal Italian Government does not see its way clear at this time to comply with the desiderata set forth in this Embassy's *Note Verbale* of April 25, 1938, in respect of wheat flour (70a), dried prunes (96), raw cotton (181a), the six items listed in Annex B of the *Pro Memoria* of February 19, 1938, formerly subject to the regime of 'bolletta', and the remaining 15 items listed in Annex A of the same *Pro Memoria*. These products are important to American trade not only from the standpoint of their number and value but from the standpoint of their character as well. And as has already been indicated, the Government of the United States finds it extremely difficult to perceive any justification for the inadequate quotas either on the ground of economic necessity or on the basis of interpretation of the terms of the Temporary Arrangement. In that Arrangement, the Government of the United States undertook to continue to accord the benefits of its trade agreements to Italian commerce and the Government of Italy undertook on its part to accord non-discriminatory treatment to American commerce. There was no understanding on the part of the Government of the United States that the Royal Italian Government could, despite its obligations under the Temporary Commercial Arrangement, discriminate against any American product pending the negotiation of a reciprocal trade agreement involving tariff concessions on Italian products imported into the United States. As the Arrangement was entered into only after explicit assurances of the Royal Italian Government that all preferences would be totally abolished as of December 31, 1937, except those reserved for Austria, it can hardly be contended that the Government of the United States expected American exports to continue in the same or a similar discriminatory status in Italy after the Arrangement was signed.

Moreover, it will be observed that there is nothing in the desiderata of the United States or in the quota provisions of the Arrangement which fails to take into consideration Italy's economic position. That is to say, neither the quota provisions of the Arrangement nor the requests of the United States in any way restrict the Royal Italian Government in determining the total quantity of any product which it will permit to be imported during a given period. This being the case, the Royal Italian Government may fix a global quota for any product at whatever amount it may deem best from the standpoint of its national economy. The quota provisions of the Arrangement merely require that once a global quota has been established, a share thereof shall be allotted to the United States which is equivalent to the share of total imports supplied by the United States during a previous representative period.

As regards the continued proposal to increase quotas for certain raw materials and semi-manufactured products, the Royal Italian Government is already aware that the Government of the United States does not concur with the principle that enlarged quotas for

certain products can compensate for reduced quotas for other products. Inasmuch as that principle is also contrary to the quota provisions of the Arrangement which deal with each product separately, the Government of the United States has the honor to reiterate those requests set forth in this Embassy's *Note Verbale* of April 25, 1938, which have not as yet been fulfilled and to express the hope that the Royal Italian Government can see its way clear to comply with them."

You are authorized to make any formal changes in the foregoing which you may deem necessary. However, if the Embassy feels that any point of substance is objectionable, you are requested to report fully before sending the note and state the reasons for the objections.

With reference to your 68 and 70 of March 18 and 22,²⁵ please report whether Italy now accords to Germany the preferences mentioned in your 492 of November 29, 1937,²⁶ and, if not, whether any other preferences are now accorded to Germany.

Italy has not given the assurances requested in the Embassy's *Note Verbale* of April 25, 1938 in respect of global quotas. You should therefore endeavor to ascertain either from the Italian authorities or from other sources whether all proposed global quotas are inclusive of permitted imports from all countries, including imports permitted by public or private clearing, compensation, or payment arrangements and report the results of your findings.

HULL

611.6531/431 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, November 8, 1938—5 p. m.
[Received November 8—12:17 p. m.]

325. Department's telegram No. 105, October 25, 3 p. m. In a conversation following the presentation of the text of the Department's note the Director of Commercial Affairs of the Foreign Office repeated that the preferences formerly accorded Austria had been abolished and that no preferences were granted German products entering Italy.

With respect to the inclusion of all permitted imports within the proposed global quotas Giannini explained that in general the global quotas included all imports but that in a limited number of cases where special circumstances required supplementary quotas had been permitted to cover a specific need. These were, however, of an exceptional nature and in each case formed the subject of a special accord

²⁵ Neither printed.

²⁶ Not printed.

between Italy and the importing country. He cited a special quota for potatoes from the Baltic countries as an example but maintained that the number of products was very limited.

PHILLIPS

611.6531/433

Memorandum of Conversation, by the Assistant Secretary of State (Sayre)

[WASHINGTON,] November 8, 1938.

The Italian Ambassador came in to say good-by. In the course of a somewhat lengthy conversation we adverted to the possibility of future trade agreement negotiations. I said to the Ambassador that I hoped the time might come when we could go forward for I was sincerely interested in a trade agreement between the two countries. The Ambassador spoke of the *modus vivendi* of December, 1937. I agreed that the *modus vivendi* would furnish an excellent stepping stone to a trade agreement, provided that the provisions of the *modus vivendi* were loyally observed. But I went on to say that, much to our regret, we felt that some of the provisions in the *modus vivendi* had not been lived up to. I said that this gave me real concern; for how could we use the *modus vivendi* as a stepping stone to a trade agreement if the terms of that *modus vivendi* were not being observed? I said that I hoped that possibly the Ambassador would look into this matter on his return to Rome for I was sincerely anxious, as soon as the time is ripe, to find a way for going forward with conversations looking toward a trade agreement.

The balance of our conversation, which lasted for half an hour, was with regard to unofficial matters.

F. B. SAYRE

611.6531/440 : Telegram

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

ROME, December 12, 1938—7 p. m.
[Received December 12—2:42 p. m.]

374. Department's telegram No. 105, October 25, 3 p. m. The Italian reply has now been received, the full text and translation of which will be sent by the next pouch.²⁷

In general the reply constitutes a rejection of the Department's request but points out that in certain cases increased purchases of American goods during the first 9 months of the year have resulted

²⁷ Enclosed with despatch No. 1202, December 16, from the Chargé in Italy; neither printed.

in imports in excess of the annual quotas assigned to American products. After explaining the Italian position and giving the specific information requested in regard to the status of certain quotas the note concludes that

"The Royal Ministry of Foreign Affairs expresses the opinion that should it not be possible to find a basis for agreement as regards a satisfactory criterion of interpretation of the reason contained in article VIII for the determination of quotas, it would have to consider the advisability of revising the *modus vivendi* of December 16, 1937 to the end that the regulations under discussion would, in the application of the agreement, permit consideration of the special exigencies which might arise with respect to certain branches of Italian economy."

REED

611.6531/440a : Telegram

The Acting Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, December 14, 1938—7 p. m.

127. With reference to 1938 quotas for all products of the United States which have not been filled on or before December 31, 1938 by actual importation of the amount thereof, except quotas which remain unfilled because of a lack of demand from the trade, please request written assurances, unless you perceive objection, that the Italian Government will permit the unfilled portion of each to be filled during the first quarter or other convenient period early in 1939, such imports to be charged, of course, against the unused portions of the 1938 quotas.

The Embassy will note that the foregoing request covers broadly three classes of 1938 quotas which have not been filled by actual importation, namely, quotas which have not been filled by reason of (1) failure of the national or local Italian authorities to act favorably and effectively in behalf of importers either by refusal to issue permits or by administrative delays of any kind in connection with the issuance of permits, or by refusal to make available the necessary exchange, (2) goods in transit and (3) the issuance of permits too late for use in the usual course of business before December 31, 1938. As regards quotas falling under class (3), it would doubtless be convenient to many importers if the Italian authorities would cause the 1938 permits to be made valid for use during the first quarter of 1939 rather than require the issuance of new permits and you are requested to ask that this be done in all cases where importers desire it.

Unless you deem it inappropriate in the circumstances, you should say that the foregoing request, of course, is made without any change

of the position of this Government respecting the general question discussed in No. 105 of October 25, 1938.

Please report by cable.

WELLES

PERSECUTION OF JEWS IN ITALY; REPRESENTATIONS BY THE UNITED STATES WITH REGARD TO DISCRIMINATION BETWEEN AMERICAN CITIZENS

711.65/110½

Memorandum by the Under Secretary of State (Welles) of a Conversation With the Italian Ambassador (Swich)

[Extract]

[WASHINGTON,] June 15, 1938.

The Italian Ambassador called to see me this morning . . .

. . . He said that because of the number of Italians in the United States and the fact that there had never been any serious disagreement between Italy and this country and no historical memories of hostility in the past, it was hard for him to understand why so large a proportion of the press in the United States and so large a section of American public opinion was so bitterly hostile to the Italian Government. He said he could fully understand the reasons for the hostility to Germany because of their persecution of the Jews, of the members of other religious faiths and the minorities in general, but he explained that the situation in Italy was quite different. He said no step had ever been taken in Italy against the Jews because the Jewish problem in Italy did not exist. He said there were not more than forty thousand Jews in Italy at the outside and of this number many of them today were prominent citizens, highly regarded and occupying important positions under the state. He said before he himself entered public life he had been closely associated in Trieste with prominent Jews and that he had never seen any prejudice of any kind on the part of the Italians against the Jews as such. He said he could not, therefore, comprehend, in view of the attitude taken by the Italian Government toward the Catholic Church and toward the Jews in Italy why there should be an attempt on the part of so great a proportion of the press here to make out that the Italian Government was persecuting religious or racial minorities in that country. I said to the Ambassador that, of course, I was fully aware of the truth of what he said, but that it seemed to me that perhaps he missed, in his attempt to estimate the situation, two rather important points. In the first place, I remarked, the very close relationship

which existed between Italy and Germany and the fact that governmental systems not unlike in structure, however unlike they might be in methods or in details, existed in the two countries, created very naturally the popular impression that the domestic policies pursued in Germany with regard to racial minorities were favorably regarded or supported by the Italian Government and by Italian public opinion. It seemed to me, I said, that so long as this close identification in international policy between Germany and Italy persisted, it would be very difficult to persuade the American people as individuals that the domestic policies pursued by Germany were not sympathetically regarded in Italy. . . .

WELLES

865.4016/31 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, July 15, 1938—6 p. m.
[Received July 15—2:35 p. m.]

175. All Italian newspapers last night and today give prominence to a report prepared by Italian university students under the auspices of the Ministry of Popular Culture setting forth the Fascist attitude toward the race problem. Their 10 conclusions the importance of which is not overlooked in the press may be summarized as follows:

- (1) Different human races exist;
- (2) A difference exists between the great and the lesser races;
- (3) The concept of race is a purely biological concept;
- (4) The population of Italy is of Aryan origin and its civilization is Aryan;
- (5) There has been no change in the racial composition of Italy in the past thousand years;
- (6) A pure Italian race exists;
- (7) It is time that Italy pronounced itself in favor of a "racist" policy;
- (8) A distinction must be made between the European (western) Mediterranean races on one hand and Orientals and Africans on the other;
- (9) Jews do not belong to the Italian race;
- (10) The European physical and psychological characteristics of the Italian race must not be altered in any way.

It may be pointed out that this represents the first official or semi-official pronouncement in respect to a race question and may well be considered as a possible point of departure for positive action.

PHILLIPS

865.4016/32 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, July 24, 1938—11 a. m.
 [Received July 24—8 : 58 a. m.]

182. Embassy's telegram No. 175, July 15, 6 p. m. For several days the Italian newspapers have printed editorials on the racial question endeavoring to prove that the racial principle has always been a basic doctrine of the Fascist regime and demonstrating that the strength of a nation is lost when its racial purity is weakened through the introduction of other racial strains which cannot have the same consciousness of the local origins, traditions and essential characteristics of the nation.

In his second editorial on the subject last night, Gayda²⁸ wrote, in answer to the London *Times* question why this particular time had been chosen to raise the racial issue, that the moment had been selected on all revelations [*sic*] which were becoming increasingly disturbing for European civilization of internal movements in certain great nations and the European disorder which they were creating.

In its editorial of July 2, the *Tribuna* stated that it was clear that the Jews did not belong to the Italian race, that they had never been assimilated and that the spirit of the Jewish race was absolutely contrary to the Aryan spirit.

The forthcoming publication of a weekly magazine entitled *In Defense of the Race* has also been announced.

On the other hand the Vatican organ the *Osservatore Romano* published on the same day the remarks of the Pope to a meeting of directors of the Catholic Youth Movement when he declared that the use of the word "Catholic" meant "universal" and was neither racial, nationalist or separatist. He said furthermore, "that it was necessary to state that there was something particularly detestable about this spirit of separatism and exaggerated nationalism".

PHILLIPS

865.4016/36

Memorandum of Conversation, by the Secretary of State

[WASHINGTON,] July 26, 1938.

The Italian Ambassador called to say goodbye before returning to Italy for the summer. He seemed to have nothing on his mind except to endeavor earnestly to explain away the reports that his gov-

²⁸ Virginio Gayda, editor of *Giornale d'Italia*.

ernment is undertaking to expel the Jews from Italy on account of their Race. He was very insistent that despite confused and misleading reports, his government itself is not a party to any such movement. I referred in reply to the temporary conditions in Germany, which I said were of course utterly abhorred by almost everybody in this country, adding that our people go on the theory that the German pendulum swung from one extreme growing out of the Versailles Treaty and French relations—to the opposite extreme—of temporary abnormality, which included all of these unthinkable and abhorrent practices—and that our people are assuming that they will swing back to a normal, sane course; that sooner or later nations undertaking to live by the sword, with non-observance of the principles of world order to large extent, will decide on a permanent policy of either the sword or a course of peace and order under law such as many of our countries are pursuing. I said that when any government thus decides, it will have no difficulty in making clear to us and other peacefully disposed nations that it has made such decision in earnest; that of course we are looking forward in the earnest hope that these possibilities may soon eventuate.

C[ORDELL] H[ULL]

865.4016/36

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

[WASHINGTON,] July 26, 1938.

The Italian Ambassador called to see me this morning in order to tell me that he was sailing this week for Italy to return to Washington on September 24. The Ambassador said that as the weeks went by he felt more and more that it was imperative for him to return to his own country to get a first-hand impression of Italian policy and of internal conditions in Italy. Since his Government was not keeping him informed, it was very difficult for him to gain any accurate understanding of the line that his Government was following. I told him that I was particularly anxious to know whether his Government had confirmed to him the reports recently published in the press here indicating that the Italian Government was pursuing a policy of discrimination against the Jews in Italy and was commencing a course which might result in a definitely anti-Semite policy on the part of Italy.

The Ambassador said that this was exactly one of the things regarding which he had no full information. He said that some days ago the papers had reported that the Italian Government had instructed Italian booksellers not to display books by Jewish authors.

He had immediately cabled to his Government and had received a reply to the effect that one or two individual booksellers had done this of their own volition but that the Italian authorities had never laid down any such regulation nor had they even considered such a matter. Some days later, the Ambassador said, the newspapers reported that the correspondent in Rome of the Jewish News Agency, Mr. Kleinlerer, had been ordered expelled from Italy on the ground that he was a Jew. Again the Ambassador had telegraphed and had received a reply stating that Mr. Kleinlerer's race had nothing whatever to do with the expulsion which had been ordered on the ground that he had published anti-Fascist articles which were untrue and malicious. I told the Ambassador that I was gratified to have this information but asked him if it did not appear to him that the recent statements issued by Achille Starace²⁹ had not apparently made it very clear that the Italian Government, on the ground of race purity, was commencing a policy of Jewish persecution.

The Ambassador said that so far as race purity was concerned he himself had a measure of responsibility but that it never, so far as he was concerned, had involved any question relating to the Jews. He said that at the time of the Ethiopian conquest he had persuaded Mussolini to insist upon race purity propaganda among the troops that were being sent to Ethiopia in order to avoid Italy's being confronted in the future with a half-caste race in Ethiopia which in the Ambassador's judgement would have raised very serious difficulties dangerous to the future of the Italian nation. He said that so far as he himself was concerned many of his closest friends in Trieste were Jews; that in the war of 1915 he himself was a volunteer and fought at the side of Italian Jews who had given their lives for Italy and he felt that some of the finest and most useful citizens that Italy possessed were Jews. I remarked that at the present time when the whole world was suffering from the effects of an inhumane policy of persecution against the Jews on the part of certain other countries, it was very natural that in such countries as the United States where we regarded a great majority of American Jews as among our finest and most patriotic citizens that an indication on the part of Italy that she was going to adopt a similar policy of persecution naturally profoundly shocked American public opinion. I reminded the Ambassador of the conversation I had had with him some weeks ago³⁰ in which he had said that the Jewish question would never be a problem in Italy inasmuch as the Italian Jews didn't number more than forty to fifty thousand in the entire country and that he could not conceive of any possible advantage that Italy would gain in aligning herself with the nations that were undertaking this inhuman policy of perse-

²⁹ Secretary General of the Fascist Party.

³⁰ See memorandum of June 15, p. 582.

cution and discrimination. I said that on the contrary it would seem to me that by some official statement on the part of the Italian Government that it intended in no way to undertake such a policy of persecution, Italy would derive immediate benefits and a far more favorable and friendly attitude on the part of public opinion not only in the United States, but in most of the other countries of the world as well. The Ambassador said he thought this was absolutely correct and that he personally would try to do what he could to get his Government to follow such a course. He said he would see Mussolini immediately upon his arrival in Italy and that he hoped he would find that Mussolini had no intention of going so far as recent newspaper articles would seem to indicate.

865.4016/37 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, July 29, 1938—noon.

[Received July 29—9:15 a. m.]

187. In conversation which I had yesterday with Ciano³¹ he admitted that there had been a change in the Government's attitude toward the Jews since we had last discussed the subject, see my despatch No. 450 of June 25, 1937.³² He said that the Government had decided to take measures to preserve the purity of the Italian civilian throughout the Empire. The movement originated from the necessity of keeping the Italian and black races apart in Ethiopia in order to prevent miscegenation which had had such bad results in the Portuguese and French Colonies. The movement, he said, was therefore an empire movement and the Jewish race which had always regarded itself as a separate race also came into the picture. I remarked that it seemed curious that it should now seem necessary to discriminate against a small population which had lived here more than 2,000 years without greatly increasing in numbers. Ciano replied that while there had been only 40 to 50 thousand Italian Jews there was now an illegal and surreptitious infiltration of Jews from Rumania, Austria and other parts of Europe which the Italian Government was powerless to prevent by ordinary means. He said that if this situation was left unremedied Italy would within 5 years find itself harboring at least half a million foreign Jews. Accordingly the Italian Government was resolved to discourage this immigration by making it clear to the Jews that Italy does not want them. In response to my inquiry as to just what measures the Italian Government had in contemplation

³¹ Italian Minister for Foreign Affairs.

³² Not printed.

in regard to Jews already in Italy Ciano said that there was to be no "persecution". These Jews were to be permitted to reside peacefully in Italy and their property would be respected. However, they would not henceforth be allowed to have any "political or social influence" in Italian life and by that he meant that no Jewish newspapers would be permitted to circulate, no Jewish literature would be printed and Jewish theaters would be forbidden.

I asked Ciano not to forget that the unfortunate feeling in America against Germany was very largely the result of German persecutions and I expressed strongly the hope that nothing would be done here to give the impression that the Italian Jews were in fact being persecuted.

Ciano again emphasized that the racial movement now taking place was "an empire movement" and was not directed specifically against the Jews but was designed to preserve the purity of the Italian race.

PHILLIPS

865.42/37 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, August 3, 1938—5 p. m.

[Received August 3—2:30 p. m.]

192. The following announcement was published in the press today:

"Beginning with the 1938-39 scholastic year the admission to Italian schools of all grades of foreign Jewish pupils even of those domiciled in Italy is prohibited."

PHILLIPS

865.42/39 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, August 19, 1938—6 p. m.

[Received August 19—2:45 p. m.]

207. My 192, August 3, 5 p. m. In reply to my oral inquiries made on their behalf, I am informed by the Foreign Office that Jewish American students who have already resided in Italy for 1 year will be free to continue and complete their university studies.

PHILLIPS

865.4016/54 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, September 1, 1938—6 p. m.

[Received September 1—2:42 p. m.]

223. My 207, August 19, 6 p. m. The Council of Ministers approved at its meeting today the following decree pertaining to foreign Jews in Italy:

"On the proposal of the Duce and the Minister of the Interior it is resolved to regulate in the following manner the status of foreigners of the Jewish race who have taken up residence in Italy, Libya or in the Aegean possessions subsequent to the Great War, namely January 1, 1919, including also such persons (and their number is insignificant) who have in the meanwhile acquired Italian citizenship.

Article I. From the date of publication of the present Decree Law foreign Jews are forbidden to fix their permanent residence in the Kingdom, in Libya and in the Aegean possessions.

Article II. For the purposes of the present Decree Law any person if he is born of parents both of whom are of the Jewish race shall be considered a Jew even though he may profess a religion other than the Hebraic.

Article III. The admission of foreign Jews to Italian citizenship subsequent to January 1, 1919 is to all intents and purposes considered revoked.

Article IV. Foreigners of the Jewish race who at the date of publication of the present Decree Law are within the Kingdom, Libya and the Aegean possessions and who began their sojourn therein subsequent to January 1, 1919, must leave the territory of the Kingdom, Libya and the Aegean possessions within 6 months from the date of publication of the present Decree Law.

Those who shall have failed to conform to this obligation within the aforesaid period shall be expelled from the Kingdom in accordance with article 150 of the codified text of the Public Security laws after the application of penalties established by law."

There have been recent indications that there had been an abatement of the anti-Jewish campaign. Consequently the severity of this decree was wholly unexpected. I intend to discuss the matter with the Italian Minister for Foreign Affairs at the earliest opportunity.

PHILLIPS

865.4016/55 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, September 2, 1938—5 p. m.
[Received September 2—2:25 p. m.]

225. My telegram No. 223, September 1, 6 p. m. The Council of Ministers today approved a Decree Law excluding all persons both of whose parents were of the Jewish race from the teaching profession in general and barring such persons from admission to all schools and institutions of learning recognized by the State. A transitional exception is made in the cases of those previously enrolled in the universities who will be permitted to continue their studies.

PHILLIPS

865.4016/60 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, September 8, 1938—11 a. m.
[Received September 8—8:45 a. m.]

228. My telegram No. 187, July 29, noon and my telegram No. 207, August 19, 6 p. m. We have informally requested information concerning various aspects of recent anti-Semitic decrees as applicable to American citizens but have thus far succeeded only in obtaining confirmation of assurances reported in my No. 207, August 19.

PHILLIPS

865.4016/63 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, September 11, 1938—noon.
[Received September 11—10:15 a. m.]

236. My telegram No. 234, September 10, 1 p. m.³³ In addition to the approximate number of 200 American Jews in Italy affected by the recent anti-Jewish decrees there are about 15,000 Jews of other nationalities equally affected. While I have not made inquiries among my colleagues it is certain that in addition to many German Jews there is in this country a substantial number of Polish, Hungarian, Greek, Lithuanian, also some British, French, Swiss, Czechoslovak and probably other citizens of the Jewish race. The Italian Government now proposes to expel all such foreigners at the end of the 6-month period on grounds which would seem to us at least unjustifiable.

It occurs to me that possibly you may care to consider the desirability of approaching other interested governments with a view to identic but independent action looking to the mitigation of this wholesale sentence.

While Americans in Italy cannot avail themselves of treaty rights since there is no treaty guaranteeing mutual establishment and residence the United States and Italy are nevertheless continuing their relations with each other generally speaking as formerly except as regards commercial relations which are governed by the new *modus vivendi*.³⁴

If any action is to be taken along these lines it should be taken before October 1 when it is announced the Grand Council will discuss the entire racial question.

PHILLIPS

³³ Not printed.³⁴ See *Foreign Relations*, 1937, vol. II, pp. 494 ff.; for text of *modus vivendi* of December 16, 1937, see Department of State Executive Agreement Series No. 116, or 51 Stat. 361.

865.4016/61 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, September 11, 1938—2 p. m.
 [Received September 11—10 a. m.]

238. My 225, September 2, 5 p. m. An official communiqué yesterday announces that elementary schools supported entirely by the Government will be established for Jewish children who have been barred from the Italian schools; these new schools will be in addition to those already in existence and maintained by the individual Jewish communities in Italy. These schools are to be established according to the communiqué "as of the new scholastic year" which would mean apparently next month.

PHILLIPS

865.4016/67 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, September 14, 1938—noon.
 [Received September 14—9:20 a. m.]

243. My 238, September 11, 2 p. m. Yesterday I again earnestly impressed upon Count Ciano the hope that there would be no progressive anti-Jewish movement in Italy which might be interpreted in America as "persecution". I pointed out the inevitable unfortunate effect which this would have on the relations of the two countries. Ciano denied that there was any thought of "persecution" but admitted the intended "discrimination" and added that any Italian Jews desiring to emigrate would be free to do so. In spite of Ciano's assurances there is a danger that the anti-Jewish movement will develop further.

PHILLIPS

760F.62/877 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

[Extract]

ROME, September 18, 1938—noon.
 [Received September 18—9:40 a. m.]

252. . . .

Discussing the Jewish aspect of racial policy Mussolini declared ⁸⁵ the regime's policy had been determined by the irreconcilable hostility of international Jewry toward Fascism during the past 16 years despite the regime's tolerance. Italian Jews who had undisputed

⁸⁵ Speech of September 18, 1938, at Trieste on the international situation.

civil and military merits vis-à-vis Italy and the regime would encounter understanding and justice; to the others would be applied a policy of separation. The world would ultimately have to admire the firmness and generosity of Italian policy unless the Jews at home and abroad and their many unexpected friends forced a sudden revision.

PHILLIPS

865.4016/75a : Telegram

The Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, October 3, 1938—3 p. m.

96. Embassy's telegrams No. 223, September 1, 6 p. m. and No. 225, September 2, 5 p. m. regarding anti-Jewish decree-laws applicable to foreigners.

Please request an early interview with Count Ciano and present the following note, making at the same time an oral statement in the sense thereof.

"I have the honor to inform Your Excellency that I have been instructed by my Government to bring the following matter to your attention.

The *Official Gazette* of September 12, 1938 published the text of Decree-law No. 1381 which provides among other things that from the date of publication foreigners both of whose parents are of the Jewish race are forbidden to fix their permanent residence in the Kingdom, in Libya, and in the Aegean possessions; and that foreigners both of whose parents are of the Jewish race who at the date of publication are residing within the Kingdom, Libya, and the Aegean possessions and who began their sojourn therein subsequent to January 1, 1919 must leave Italian territory within 6 months from the date of publication. Expulsion, after application of penalties, from Italian territory is provided for non-compliance with the above obligation. It is further provided that controversies which may arise in the application of the decree-law shall be settled case by case by decree of the Minister of the Interior.

The *Official Gazette* of September 13, 1938 published Decree-law No. 1390 whereby all persons both of whose parents are of the Jewish race are barred from the teaching profession in general and from admission to all schools and institutions of learning recognized by the state.

While the Treaty of Commerce and Navigation between the United States and Italy of 1871,³⁶ which contained provisions for establishment and residence, has been abrogated, nevertheless Italians who have been properly admitted into the United States may reside wherever they like therein and are accorded the full protection of our laws with respect to their persons and property. In general they may freely

³⁶ William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. I, p. 969.

engage in private business, trade, or occupation; they also enjoy religious freedom, and there is no discrimination either on the ground of race or creed.

My Government believes therefore that upon further consideration the Italian Government will decide that American citizens lawfully residing in Italy will not be discriminated against on account of race or creed and that they will not be subjected to provisions of the nature of those embodied in the decree-laws in question."

Since the definitive text of Decree-law No. 1390 has not yet reached the Department, you are authorized to make whatever changes, if any, in the text of the note that may seem necessary in order to bring it into harmony with the former. Please mail Italian texts of both decree-laws and of any decrees or regulations pertaining to foreign Jews in Italy promulgated in the future.

HULL

865.4016/76 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, October 5, 1938—noon.

[Received October 5—9 : 15 a. m.]

282. This morning I presented to Count Ciano the note contained in your No. 96, October 3, 3 p. m., read to him the pertinent portions and impressed upon him its importance. He said that tomorrow evening at the meeting of the Grand Council all the questions relating to the Jews would be carefully examined and decisions reached and he could not therefore give me any definite reply today. However, he added that it would be exceedingly difficult for the Italian Government to respond favorably to our note inasmuch as there were Jews of many other nationalities involved who would claim similar privileges.

PHILLIPS

865.4016/77 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, October 7, 1938—noon.

[Received October 7—8 : 35 a. m.]

289. Following is summary of resolutions on the racial question adopted by Fascist Grand Council last night.

1. *Mixed marriages.* (a) Italians may not marry individuals of the Hamitic, Semitic or other non-Aryan races; (b) Government and public employees, civil and military, may not marry foreign women; (c) permission from the Ministry of the Interior must be obtained for the marriage of Italians, male or female, even with Aryan foreigners; (d) penalties against persons lowering the prestige of the race in the Empire will be made more severe.

2. *Expulsion of foreign Jews.* Apart from individual controversial cases to be determined by a commission of the Ministry of the Interior, foreign Jews who are more than 65 years of age or who have married an Italian subject prior to October 1, 1938 shall not be expelled.

3. *Determination of Jews.* The following are considered to be Jews: (a) persons both of whose parents were Jews, (b) persons of Jewish fathers and foreign mothers; (c) persons born of mixed marriages who profess the Jewish religion but not those who as of October 1, 1938 profess another religion.

4. *Exemption from discrimination.* Except as regards teachers no discrimination on the grounds of race will be made against Jews belonging to the families of: (a) men who died, who served as volunteers or who received military decoration in the Libyan, World, Ethiopian or Spanish wars; (b) men who were killed or wounded in the Fascist revolution or who enrolled in the Party in the years from 1919 to 1922 or during the second semester of 1924 or were members of the Fiume Legions; (c) persons having unusual merits, to be verified by a special commission.

5. *Status of other Italian Jews.* Pending further legislation regarding acquisition of Italian citizenship Jews not included in (4) may not (a) be members of the Fascist Party, (b) own or manage firms employing 100 or more persons, (c) own more than 50 hectares of land, (d) perform military service in time of peace or war.

Professional activities will be governed by subsequent measures.

6. *General provisions.* (a) Jews dismissed from public positions shall be entitled to the usual pension rights, (b) any form of pressure upon the Jews to cause them to recant shall be severely repressed, (c) no change shall be made as regards freedom of worship and the activity of the Jewish communities under existing legislation, (d) the institution of secondary schools for Jews as well as of elementary schools shall be permitted.

7. *Jewish immigration in Ethiopia.* It may be decided to permit "controlled immigration" of European Jews into certain districts of Ethiopia in order among other things to divert Jewish immigration away from Palestine. This possibility as well as the other conditions which were to be established for the Jews will depend upon the attitude of Jewry in general toward Fascist Italy. (In this connection the Grand Council declared that international Jewry had been unanimously hostile to Fascism.)

Copy and translation of full text of communiqué by today's pouch.³⁷

PHILLIPS

865.4016/85 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, October 17, 1938—6 p. m.
[Received October 17—2:48 p. m.]

306. Department's telegram No. 96 of October 3. The following is a translation of the Italian Government's reply:

³⁷ Not printed.

"In reply to your letter of October 4, 1938, I have the honor to communicate to you the following :

As you are aware the measures adopted by the Fascist Government by Royal Decree Law No. 138 of September 7, 1938 relate to foreigners in general and not only to Jews of American citizenship.

A special treatment accorded to American Jews would constitute an unjust discrimination with respect to other foreign Jews and would moreover be incompatible with the principles underlying the measures in question which are designed to safeguard the race and not to discriminate against special categories of foreigners according to the countries of which they are nationals.

Moreover, the Royal Decree Law of September 7, 1938 conforms entirely with the principles of international law since the legal admission of foreigners to Italian territory does not deprive the Royal Government of the right to expel them in order to safeguard a general and fundamental interest of the state from which is excluded any intention of discriminating against foreigners solely on account of the fact that they are nationals of a particular foreign state.

In any event I desire to assure Your Excellency that in the application of the measures under discussion American Jews will not be treated less favorably than other foreign Jews.

Furthermore, I invite Your Excellency's attention to the fact that among the provisions adopted by the Fascist Grand Council on October 7th important exceptions for foreign Jews were determined which will naturally be more effective in favor of those Jews who are American citizens.

Finally I may add that a special commission has been set up at the Ministry of the Interior for the examination of individual cases involving Jews of foreign as well as Italian citizenship. This Ministry will not fail to refer to that commission with the greatest solicitude any special case relating to American Jews to which you may consider it opportune to invite its attention.

Accept Excellency, et cetera. Signed Ciano."

PHILLIPS

865.4016/85 : Telegram

The Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, October 22, 1938—2 p. m.

104. Your 306, October 17, 6 p. m. I am disappointed in the reply of the Italian Government to our note regarding the status of American Jews in Italy, the tone of which seems unhelpful. Having in mind the assurances given to you by Ciano as reported in your 302 of October 15, 7 p. m.,³⁸ please follow carefully and report on the operation as it affects Americans of the special commission set up for the examination of individual cases.

HULL

³⁸ Not printed. It included the statement: "He [Ciano] explained it had not been possible for the Italian Government to make a broad exemption for American Jews as such but assured me that their cases would be dealt with individually and sympathetically." (865.4016/84)

701.8511/901

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

[Extracts]

[WASHINGTON,] November 5, 1938.

The Italian Ambassador called to see me this morning at my request. [For the part here omitted, see page 724.]

I then said to the Ambassador that, inasmuch as he was leaving Washington within the next few days to return to Italy and since this was probably the last opportunity I would have for any extended conversation with him, the Secretary of State and I both felt it desirable that I speak to him quite frankly with regard to a matter which was to this Government of the greatest importance. I said that, as the Ambassador knew, this Government had sent a communication to the Italian Government with regard to threatened discrimination on the part of Italy against American citizens of Jewish faith resident in Italy; that the Italian Government in replying to that communication had stated that it would be unable to give special treatment to these American citizens or more favorable treatment than that accorded other foreign nationals of Jewish faith residing in Italy, but that the American Ambassador in Rome had been given to understand that the special commission to be set up to deal with these cases would in fact pay particular attention to these American citizens, with the implication that there might be a possibility that drastic action would not be taken against them. I stated that there was no one point upon which the American Government was more determined than that its citizens should not be discriminated against because of their race, origin, or creed. I said that so long as our nationals who happened to be residing in Italy for legitimate reasons conducted themselves properly and did not contravene laws or regulations of the Italian Nation, the United States could not admit that these persons should be outrageously discriminated against because of their faith. I said to the Ambassador that I was sure he would realize, as I did, that public opinion in this country would not tolerate such a procedure, and that if it were actually undertaken there would be an impelling demand as soon as the Congress convened in January for retaliatory action to be taken by this Government, to be authorized by law, against the same number of Italian subjects resident in the United States as that of those American citizens who might be discriminated against in Italy.

The Ambassador turned a brilliant purple in the face and asked me if I meant that the initiative for retaliatory measures would be taken by this Government. I replied that it was impossible for me to

specify with any precision how or when such action might be taken, but that I could give him very positive assurance that there would be an overwhelming demand for such action on the part of our people, and that whether the initiative came from the executive or from the legislative branches of the Government seemed to me a subsidiary matter.

Since I knew from previous conversations that the Ambassador personally was very strongly opposed to the anti-Jewish policy undertaken by his Government, I asked him if he could tell me, as a result of his recent trip to Italy, what the motives for and the origin of this policy may have been. The Ambassador replied that, while three years ago there had been only approximately forty thousand Jews in Italy, the number had now increased as the result of the emigration of refugees from Germany to almost one hundred thousand; that the greater part of these Jews were persons of the professional classes with some means of their own; that they had obtained in the short time they had been in Italy a considerable advantage over the Italians exercising the same professions, and that this situation had caused a good deal of agitation. He said that in addition to this there were, of course, some members of the Fascist Grand Council, such as Signor Farinacci, who were violently anti-Semite, and that these persons had fanned anti-Jewish feeling in every possible way. He stated, however, that national feeling generally in Italy was anything but anti-Jewish, and reminded me of his own intimate friendship and business partnership with prominent Jews in Trieste. The Ambassador said that he thought on November 7 the regulations under the Fascist decree of expulsion would be promulgated, and that it was possible that such measures of leniency might be afforded through these regulations as to make the expulsion of American Jews unnecessary. He stated, however, that he would communicate with his Government immediately on this subject and urge, as he said he had repeatedly urged before, that in the interest of better relations between Italy and the United States the contemplated steps should not be made effective with regard to American citizens. The Ambassador asked me if I could tell him how many American Jews there were resident in Italy. I said that I had no clear impression but that my understanding, perhaps mistaken, was that there might be in the neighborhood of two hundred or two hundred and fifty.

I then repeated to him what I had said before he left for Europe this summer, namely, that for a great nation of forty-four millions of people to adopt a drastic anti-Jewish policy such as that now adopted by Italy when there were only 100,000 Jews in Italy, according to his own statement, seemed to me very hard to comprehend. I said that if the Italian Government at the time the anti-Jewish atroci-

ties in Austria were being perpetrated had publicly stated its belief, as had the Vatican, that human beings should not be discriminated against because of their religious faith or racial origin, not only would that policy not have resulted in the slightest prejudice to Italian national economy but it would have done more than any other one thing to improve public opinion in the United States with regard to Italy and the Italian Government. I said that the Ambassador had been among us for two years and that he knew well what a real friendship existed in the United States among our people for the Italian people; that we were proud of many of our citizens of Italian origin who contributed greatly to the welfare of this country, and that the Ambassador knew what a high standing they enjoyed in our national life. For this reason, I said, it was all the more regrettable that relations between our two countries should be as unsatisfactory as they are at this time, and I hoped that when the Ambassador returned to Rome he would continue to do what he could in order to make better relations possible. I said that the removal of any threat to discriminate against our nationals was a cardinal point; that another important point was the reaching of a fair agreement with regard to American films; but that underlying all of these questions was the point as to whether Italy was now going to embark upon a policy of cooperation with the other nations of the world in regard to equality of commercial opportunity and thus take the leading part which it should play in the reestablishment of a healthy and a peaceful world, or whether Italy was going to continue along the lines which it had been pursuing during recent years. . . .

S[UMNER] W[ELLES]

865.4016/85 : Telegram

The Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, November 8, 1938—5 p. m.

110. Your 306, October 17, 1938. You are requested to address the following note to the Minister of Foreign Affairs.

"I have been instructed by my Government to express its disappointment that Your Excellency's note of October 17, 1938 does not convey the assurances which it felt confident would be received concerning non-discriminatory treatment in Italy of all Americans irrespective of race or creed.

Your Excellency states that a special treatment accorded to American Jews would constitute an unjust discrimination with respect to other foreign Jews and would moreover be incompatible with the principles underlying the measures in question which are designed

to safeguard the race and not to discriminate against special categories of foreigners according to the countries of which they are nationals. My Government had taken for granted that the decree laws referred to in my note of October 4, 1938 apply to foreign Jews of all nations. Hence, obviously it was not the intention of my Government to raise the question of treatment of American Jews as compared with the Jews of other countries.

What concerns the Government of the United States are the provisions of the decree-laws in reference, which divide arbitrarily American nationals into special classes and subject them to differential treatment on the basis of such classification. It is one of the fundamental principles of my Government to make no distinction between different classes of American nationals on the basis of race or creed, and uniformly in its relations with foreign nations it has emphatically declined to recognize the right of those nations to apply on their part such discrimination as between American nationals. This principle, furthermore, is applied by my Government to nationals of foreign countries residing in the United States, including Italians. The application to American nationals of the measures referred to would be incompatible with this principle in that it would have the effect of dividing them into two broad classes, namely Jewish and non-Jewish, and would accord to the former differential treatment of an unusual character with respect to establishment and sojourn.

Considering the foregoing, my Government finds itself under the necessity of maintaining a watchful attitude with regard to developments in connection with the application of provisions of the nature of those embodied in the decree-laws referred to above in so far as they may affect American nationals."

Please cable when note is delivered.

HULL

865.4016/96 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, November 9, 1938—5 p. m.

[Received November 9—2:11 p. m.]

327. Department's telegram 110, November 8, 5 p. m. Note delivered this afternoon. In addition I have explained to Ciano orally our position and the fundamental principle of the American Government in making no distinction between different classes of our nationals. My impression is that the Minister himself is disposed to do as much as he can to facilitate matters for American Jews resident in Italy and to prevent their treatment from becoming a cause of friction between our two Governments. He asked me to take up the matter with him personally on my return from leave and hopes, I am confident, to handle the individual cases in a sympathetic manner although I am doubtful whether he is in a position to change the

policy of the Italian Government as already publicly announced and as expressed in its note to me of October 17.

PHILLIPS

865.4016/107

The Ambassador in Italy (Phillips) to the Secretary of State

No. 1142

ROME, November 10, 1938.

[Received November 28.]

SIR: Referring to my despatch No. 1074 of September 9, 1938,³⁹ I have the honor to transmit herewith a memorandum of a conversation on November 9, 1938,³⁹ between the Counselor of the Embassy and Gr. Uff. Emanuele Grazzi, Chief of the Division of Transoceanic Affairs at the Italian Foreign Office, regarding the status of foreigners of the Jewish race employed in American Consulates in Italy.

From this conversation it will be observed that while the Italian Government does not intend to interfere with the continued employment of foreign Jews who are now in the service of the United States Government, it hopes nevertheless that they will, as occasion offers, be replaced by employees of the so-called Aryan race.

Respectfully yours,

WILLIAM PHILLIPS

865.4016/97 : Telegram

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

ROME, November 12, 1938—1 p. m.

[Received November 12—10 a. m.]

332. Embassy's telegram No. 289, October 7, noon and despatch No. 1100 of October 7.⁴⁰ The text of the decree embodying the decisions of the Grand Council on the racial question had been approved by the Council of Ministers and published in the press November 11. An early publication in the *Official Gazette* is expected.

Among the additions to the provisions already published are the following:

With respect to the prohibitions relating to mixed marriages, a provision has been inserted which will for a period of 3 months permit the Ministry of the Interior to grant exemption in special cases to the regulation forbidding the marriage of governmental and public employees with Aryan foreigners. It is further provided that any priest or civil registry official who performs a marriage contrary to the pro-

³⁹ Not printed.

⁴⁰ Despatch not printed.

visions of the decree is liable to civil penalties and a fine and the marriage shall be considered null and void.

With respect to the status of Jews, all persons of the Jewish race are required to be registered on the civil register and in addition to the restrictions on employment already published Jews may not be employed in the civil and military administrations of the state, in banks, in insurance companies, in provincial communal and municipal entities or in Government controlled organizations, or employ Italian domestic servants of the Aryan race. Italian Jews may not be employed as instructors of non-Jewish minor children or own rural land valued at more than 5,000 lire or buildings appraised at more than 20,000 lire or own any concern declared to be of interest to national defense. Although these last provisions apply only to Italian Jews there is no reason to believe that more favorable treatment will be granted foreigners of the Jewish race. Full text by mail.

REED

365.115/3 : Telegram

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

WASHINGTON, November 15, 1938—7 p. m.

112. Department has received copy of report without enclosures from the American Consulate in Milan dated October 15, 1938 addressed to the Embassy⁴¹ concerning withdrawal of privileges at Milan Stock Exchange from Robert Blattner, American citizen, as result of recent anti-Jewish measures.

Please report by cable whether the Embassy considers this discriminatory and if so what action has been taken.

HULL

365.115/4 : Telegram

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

ROME, November 16, 1938—11 a. m.
[Received November 16—8:25 a. m.]

335. Department's telegram No. 112, November 15, 7 p. m. It is understood that all Stock Exchange privileges in Italy formerly held by persons of the Jewish race have been withdrawn without distinction of nationality.

⁴¹ Not found in Department files.

On October 19 the Embassy addressed a communication to the Foreign Office pointing out that the responsibilities of Mr. Blattner's position as the representative of an American concern were such that withdrawal of these privileges would operate to the detriment of the company's interests and requesting that the special commission afford sympathetic consideration to his case.

REED

365.115/5 : Telegram

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

WASHINGTON, November 18, 1938—7 p. m.

114. Embassy's telegram No. 335, November 16, 11 a. m. In as much as 1 month has already elapsed without reply to your representations to the Foreign Office in behalf of Blattner, we feel that you should again approach the appropriate authorities with a view to obtaining early action. In so doing, you should not fail to make clear that it is not the question of most-favored-nation treatment that concerns this Government in the present instance, since we take it for granted that this will continue to be accorded to American nationals in Italy, but rather the Italian Government's action in discriminating between different classes of American nationals on the basis of race or creed. As set forth in the Department's telegram No. 110 of November 8, 5 p. m., this Government emphatically declines to recognize the right of a foreign nation to make such discrimination.

Please follow this case closely and report developments by cable.

HULL

123G.711/273 : Telegram

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

ROME, December 1, 1938—11 a. m.

[Received December 1—9:22 a. m.]

354. For Shaw.⁴² Consul Gotlieb has requested that I obtain from the Italian authorities an assurance that they have no objection to his retaining in his employ two Italian Aryan servants in view of recent legislation prohibiting employment of Italian Aryan domestics by persons of Jewish race. He has already taken matter up with the local Prefect but thus far without success. I am reasonably certain that such assurance could be obtained but I hesitate to request it because assurance if given would undoubtedly be accompanied by intimation that in view of Italian Government's position on racial

⁴² G. Howland Shaw, Chief of the Division of Foreign Service Personnel.

question Gotlieb should be replaced. In this connection see Embassy's despatch No. 1142, November 10.

We consider Gotlieb one of the best of our Consuls in Italy. However, once his racial origin is brought officially to the notice of the Italian Government, even should the latter not suggest his removal, it seems logical to suppose that his efficiency would be very much impaired because of race prejudice. It may even be that the damage has already been done as a result of his having taken up his servant problem with the Prefect which must naturally have entailed admission that he is non-Aryan.

I should be grateful for any suggestions.

REED

865.4016/108 : Telegram

The Acting Secretary of State to the Chargé in Italy (Reed)

WASHINGTON, December 3, 1938—5 p. m.

122. Your despatch 1142 of November 10th and your telegram 354 of December 1, 11 a. m. We are greatly concerned at what appears to be a misunderstanding possibly on your part and certainly on that of Gotlieb of this Government's attitude toward the Italian anti-Jewish measures in so far as they affect American citizens or American consular offices. (See Department's telegrams 110, November 8, 5 p. m., and 114, November 18, 7 p. m.)

With regard to the step which Gotlieb has already taken on his own initiative we fear that this may be construed by the Italian authorities as an indication that the American Government is willing to agree to and to accept as warranted discriminations undertaken by a foreign government between American nationals because of their race or creed. He should certainly take no further action nor should you. The principle of recognizing no distinction between American nationals on the basis of race or creed is fundamental and one on which there can be no compromise.

We also feel that it would be a mistake to admit, even inferentially, that the anti-Jewish measures apply to diplomatic or consular offices of the American Government. Unless you have already done so, please refrain from submitting a list of employees of the American Government classified according to their religious or racial affiliations, a distinction which this Government will always decline to take into consideration in their employment.

Please satisfy yourself that our general attitude is understood by all consular offices in Italy.

WELLES

865.4016/111 : Telegram

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

ROME, December 5, 1938—5 p. m.

[Received December 5—2: 50 p. m.]

359. Department's 122, December 3, 5 p. m. I believe that the Embassy now fully understands our Government's attitude on this question and we shall be guided accordingly. Substance of the Department's telegrams numbers 110, 114 and 122 is being made available to all consular officers in Italy.

The Embassy has hitherto been taking up through the Foreign Office individual cases of American nationals requesting exemption from possible application of the racial decrees or special consideration of their status thereunder. As this cannot be done without inferentially recognizing a distinction between American nationals on the basis of race or creed may I assume that the Department desires that Embassy should refrain from attempting to obtain such advance assurances in individual cases where discrimination on racial grounds is merely to be expected under operation of the decrees and that Embassy should confine itself to protesting in accordance with the Department's previous instructions and on the basis of notes already delivered pursuant thereto when discriminatory action has actually been initiated in any given case? I regret to report that list containing names of two foreign consular employees "considered to be of the Jewish race" was informally furnished the Foreign Office on November 14 in response to Grazzi's request.

REED

865.4016/120 : Telegram

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

ROME, December 9, 1938—5 p. m.

[Received December 9—3: 05 p. m.]

367. Department's 122, December 3, 5 p. m., and my 359, December 5, 5 p. m. The press yesterday published a communiqué issued by the Ministry of the Interior to the effect that all petitions to the Ministry requesting rulings in connection with the application of the Decree Law of November 17⁴³ for the defense of the law (copy transmitted with Embassy's despatch No. 1174, November 25⁴⁴) should be submitted by the interested parties through the local prefectures.

We are receiving from interested American citizens requests for advice as to whether they should follow this procedure especially with

⁴³ *Gazzetta Ufficiale del Regno d'Italia*, November 19, 1938, p. 4794.

⁴⁴ Not printed.

respect to seeking permission to remain in Italy and authorization to retain Italian servants in their employ. This presents a difficult dilemma. If we advise them to present their petitions in the manner prescribed this would seem to entail implied acquiescence in Italian racial distinctions on their part at least if not on ours. If we advise them against doing so they will naturally look to the Embassy to present their cases to the Italian authorities, a procedure which it will be recalled was suggested by the Minister for Foreign Affairs in his note of October 17 but which I hesitate to continue adopting for the reason set forth in my No. 359. The alternative would appear to be to withhold advice, to await a positive act by the authorities such as rejection of a petition if filed by the interested party, service of an expulsion order or a notice to discharge servants, and then for the Embassy to protest demanding nondiscriminatory treatment. Please instruct.

REED

865.4016/120 : Telegram

The Acting Secretary of State to the Chargé in Italy (Reed)

WASHINGTON, December 10, 1938—3 p. m.

125. Your 367, December 9, 5 p. m. In reply to requests for advice you should make it clear that the American Government does not admit the right of a foreign government to discriminate between Americans on account of race or creed; that it will maintain this position in any protests it may make, but that each citizen must decide for himself what action he may consider most useful in connection with his individual case.

WELLES

865.4016/129 : Telegram

The Ambassador in Italy (Phillips) to the Secretary of State

ROME, December 28, 1938—1 p. m.

[Received December 28—8:45 a. m.]

392. Department's telegrams 122, December 3, 5 p. m., and 125, December 10, 3 p. m.; and Embassy's telegrams 359, December 5, 5 p. m., and 367, December 9, 5 p. m.

As I interpret the Department's instructions received during my absence it is not desired that I act responsively to Ciano's request that I take up with him personally the status of American Jews in Italy and to his intimation of willingness to do what he can to facilitate

matters in such individual cases as I might present to him, see my 327, November 9, 5 p. m. Consequently I assume that in reply to requests from American Jewish citizens that the Embassy endeavor to obtain special exemption from application of the Italian racial measures I should inform them that they must fend for themselves but that the Embassy will protest any positive act discriminating against them on racial grounds. Please confirm. The Department, of course, realizes the difficulty in obtaining redress in individual cases after discriminatory action has been taken.

PHILLIPS

NETHERLANDS

NEGOTIATIONS BETWEEN THE UNITED STATES AND THE NETHERLANDS FOR THE CONCLUSION OF A CONVENTION FOR THE PREVENTION OF DOUBLE TAXATION¹

811.512356 Double/24a

The Secretary of State to the Minister in the Netherlands (Gordon)

No. 78

WASHINGTON, March 30, 1938.

SIR: You are informed that the Treasury Department has expressed its interest in the negotiation with the Netherlands of a convention designed for the accomplishment of more effective administrative cooperation in the prevention of double taxation and the enforcement of revenue laws.

In the course of the study which has been given this matter it has been observed that there is in effect a tax convention between the Governments of the Netherlands and Belgium² which, while broad in scope, contains no provision dealing with disclosure of information in the field of investment of movable capital income, this omission apparently being due to the fact that the laws of the contracting countries do not permit such disclosure.

While it is assumed that discussion of the question of exchange of information relating to income from movable capital is thus precluded, nevertheless in the event the Government of the Netherlands considers it practicable to extend the negotiations into that field this Government will be glad to include that problem in the proposed discussions. Even though that phase of the matter is eliminated it is believed that the convention between the Netherlands and Belgium, particularly the portions relating to permanent establishment and cooperation in tax enforcement, are sufficiently broad and are of sufficient mutual interest to form a basis of discussion between the two countries.

You are requested to approach the appropriate Netherland authorities for the purpose of ascertaining whether they are prepared at this time to engage in discussions with representatives of this Government with a view to the negotiation of a bilateral taxation convention. In the event that your representations meet with favorable

¹ For previous correspondence, see *Foreign Relations*, 1936, vol. II, pp. 392 ff.

² League of Nations Treaty Series, vol. CLXIV, p. 223.

response you may indicate that the Government of the United States would be glad to have the contemplated discussions held in Washington at such time as may be found to be mutually agreeable, and the Department will be pleased to receive an indication of the preference of the Netherland Government as to the time at which they might be scheduled.³

In presenting this matter to the Netherland authorities, you may inform them of the contents of this instruction.

It may be added that during the early part of 1937 discussions were held with the Government of the Netherlands through its Legation in Washington with respect to the negotiation of a multilateral convention involving the Netherlands, Italy, Switzerland, and the United States for the avoidance of double taxation upon enterprises of commerce and industry. At the request of the Treasury Department of this Government such negotiations were postponed because the pressure of other fiscal matters precluded at that time the study necessary for the negotiation of such an agreement. The Department has now learned informally that the Government of Italy is no longer interested in the proposed multilateral convention and that the Government of Switzerland is not concerned with a tax convention of the scope now under contemplation.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

811.512356 Double/29

*The Secretary of State to the Netherland Minister
(Van Haersma de With)*

WASHINGTON, May 31, 1938.

SIR: I have the honor to refer to your note No. 1802 of May 13, 1938⁴ concerning the conclusion of an agreement in matters of taxation between the United States and the Netherlands and to inform you that a communication concerning this matter has been received from the Treasury Department.

In its communication the Treasury Department states that it is agreeable to the negotiations referred to taking place any time during June 1938. It further states that Mr. Eldon P. King, Special Deputy Commissioner, Bureau of Internal Revenue, has been designated to conduct the negotiations on behalf of the Treasury Department. I may add that so far as this Department is concerned, any time in June

³ By telegram No. 50, May 17, 1 p. m., the Chargé in the Netherlands informed the Department that the Netherlands Government was disposed to discuss negotiations of the convention and proposed sending a delegation in June (811.512356-Double/26).

⁴ Not printed.

will be agreeable for the negotiations in question to take place. The Department has designated Mr. Francis Colt de Wolf of the Treaty Division and Mr. Horace White, Jr. of the Office of the Adviser on International Economic Affairs to participate in the forthcoming negotiations.

With respect to the request of the Netherlands authorities relating to the suspension by the United States revenue authorities of claims pending for United States taxes against Netherlands firms, the Treasury Department suggests that, in view of the fact that the identity of the taxpayers concerned can be learned only by a canvass of various activities within the Bureau of Internal Revenue involving numerous administrative groups, and since such matters as limitation points may be involved in specific cases, it would be desirable for the Netherlands authorities to furnish the Treasury Department with a list of the names and addresses of the Netherlands firms involved. With this information in its possession the Treasury Department will give careful consideration to the request of the Netherlands authorities. In the circumstances I shall take pleasure in transmitting to the Treasury Department any information on this point which you may be in a position to obtain from your Government.

The Department has been informed by the American Legation at The Hague under date of May 6, 1938⁵ that the Netherlands delegation to the forthcoming negotiations will consist of Dr. Albarda, Section Chief in the General Treasury Department of the Ministry of Finance, and Mr. J. B. Y. Peeters, Section Chief in the Direct Tax Division of the Ministry of Finance, and possibly one or two experts, and that in all probability the delegation would leave for the United States almost immediately after the official announcement had been made. The Department is now instructing the American Legation at The Hague to request the competent Netherlands authorities to advise the Legation as soon as possible of the exact composition of the Netherlands delegation and of the date of their arrival in the United States.

Accept [etc.]

For the Secretary of State:
R. WALTON MOORE

811.512356 Double/49

Memorandum by Mr. Horace G. White, Jr., of the Office of the Adviser on International Economic Affairs

[WASHINGTON,] June 17, 1938.

It has not been possible for me to keep up the daily reporting of the negotiations that I originally set out to follow owing to the extent to which the days have been taken up in the actual conferences. It so

⁵ Despatch No. 314, May 6, not printed.

happens, however, that at this morning's meeting with the Netherlands delegation a very definite turning point was reached. Consequently, I can work backwards from this point to a better effect than would be possible under the original idea.

In my memorandum of June 15,⁶ which covered the meetings on Monday and Tuesday of this week, I outlined the general framework of concessions which Mr. King expected to follow in his negotiation. One of his principles is that no reduction of our withholding rates applicable to nonresident aliens can be considered unless we obtain from the Netherlands substantial concession of cooperation in the determination and collection of taxes due to the American Treasury.

On Wednesday and Thursday the discussions revealed pretty clearly that this exchange of concessions would be most difficult. Accordingly, at the very beginning of this morning's conference with the Netherlands delegation Mr. King advanced the proposal that in our negotiations the question of rates and of enforcement and disclosure be dropped. Whereupon all of the Netherlands countenances grew sad, and Mr. Molekamp⁷ commented that of course the whole business would break down if this were to be done, and his colleagues nodded assent.

Mr. Molekamp's pronouncement might not be an accurate prediction. At any rate, the two delegations immediately set about to explore some possible way of adjusting the situation. When we adjourned at one o'clock the following plan had been agreed upon. The Netherlands delegation should formulate to the best of its ability this afternoon the maximum concession that it thought could be made in regard to enforcement and disclosure, and communicate this to Mr. King as soon as possible. Mr. King might then board an airplane to visit Mr. Magill⁸ in New York and place the situation before him.

In addition, Mr. de Wolf and Mr. White should hold a conference with Mr. Feis⁹ this afternoon in order to get an idea of the State Department's views on the matter of reducing our withholding rates in so far as they are applicable to citizens of the Netherlands.

This morning Mr. King went over the different items in the two draft conventions in an attempt to gauge the parity of the different concessions which each side might offer. Leaving out the highly controversial question of rates and enforcement and disclosure, he advanced the conclusion that most of the other items involved a fairly mutual exchange of advantage in themselves. Consequently, a convention could be set up limited in scope to double taxation of business incomes and to certain minor classes of income, but having no reference to investment incomes. Such a convention would have about the same

⁶ Not printed.

⁷ Commercial Counselor of the Netherland Legation.

⁸ Roswell Magill, Under Secretary of the Treasury.

⁹ Herbert Feis, Adviser on International Economic Affairs.

scope as our convention with France on double taxation,¹⁰ and the conventions that the Netherlands has with Belgium and Sweden.¹¹ Although the Netherlands very evidently has come over here with the main idea of getting rate concessions, Mr. King thinks that a convention of this scope would be worthwhile and that the Netherlands will not turn it down should it turn out that nothing of wider range can be obtained.

I think my three memoranda, that is of June 13,¹² June 15,¹² and this present one, give a fairly adequate general picture of what has happened in the past week. None of these memoranda get down to the details that have been the subject of such lengthy discussion. There is a mass of information which has turned up that should be made of record for use in connection with other conventions such as that with Sweden¹³ which is coming along this autumn. Unless you wish it otherwise, suppose I figure to put this information together rather gradually and systematically rather than try to report it in free-hand fashion.

811.512356 Double/51

*Memorandum by Mr. Horace G. White, Jr., of the Office of the Adviser
on International Economic Affairs*

[Extract]

[WASHINGTON,] June 21, 1938.

My memorandum of June 18 [17] had as its main topic the turning point reached in our negotiations with the Netherlands on Friday, June 17. At that time Mr. King told the Netherlands delegates that a concession on American withholding rates was simply out of the question unless a substantial disclosure and enforcement concession could be obtained from the Netherlands. He proposed that the whole question of rates and administrative cooperation with respect to movable capital be eliminated from further discussion and that the negotiations be confined to a narrow treaty comprehending the subject of double taxation of business income, and certain minor classes of income, together with administrative cooperation directly related to this field.

On Monday afternoon we met again with the Netherlands delegation, which had spent the weekend to itself attempting to formulate the maximum concession that could possibly be made in regard to dis-

¹⁰ Signed at Paris April 27, 1932; Department of State Treaty Series No. 885, or 49 Stat. 3145.

¹¹ Signed March 21, 1935, League of Nations Treaty Series vol. CLVIII, p. 451.

¹² Not printed.

¹³ For text, see Department of State Executive Agreement Series No. 121, or 52 Stat. 1490.

closure and enforcement of taxes on income from movable capital. Their memorandum¹⁴ on this subject was received Monday morning and was rather surprising in the extent to which the Netherlands delegates had modified their position from the preceding week. However, the modified disclosure and enforcement proposal still falls short of what Mr. King thinks would be attractive to the United States as compensation for a withholding rate concession.

Our afternoon conference with the Netherlands delegates was opened by Mr. King's proposal that the next step in the negotiations might follow one or the other of the following courses: (1) to draft a narrow convention devoted primarily to double taxation in the business income field and excluding rates, and enforcement and disclosure in the movable capital field; or (2) to draft a broad convention covering the whole sphere of interest of both parties, including rates and administrative cooperation in connection with movable capital.

With respect to the first alternative, the idea was that such a convention would be certain to meet with no obstacles, either from Congress or executive departments. Thus one way of dissolving the present impasse would be to conclude a convention which would be certain of acceptance on this side even though its scope might be unsatisfactory. The Netherlands delegation said that this alternative was worthless to them, partly because The Hague would never ratify a convention not containing provision for reduced rates of withholding on income from movable capital.

After Mr. King had clarified the idea of his second alternative the Netherlands delegation accepted it as a mutually satisfactory basis for further discussion. The theory of our present plan is to draft a comprehensive convention containing everything of interest to both parties, including rates and cooperation in the movable capital field.

Such a convention would be sent to Mr. Magill and Mr. Taylor¹⁵ for consideration of the policy questions that it would involve—particularly the rate angle. If Magill and other appropriate officials should concur in making this convention a test of Congressional intent in regard to rates of tax applicable to nonresident aliens, the convention would be signed and sent to the Senate. However, if there should be hesitancy about the policy angle, the convention would be held unsigned, and the executive officials would confer informally with Congress in the premises. Should it then turn out that Congressional approval might be obtained, the Convention would be signed and transmitted in the regular way.

In as much as the Netherlands delegates submitted their memorandum of proposed cooperation in the movable capital field without

¹⁴ Not printed.

¹⁵ Wayne Taylor, Fiscal Assistant Secretary of the Treasury.

consultation with their Government, they have cabled the proposal to The Hague in the expectation of receiving an expression of approval or disapproval within a few days. If the reaction of their Government is unfavorable, then the negotiations will be discontinued. A favorable reply will be regarded as a signal to go ahead along the lines noted above.

The absence of Messrs. Magill and Taylor is a complicating factor. Mr. King has pointed out to the Netherlands delegation that the rate question is a big item of tax policy and depends on action in the upper offices of the Government and then upon what Congress wants to do. Mr. Molekamp asked Mr. King what his personal views were as to the likelihood that a favorable response would eventuate—noting that if he was not hopeful, then it would not be worth while for the delegation to stay over here. In reply Mr. King made some comments designed primarily to stall the matter along rather than have the negotiations cease without further discussion. He told Mr. Molekamp that he thought the prospects were sufficiently hopeful to warrant continuation of negotiations and the completion of a draft convention to be presented as the definitive views of the two delegations. He asserted that the non-resident alien provisions, particularly the contiguous-country parts, of our revenue legislation are not altogether satisfactory to Congress or to the Treasury. In 1936 the question of extending the 5-percent rates to noncontiguous countries by treaties was considered, and although the legislation took the opposite turn, he thinks that Congress might be led to reverse its present position if the inducements can be made sufficiently attractive. This fact, he thought, made it worth while to use the Netherlands convention for a test of administrative and Congressional will.

Consequently beginning Tuesday morning the two delegations will set to work drafting a definitive convention and hope to turn out their product within a week or so unless unfavorable news comes from across the water, or from Mr. Magill.

811.512356 Double/56

*Memorandum by Mr. Horace G. White, Jr., of the Office of the Adviser
on International Economic Affairs*

[WASHINGTON,] July 2, 1938.

My last memorandum, dated June 24,¹⁶ reported that the delegations had agreed to proceed with the preparation of a draft convention, leaving out the highly controversial aspects of fiscal cooperation and withholding rates. On Monday, June 27, the two delegations

¹⁶ Not printed.

proceeded with actual negotiations within this delimited field, and on Thursday and Friday drafted a proposed convention. This draft is to be perfected next week for presentation on our part to Mr. Magill and other appropriate fiscal authorities, and the Netherlands delegation will submit the draft to The Hague.

As it now stands, the draft convention appears to contain only two controversial items: (1) the recision of outstanding American claims against Netherlands residents for capital gains made prior to the Revenue Act of 1936,¹⁷ and (2) a provision in the field of disclosure and enforcement of such extensive scope that the Netherlands is reluctant to concede. Mr. King, early in the week, stipulated that any concession to the Netherlands in regard to these capital gains cases could only be offset by a disclosure and enforcement concession on the part of the Netherlands drawn along certain lines. It will be recalled that before the impasse on the matter of withholding rates was reached last week an enforcement and disclosure concession by the Netherlands was set off against a withholding rate concession on the part of the United States. Since the capital gains concession on the part of the United States is regarded as of less value to the Netherlands than the rate concession, the original enforcement and disclosure proposal has been considerably modified.

It is possible that Mr. Magill will decline to grant the capital gains concession to the Netherlands or that The Hague will decline to grant this disclosure and enforcement concession. If this should be the outcome, it is hoped, however, that the remaining articles of the convention can be ratified. It is felt by both delegations that the remaining articles in themselves reflect a mutual exchange of concessions.

In as much as Mr. King is preparing a special report on the draft convention to Mr. Magill, it does not seem necessary for me to prepare anything on the details. Mr. King has assured me that he will make a copy of his report available to us for our information.

One sidelight that might be of interest is the attitude that Mr. Baumhauer¹⁸ has expressed toward the present draft convention. In a conversation with him the other night he told me that he thought he would oppose ratification of the present draft by The Hague. The chief reasons that he gave were: (1) the double taxation provisions did not cover subsidiary companies, but only establishments having the general character of foreign branch concerns; (2) he did not think any convention which left the existing withholding rate structure unmodified in favor of the Netherlands was worth anything; (3) he thought that our unwillingness to exempt

¹⁷ 49 Stat. 1648, 1714.

¹⁸ E. H. Baumhauer, delegate of the Netherlands-America Chamber of Commerce in Amsterdam.

the salaries of employees of the Holland House¹⁹—his personal interest—was unreasonable and shortsighted; (4) he thought that the double taxation provisions should not have been limited to income taxation but should have extended to death duties. I took this occasion to argue with him about the interest of the two countries in the convention as now drafted. While there is nothing that I could say that would do much to change his mind, I did get the impression that he has not thought out the pros and cons of his opposition, and he may actually in the final outcome be agreeable to the ratification. I have thought it of interest to note Mr. Baumhauer's position because he is an important figure in Dutch-American relations.

The members of the Netherlands delegation who had come across the water for this occasion embarked for the Netherlands on Saturday, July 2. Mr. Molekamp, the Commercial Counselor of the Netherlands Legation, is left in charge of the further negotiations and arrangements in connection with the convention.

Another personal note—Mr. Albarda, who is an economic adviser to the Netherlands Treasury was almost totally inactive in these negotiations. The reason is that he was sent over primarily to be on hand in case the hot money question should come up. I understand from his associates that he is very highly regarded in the Netherlands as one of the capable young economists of the country who is expected to play an important part in his Government's future economic relations with other governments.

811.512356 Double/73

*The Secretary of State to the Netherlands Minister
(Van Haersma de With)*

WASHINGTON, October 26, 1938.

SIR: With reference to recent negotiations at Washington between representatives of the United States and the Netherlands looking to the conclusion of a tax convention between the two countries, I have the honor to enclose herewith a draft of such a convention as would be acceptable to this Government.²⁰

During these negotiations, as you know, substantial agreement was reached on all but two questions, the one relating to the status of joint accounts involving securities transactions on the exchanges of the

¹⁹ Holland House Corporation of the Netherlands, Inc., established in New York City in 1938 for the purpose of promoting better economic and cultural relations between the Netherlands and the United States.

²⁰ Not printed.

respective countries, the other concerning the application of the proposed convention to the United States so-called personal holding companies. The first question concerns the elimination of existing international double taxation with respect to such joint accounts and their relation to the definition of permanent establishment. The second question concerns the taxation by the United States of personal holding companies and of United States citizen and resident shareholders of foreign personal holding companies. After careful consideration a solution of the two issues has been reached on bases which it is believed are mutually satisfactory to both governments. The provision with respect to joint accounts has been placed in the last sentence of paragraph 2 (a) of the Protocol and the provision with respect to personal holding companies in paragraph 8 of the Protocol.

In addition to those provisions there have been made a number of minor changes in terminology in the draft as prepared by the negotiators. It is believed that they will be satisfactory to the Government of the Netherlands since they do not involve any change in substance.

In the event your Government approves of the enclosed draft I shall be glad to have arrangements made for the signing of the convention and protocol.

Accept [etc.]

For the Secretary of State:
R. WALTON MOORE

[Although the Chargé in the Netherlands reported in his despatch No. 757, May 27, 1939 (811.512356 Double/77), that the Netherlands Government stated that the matter of the tax convention was pending as far as the Netherlands was concerned, there were no further negotiations prior to the German invasion of the Netherlands.]

CONVENTION BETWEEN THE UNITED STATES AND THE NETHERLANDS FOR THE ARBITRATION OF A DIFFERENCE RELATING TO PAYMENT FOR CERTAIN REQUISITIONED MILITARY SUPPLIES, SIGNED MARCH 18, 1938

[For text of the Convention, see Department of State Treaty Series No. 935, or 53 Stat. 1564.]

411.56N38/198

The Secretary of State to President Roosevelt

WASHINGTON, March 25, 1938.

THE PRESIDENT: The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to

the Senate to receive the advice and consent of that body to ratification, if his judgment approve thereof, a convention, signed at Washington on March 18, 1938, on the part of the United States of America and the Netherlands providing for the arbitration of a difference between the Governments of the two countries in regard to the sufficiency of the payment made by the Government of the United States of America to the Government of the Netherlands for certain military supplies of the Netherlands Government which were requisitioned in 1917.

The differences between the two Governments, which it has been impossible to compose through the regular diplomatic channels, are of the following general nature:

In November 1917 this Government requisitioned certain quantities of machine guns and ammunition therefor which had been manufactured for the Netherlands Government by the Colt Patent Fire Arms Company and the United States Cartridge Company, it having been understood with the Purchasing Agent for the Netherlands Army in New York City that this Government would reimburse the Netherlands Government the cost of the materials plus certain expenses. This Government had previously indicated to the Netherlands Government that "there is objection in principle to the shipment from this country to any other not allied with it in this war of any fighting material of the class which is supplied by the Ordnance Department".

After assembling the relevant evidence of the cost of the materials and of the expenses in question, the War Department Board of Appraisers calculated the amount due at \$5,720,492.53. The Netherlands Government, however, in accepting that amount refused to accord full acquittance of this Government's obligation, contending that it should be reimbursed in the terms of the foreign exchange with which it had purchased the dollars to be used to pay for the manufacture of the munitions. It contends that the fluctuation of exchange between the date when such dollars were purchased by it and the date of receipt of the above-mentioned reimbursement was such as to represent an exchange loss of approximately 2,600,000 florins, to which is now added a claim for interest on that amount. The Department of State has contended that the conversion of florins into American currency was an independent transaction with which this Government has no concern. Despite protracted diplomatic negotiations throughout a period of many years, it has been impossible for the two Governments to reconcile their differences in this respect.

On January 13, 1930, a Treaty of Arbitration²¹ was concluded between the two Governments Article I of which provides as follows:

"All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made

²¹ *Foreign Relations*, 1930, vol. III, p. 633.

by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington, December 18, 1913,²² and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907,²³ or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

"The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of the Netherlands in accordance with its constitutional laws."

This treaty provision has been invoked by the Netherlands Government, and, pursuant to the obligations thereof, the attached convention has been concluded as a means for the final disposition of this international dispute.

It will be observed from the terms of the convention that it provides for the systematic development of the factual and legal issues of the controversy, by a series of pleadings, and, for a limited period thereafter, for further consideration by the two Governments with a view to its final disposition otherwise, before it becomes necessary to refer it to formal arbitration. This is believed to be the most logical and the most economical procedure for disposing of such a controversy since it will involve this Government in no added expense unless and until formal arbitration becomes necessary.

Provision is also made in the convention for the similar development and disposition of certain counterclaims for overpayment which this Government proposes to advance.

Respectfully submitted,

CORDELL HULL

[Arbitration under this convention was interrupted by the war.]

²² *Foreign Relations*, 1928, vol. III, p. 408.

²³ *Ibid.*, 1907, pt. 2, p. 1181.

NORWAY

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND NORWAY¹

611.5731/173½

*Memorandum of Conversation, by Mr. Hugh S. Cumming, Jr., of the
Division of European Affairs*

[WASHINGTON,] February 8, 1938.

Participants: Mr. Morgenstierne, the Norwegian Minister,
Mr. Sayre,²
Mr. Hugh S. Cumming, Jr., of the Division of Euro-
pean Affairs,
Mr. John C. Ross, of the Division of Trade Agree-
ments.

The Norwegian Minister, Mr. Morgenstierne, called on Mr. Sayre by appointment at four o'clock this afternoon to discuss further certain matters in connection with a possible trade agreement between Norway and the United States, which he and Mr. Sayre had talked over informally last night.

Mr. Morgenstierne opened the conversation by saying that he had been very interested in what Mr. Sayre had said to him the previous evening and had prepared a telegram to his Government based on that conversation. He handed to Mr. Sayre his draft telegram which reads as follows, and asked Mr. Sayre if he would be good enough to indicate whether it correctly represented the tenor of the conversation:

"Assistant Secretary Sayre confirms that in the event of negotiations about a trade agreement it is the attitude of the Department of State that the tax and duty on whale oil should be reduced sufficiently to place whale oil on an equal footing with competing raw materials for the soap industry, giving due consideration to the special expenses connected with the necessary hardening process as regards whale oil.

"Mr. Sayre adds that the State Department adheres to its position as repeatedly stated that it is desirable that the American market be reopened for Norwegian whale oil, and that in the course of negotiations as referred to the tax and duty on whale oil should be reduced to such an extent,—if need be the maximum reduction authorized by

¹ Continued from *Foreign Relations, 1937*, vol. II, pp. 517-524.

² Francis B. Sayre, Assistant Secretary of State.

the Trade Agreement Act³—, which can be shown to be necessary in order to accomplish this goal, viz. the reopening of the American market.”

Mr. Sayre read Mr. Morgenstierne's telegram and then with respect to the first paragraph thereof referred to his conversation with Foreign Minister Koht (on October 28, 1937),⁴ during which he had stated that it might be possible for this Government to reduce the duty and tax on whale oil in a trade agreement to an extent which would tend to bring that commodity into a competitive position with palm oil and tallow. In this connection, Mr. Sayre referred to the fact that the duty and tax on whale oil now amount to 3.8 cents per pound, while duty and tax on tallow amount to 3½ cents per pound, and the tax on palm oil (duty free) amounts to 3 cents per pound. Mr. Sayre also mentioned that he had said that in placing whale oil on a competitive basis with palm oil and tallow, insofar as duty and tax were concerned, consideration might also be given to the hydrogenation process to which whale oil must be subjected. Estimates of the cost of this process vary from ½ to 1 cent per pound.

With regard to the second paragraph in Mr. Morgenstierne's draft telegram, Mr. Sayre stated that he had apparently been misunderstood by Mr. Morgenstierne, since of course it was not possible for this Government, either through the Trade Agreements Act or otherwise, to guarantee that the American market be reopened and kept open for Norwegian whale oil, regardless of price changes, etc., which might take place in the future.

Some conversation ensued, during which Mr. Sayre endeavored to explain again to Mr. Morgenstierne the restrictions which the Trade Agreements Act placed on trade agreement negotiations, and the impossibility of the State Department committing itself, in advance of actual negotiations, to a specific promise as to what concessions might be granted Norway.

Mr. Sayre then suggested to Mr. Morgenstierne that the following more nearly represented the position of the State Department, and that he would have no objection to Mr. Morgenstierne telegraphing it to his Government:

“Assistant Secretary Sayre confirms that in the event of trade agreement negotiations it is the attitude of the Department of State that the tax and duty on whale oil might be reduced within the limitations of the Trade Agreements Act sufficiently to place whale oil on an equal footing with palm oil and tallow, and that due consideration will be given to the special expenses connected with the necessary hardening process as regards whale oil.”

³ Act of June 12, 1934, 48 Stat. 943; extended by Joint Resolution of Congress, March 1, 1937, 50 Stat. 24.

⁴ For memorandum of conversation, see *Foreign Relations*, 1937, vol. II, p. 520.

Mr. Morgenstierne did not appear to be happy with the draft telegram as agreed to by Mr. Sayre, but said that he would study the matter and might take it up again in a day or so.

611.5731/174½

Memorandum by Mr. Hugh S. Cumming, Jr., of the Division of European Affairs

[WASHINGTON,] February 9, 1938.

Mr. Morgenstierne telephoned me this afternoon and said that he had been thinking over his conversation with Mr. Sayre yesterday afternoon. Upon reflection he had come to the conclusion that the draft telegram to Oslo which Mr. Sayre had approved was not very encouraging and would be disappointing to his Government. At some length he went over the old story of the injurious effect on Norway of our excise tax on whale oil. In particular he said that he wished that we would carefully consider substituting in the draft telegram above-mentioned the words "competing raw materials" for the words "palm oil and tallow", and to the addition to the draft telegram of some revision of the second paragraph of the draft telegram as originally prepared by him and shown to Mr. Sayre. I told the Minister that we would be very glad to look into the matter for him.

I then repeated briefly what Mr. Sayre had said to the Minister yesterday regarding the limitations placed on us by the Trade Agreements Act and said that I was sure that he would understand why it was impossible for us prior to entering into negotiations for a trade agreement to indicate precisely and in explicit terms what concessions we would be able to grant Norway on whale oil or any other item in a possible agreement. I said that I thought we had already gone quite as far as we could in the statements made by Mr. Sayre to Dr. Koht last fall and in the final draft of the telegram approved by Mr. Sayre.

The Minister said that he thoroughly understood the limitations placed on us by the Trade Agreements Act but that he wished to recall to me that in the fall of 1935 we had gone much further than we seemed to be willing to go now and had in fact promised that if trade agreement negotiations should be undertaken we would be willing to give Norway the benefit of the maximum possible reduction in the duty and tax on whale oil.⁵ Since this is an old contention of the Minister's, I did not feel it necessary to go into the matter at any great length. I did however say that while undoubtedly in the various conversations which have taken place during the past few years on the subject of whale oil, much had been said of the possible effect of reductions of

⁵ See *Foreign Relations*, 1935, vol. II, pp. 620 ff.

various percentages, I was sure that no one had promised a reduction of any specific amount since there was no authority in law for any such promise in advance of actual negotiations, et cetera.

The Minister asked that we give careful consideration to what we might authorize him to say to his Government since he was afraid that in the absence of some encouraging words from us on whale oil his Government would not wish to proceed with trade agreement negotiations.

611.5731/175½

Memorandum by Mr. Hugh S. Cumming, Jr., of the Division of European Affairs

[WASHINGTON,] February 11, 1938.

NOTE: After consultation between Eu⁶ and TA⁷ on the subject of Mr. Morgenstierne's request (see memorandum of February 9, 1938) that the Department reconsider the text of the draft telegram which Mr. Sayre approved his sending to Oslo on the subject of whale oil, it was agreed that since it would be difficult to draft anything which would be satisfactory to Mr. Morgenstierne and at the same time be within the limits beyond which the Department could not go at this early stage of exploratory conversations, it would be better to give Mr. Morgenstierne a statement recapitulating all that had been said to him on the present position of this Government. Mr. Sayre approved the attached draft prepared by Mr. Ross of TA,⁸ which it was intended should be handed to Mr. Morgenstierne by Mr. Sayre on plain paper, to do with as he saw fit.

I telephoned Mr. Morgenstierne just before lunch today to invite him to call on Mr. Sayre at his convenience. By way of explanation I outlined to the Minister the action, indicated above, which I understood Mr. Sayre intended to take with respect to the Minister's request to me on February 9.

The Minister seemed to be quite disappointed that from what I said the Department did not seem to be willing to go as far as he wished with respect to a commitment as to what we would do in a concession on whale oil. He then said he had every reason to believe that either today or tomorrow he would receive a telegram from Oslo containing some preliminary trade agreement proposals. In view of this he thought that it might be better if he refrained from calling at the De-

⁶ Division of European Affairs.

⁷ Division of Trade Agreements.

⁸ Memorandum of February 11 to the Norwegian Legation, p. 624.

partment until after this telegram had been received, in which case he felt he would have something tangible to offer us. It was finally agreed that the Minister would wait until Monday or Tuesday to see if his expected telegram came in, and then he would telephone me.

N. B. The Minister did not come in, or call again until March 4, 1938. See Memo. of that date.

H[UGH] S. C[UMMING, JR.]

611.5731/183

Memorandum of Conversation, by Mr. Hugh S. Cumming, Jr., of the Division of European Affairs

[WASHINGTON,] March 4, 1938.

Participants: Mr. Morgenstierne, Minister of Norway.
 Assistant Secretary Sayre.
 Mr. John C. Ross, Division of Trade Agreements.
 Mr. Hugh S. Cumming, Jr., Division of European Affairs.

At his request, an appointment for Mr. Morgenstierne to call on Mr. Sayre was made for this afternoon. Mr. Morgenstierne said that the Foreign Office in Oslo had been carefully studying all angles of the commercial relations between the United States and Norway. Although their investigation was not yet complete, and they were continuing their studies, they had reached the tentative conclusion that the present state of the trade between the two countries was very satisfactory to both sides, and that there seemed to be little basis for tariff concessions satisfactory to the United States which might be made by Norway. The Norwegian Government had not yet been able to find any commodities on which Norway might promise actual reductions in tariff rates. It believed that it might be possible to offer the United States the benefit of certain of the bindings which had been made in the Norwegian commercial agreements with Poland, Greece, Portugal and Hungary. Mr. Morgenstierne handed to Mr. Sayre four memoranda⁹ listing the commodities mentioned.

Mr. Morgenstierne said that in addition to the commodities mentioned in the memoranda, linoleum, grapes and tomatoes were bound in the Oslo convention¹⁰ and the subsequent Hague agreement,¹¹ and the benefit of these bindings could also be extended to the United States.

⁹ None printed.

¹⁰ Signed at Oslo December 22, 1930; League of Nations Treaty Series, vol. CXXVI, p. 341.

¹¹ Signed May 28, 1937; *ibid.*, vol. CLXXX, p. 5.

Mr. Sayre said that the binding of tariff rates was of course useful and might have a part in a broad agreement. However, Mr. Morgenstierne should remember that the binding of the duty rates on a few commodities would not in itself give us a broad satisfactory agreement which we could defend against attacks by various lobbies and interested groups in this country, who might protest against a Norwegian-American trade agreement. He particularly mentioned in this connection certain agricultural interests which could be expected to protest against any concessions made by the United States in the duty and excise tax on whale oil.

At Mr. Morgenstierne's further request, Mr. Sayre said that he would discuss the matter with the Secretary of State to see whether we would be interested in pursuing further the tentative offer now being made by the Norwegian Government.

Mr. Morgenstierne then referred to previous conversations on the subject of whale oil, and asked whether Mr. Sayre had anything new on the matter which might be transmitted to the Foreign Office at Oslo.

Mr. Sayre then read to Mr. Morgenstierne and handed to him the original of the attached memorandum stating the Department's position.

Mr. Morgenstierne said that he was glad to have the memorandum since it agreed with reports which he had been making to his Government. He was afraid, however, that it would not be entirely satisfactory, since his Government felt very strongly that insofar as whale oil was concerned the *status quo ante* should be restored. Mr. Sayre said that that raised the question as to exactly what the *status quo ante* was, and he repeated what had been told Mr. Morgenstierne in previous conversations, that since the excise tax was placed on whale oil similar taxes had also been placed on other competing oils. It was this changed situation which we must all bear in mind.

In conclusion, Mr. Sayre again mentioned to Mr. Morgenstierne that we were interested in a broad general agreement, and believed that sufficient basis for such an agreement existed; that while binding the rates on a few commodities would have some value, it was very little to offer in return for actual reduction in duty on the part of the United States; that, however, he would be glad to study the proposals, to discuss them with the Secretary of State, and to receive the further results of the studies being made by the Norwegian Foreign Office.

[Annex—Memorandum]

The Department of State to the Norwegian Legation

1. The attitude of the Department with regard to the excise tax on whale oil is well known to the Norwegian Government. It has been

felt that this tax was uneconomic and that it imposed a heavy burden on an important Norwegian export product.

2. As is well known to the Norwegian Government, the Department exerted every effort to secure the removal of the tax through legislative action. That effort was unsuccessful.

3. It may be stated frankly that the removal of the tax through legislative action now seems outside the realm of possibility.

4. Since the legislative approach to the problem is no longer open, only one alternative approach remains.

5. It would be legally possible, under the terms of the Trade Agreements Act of June 12, 1934, to reduce both the duty and the excise tax on whale oil by a maximum of 50 percent. It would not be possible, under any circumstances, to grant any greater reduction in either the duty or the tax.

6. The United States would consider a reduction in the duty and tax on whale oil only in connection with negotiations for a broad trade agreement concerning all or most of the products of which each country is the principal supplier to the other. The object of such an agreement would be to increase the trade in both directions between the two countries, by means of reciprocal reductions in existing tariff rates on certain products, as well as bindings of such rates on other products. It will be remembered that the list of products of which Norway was the principal supplier of imports into the United States in any year of the period 1931-1936 included 45 items which accounted for 61 percent of total imports for consumption from Norway valued at \$21,811,771 in 1936.

7. In considering the possibility of any reduction in the duty and tax on whale oil, the United States would bear in mind two special factors, as follows:

(a) The differentials between the duty and tax on whale oil and the duties and taxes on the principal competitive foreign fats and oils, such as palm oil and tallow, which are used in the soap industry.

(b) The cost of the hydrogenation process to which whale oil is subject before it is used in soap making.

8. The United States would be prepared to consider, in connection with broad trade-agreement negotiations, a reduction in the duty and tax on whale oil sufficient to establish, in so far as the duty and tax and the cost of the hydrogenation process are factors in the situation, a fair and equitable competitive relationship between whale oil on the one hand and such other foreign fats and oils as palm oil and tallow on the other hand. In this connection, it must be borne in mind that it is impossible to undertake any commitment as to the extent of any reduction (within the limitations referred to in paragraph 5)

in advance of the public notice and hearings required by the Trade Agreements Act.

FEBRUARY 11, 1938.

611.5731/189

Memorandum of Conversation, by Mr. Hugh S. Cumming, Jr., of the Division of European Affairs

[WASHINGTON,] April 27, 1938.

Participants: Mr. Morgenstierne, Minister of Norway,
Mr. Sayre, Assistant Secretary of State,
Mr. Ross, Division of Trade Agreements,
Mr. Cumming, Division of European Affairs.

The Minister of Norway, Mr. Morgenstierne, called on Mr. Sayre this morning, and after referring to the memorandum handed to him by Mr. Sayre on March 4, 1938, said that he had been instructed by his Government to leave the attached *Aide-Mémoire*¹² stating the Norwegian Government's present position relative to the negotiation of a trade agreement between the United States and Norway.

Mr. Sayre read the *Aide-Mémoire* in Mr. Morgenstierne's presence and remarked that while careful study would have to be given to its contents before any reply could be made, his first impression was that it seemed to offer encouraging possibilities. He told Mr. Morgenstierne that he would refer the *Aide-Mémoire* to the Secretary of State and to the appropriate interdepartmental committees for study, on the completion of which he would again get in touch with the Minister.

611.5731/190

The Norwegian Legation to the Department of State

AIDE-MÉMOIRE

With reference to the various conversations which have taken place in the Department of State since 1934 regarding the negotiation of a trade agreement between Norway and the United States of America, and to the memorandum which was delivered by Assistant Secretary of State, Mr. Sayre, on February 11th 1938,¹³ the Minister of Norway has the honor to communicate the following views of his Government:

It will be recalled that about a month before the enactment of the Trade Agreements Act of 1934, the Congress, through the Revenue Act of May 10th 1934,¹⁴ introduced a tax of 3 cents per pound on whale

¹² *Infra.*

¹³ *Ante*, p. 624. The memorandum was actually delivered March 4.

¹⁴ 48 Stat. 680.

oil, which is absolutely prohibitive and constitutes a serious obstacle to the trade relations between the two countries. As this tax, in spite of the fact that it was intended to apply to imported whale oil only, was classified as an excise tax in said Revenue Act of 1934, the Norwegian Government protested against this tax, which they considered—and still consider—as being incompatible with the Treaty of June 5th 1928, between Norway and the United States.¹⁵ These being the circumstances, the Norwegian Government intimated that the repeal of the tax would be desirable before negotiations could be initiated, as the tax in question, introduced only about two months before the invitation for trade negotiations was communicated to the Legation of Norway, had seriously disturbed the basis for reciprocal discussions.

The Government of Norway have been glad to note that the Department of State as well as other executive branches of the United States Government have conceded that the tax on whale oil is inequitable, and greatly appreciate the endeavours of the United States Government to obtain the consent of the Congress to the repeal of this tax. However, as the efforts to secure the repeal of the tax in question have been unsuccessful, the Norwegian Government have taken under consideration the question of accepting your Government's invitation to open negotiations for a trade agreement and the Minister has been authorized to initiate the necessary preliminary discussions.

As regards the concessions my Government would expect, the Minister has the honor to point out—as previously mentioned on various occasions and as repeated by His Excellency Dr. Koht, Minister of Foreign Affairs, during his visit to Washington last year—that the Norwegian Government understand that a reduction of the tax and duty on whale oil—totalling 3.8 cents per pound—should be granted without any compensation. The Government of Norway further consider in this connection that a full 50% reduction of the existing tax and duty—indispensable for the sale of Norwegian produced whale oil to the United States—should be accepted. As regards other concessions, the Norwegian Government understand that the Government of the United States are willing to discuss reductions of the duties on various articles of which Norway is the principal exporter to the United States. Furthermore, the Norwegian Government would desire to obtain the discontinuance of those proceedings under the anti-dumping legislation which for several years have prevented the importation of Norwegian matches to the United States, and also a satisfactory solution of the question of calculating the values of paper products exported from Norway to the United States.

¹⁵ *Foreign Relations*, 1928, vol. III, p. 646.

With regard to the concessions which might be expected on the part of Norway, it has been understood—from conversations which have taken place between the Minister and Assistant Secretary of State, Mr. Sayre—that certain concessions for agricultural products would be of special interest to the American Government. In this connection the Minister has been authorized to state that the Norwegian Government would be prepared to guarantee against increase in the existing duties for the following products:

Cocoa-beans,
 fresh fruits: oranges
 lemons
 bitter oranges
 grapes
 bananas
 pineapples,
 dried fruits: figs
 raisins and
 currant grapes,
 molasses (with less than 70% sugar contents),
 fodder, such as distiller's grain,
 flour derived from barley, beans, peas and lentils,
 flour derived from wheat,
 tomato-soup in containers of not less than 5 kilogrammes.

As regards the question of reduction in existing duties for agricultural products, the Norwegian Government want to point out that Norwegian agriculture is in the same position as agriculture in a number of other countries: greatly depending on the home market for a sufficient distribution of its products at reasonable prices. Whereas, therefore, the imposition of custom duties has been found to be necessary, it should be observed that notwithstanding existing duties a considerable exportation of American agricultural products to Norway yearly takes place. The Government of the United States, being particularly interested in reduction of duties on fresh fruits, have not failed to note the spontaneous seasonal reductions which Norwegian authorities have conceded in recent years for apples and pears and the proposal recently adopted by the Storting for reduction of the customs duty on pears for the period March 16th–July 31st.

The Norwegian Government regret very much that they would not be in a position to introduce to the Storting any proposal for further reductions of agricultural tariff duties.

With regard to existing Norwegian duties on industrial products the Minister has been authorized to state that the Norwegian Government would be willing to consider reductions for various categories

of machinery which are principally imported to Norway from the United States. A specification of the machinery in question may appropriately be postponed till the American manufacturers and exporters have indicated their views with regard to this matter.

The trade agreements policy initiated by the American Government with the object of liberalizing world trade has aroused the greatest interest in Norway and the Norwegian Government are anxious to contribute to that same end through the conclusion of a trade agreement. The Norwegian Government would, therefore, be thankful to learn whether the Government of the United States would consider the views communicated above as an appropriate basis for further negotiations.

WASHINGTON, April 27, 1938.

611.5731/193

Memorandum of Conversation, by Mr. Hugh S. Cumming, Jr., of the Division of European Affairs

[WASHINGTON,] June 29, 1938.

The Norwegian Minister called on Mr. Sayre by appointment this afternoon to say good-bye before leaving for Norway on Saturday, July 2, and to inquire whether Mr. Sayre was in a position to give any reply to the *aide-mémoire* which the Minister had left with Mr. Sayre on April 27, 1938.

Mr. Sayre handed the Minister a memorandum, of which the attached is a copy,¹⁶ which the Minister read in Mr. Sayre's presence. The Minister said that he was glad to have this memorandum as it confirmed the reports which he had been sending the Foreign Office in Oslo of his own estimate of the American Government's position with respect to trade agreement negotiations. In a conversation which followed Mr. Morgenstjerne mentioned briefly, as he had done on previous occasions, the difficulties which the present Norwegian Government faced in reaching a decision to negotiate with the United States, due to the opposition of certain of the agricultural elements of Norway and the dependence of the Government now in power on the support of the Agrarian Party for its maintenance in office.

611.5731/190

The Department of State to the Norwegian Legation

MEMORANDUM

The Department has carefully considered the *aide-mémoire* of April 27, 1938 which was left at the Department by the Minister of Norway

¹⁶ *Infra.*

and which contains the views of the Norwegian Government with respect to the possible negotiation of a trade agreement between the United States and Norway.

The Department is particularly gratified to learn that the Norwegian Government is in sympathy with the trade-agreement policy of the American Government and is anxious, through the conclusion of a trade agreement, to contribute to the objectives of American commercial policy which are to liberalize world trade through the reciprocal reduction of excessive restrictions on that trade.

Officials of the Department have on numerous occasions, notably during Foreign Minister Koht's visit last fall and in recent conversations with the Minister of Norway, outlined the views of the American Government with respect to an acceptable basis for possible trade-agreement negotiations. The Department is firmly convinced that a basis exists for such negotiations concerning all or most of the products of which each country is the principal or an important supplier to the other. The object of such an agreement would be to increase the trade in both directions between the two countries, by means of reciprocal reductions in existing tariff rates on certain products, as well as bindings of such rates on other products. It is on this basis that the United States has negotiated the trade agreements which are now in effect and is negotiating further trade agreements at present.

The Department is of course fully appreciative of the importance attached by the Norwegian Government to the question of a reduction in the duty and excise tax on whale oil. It has therefore exerted every effort to secure the removal of the excise tax through legislative action and, in view of the unsuccessful outcome of that effort, has frankly stated, in the Department's memorandum of February 11, 1938, the extent of a possible reduction in the duty and tax on whale oil which this Government would be prepared to consider in connection with broad trade-agreement negotiations as outlined above. By virtue of the general provisions of the proposed trade agreement, the rate of duty and tax which might be established in the agreement would be bound, of course, against any increase during the life of the agreement.

Careful study has been given to the proposal made in the Norwegian Legation's *aide-mémoire* of April 27, 1938 as a basis for trade-agreement negotiations. This proposal is greatly appreciated and the Department hopes that the Norwegian Government will find it possible, after further consideration and study, to enter into trade-agreement negotiations on the same broad basis as the United States is prepared to enter into such negotiations. The Department of State has indicated that this Government would be willing to consider in

connection with trade-agreement negotiations duty reductions or bindings on 45 Norwegian products which accounted for 61 percent of total imports for consumption from Norway valued at nearly 22 million dollars in 1936. Therefore, the Department would expect that the Norwegian Government would be willing likewise to consider, in connection with trade-agreement negotiations, duty reductions as well as bindings on the products of which the United States is the principal or an important supplier to Norway.

WASHINGTON, June 29, 1938.

611.5731/197

*Memorandum of Conversation, by Mr. Hugh S. Cumming, Jr., of the
Division of European Affairs*

[WASHINGTON,] October 19, 1938.

The Minister of Norway called on Mr. Sayre this afternoon to pay his respects upon his return from leave of absence in Norway. After an exchange of the usual civilities, including a message of greeting which Mr. Morgenstjerne brought to Mr. Sayre from Dr. Koht, the Foreign Minister of Norway, Mr. Morgenstjerne said that during his visit he had discussed trade agreement possibilities with a number of people in Oslo. Dr. Koht had been particularly interested in our memorandum of June 29, 1938, regarding the possible basis for a trade agreement between the two countries. Mr. Morgenstjerne said that Dr. Koht planned to discuss the entire trade agreement situation with the Norwegian Cabinet, and subsequently with the Foreign Relations Committee of the Storting. While the Storting does not meet until the first week in January, the Foreign Relations Committee may hold meetings before that date, and Dr. Koht thought that due to the many divergent Norwegian interests involved, all of which were represented in the Storting, it would be advisable to thrash the whole matter out in the Committee.

Mr. Sayre expressed gratification that the Norwegian Government planned to go into the matter so thoroughly and said that this Government of course continued its hope that a satisfactory basis for a broad agreement might be arrived at.

Mr. Sayre cautioned the Minister regarding the confidential nature of the Department's memorandum of June 29, 1938, and Mr. Morgenstjerne assured Mr. Sayre that although he was sure that his Foreign Office would treat the matter confidentially, he would again caution them in that respect.

611.5731/198

*Memorandum of Conversation, by Mr. Hugh S. Cumming, Jr., of the
Division of European Affairs*

[WASHINGTON,] October 19, 1938.

Participants: Mr. Sayre, Assistant Secretary of State,
Mr. Morgenstierne, Minister of Norway,
Mr. Cumming, Division of European Affairs.

During the course of a conversation this afternoon, Mr. Morgenstierne said that at the time of his recent visit to Norway it had been suggested by private interests that some method might be found possible, through negotiation between the Norwegian Government grain monopoly and private interests in the United States, by which surplus American wheat might be exchanged for Norwegian whale oil. While Mr. Morgenstierne was not quite clear in his exposition of the proposal, apparently it was contemplated that the Norwegian grain monopoly would assist the whale oil exporters through some export bounty which would compensate them to the extent of the increased excise taxes now imposed on imports of whale oil into the United States.

Mr. Sayre said that while the proposal seemed interesting, he could not at the moment see any practical way of carrying it through under existing American law. He suggested, however, that Mr. Morgenstierne elaborate his plan in an informal manner, which then would be given careful study by the Department of State. Mr. Morgenstierne agreed to do so, and emphasized that he was conveying his proposal to the Department in a purely informal and unofficial manner.

Mr. Morgenstierne added, confidentially, that the author of the plan was Mr. Hans Bull.¹⁷

611.5731/209

*Memorandum of Conversation, by Mr. Hugh S. Cumming, Jr., of the
Division of European Affairs*

[WASHINGTON,] January 26, 1939.

Participants: Mr. Wilhelm Munthe de Morgenstierne, The Minister
of Norway,
Mr. Sayre, Assistant Secretary of State,
Mr. Bryn, First Secretary of the Norwegian Legation,
Mr. Cumming, Division of European Affairs.

At Mr. Sayre's request Mr. Morgenstierne called this afternoon at three o'clock to receive the Department's reply to the informal pro-

¹⁷ Hans Bull-Øvrevik, Norwegian businessman.

posal which the Minister had made last fall for the exchange of Norwegian whale oil for surplus American wheat. The Minister brought with him the newly appointed Secretary of the Legation for the purpose of introducing him to Mr. Sayre.

Mr. Sayre referred to the Minister's proposal (which the Minister interpellated to explain was actually the proposal of Mr. Hans Bull) and said that careful study had been given to it by the Department. The conclusion had been reached, however, that since it was essentially a barter transaction it did not seem appropriate for this Government, or at least for the Department of State, to lend any aid to the furtherance of the transaction. Although there was of course and could be no objection on the part of the Government to any arrangement which might be arrived at through private negotiation between the whale oil people in Norway and the wheat people in the United States, Mr. Sayre went on to say that in his opinion barter transactions were dangerous first steps for any country, and more particularly for a small country, since they led to further restrictions on international trade, whereas this Government was making every effort to broaden the scope of such trade.

Mr. Morgenstjerne remarked that his Government, too, did not believe in principle in barter transactions, but the exclusion of Norwegian whale oil from the American market through the prohibitive American duty and excise tax had forced this whale oil into the German market. This in turn was one of the reasons for the Norwegian-German clearing agreement which increasingly compelled the Norwegians to buy German goods. In this connection Mr. Morgenstjerne mentioned his fear that the market in Norway for American automobiles was steadily giving way to increased imports of German cars.

Mr. Morgenstjerne mentioned that it had been hoped that some way could be found by which the duty and excise tax on whale oil imported into the United States could be set off against any export subsidy which might be paid on wheat sent to Norway. Mr. Sayre explained that the question of export subsidies on wheat was a matter which would have to be discussed with the Department of Agriculture.

[Discussions respecting a trade agreement between the United States and Norway apparently were not continued.]

SUPPLEMENTARY EXTRADITION TREATY BETWEEN THE UNITED STATES AND NORWAY, SIGNED AT WASHINGTON FEBRUARY 1, 1938

[For text of treaty, see Department of State Treaty Series No. 934, or 53 Stat. 1561. See also telegram No. 96, March 10, 1934, 1 p. m., to the Ambassador in France, *Foreign Relations*, 1934, volume I, page 794, for the instruction initiating the negotiations of a number of such treaties with European countries.]

POLAND

DISCRIMINATION AGAINST AMERICAN BONDHOLDERS IN CONNECTION WITH PARTIAL DEFAULTS AND SUSPENSIONS OF PAYMENTS ON VARIOUS POLISH OBLIGATIONS¹

860C.51/1278

The Consul General at Warsaw (Bevan) to the Secretary of State

[Extract]

No. 2279

WARSAW, January 18, 1938.

[Received February 3.]

SIR: . . .

The Ministry of Finance has manifested a strong desire to arrive at a solution of the debt-default situation that would be satisfactory to the Department of State from the standpoint of non-discrimination. In this connection, the extension of the guaranteed multiple-currency clause to sterling Stabilization bonds and the question of an offsetting advantage to American creditors prompt the following comments.

The Ministry of Finance is believed to be willing to fix the permanent rate of interest on all non-funded loans held in the United States at $4\frac{1}{2}$ per cent.* It regards as eminently fair an offer that produces $5\frac{1}{5}$ per cent. (under the multiple-currency option) to American holders of the Stabilization Loan who bought even at par and that will yield about $5\frac{3}{4}$ per cent. net to American holders of all Polish external dollar bonds when calculated for the entire duration of the issues. Naturally, those holders who paid less than par will gain more; the Ministry claims that such persons own a large, if not the larger, portion of the amount outstanding in the United States. A calculation shows that average quotations on the New York Stock Exchange during the ten years prior to the partial default of 1936 produce a yield of $8\frac{1}{2}$ per cent. for the loan of 1920,² 10 per cent. for that of 1925³ and 11 per cent. for those of Upper Silesia⁴ and Warsaw.⁵ In the case of

¹ Continued from *Foreign Relations*, 1937, vol. II, pp. 535-543.

* As judged on the basis of talks with Counselor Rucinski. [Footnote in the original.]

² Republic of Poland 20-Year 6% U. S. Dollar Gold Bond Loan of 1920.

³ Republic of Poland 8% External Sinking Fund Gold Dollar Bond Loan of 1925.

⁴ 7% Province of Silesia External Gold Bond Loan of 1928.

⁵ 7% City of Warsaw Gold Bond Loan of 1928. For the detailed descriptions of the Polish bond issues referred to here and hereafter, see Foreign Bondholders Protective Council, Inc., *Annual Report*, 1938 (New York, 1939), pp. 840 ff.

the Stabilization Loan, the average quotation for the 5 years prior to the fall in the dollar's exchange value produced a yield of 9½ per cent.; after that event, the multiple-currency clause brought about a yield of 16¾ per cent. in 1933 and of 18 per cent. in both 1934 and 1935. The Ministry not only regarded such returns as unfair but was criticized domestically for continuing to transfer the interest payments that made them possible. The refunding operation that was clearly indicated and would have corrected the situation was not possible, but the enforced default is regarded as such a corrective measure brought about by the natural course of events. In the Ministry's estimation, the stigma of default is considerably lessened by the fact that it continued for three years to honor agreements containing terms which the necessities of the situation forced them to accept at the time they were negotiated but the faithful observance of which could no longer be justified under the changed conditions of those three years.

The Ministry of Finance is not only convinced of its fairness but points with pride to the fact that New York bankers and American bondholders have confirmed that the above-mentioned minimum yield of between 5½ and 6 per cent. is equitable. It appears that American financial circles and bondholders have been canvassed regarding the matter and that the Ministry believes they are willing to accept less than the latter's representatives—the Bondholders' Protective Council⁶—are demanding. This fact, judging from the attitude and remarks of certain officials,† has undermined the bargaining position of the Council with the Ministry. They have concluded that the Council disregards, and is even inimical to, banking opinion in New York and they believe that it may be necessary for the Ministry itself to disregard the Council eventually.

With the Ministry convinced of its own fairness to American bondholders, supported by American banking opinion, not averse to disregarding the American Council, faced with the threat of curtailed British credits and confronting the repercussions of a difficult domestic situation—an objective appraisal on the ground, based on these and other factors, throws serious doubt on whether the Minister of Finance,⁷ who has never been kindly disposed to American bondholders, would be willing to make any substantial sacrifice to them in order to offset the additional fifty or sixty thousand dollars that broke the impasse in London. The extension of the multiple-currency

⁶ The Foreign Bondholders Protective Council, Inc., was a nonprofit, semipublic organization incorporated on December 18, 1933, formed at the request of the Secretary of State, the Secretary of the Treasury, and the Chairman of the Federal Trade Commission of the United States for the protection of the rights and interests of American holders of public securities of foreign states and other governmental subdivisions. See *Foreign Relations*, 1933, vol. I, pp. 934 ff.

† Director Domaniewski and Counselor Rucinski. [Footnote in the original.]

⁷ Eugenjusz Kwiatkowski.

clause in a non-guaranteed form to British bondholders⁸ would have placed them on a basis of equality with American, Polish and other holders of Stabilization Loan dollar bonds⁹ or converted bonds of that Loan,¹⁰ thus correcting what the Ministry regarded as actually a discrimination against the British. The extension of the guarantee to them alone is naturally discriminatory, but they possess such immediately effective means of coercion—in contrast to the American bondholders—that the Ministry will probably seek to justify itself with the latter in various ways, for example, by maintaining that the guarantee will recompense the British in the future for what its absence cost them in the past. The Ministry feels that, in the final analysis, it must be the judge of what shall be given to American bondholders and the deference shown to the Department and the Council, as the defenders of the principle of nondiscrimination, is based fundamentally on the desire to have their moral support in maintaining the national credit reputation on a market that may open its doors again. The Ministry, however, does not regard their support to be as materially useful as the approval of those financial interests from or through whom Poland is most likely to secure further loans in the future.

Respectfully yours,

THOMAS H. BEVAN

860C.51/1284

*Memorandum of Conversation, by the Adviser on International
Economic Affairs (Feis)*

[WASHINGTON,] February 23, 1938.

Mr. Zoltowski, Financial Attaché of the Polish Embassy, called upon us. He had just returned from a special trip to Poland, consulting the Minister of Finance in regard to the debt terms to be offered to the holders of Polish dollar bonds. This had been the subject of prolonged discussions between the Polish Government on the one hand, and the Foreign Bondholders Protective Council and the Department of State on the other hand, prior to the payment due October 15, 1937.

The Polish proposals previously made have presented questions not only of the equity of the treatment itself but of possible discrimi-

⁸ See the memorandum of November 29, 1937, by the Assistant Adviser on International Economic Affairs, *Foreign Relations*, 1937, vol. II, p. 542, and footnote 34, p. 543.

⁹ 7% Stabilization Loan Bonds of 1927.

¹⁰ By an ordinance of the Minister of Finance dated May 15, 1937, provision was made for conversion of the original bonds into 4½ percent zloty bonds of the Internal State Loan of 1937. See *Annual Report, 1937* (New York, 1938), pp. 635 ff.

nation in the treatment of holders of dollar bonds as compared with the treatment of holders of sterling bonds.

There is every reason to believe that Mr. Zoltowski exerted himself to the utmost in Warsaw to secure the best possible terms for the holders of dollar bonds. Ambassador Biddle has reported to the Department that he carried this fight to the point of proffering his resignation in a meeting of several of the most important financial chiefs of the Polish Government. My conversations with him have confirmed the impression that through him we have had a spokesman who has brought the Polish Government to offer terms as favorable as possibly can be expected of them except perhaps in minor detail.

Mr. Zoltowski states that he is about to resume discussions with the Council. He is now in a position to offer the Council as regards the one loan, which was issued in various *tranches* in different countries, the same treatment for the holders of the dollar bonds as will be accorded to the holders of the sterling bonds of this issue under a proposal made and accepted by the British Council of Foreign Bondholders in December 1937. This would be an offer of $4\frac{1}{2}$ percent interest with a multiple currency clause which enables the bondholders to cash their coupons in terms of the Dutch guilder, and would give a yield of over 6 percent as long as the guilder may have its present value relative to the dollar. The offer to be made the Council will also contain an assurance that the yield shall in no case be less than $5\frac{1}{2}$ percent in dollars. It is this minimum guarantee feature (which was wrested from the Polish Government by the British Government as part of a deal wherewith new British capital was made available to Poland), which will represent the improvement over previous offers made to holders of the dollar *tranche* of the Stabilization Loan; previously the Polish Government had asserted they could not extend it to the holders of the dollar bonds.

For the other dollar loans, Mr. Zoltowski said that the Polish Government would offer $4\frac{1}{2}$ percent. This offer the Council had already found unsatisfactory on the ground that there is no reason why the holders of these other dollar issues should not receive as favorable terms as were granted to the British holders of the Stabilization Loan. Mr. Zoltowski stated that it was simply impossible for the Polish Government to improve this offer, that it would run into a debt load beyond their capacity and the settlement would break down.

He stated that furthermore the Minister of Finance was pressing him to seek agreement from the Council to the idea that the amortization period for these dollar loans should be prolonged to 25 years—since, as a result of the discussions in England regarding the Stabilization Loan, the amortization period for that Loan had been prolonged to 30 years. Mr. Zoltowski said this point troubled him since

his previous conversations with the Council had been based on the idea of a twenty-year amortization period; and he stated he was prepared to continue his effort to try to have the Minister of Finance retain the twenty-year amortization period. He stated further that in regard to all the dollar loans except the 8 percent Dillon Loan,¹¹ the 4½ percent interest offer was 65 percent or better of the original coupon which compared very favorably with most debt settlements in the contemporary world.

Mr. Zoltowski then put two questions to me:

First, how would the Department be struck if the Polish Government proposed to the Council that in the case of the dollar bonds, other than the Dillon-Read Loan, the amortization period be 25 years. I stated that I thought it would have a regrettable effect. I said I did not think this would result so much from the fact that it was a slight worsening of the terms already discussed but more directly from the fact that it would leave the impression that once again the terms offered to American bondholders were being decisively dictated by the course of negotiation in London; now they would be asked to accept worse terms because of the fact that as part of the compromise reached with the British regarding the Stabilization Loan, the amortization period for that loan had been lengthened beyond that contemplated in the original discussions. Mr. Zoltowski seemed to recognize the point clearly and without indicating it in so many words, showed a readiness to take this matter up with his Government again.

The second question was rather in the nature of a declaration that it seemed to him, in his most honest judgment, urgent that negotiations be completed at a very early date so that a permanent settlement would be entered into before there is time for economic conditions to change for the worse in Poland, which he very much feared. I believe him to be entirely honest in this advice. I responded by saying that my personal judgment was—subject to correction by my superiors—that if the Polish Government put forward terms for the Stabilization Loan that created a complete identity of treatment for the holders of the dollar and sterling *tranches*, and as regards the other dollar loans stuck to their 4½ percent twenty-year offer, and perhaps sought some slight improvement of terms to the 8 percent Dillon Loan (on which the new interest was less than 65 percent of the original interest) that the Department would not press the Polish Government, although it would view with sincere regret the fact that the settlement would be less satisfactory to the holders of the various dollar loans than for the holders of the sterling (and dollar) *tranche* of the Stabilization Loan. I said this judgment would be

¹¹ Reference is to the Republic of Poland 25-Year Sinking Fund External 8% Gold Bonds of 1925, issued through Dillon, Read and Company.

influenced by the desire to recognize the endless effort made by the Polish Government, the knowledge that if it raised its 4½ percent offer it would be faced with the difficult (the Poles say impossible) problem of reconversion at home, and also the desire to get a swift and final disposition of this matter.

I emphasized, however, that as he knew the Council had an independent will and there was general likelihood they would press for still better terms.

The suggestion regarding possible differential treatment for the holders of the 8 percent Dillon Loan rose out of a hint Mr. Zoltowski himself gave me of his attitude.

860C.51/1299a : Telegram

The Secretary of State to the Ambassador in Poland (Biddle)

WASHINGTON, April 6, 1938—7 p. m.

11. The Department has been following with close interest the discussion between the Foreign Bondholders Protective Council and the Polish Government in regard to the payment of Polish dollar bonds. It also has been in touch with the fiscal agents¹² for the stabilization loan, who have discussed that issue with the Polish Government. The Department's aim has been to facilitate reaching an agreed-upon settlement, the detailed terms of which must be decided by the representatives of the bondholders. However, the Department has also made clear to the financial representative of the Polish Government that it attaches great importance to the principle of non-discrimination; in every problem of debt adjustment which has involved American interests and foreign interests, it has endeavored to assist the American bondholders in securing treatment no less favorable than that given to the bondholders of other nationalities. In trying to make this position effective, it has been willing, however, to take reasonable account of special circumstances and to avoid too-great rigidity in detail, and to show a disposition to compromise for the sake of prompt and mutually acceptable settlements.

It has been the Department's hope that negotiations with the Polish Government would result in a settlement along these lines. However, the negotiations appear to have reached a point of doubt and difficulty.

1. It is reported to the American fiscal agents, and to Department that as regards the stabilization loan coupon falling due on April 15 the Polish Government has decided to pay outright only 4¼ percent with multiple currency privilege, depositing an additional ¼ percent in Amsterdam to the account of the Polish Ministry of Finance.¹³

¹² Bankers Trust Company, and Chase National Bank, New York, N. Y.

¹³ For text of the Polish decision, see *Annual Report, 1938*, p. 867.

Despite the fact that in March the Polish Government made a definite written offer of the British terms, which the fiscal agents accepted, now no indication is available as to what treatment will be accorded subsequent coupons of the stabilization loan. It is understood however that the Polish Government has entered into a permanent agreement with the British holders of the stabilization loan on a 4½ percent basis, with the same multiple exchange privilege and a guarantee of 5½ percent minimum interest in sterling, and that the April 15 coupon of the sterling loan will be paid accordingly, as the October 15, 1937, coupon has already been paid. It is further understood that the French holders are receiving payment on a similar scale under special arrangement in force with the French Government.

2. The Polish Government has reached a direct settlement in regard to a few of the dollar bond issues;¹⁴ it is understood that the Polish Government plans to carry out the terms of these settlements. In regard, however, to other and the more important dollar bond issues in public hands, the prospect now seems completely unsettled. The Polish Government some time back made a tentative offer to the Council of 4½ percent. The Council has been seeking an improvement of these terms, especially for the 8 percent issue; it has felt that these dollar bond issues were entitled to as favorable treatment as the stabilization loan. In this matter of details the Department, in its discussions with the Polish financial representative, has up to the present reserved its position and its judgment, while tending to indicate that if the Polish Government could make some gesture, even though slight, to improve the offer to the holders of the American dollar issues other than the stabilization loan, the Department would not enter into the situation in any public way.

The Department is now informed by the Polish financial representative, under instruction of his Government, that the Polish Government is not ready now to conclude a definite agreement. It is not clear to the Department whether the Polish Government by thus suspending negotiations means to offer terms other than those discussed, or means to offer a temporary arrangement, or means to leave the whole question of payment in suspense possibly to the point of default when the next coupons fall due. This creates a definite prospect that the American holders of these dollar issues would suffer substantially as compared with holders of Polish Government bonds of other nationalities.

Will you please promptly discuss this situation informally with the Polish authorities. The Department would like to know, as definitely as may be possible: (a) whether the Polish Government is not prepared to make payment on the stabilization loan at the full

¹⁴ See telegram No. 117, September 28, 1937, from the Ambassador in Poland, *Foreign Relations*, 1937, vol. II, p. 539.

4½ percent rate, putting the American *tranche* of this issue, at least, on a parity with the other *tranches* of the loan. (b) How the Polish Government intends to treat the other dollar bond issues. It would be regrettable if the Americans had to face the fact that the Polish Government was tending to treat American interests less well than the interests of those of other countries. Needless to say it would be taken as just another instance of a European country, facing the exigencies of European politics, deciding to slight the part played by the United States in the past in contributing capital to its development and oblivious of the potential role this country might play in the future. We are genuinely eager to have this matter satisfactorily settled and will do everything within reasonable sphere to promote compromise on detail, and we do understand that many of the exigencies facing the Polish Government are actual and that the trend of current international economic affairs has not made it easier to meet obligations.

You may find it useful in talking with the Polish Government to point out that, owing to repatriation of Polish dollar securities, previous sinking fund payment, and previous debt readjustments, it can be reliably estimated that to pay the American slice of the stabilization loans at the same terms as the other slices and to accord other dollar issues 4½ percent, with a 30-year amortization schedule, would require now no more than \$3,000,000 a year. It is believed that the Polish Government can pay debt service of that amount without undue strain. At one time the annual service on Polish dollar obligations required in the neighborhood of \$13,000,000.

You may also find it useful to call attention to the vigor with which the Department acted to prevent the imposition of an extremely heavy excise tax on ham and other pork products which would have seriously injured Polish trade in these products. The farm interests may bring this question to the front again in the future. In fact, the Senate may still override its Finance Committee and accept the House provision for the excise tax, though this is unlikely. It is plain that if the Polish Government discriminates against the American bondholders, it will become somewhat harder to gain support in opposing legislation of this type. This is stated entirely as an observation and not as an implied threat.

HULL

860C.51/1300: Telegram

The Ambassador in Poland (Biddle) to the Secretary of State

WARSAW, April 11, 1938—3 p. m.
[Received April 11—12:35 p. m.]

46. In conference with the proper Government authorities I vigorously represented our position in relation to the Polish dollar bonds

in the light of Department's instructions contained in its cable number 11, April 6, 7 p. m. On Saturday April 9 Polish Government forwarded fresh instructions to Polish Financial Counsellor Zoltowski. I received assurances of Government's earnest desire to reach some equitable arrangement in connection with the servicing of Polish dollar bonds as well as an assurance that by no later than the 13th I would receive a definite reply on all questions contained in Department's cable.

BIDDLE

860C.51/1301a : Telegram

The Secretary of State to the Ambassador in Poland (Biddle)

WASHINGTON, April 12, 1938—7 p. m.

13. Department informed by fiscal agents for stabilization loan that Polish Government is planning, in connection with the handling of the April 15 coupon, to announce its intention of offering the bondholders a permanent adjustment plan which will have the same terms as the permanent plan now extended to the holders of the sterling bonds. If this is true, it will of course be satisfactory in so far as concerns this loan.

However, again according to information from fiscal agents, a minor difficulty was presented by the contemplated handling of the April 15 coupon. It is reported that if the holders of this coupon present it for payment on the due date, April 15, they will receive only $41\frac{1}{4}$ percent and be called upon to give up rights to the extra $\frac{1}{4}$ percent. On the other hand, if they postpone presentation of the coupon until the new plan is effective and assented to, they will receive $4\frac{1}{2}$ percent. It seems to the Department that to deprive the holders of this $\frac{1}{4}$ percent is discriminatory. Would not the Polish Government be willing to agree to pay $41\frac{1}{4}$ percent on April 15 and the remaining $\frac{1}{4}$ percent upon the plan becoming effective and assent being given it?

HULL

860C.51/1302 : Telegram

The Ambassador in Poland (Biddle) to the Secretary of State

WARSAW, April 13, 1938—8 p. m.

[Received April 13—8 p. m.]

48. 1. Your No. 11, April 6, 7 p. m. Following representations and consultations am informed that new instructions cabled Zoltowski Saturday, [April] 9th, comprise basis for additional accord

which, the Polish Government clearly understanding our position, assures me should not be regarded as discriminatory.

2. Your No. 13, April 12, 7 p. m. The Polish Government agrees to make a supplementary payment of $\frac{1}{8}$ (one-half of yearly rate) to those bondholders of the Stabilization Loan (but not funding bonds) who will surrender their coupons for cash provided that such payment will take place after the signature of the agreement and upon acceptance of the final conversion.¹⁵ By accepting such procedure as far as the Stabilization Loan is concerned (whose fiscal agents have accepted before April 15 the conditions of the final conversion as proposed by the Polish Government) the Polish Government emphasizes that such attitude does not prejudice their position towards the other loans. In other words it does not create a precedent.

BIDDLE

860C.51/1335

Memorandum of Conversation, by the Adviser on International Economic Affairs (Feis)

[WASHINGTON,] May 31, 1938.

Mr. Zoltowski, Financial Counselor of the Polish Embassy, telephoned me this morning from New York to say that he had now reached agreement with the Bondholders Protective Council on all of the outstanding dollar indebtedness except the 8 percent Dillon-Read loan.

He informed me that incidentally since last discussion terms with the Council, he had been able to make an improved offer in regard to amortization on the 6 percent Warsaw and Silesia Loans (I believe on a twenty-year basis) which had pleased the Council.

Accordingly, they were planning to issue notice tomorrow morning regarding all these loans.¹⁶

In regard to the 8 percent Dillon-Read loan, however, he remained disturbed. Their present offer was $4\frac{1}{2}$ percent on a twenty-year amortization period. However, they had offered to provide as amortization the fixed sum of \$450,000 a year. Assuming that the market price of the 8 percent's would be 65 (which was distinctly higher than the present price), this would in reality mean the total amortization of the amount of the dollar bonds outstanding for between 12 and 14 years. Further, he emphasized that the total amount of service that would be provided under the Polish Government's offer (\$405,000 for interest and \$450,000 for amortization) would be,

¹⁵ For text of the Polish agreement, see *Annual Report, 1938*, p. 868.

¹⁶ For texts of these notices, see *ibid.*, pp. 869 ff.; for the Council's own statement, see *ibid.*, pp. 872 ff.

according to their calculations, some \$240,000 more than would be required to meet the terms which the Council said they would accept, which was 5 percent in the twenty-year amortization period, handling the amortization on an ordinary 2 percent annual basis. He explained that the great difficulty was that to meet the Council's terms would create most serious questions in connection with the conversion carried through by the Polish Government into zloty bonds, and he did not think the Polish Government would consider disturbing what had been done.

He stated that in accordance with the Council's suggestion he had cabled to his Government asking whether they would provide 4½ percent on the straight 12-year amortization period, but that this proposal also brought up the same difficulty in regard to the Polish Government conversion.

Though the next coupon of the 8 percent loan was not due for some time¹⁷ and therefore an opportunity existed for further discussion, he professed himself as afraid that protracted delay might seriously imperil the chance to do anything satisfactory for the 8 percent because of the constant vicissitudes that the Polish Government might have to face under the present disturbed political and economic conditions of Europe. He felt that there was a serious risk that if settlement was not achieved now some new turn of events might greatly imperil the whole chance of satisfactory settlement.

He asked me to believe the sincerity of his presentation in the light of our knowledge of how vigorously he had fought in behalf of the bondholders, even going to the length of presenting his resignation several times.

I said to him that I could see how, on the basis of strictly legal argument, it might be felt that the holders of the 8 percent were being less well treated comparatively than the investors in the Stabilization Loan particularly. He admitted that in a sense this might be argued but emphasized (1) that the multiple currency privilege enjoyed by the holders of the Stabilization Loan in the past had meant in reality that they had received a greater rate of interest than the holders of the 8 percent loan, and (2) that under the proposed settlement the amortization privileges were more favorable to the holders of the 8 percent loan than the Stabilization Loan. In conclusion, I said that, as he knew, this Government did not undertake to pass on the details of such negotiations. However, I felt confident that considering the small nature of the difference and the arguability of its fairness, that this Government would not present the matter to the Polish Government as one of discrimination. I said that I could not influence the Council's judgment in this matter, but that I would let them

¹⁷ Interest coupons were due January 1 and July 1.

know that the Department would not further dispute the terms offered with the Polish Government.¹⁸

860C.51/1361

The Ambassador in Poland (Biddle) to the Secretary of State

No. 628

WARSAW, August 1, 1938.

[Received August 17.]

SIR: Supplementing this Embassy's telegram No. 112 of June 27, 1938,¹⁹ and earlier communications with respect to the conversion of Polish dollar obligations, I have the honor to forward herewith copies in translation of the definitive Polish legislation providing for the conversion of (1) Standard Car Finance Corporation credits of \$5,669,036.98, (2) the Dollar *tranche* of the 7% Stabilization Loan of 1927, and (3) the 6% Dollar Loan of 1920, together with one copy only of the Polish texts of these laws.²⁰

These laws, which became effective on July 26, 1938, the date of their publication in the official Warsaw *Dziennik Ustaw (Journal of Laws)* No. 52 give legislative effect to the conversion offers made by the Polish authorities to representatives of American holders of the above-mentioned obligations. The Department is fully conversant with the background of these conversions and it is hoped in official circles at Warsaw that the long and involved conversations connected with the conversion of, and resumption of payments on, these dollar securities have now been successfully concluded and the issue permanently settled.

Respectfully yours,

A. J. DREXEL BIDDLE, JR.

860C.51/1374

The Ambassador in Poland (Biddle) to the Secretary of State

No. 824

WARSAW, December 1, 1938.

[Received December 14.]

SIR: Supplementing my despatch No. 628 of August 1, 1938, and earlier reports from this Embassy treating of the conversion of Polish

¹⁸ By letter of June 7, 1938, to Francis White, President of the Foreign Bondholders Protective Council, Inc., the Adviser on International Economic Affairs wrote: "In regard to the still outstanding question of terms in regard to 8% bonds, it is my impression, as well as that of colleagues with whom I have discussed it, that the matter of issue has now become so limited, and the question of possible discrimination so refined, that the Department would not feel itself justified in further pressing the Polish Government." (860C.51/1341)

¹⁹ Not printed.

²⁰ Four enclosures not printed. Translations of the Polish laws of July 14, 1938, effective July 26, 1938, for the conversion of the 7% Stabilization Loan of 1927 and the 6% Dollar Loan of 1920, are given in *Annual Report, 1938*, pp. 883 ff. With regard to the Standard Car Finance Corporation credits, see telegram No. 117, September 28, 1937, from the Ambassador in Poland, *Foreign Relations, 1937*, vol. II, p. 539, and footnote 26, p. 540.

dollar obligations, I have the honor to forward herewith a copy in translation of a Decree of the President of Poland dated November 18, 1938,²¹ authorizing the conversion at 4½ per cent interest of the bonds of the 8% Dollar Loan of 1925, popularly known as the Dillon Loan.

This Decree, which became effective on November 24, 1938, the date of its publication in the official *Journal of Laws*, provides for the conversion of outstanding bonds of the loan with the interest rate reduced to 4½ per cent.²² This new rate is to be calculated on the par value of the bonds plus the redemption premium of 5 per cent which was established at the time of the emission of the loan.²²

The present conversion completes the conversion of Polish dollar obligations floated in the United States.²³ It will affect bonds to the par value of around \$8,376,600, since bonds of the loan to the value of approximately \$9,825,400 were converted into internal zloty securities of the Polish Republic.

Respectfully yours,

A. J. DREXEL BIDDLE, JR.

ANTI-SEMITISM IN POLAND AND CONSIDERATION OF JEWISH
EMIGRATION AS A POSSIBLE SOLUTION²⁴

860C.4016/5451

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

[WASHINGTON,] March 14, 1938.

The Polish Ambassador²⁵ called to see me this morning. He told me that he was being received by the President at noon today and desired to have an opportunity of talking with me before he spoke

²¹ For translation of this decree, see *Annual Report, 1938*, p. 936.

²² Earlier conversions were carried out on the basis of laws passed by the Polish Parliament but this conversion will be on the basis of a Presidential Decree. Since Parliament was not in session at the time the Decree was issued, it will have the same effect as a parliamentary law and authorization contained in the Decree is as complete as if made by a law. [Footnote in the original.]

²³ That is to say, a \$1000 bond would receive 4½ percent interest on \$1050, or at the rate of 4.725 percent per annum on a \$1000 bond. For the text of the definitive Polish offer of June 30, 1938, regarding this issue, and a statement by the Council on the same day, see *Annual Report, 1938*, pp. 880 ff.

²⁴ By another Polish Presidential decree of November 18, 1938, the interest was reduced on the Land Credit Society of Warsaw (Land Mortgage Bank of Warsaw) Gold Bonds of 1924 from 8 percent to 4½ percent. The smaller portion of this issue received the guarantee of the Polish Government, and was sold in the United States. At the same time, certain minor issues held by British investors had interest reduced to 5½ percent. In despatch No. 827, December 1, 1938, the Ambassador called attention to "this further instance" of the difference in treatment accorded American and British creditors by Poland, as "the Polish authorities are in this matter pursuing a consistent policy of discrimination against American holders of Polish securities." (860C.51/1375)

²⁵ Continued from *Foreign Relations, 1937*, vol. II, pp. 552-563.

²⁶ Count Jerzy Potocki.

with the President with regard to the Jewish problem which he had earlier discussed with me at the request of the President.

I told the Ambassador that since I had last talked with him on this subject there had been no new developments of which I was aware other than the information given to me by Ambassador Biddle²⁶ with regard to the possibility of a visit to Poland by Mr. Szymczak.²⁷ I said that I knew the Ambassador had been fully advised of this possibility by Mr. Biddle and that, consequently, I knew of nothing to add to the consideration of the problem as the Ambassador had first approached it.

The Ambassador said that he and Mr. Szymczak had discussed the latter's possible visit to Poland and that he had told Mr. Szymczak of his own very strong belief that there was nothing whatever to be gained by such a trip unless Mr. Szymczak went to Poland with positive and concrete assurances on the part of certain Jewish organizations in the United States that they were willing to make a financial contribution towards either the properly financed emigration of Jews from Poland or towards the development of certain projects within Poland for the benefit of the Polish people, including the Jews. Mr. Szymczak had replied to the Ambassador that he had not been in touch with any of the Jewish organizations other than that headed by Mr. George Backer and that he did not feel that this was enough inasmuch as he had received no positive assurances or commitments of any kind from that group. Mr. Szymczak had added that he was very anxious to obtain such concrete assurances as the Ambassador had in mind either from Mr. Bernard Baruch, Mr. Mortimer Schiff²⁸ or members of the Warburg family, but that he had not been able to have any satisfactory contacts with these individuals.

I expressed to the Ambassador my own personal opinion that the advice he had given Mr. Szymczak was very sound. I said that I did not see that Mr. Szymczak would accomplish very much if he merely went to Poland in order to talk generalities with the highest officials of the Polish Government, but that if he went with a sound program which could be backed up in a material manner, it seemed to me that some real progress could be made.

I took occasion to say that necessarily the Jews in the United States were deeply and profoundly concerned with the course of events in Europe during the past weeks and particularly the tragedies which they now envisaged as likely to take place in Austria. I said that the Ambassador was fully familiar with the very strong feeling which had been created as a result of the policies of the Goga Government

²⁶ A. J. Drexel Biddle, Jr., American Ambassador in Poland.

²⁷ M. S. Szymczak, member of the Board of Governors of the Federal Reserve System.

²⁸ Banker, New York, N. Y., and member of Jewish Welfare Board.

in Rumania²⁹ and that the spread of anti-Semite activities which are now anticipated in Austria would provoke even greater anxiety in this country among that element of our population. I said that I hoped that the policy of tolerance which had been pursued by the Polish Government would not now be modified and I said that it seemed to me unquestionable that if that policy of tolerance and of a desire to solve the Jewish problem in Poland in a conciliatory manner were continued by the Polish Government, it would undoubtedly be welcomed by public opinion in the United States with very beneficial results to Polish-American relations.

The Ambassador told me that he was confident that his Government would not modify the policy to which I had referred. He said, however, that the Jewish problem in Poland was a very real problem and that his Government felt that some start at a solution must be made in the near future. I then inquired if the Polish Government had made any investigation of possibilities for Polish immigration to the Latin American republics as a result of the information I had given him during the course of our first conversation on this subject. The Ambassador said that he had not heard from Warsaw with regard to this matter, but that it seemed to be evident that his Government was concentrating on the possibilities of immigration to Palestine more than on the possibilities of immigration to South or Central America, primarily because of the fact that the expenses involved were so much less if immigration to Palestine were undertaken. He did say, however, that his Government had informed him that the Government of Venezuela had granted certain agricultural concessions for Polish-Jewish immigration and that he would be grateful if I could ascertain from Venezuela whether that Government would look with favor upon the utilization of such concessions under present conditions. I told the Ambassador that I should be glad to do this in an entirely personal and informal way and that upon the return of the Minister of Venezuela to Washington I would make inquiry and then let the Ambassador know accordingly.

The Ambassador discussed with me at some length the European situation very much along the lines of his talk with the Secretary of State a few days ago. He seemed to feel that no general European war would result from the amalgamation of Austria into the Reich³⁰ and that Germany would not now pursue actively the problem of the German minorities in Czechoslovakia. He stated that he thought the only element of danger was the possibility that the new French Foreign Minister, Paul-Boncour, would endeavor actively to bring Russia

²⁹ See pp. 672 ff.

³⁰ See vol. I, pp. 384 ff.

into the Western European picture and that if that were done of course Poland would not remain aloof and disinterested. He said that up to the present time Poland had made no representations whatever to Germany with regard to the Austrian adventure and intended to remain completely to one side. He said that, of course, the relations between Poland and France were very close but that Poland could not regard with equanimity any policy on the part of France which endeavored to make of the Franco-Russian alliance³¹ a live issue insofar as the Central European situation was concerned.

S[UMNER] W[ELLES]

860C.4016/544 : Telegram

The Ambassador in Poland (Biddle) to the Secretary of State

WARSAW, March 28, 1938—10 a. m.

[Received 8:25 p. m.]

36. 1. As pointed out in my recent confidential conversations in Washington I am still of opinion that continued despondency over their outlook among Jews of Eastern and Central Europe constitutes among other factors a potential force against peace for it might conceivably lead the Jews to feel: (a) that war might serve to remove the focus of attention from them and (b) necessitate an eventual fresh deal, in other words, they might come to feel that anything is better than their present lot and prospects.

2. In this connection informed veteran Jewish observers report: (a) Current uncompromising hostility on the part of Germans towards Jews in Austria adding latter's plight is pitiful; (b) That despondency amongst the Jews of Poland is now growing in proportion to that shared by Jews throughout Eastern and Central Europe and is causing serious concern among Jewish leaders lest the situation which is now acute become even more unbearable, indeed, the Jews' main foothold in the economic structure of the states wherein they dwell (mainly, the role of middleman in trade) is becoming steadily less tenable.

3. From my energetic daily observations and investigations of the Jewish problem over the past year from the standpoints both of the Polish Government and Jews and my sustained inquiries in both quarters as to what were considered the most important measures for the alleviation of the present tension, I find that both Government and Jewish circles concur that the gravity of the situation and the time element call for the promptest possible remedial measures and that under the circumstances consideration number one was: (a) Avail-

³¹ Treaty of Mutual Assistance between France and the Soviet Union, signed at Paris May 2, 1925; League of Nations Treaty Series, vol. CLXVII, p. 395.

ability of outlets for emigration; (b) financial accommodation to aid the several governments in Eastern and Central Europe to finance emigration operations; (c) due to current circumstances other measures such as financial assistance for industrialization program which entail time for proper development are considered less favorably by the Polish Government and held by both Jews and the Government as of secondary importance.

4. My yesterday's conversation with personal representative of Jabotinsky, widely known Zionist revisionist, and close associate of Weitzman [*Weizmann?*] (identified with Palestine) revealed Jabotinsky's urgent recommendation that Palestine offered the most practical and desirable center for Jewish colonization expansion, due to Palestine's having already passed the pioneering stage, a condition which offered a practical basis for immediate expansion. Moreover, such a basis would serve to minimize the cost per family emigrating in comparison to the per family cost which would be entailed in emigration to virgin territory.

5. For the consideration of the Jewish problem in Poland, the following factors are unfortunately contributing to an intensification of anti-Semitism:

(a) During the recent Polish-Lithuanian crisis,³² the Jews were accused of spreading false rumors and of inciting "runs" on the savings banks whereby they have been greatly discredited and their cause further prejudiced in the eyes both of public opinion and the hitherto lenient Government (see despatch No. 399, March 23³³).

(b) Larger augmentation of already overcrowded Jewish ranks by the return of Jews from neighboring countries, who are now regarded here as expatriates (see telegram No. 30, March 24, noon,³³ referring to the citizenship bill which has already passed the Sejm. I look for the Senate to pass it and the President to approve it before April 1.)

(c) And perhaps a symptom of Poland's desire to parallel German anti-Soviet views.

BIDDLE

880C.4016/545: Telegram

The Ambassador in Poland (Biddle) to the Secretary of State

WARSAW, March 29, 1938—5 p. m.

[Received March 29—4:20 p. m.]

39. 1. Supplementing my cables No. 30, March 24, noon,³³ and No. 36, March 28, 10 a. m., the following bills and their respective status in relation to Sejm and Senate are indicative of intensification of anti-Semitism in Poland:

³² Poland demanded on March 17, 1938, that Lithuania reestablish normal diplomatic relations, and 2 days later Lithuania acceded.

³³ Not printed.

A. Citizenship bill: Attributable to the German-Austrian coup, was initiated by the Government and passed today. With the exception of Jewish and Ukrainian Deputies none protested against bill.

B. Bill for reorganization of legal bar: Initiated by Government, passed by Sejm, amended by Senate and returned to Sejm for reconsideration. I look for it to be approved before April 1, (end of present session). Though no actual reference is made to Jews in bill, both the Deputy and the Senator, in presenting the bill, went on record to the effect that the bill represented the only way to limit Jewish admissions to the bar. (53 per cent of present bar membership are Jewish.)

(1) This bill comprises the following three essential points:

(a) Minister of Justice empowered to close the ranks of the practicing lawyers by prohibiting new members from entering the bar association.

(b) Changes in conditions of entrance to the legal profession: The student is obliged to serve 2 years probationary court work, afterwards, 3 years with a practicing attorney, and then submit to examination before being finally admitted to the bar. This new regulation empowers the bar to refuse the application for probationary court work in the case of Jews, without an explanation. Formerly a university graduate was required to serve 5 years in the office of a practicing attorney whereafter in the event of his passing the required examination he became entitled to practice.

(c) Greater Government control of the bar association which formerly enjoyed freedom of election of members.

C. Bill prohibiting ritual slaughter: was not initiated by Government but passed by Sejm in short order despite urgent recommendations against it by Vice Minister of Creeds and Public Instruction who pointed out that the bill was unconstitutional and by Vice Minister of Agriculture who said it might have a dangerous effect on economic situation by potential diminution of meat consumption by the Jews. Of pertinent interest 2,500,000 Jews in Poland eat only ritual or kosher meat.

(1) Of related interest a bill limiting ritual slaughter was passed in 1937 after 1 year's debate. The fact that (a) this new bill completely prohibits ritual slaughter and (b) since it passed the Sejm in short order and only five racial deputies protested in addition to the Jewish and Ukrainian protests marks a great increase of anti-Semitism. Whereas the bill has passed the Sejm I look for the Senate under Government pressure to postpone action thereon during the present session. Past events show that the Senate is more liberal than the Sejm in respect to the Jews.

860C.4016/548

The Ambassador in Poland (Biddle) to the Secretary of State

No. 422

WARSAW, April 6, 1938.

[Received April 20.]

SIR: In continuation of the series of despatches submitted by this Embassy on significant developments affecting the Jewish population in Poland, I have the honor to inform the Department that it became quite apparent during the course of the Ordinary (Budgetary) Session of the Polish Parliament which closed on March 31, 1938, that there is a growing support in official circles, particularly in both Houses of the Parliament, of anti-Semitic tendencies and activities in Poland.

The Jewish question was injected into almost every matter considered by the Sejm and the Senate with extensive anti-Semitic remarks by responsible members of both bodies and more than usual vigorous replies thereto by spokesmen of the Jewish minority. Some six anti-Semitic measures were introduced and, although only three of them were pushed through the entire legislative procedure and became law, it was quite noticeable that the Government was not as active, openly at least, as heretofore in opposing measures manifestly harmful to Jewish interests or an invasion of their rights as Polish citizens. Towards the end of the session the public indignation aroused by the alleged unpatriotic attitude of Jewish citizens during the period of the Polish-Lithuanian crisis encouraged anti-Semitic elements in the Parliament and tended to soften any open opposition by unpartisan members and representatives of the Government to measures directed against Jewish interests.* The Government, however, manifestly arranged behind the scenes to have final consideration of certain legislative projects postponed until the next session. In that manner it managed to avoid criticism in aroused nationalistic circles which are all too ready to accuse it of being, under Jewish and foreign pressure, too well disposed towards the Jews.

The three measures passed by the Parliament dealt with (1) the withdrawal of Polish citizenship from Polish nationals residing abroad, (2) the manufacture and sale of religious articles, and (3)

*Anti-Semitic riots took place in Warsaw when numerous Jews endeavored to withdraw their deposits from banks during the course of the Polish-Lithuanian crisis. It should, however, be pointed out in this connection that the Government found it necessary to step in and support the banks and the Warsaw stock market in order to prevent a violent decline in Polish securities in harmony with the declines on the New York and other non-Polish markets. Sales on the stock market were primarily from non-Jewish sources but no comment in the press was made with regard to the necessity for Government action in support of Polish credit. [Footnote in the original.]

the reorganization of the legal profession. The first two of these measures and their anti-Semitic implications have been extensively treated in my telegram No. 39 of March 28 [29], 1938, and despatches Nos. 411 and 412 of March 31 and April 1, 1938,³⁵ respectively, and they will not be considered further in this report.† Three additional matters of anti-Semitic significance were also considered by the Parliament, namely, the prohibition by law of "Jewish-Masonic-Communist" activities, the prohibition of all ritual (kosher) slaughter of meat animals, and the elimination of Jews from the trade in tobacco and tobacco products.

[Here follows discussion of the proposed legislation mentioned above as not passed.]

Respectfully yours,

A. J. DREXEL BIDDLE, JR.

862.4016/1800 : Telegram

The Ambassador in Poland (Biddle) to the Secretary of State

WARSAW, October 29, 1938—noon.

[Received 4:25 p. m.]

242. As a result of the promulgation by Polish Government of recent decree ordering inspection of all Polish passports abroad with a view to application of the citizenship law of March 31, 1938 (Embassy's despatches 412 and 757 April 1 and October 22, 1938³⁵) and which appears to have been designed primarily to prevent wholesale expulsion of Polish Jews from Germany and Austria the German Government yesterday began expulsion of Polish Jews. According to aforementioned decree holders of Polish passports not examined and validated by Consuls abroad will be refused admission into Poland after midnight tonight. A prominent official of the Foreign Office today informed me 7,000 Jews have already entered Poland from Germany and 15,000 more are expected today. This of course will create a grave problem for Poland especially since the refugees mainly male Jews were allowed to take only 10 marks each from Germany. The Polish Government protested when news of the expulsion order became known and proposed a 15-day extension of the time limit of the aforementioned decree to permit negotiations regarding restoration of refugees' property but this proposal was refused by Germany.

³⁵ Neither printed.

† The measure with respect to withdrawal of citizenship arose in connection with the possibility of a large number of Polish Jews domiciled in Austria for many years applying for re-admittance into Poland. It is also understood that numerous radical Poles in France and Spain may have the law used against them. The law on religious articles is intended to restrict Jews, who now carry on an extensive trade in articles used in the Christian religion, to the trade in articles used only in the Jewish rite. [Footnote in the original.]

The Polish Government considers the German action brutal and it is intimated at the Foreign Office that certain retaliatory measures may be taken against Germans residing in Poland. Poland will continue to take measures to obtain satisfaction with regard to restoration of refugees' property.

Repeated to Berlin and London for Rublee.³⁶

BIDDLE

862.4016/1801 : Telegram

The Ambassador in Poland (Biddle) to the Secretary of State

WARSAW, October 29, 1938—7 p. m.

[Received October 29—5:25 p. m.]

243. Supplementing my 242, October 29, noon, condition of Jewish refugees arriving via Silesian frontier is characterized as appalling by members of Jewish relief committee for refugees from Germany. Many of these are reported to have been forced to make the journey on foot; many are said to have been beaten and have arrived in miserable condition. Polish doctors and Red Cross nurses have been rushed to the frontier. For want of better accommodations Polish authorities have assigned refugees to quarters in the mines of the district. Joint relief committee aforementioned and Jewish joint distribution committee are also giving aid and the head of the former states that the Polish Government is rendering full assistance. All those whose documents are in order are permitted to proceed to the interior. It should be emphasized that only passports issued abroad are affected by the Polish decree cited in my telegram 242; documents issued here continue to be valid for entry into the country without special consular validation.

Repeated to Berlin and London for Rublee.

BIDDLE

840.48 Refugees/1056

Memorandum of Conversation, by the Assistant Secretary of State (Messersmith)

[WASHINGTON,] November 18, 1938.

The Polish Ambassador called this morning, having informed my office beforehand that it was necessary that he see me this morning. He read to me the appended memorandum,³⁷ which he then left with me and which he said he was doing under instructions of his Government.

³⁶ George Rublee, Director of the Intergovernmental Committee on Political Refugees.

³⁷ *Infra.*

The Ambassador said that his country, he found, was not so much interested in a colonial mandate as it was interested in finding a place to which the Jews in Poland might emigrate. He had seen Mr. Baruch in New York a few days ago and Mr. Baruch was very much interested in the purchase of a colony by philanthropic people in this and other countries to which the German population and other Jews could emigrate.

The Ambassador said that he wished to revert to what he had previously referred to in several conversations with me—that the Polish Government felt that it was rather strange that various countries should be considering the fate of the German Jews just because the Jews there were being accorded this outrageous treatment and that the problem of other countries where the Jews were receiving proper treatment was not taken into account. He indicated again, as he had in previous conversations, that this was putting a premium on repressive and improper treatment of the Jews.

I received his memorandum and his observations without comment except to state that I would see that the memorandum was brought to the Secretary's attention.

The Ambassador further referred to what he spoke of as "The Kennedy Plan"³⁹ which seemed to take into account only the problem of the German Jews and not that of those in other countries. He said the problem was a much larger one and required consideration on a wider basis.

It will be recalled that this is the third conversation which the Ambassador has had with me recently on this matter (memoranda on the previous conversations were made⁴⁰). I do not know whether the Ambassador is endeavoring to lay the background for some action by the Polish Government against the Jews in Poland. In his conversation this morning, I was led for the first time to doubt this as he passed strong strictures on the way "the Jews were being treated in Germany by Hitler."⁴¹ He spoke more particularly this morning of the influx of Jews into Poland from Germany and that this would increase anti-Semitism in Poland. He also spoke more particularly of what he called "the wider aspects" of the emigration and Jewish problem.

G. S. MESSERSMITH

³⁹ There were American newspaper reports in November of plans which it was alleged Ambassador Kennedy had presented to the British Government for the solution of the refugee question. In reply to an inquiry by the Department concerning the reports, Ambassador Kennedy stated in telegram No. 1330, November 18, 5 p. m., that he had merely asked British Secretary of State for the Colonies Malcolm MacDonald while at lunch why England did not show more interest in intergovernmental relief "as she had all the land" and suggested she offer some of it for use of refugees (840.48 Refugees/916).

⁴⁰ Not printed.

⁴¹ For correspondence concerning the persecution of Jews in Germany, see pp. 355 ff.

840.48 Refugees/1056

The Polish Embassy to the Department of State

MEMORANDUM

The present acute situation of the Jewish problem requires not only its fullest consideration and solution on an international scale, but also the immediate settlement of the matter of Jewish refugees coming from Germany into Poland.

The present situation creates for Poland a just right for intervention.

The Polish Government is doing everything possible to assure protection to the Jewish refugees but the development of events in Germany brings about the danger of further greater influx into Poland of the Jewish element which is deprived of means of livelihood. The Polish Government, guided by humanitarian considerations, admits them within its boundaries. It should be stressed that this influx of Jewish refugees must bring about an increase of anti-Semitism in Poland.

In view of the above, as well as in connection with the present proposals of solving the Jewish situation in Germany, it must be stated that:

1) Any action in favor of the German Jews should also automatically embrace Jewish refugees who have entered Poland.

2) Irrespective of any immediate action in favor of these Jewish refugees coming into Poland, the commencement of a constructive emigration action on a large scale, must be considered as a very urgent matter. As regards the Jewish element in Poland, numbering about three and a half million, such an action must in the first place take into account the agricultural Jew and about 20,000 Jewish orphans. It must be mentioned that the Polish Jews comparatively constitute a better colonization element than Jews from some other European countries, since Poland possesses about 60,000 peasant Jews, as well as a large percentage of Jews adapted to agriculture or agriculturally inclined. Proof of this may be found in the excellent results obtained from the agricultural work of the Polish Jews in Palestine. Besides, a certain amount of the Polish Jews possess small capital, transfer of which abroad would require merely the removal of the transfer obstacles.

3) It would be very desirable that a larger emigration quota should be assigned to Poland by the United States. A favorable consideration of the above may to a great extent tend to alleviate the situation of the Jews in Poland.

4) In connection with the conceptions introduced by prominent Jewish circles regarding the proposed Jewish emigration to certain territories in South Africa, for example to Angola, the emigration requirements of Polish Jews should also find a suitable consideration.

In case of a favorable development of these projects Poland would be ready, in return for certain emigration-colonization concessions, to grant assurances at the appropriate moment, that no political or territorial claims would be raised on the part of Poland.

WASHINGTON, November 18, 1938.

860C.4016/572

Memorandum of Conversation, by the Assistant Chief of the Division of European Affairs (Henderson)

[WASHINGTON,] November 26, 1938.

During the course of a conversation which I had on another subject with Mr. Wankowicz, the Counselor of the Polish Embassy, he stated that he was very much disturbed regarding the Jewish situation in Poland at the present time. He said that for years there had been a strong under-current of antagonism among the Polish people, particularly the peasantry, towards the Jews and the Polish Government in the past had frequently encountered difficulties in endeavoring to prevent this feeling from giving rise to outbursts of violence. The Polish population, particularly in the country districts, had for some time been displaying increasingly strong tendencies not to patronize Jewish merchants and professional men and as a result there were hundreds of thousands of Jews at the present time in Poland without any means of livelihood. The Polish Government had tried at times, without any marked success, to facilitate the emigration of the surplus Jewish population to other countries.

He feared that the present inclination of certain countries which had refused to accept Polish Jews to admit German Jews as immigrants might cause the population of Poland to feel that the best method for getting rid of their own Jews would be to follow policies similar to those which had been adopted in Germany.⁴²

He said that he hoped that it would be possible for his Government to succeed in its continued efforts to protect the Jews in Poland from violence but that certainly the difficulties in protecting the Jews in Poland had been greatly increased as the result of present international developments. Mr. Wankowicz added that his remarks to me represented his personal feeling and should not be considered as of an official nature. He emphasized the fact that in making them he was not acting under instructions of his Government or of the Embassy.

⁴² See also memorandum by the Chief of the Division of European Affairs, November 19, vol. I, p. 835.

PORTUGAL

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND PORTUGAL¹

658.116/187

*Memorandum of Conversation, by Mr. Theodore C. Achilles of the
Division of European Affairs*

[WASHINGTON,] February 3, 1938.

Participants: The Portuguese Minister.²
Mr. Culbertson.³
Mr. Achilles.

Mr. Culbertson had requested the Minister to call with a view to ascertaining the reaction of the Portuguese Government to the *modus vivendi* which had been suggested by the Department under date of April 11, 1936⁴ and any developments of which the Minister might have learned during his visit to Lisbon last fall.

Mr. Culbertson pointed out that the question of Portuguese flag discrimination had again been raised by American shipping concerns and that the Maritime Commission was now taking an active interest.

The Minister stated that the Portuguese Government, in each of the agreements whereby it had abolished flag discrimination for vessels of other nations, had received as a *quid pro quo* complete protection of the designations "Port" and "Madeira", i. e., prohibition of the use of those words on labels for any wine grown elsewhere than in Portugal, whereas we were only in a position to enact regulations requiring that wine of Port or Madeira type grown elsewhere than in Portugal should be conspicuously lettered to show its origin. He stated that he understood that this was as far as this Government was able to go and that he had urged his Foreign Office to go ahead with that agreement on that basis. His suggestion had not been particularly sympathetically received, particularly by the Minister of Commerce. He stated further that he felt the Foreign Office had been so busy with other matters that it had given little consideration to the American

¹ For previous correspondence respecting trade relations between the United States and Portugal, see *Foreign Relations*, 1936, vol. II, pp. 421 ff.

² João Antonio de Bianchi.

³ Paul T. Culbertson, Assistant Chief of the Division of European Affairs.

⁴ *Foreign Relations*, 1936, vol. II, p. 421.

proposal, the implication being that his Government was not particularly interested.

He believed that his Government would be more interested were a duty reduction of 50 percent to be granted upon Port and Madeira wines. Mr. Culbertson pointed out that any such reduction would have to be made in a regular trade agreement negotiated in accordance with the Trade Agreements Act.⁵ The Minister felt that, if it were desired to negotiate such an agreement, more rapid progress could be made if the negotiations were carried on at Lisbon. Mr. Culbertson replied that if such a course would facilitate agreement, the Department would be glad to consider sending negotiators there.

The Minister agreed to sound out his Government on this matter.

611.5331/163

Memorandum of Conversation, by the Assistant Chief of the Division of Trade Agreements (Deimel)

[WASHINGTON,] February 15, 1938.

Participants: Dr. João Antonio de Bianchi, Portuguese Minister
Assistant Secretary Sayre
Mr. Culbertson, Eu ⁶
Mr. Deimel, TA ⁷

Dr. Bianchi called by appointment to discuss the prospects for trade-agreement negotiations between the United States and Portugal. He said that he had been back home and had raised the question there in the hope of getting a proposal to present to us, but that his Government had, instead, authorized him to prepare and present a proposal to us. He said further that the question of shipping discriminations, which had previously been a stumbling block, could be settled in the agreement since the Portuguese Government realized that, owing to the nature of our alcoholic beverage controls, we would not be in a position to restrict the use of port to Portuguese wine. He said further that since Portugal had no exchange control and practically no quotas there would be no difficulty about the general provisions.

Mr. Sayre said we would be very much interested in proceeding to explore with him the possibilities of trade-agreement negotiations, and suggested that he might wish to submit a copy of our standard general provisions ⁸ to his Government to make sure we could negoti-

⁵ Act of June 12, 1934, 48 Stat. 943; extended March 1, 1937, 50 Stat. 24.

⁶ Division of European Affairs.

⁷ Division of Trade Agreements.

⁸ For text of original standard general provisions, see *Foreign Relations*, 1935, vol. 1, p. 541. Minor changes in these standard provisions were made from time to time.

ate on that basis. Dr. Bianchi said he did not feel that was necessary and that he would like to get started with some informal discussions as to lists of products, since he was convinced that there would be no difficulty regarding the basis for agreement, his Government being aware of our policy as expressed in previous trade agreements. Mr. Sayre outlined briefly the nature of our procedure, and suggested to Dr. Bianchi the desirability of his conducting further preliminary explorations with Mr. Hawkins or whoever Mr. Hawkins might designate for the purpose in the Division of Trade Agreements.

This was agreeable to Dr. Bianchi and it was, accordingly, arranged that the subject would be briefly reviewed in the Division of Trade Agreements and an appointment made with Dr. Bianchi in a day or two to come down to the Division and discuss the matter further.

611.5331/165

*Memorandum of Conversation, by Mr. Laurence J. de Rycke of the
Division of Trade Agreements*

[WASHINGTON,] May 10, 1938.

Participants: Dr. J. A. de Bianchi, Portuguese Minister.

Mr. Deimel.

Mr. T. C. Achilles of Eu.

Mr. de Rycke.

Dr. de Bianchi called by appointment to explore further quite informally the possibilities of trade-agreement negotiations between the United States and Portugal. Restating what he had told Mr. Sayre at an interview last February, the Minister said that he had discussed the subject with his Government last summer and had been requested to explore informally with us the prospects of negotiating a trade agreement. He stated that he thought no serious problems would arise with respect to the general provisions since his Government was familiar with the general provisions included in the various trade agreements negotiated by this Government and since there were no exchange or quota restrictions imposed on imports into Portugal.

Mr. Deimel explained to the Minister in some detail our general procedure with respect to the negotiation of trade agreements. He emphasized that anything that might be said at this time was entirely informal and tentative. He likewise stated that there were two fundamental questions involved in informal discussions of this type, namely (a) whether a basis for a trade agreement existed and (b) when it would be desirable to make preliminary announcement if a basis for a trade agreement were found. Mr. Deimel pointed out that we could consider at this time only the first of these questions. Mr. Deimel

likewise emphasized the importance to this Government of the general provisions and pointed out that even though Portugal did not now impose exchange or quota restrictions, it would be necessary to include general provisions to cover those subjects to provide for possible future eventualities.

The Minister said that he fully understood that the present conversations were entirely informal but that he hoped they might result in some informal indication of what might be done which he could communicate to his Government for study. The Minister likewise emphasized that his Government was devoted to a liberal commercial policy and that he did not believe that any disagreement would arise with respect to the general provisions.

The Minister then stated that there were three points which he wished to raise with respect to the general aspects of the problem: (1) Would a trade agreement replace the present executive agreement concluded in 1910⁹ or, in the event that that was not deemed appropriate or desirable, might not some indication be made in the trade agreement that the existing agreement would be replaced?; (2) would the abolition of flag discrimination, which the Minister surmised was the most important concession which this Government might wish to obtain in a trade agreement, be obtained through an article in the general provisions or by a separate exchange of notes at the time the trade agreement was signed?; and (3) could some clause be inserted in the proposed trade agreement protecting the geographical designation of Portuguese wines, especially Port and Madeira?

The Minister stated that the Portuguese Government had consummated a number of agreements with foreign countries in which the word "Port" was restricted to Port wine originating in Portugal and that it would be difficult to negotiate with the United States on any other basis. He observed, however, that American law would not permit this Government to enter into such an agreement but he thought it highly desirable that we supply him with an informal statement which he might communicate to his Government indicating that in the proposed trade agreement "Port" would not be construed as a generic term but would be held as a geographical designation.

It was pointed out to the Minister that Port, Sherry, and Madeira wine now enter the United States under the same tariff paragraph and that Portugal is not the principal supplier of the wine entering under this paragraph. It was observed that if a concession on Port wine were granted to Portugal it would be necessary to generalize the con-

⁹ Commercial Arrangement Between the United States and Portugal, effected by exchange of notes signed at Washington June 28, 1910, *Foreign Relations*, 1910, p. 828.

cession to all countries who might wish to export that product to the United States. The Minister stated that he was not particularly concerned with that aspect of the problem because agreements between Portugal and important wine-producing countries prohibited those countries from exporting wine labeled "Port". He felt therefore that if a concession on Port wine were made in the trade agreement the major benefits would accrue to Portugal.

The possible interest of Portugal in a concession on Madeira wine was then discussed, and the question whether a possible concession on Portuguese wines should refer to them by the terms, "Port" and "Madeira", or should cover the entire tariff classification as now worded, was referred to. The Minister stated that he realized that a concession in the latter form would include Sherry wine imported from Spain but stated that he was not concerned at that possibility because Port and Sherry were two distinctly different products.

The Minister then mentioned the following commodities on which he said he thought his government would be especially interested in obtaining concessions in a trade agreement:

1. Cork and cork wood.
2. Manufactured cork.
3. Sardines.
4. Port and Madeira wine.
5. Madeira embroideries.
6. Beeswax.
7. Chestnuts.
8. Wine lees and argols.

With respect to sardines the Minister stated that he believed Portugal was the principal supplier of the higher priced product, and that his Government was actively interested in maintaining and improving the quality. With respect to Madeira embroideries the Minister stated that the industry was now producing a lower class product than his Government wished because of the necessity of competing with Chinese and Puerto Rican embroideries under the existing ad valorem tariff; but that it was eminently fitted to produce a higher quality product. He indicated that his government would be primarily interested in some concession worked out to be of primary benefit to high quality Madeira embroideries, as for instance by making the duty part ad valorem and part specific.

The Minister then observed that since the agreement with Brazil ¹⁰ was already translated into Portuguese, the general provisions of that agreement might be taken as a working model for the proposed agree-

¹⁰ For correspondence concerning the Reciprocal Trade Agreement between the United States and Brazil, signed February 2, 1935, see *Foreign Relations*, 1935, vol. iv, pp. 300 ff. For text of agreement, see Department of State Executive Agreement Series No. 82, or 49 Stat. 3808.

ment with Portugal. It was pointed out to the Minister that the trade agreement with Brazil was one of the first negotiated by this Government and that a number of changes in the general provisions had been made since that time. It was agreed that the Brazilian general provisions should be studied in conjunction with the standard general provisions and in the light of Portuguese commercial policy to see what changes might be thought desirable.

It was agreed that the various points outlined above would be further considered, with a view of possibly enabling Dr. de Bianchi to submit some sort of report to his Government early in the summer, in the expectation that it might prove possible to advance to public announcements and definitive negotiations in the fall.

611.5331/178

*Memorandum of Conversation, by the Assistant Secretary of State
(Sayre)*

[WASHINGTON,] October 12, 1938.

The Portuguese Minister came to see me in order to discuss a possible trade agreement between our two Governments. He asked whether we are now prepared to enter into negotiations. I told him that we had some time ago appointed a committee to study Portuguese-American trade and that this committee expected to report its conclusions to the Trade Agreements Committee within the course of the next two weeks. I said that as soon as the Trade Agreements Committee had a chance to discuss the matter, I should be glad to get in touch with him at once and talk the matter over with him.

The Minister then went on to say that he came under explicit instructions from his Government to request that we send some representative over to Lisbon to discuss the negotiations before negotiations are formally begun. He said that his Government felt confident we could negotiate an agreement without difficulty but that it desired to have someone explain some of the technical and other questions involved and felt that this could best be done through personal conversations in Lisbon. The Minister made it clear, however, that the actual negotiations should be carried on in Washington rather than in Lisbon.

The Minister added that his Government felt there should be no difficulty in reaching an early agreement. He said that they were definitely prepared to discontinue flag discrimination. He also said that they now realized it would be impossible to secure in a trade agreement protection of wine designations and he felt that this would not be pressed. He said that his Government was interested primarily in sardines, cork and Madeira embroideries. I asked whether his Government was familiar with the general provisions which we insert

in trade agreements and he assured me that it was and that there would be no difficulty in his Government's agreeing to these since his Government is one of the countries which does not believe in quotas or exchange control.

He reiterated that he came to me under the express instructions of his Government.

I assured the Minister that I would look into the matter and let him hear from me within ten days or two weeks.

F. B. SAYRE

611.5331/171

The Minister in Portugal (Pell) to the Secretary of State

No. 468

LISBON, October 15, 1938.

[Received October 26.]

SIR: I have the honor to report that, on Friday, October 14, 1938, I was asked to go to the Foreign Office. Mr. Calheiros, the acting officer in charge at the Ministry of Foreign Affairs, told me that Mr. Bianchi, Portuguese Minister to the United States, after an interview with Mr. Sayre, had reported that the Department was willing to send an officer to Lisbon to assist in formulating a commercial treaty with Portugal; and that this suggestion had been considered by Dr. Salazar who approves of it.

Mr. Calheiros asked me to send a despatch stating that the Portuguese Government would be pleased to receive such a functionary and in this way to support the statement which Mr. Bianchi will probably make to the Department on the subject.

Respectfully yours,

HERBERT C. PELL

611.5331/171

Memorandum of Conversation, by Mr. Theodore C. Achilles of the Division of European Affairs

[WASHINGTON,] November 9, 1938.

Participants: Dr. Bianchi, Minister of Portugal.

Mr. Sayre.

Mr. Achilles.

Mr. Sayre had requested the Minister to call in order to remove any possible misunderstanding in view of the statement in despatch No. 468 from Lisbon to the effect that Dr. Bianchi "had reported that the Department was willing to send an officer to Lisbon to assist in formulating a commercial treaty with Portugal". Mr. Sayre made clear that no decision on this matter had been taken, that the Trade Agreements Committee had not yet been able to consider the report

of the Sub-committee on Portugal in view of its absorption with the British and Canadian Trade Agreements,¹¹ that it was hoped that the Trade Agreements Committee would, in the near future, have an opportunity to consider a possible trade agreement with Portugal, that if the Trade Agreements Committee recommended proceeding with the negotiation of such an agreement a decision would then be taken on whether or not to send an officer to Lisbon for preliminary conversations with the Portuguese officials.

The Minister explained that, upon receipt of instructions from his Foreign Office to ask the Department to send an officer to Lisbon for that purpose, he had telegraphed that he had made an appointment with Mr. Sayre for October 12 and would discuss the matter with him on that date, and that after talking to the Secretary a few days later he had advised his Foreign Office that he believed the Department to be favorably disposed toward the Portuguese request and that it would shortly make a definite reply. He stated that he fully understood the Department's position.

Mr. Sayre emphasized that he wished to avoid any impression in Lisbon that the Department had agreed to send someone there and had subsequently lost interest, and that a decision would be reached as soon as possible. He requested the Minister to make the situation clear to his Foreign Office.

611.5331/182

The Department of State to the Portuguese Legation

MEMORANDUM

With reference to conversations which have taken place between the Minister of Portugal and officers of the Department of State in regard to the possibility of a trade agreement between the United States and Portugal, the Department is deeply gratified to know that the Government of Portugal desires to enter into negotiations at an early date with a view to concluding such an agreement.

The Government of the United States shares the desire of the Government of Portugal for a mutually advantageous expansion of the trade between the two countries and its interest in the possibility of concluding a trade agreement with this objective in view. Careful consideration has been given to the subject, and the conclusion has been reached that a basis probably exists for a trade agreement between the two countries.

Under the requirements of the Trade Agreements Act of June 12, 1934, public notice of intention to negotiate a trade agreement must be given in the United States before definitive negotiations may be undertaken with another government. In order to avoid, so far as

¹¹ See pp. 1 ff. and pp. 164 ff.

possible, delays in the progress of negotiations, it is usually desirable to clarify, before giving the required public notice, the principles and objectives on the basis of which it is expected that negotiations will take place. It would seem desirable, therefore, for the Department of State to set forth its views regarding the principles and objectives on the basis of which the proposed trade agreement between the United States and Portugal would be negotiated. When, after such further conversations as may seem appropriate, an understanding is reached by the two Governments regarding the basis for negotiations, consideration may then be given by the two Governments to the time when the required public notice of intention to negotiate the proposed trade agreement might be given.

As the commercial policy of the United States is based upon the principle of equality of treatment, it is customary to include, in the trade agreements which are negotiated between the United States and other countries, general provisions designed to carry out this principle, as well as to safeguard the reciprocal concessions which are granted. It is understood that the Portuguese Government is familiar with these general provisions and that it would be prepared to exchange, in the proposed trade agreement, similar guarantees of unconditional most-favored-nation treatment in respect of all forms of trade and payments control, as well as guarantees designed to safeguard concessions which may be granted by the United States on Portuguese products and by Portugal on American products. Confirmation of this understanding will be appreciated. Meanwhile, the appropriate officers of the Department of State will be very glad to endeavor to clarify any questions which may arise in connection with the general provisions.

With reference to the treatment to be accorded to American products upon importation into Portuguese colonies, it would be expected that the Government of Portugal would be willing to guarantee in the proposed trade agreement that such treatment would be no less favorable than that accorded to the products of the most favored foreign nation. The Government of the United States would be prepared, of course, to guarantee similar treatment to the products of Portuguese colonies imported into the United States and to the products of Portugal and Portuguese colonies imported into the possessions of the United States.

The Minister of Portugal has indicated that his Government is prepared to eliminate the discriminatory aspects of the surtax which is applicable, upon importation into Portugal, to goods carried in American ships. As the continuance of this discrimination is considered to be incompatible with the principle of equality of treatment, its removal could not be considered by the United States Government as compensation for concessions on Portuguese products. Considera-

tion is being given to the possibility of dealing with the question of flag discrimination in the general provisions of the proposed trade agreement, as part of the exchange of guarantees of unconditional most-favored-nation treatment. The appropriate officers of the Department will be very glad to discuss this possibility as well as other ways of dealing with the subject.

As the broad objective of the trade-agreements program is to increase the general level of world trade, it follows that an important object of the proposed trade agreement between the United States and Portugal would be to increase the trade in both directions between the two countries. With this end in view, it is envisaged that the proposed agreement would include reciprocal reductions of existing tariff rates and other import charges, as well as the binding of the existing customs treatment, in respect of products of which each country is the principal or an important source of the other country's imports.

It is the practice of the United States Government to publish, in connection with the required public notice of intention to negotiate a trade agreement, a list of the products in respect of which the United States Government will consider granting concessions to the other government concerned in the proposed negotiations. With these considerations in mind, the trade between the United States and Portugal has been carefully studied. This study indicates that it probably would be possible to include the following products, of which Portugal is the principal or an important source of United States imports, in the list of products to be published in connection with the public notice of intention to negotiate a trade agreement with Portugal:

| <i>Paragraph of Tariff Act of 1930</i> | | <i>Present Customs Treatment</i> |
|--|--|--------------------------------------|
| 718 | Sardines in oil: Valued over 9 cents per pound | 30% ad valorem |
| 774 | Fresh vegetables, n. s. p. f.: Dasheens | 50% ad valorem |
| 804 | Still wines produced from grapes, containing more than 14 percent, but not more than 24 percent of alcohol (other than vermouth) | \$1.25 per gallon |
| 1511 | Cork stoppers: Over $\frac{3}{4}$ inch in diameter at large end | 25¢ per pound |
| 1511 | Cork stoppers: $\frac{3}{4}$ inch and less in diameter at large end | 31¢ per pound |
| 1511 | Cork Paper | 30% ad valorem |
| 1511 | Cork discs, wafers and washers: $\frac{3}{16}$ inch or less in thickness | 25¢ per pound |
| 1529(a) | Embroidered line wearing apparel | 90% ad valorem |

| <i>Paragraph of Tariff Act of 1930</i> | | <i>Present Customs Treatment</i> |
|--|--|--------------------------------------|
| 1529 (a) | Embroidered linen articles n. s. p. f. | 90% ad valorem |
| 1646 | Chestnuts, including marrons, crude, dried or baked | Free |
| 1661 | Cork wood or bark, unmanufactured, and cork waste, shavings, and refuse | Free |
| 1728 | Ergot | Free |
| 1796 | Crude beeswax | Free |

It may be of interest to note that of total imports into the United States from Portugal valued at approximately 9 million dollars in 1937, imports of the dutiable items referred to above were valued at about 1.5 million dollars and imports of the duty-free items referred to were valued at about 6 million dollars.

It should be pointed out that the list of products given above is tentative. The United States Government will be prepared to consider the possibility of including, in the list to be published in connection with the public notice of intention to negotiate a trade agreement, other products of which Portugal is an important supplier and in which the Portuguese Government may express an interest. On the other hand, it is possible that the United States Government may wish to omit certain of the products mentioned above from the published list.

As the purpose of the required public notice of intention to negotiate a trade agreement is to provide an opportunity for interested persons to present their views in regard to the proposed agreement, it will be appreciated that it would not be possible for the United States Government to undertake any commitment in regard to the products which might be included in the proposed agreement with Portugal, or the extent of concessions which might be granted on such products, before the views of interested persons are received and appropriate consideration given to them. It may also be noted that, under the authority of the Trade Agreements Act of June 12, 1934, the President of the United States may not modify any existing rate of duty by more than 50 percent and may not transfer any article between the dutiable and free lists.

In view of the general object of the proposed trade agreement, which would be to provide for an expansion of trade in both directions between the two countries, the United States Government would expect the Portuguese Government to consider granting, in the agreement, concessions on American imports into Portugal roughly equivalent to the value of the concessions granted by the United States on Portuguese products. This does not mean, however, that the United

States would endeavor, by means of the proposed agreement, to freeze the existing ratio in the trade balance between the two countries.

It would be expected that the Portuguese Government would be prepared to consider, in connection with trade-agreement negotiations, not only reductions of its customs surtax but also reductions as well as bindings of its customs duties and other charges on the importation of products of which the United States is in general the principal or an important supplier of Portuguese imports. The Department of State will be glad to communicate to the Minister of Portugal at an early date a list of such products to serve as the basis for further discussion of this aspect of the proposed negotiations.

In setting forth the foregoing views, the Department of State has been motivated by the desire to clarify the essential principles and objectives upon which it is hoped that it may be possible to enter into definitive trade-agreement negotiations with the Portuguese Government at an early date. Confident that the Portuguese Government shares this hope, the Department will greatly appreciate an early expression of the Portuguese Government's views with regard to the possibility of initiating such negotiations on the basis discussed herein.

WASHINGTON, [December 19, 1938.]

611.5331/182

Memorandum of Conversation, by Mr. John C. Ross of the Division of Trade Agreements

[WASHINGTON,] December 20, 1938.

Mr. Sayre called Dr. Bianchi in at 11 o'clock this morning for the purpose of handing him a memorandum¹² setting forth the views of this Government regarding the basis for trade-agreement negotiations between the United States and Portugal.

Mr. Sayre said that this subject had been carefully considered by the trade-agreements organization and that he was very glad to be able to say that, in the view of the American Government, a basis for a trade agreement exists. Mr. Sayre then referred to the memorandum which had been prepared for Dr. Bianchi and outlined the customary trade-agreements procedure. Mr. Sayre then suggested to the Minister that, after he had had an opportunity to read the memorandum, he get in touch with Mr. Hawkins¹³ for the purpose of clarifying the various factors bearing upon the basis for negotiations. In this way, definitive negotiations would be expedited after

¹² *Supra.*

¹³ Harry C. Hawkins, Chief of the Division of Trade Agreements.

publication in the United States of the required notice of intention to negotiate.

Mr. Sayre said that careful consideration had been given to the request made by the Minister on behalf of his Government that an officer of the Department be sent to Lisbon in connection with the proposed negotiations. However, it did not seem possible to spare anyone from the Department for this purpose.

The Minister expressed disappointment. He went on to say that, in making this request, his Government had no desire to transfer any part of the trade-agreement negotiations to Lisbon. Although it would be desirable to have someone from the Department discuss the trade agreement with Portuguese officials, particularly as Portugal does not have a Commercial Attaché in the United States, the Minister thought that his Government probably attaches more importance to the idea of an officer of the Department going to Portugal for the purpose of discussing in a general way the relations between the two countries. The Minister said that the American point of view is not well enough understood in his country. He asked that the matter be reconsidered, and Mr. Sayre replied that he would be glad to do so.

After leaving Mr. Sayre's office, the Minister and Mr. Ross continued the conversation briefly. Dr. Bianchi read the memorandum which Mr. Sayre had handed to him and said that he did not foresee any difficulties in regard to any of the points discussed in the memorandum. The Minister asked if the Department might be prepared to communicate to him at a reasonably early date a list of products in which the United States would have an interest and a tentative draft of general provisions for the proposed agreement. It was agreed that this would be done and that meanwhile the Minister would forward the Department's memorandum to his Government.

RUMANIA

ANTI-SEMITISM IN RUMANIA AND CONSIDERATION OF JEWISH EMIGRATION AS A POSSIBLE SOLUTION

871.00/558 : Telegram

The Minister in Rumania (Gunther) to the Secretary of State

BUCHAREST, January 5, 1938—3 p. m.

[Received 6:40 p. m.]

1. I had an interview with the Prime Minister¹ this morning who told me that Rumania was in a state of "intense national resurrection". Regarding internal reform he said that the anti-Semitic movement was responsive to the wish of the majority of Rumanians. Specifically he intends to divide the Jews into two categories (a) those who are citizens and (b) those who are not. The former will have to prove their citizenship, and the latter must leave the country. Their destination is not a concern of this Government. He will lay the entire matter before the League of Nations.

The citizenship of other nationals will be respected and other powers have nothing to fear as Rumania desires cordial relations with all.

My impression is that the Government is intentionally frightening Jews into leaving the country voluntarily and while strengthening its internal political situation it will proceed with extreme caution in the formulation and execution of any concrete measures. Despatch follows.

GUNTHER

871.00/561 : Telegram

The Minister in Rumania (Gunther) to the Secretary of State

BUCHAREST, January 6, 1938—10 a. m.

[Received January 7—7:35 a. m.]

2. My No. 1, January 5, 3 p. m. The Government has been slow in drawing up concrete measures in spite of rumors to the contrary. The change of government was so sudden that I do not think they had time to formulate any program other than to "take the wind out of

¹ Octavian Goga.

the sails" of the Iron Guard by seeming to be even more nationalistic than they. I have talked again today with the Prime Minister, the Minister for Foreign Affairs and some officials of the Foreign Office and can assure you, as already reported, that the Government is going to proceed in the matter of the Jews most cautiously. It has been explained to me on various occasions by the members of the Government that such measures as may eventually be taken will be directed only against those Jews who have in recent years flocked to Rumania from Germany, Poland and Hungary without treaty right and who have not since obtained Rumanian naturalization; a floating population attracted here by lack of immigration restrictions and by reputed opportunities of gainful occupation. Those who have rightfully obtained naturalization are not under consideration.

I understand that the formation of a commission will shortly be announced to deal with the Jewish question which will include the Minister of Justice and the Minister of the Interior, formerly one of the leaders of the National Peasant Party whom I have also talked with and who has assured me that no illegal action nor one not in accordance with the Constitution will be taken. Moreover I understand that an order will be issued forbidding the taking of independent action by any Minister and provides that any proposed action must be submitted to the Cabinet for decision after it has first been passed upon by this commission.

There must have been some very wild stories in the outside press; those in France it is said here were maliciously inspired by the disgruntled Titulescu.² The Minister for Foreign Affairs leaves tomorrow night for a day's shooting to which he invited me but which I declined, and then for Praha and eventually Geneva. It has been semi-officially announced by the Prime Minister that Parliament will be dissolved by February 17th and new elections held later, perhaps in March.

There have been no threats to American owned or controlled business activities else I would have informed you, in fact no expropriations whatsoever have taken place and even in the case of the closing of the three Jewish-controlled newspapers it has been made clear that property rights will be respected.

Evidently there have been reports that this Government is moving very rapidly toward the Rome-Berlin Axis. With this I do not concur. My impression is that this Government, feeling that French policies do not spell complete security, desires friendly relations with all but will work for no radical change and will probably continue as a member of the League of Nations. Also I have a feeling that the

²Nicholas Titulescu, former Rumanian Minister for Foreign Affairs.

King has concluded that the present is not a bad time to give nationalism a little rope and better to try it out now with this Government than to have to later with the Iron Guard.

GUNTHER

871.00/562 : Telegram

The Minister in Rumania (Gunther) to the Secretary of State

BUCHAREST, January 7, 1938—3 p. m.

[Received January 7—12:20 p. m.]

3. In view of this Legation's extremely limited cable allowance I had intended to report by despatch that in each of the interviews reported in my telegrams numbers 1, January 5, 2 [3] p. m., and 2, January 6, 10 p. m. [*a. m.*], with the Prime Minister, the Minister for Foreign Affairs and likewise with Mr. Calinescu who is to be a member of the commission referred to in my telegram 2, I stressed the anxious attention with which events affecting Jews in Rumania would be followed in the United States. I reminded them that we have a large and law abiding Jewish population and that public opinion in the United States was outraged and shocked by the extreme anti-Semitic measures of the German Government.

Later there may be need of more direct representations if you so instruct me. As yet however there has been no overt act which would seem to warrant such representations and no American interests whatsoever have been threatened nor has any American enterprise or citizen yet appealed to the Legation.

GUNTHER

871.4016 Jews/47 : Telegram

The Secretary of State to the Minister in Rumania (Gunther)

WASHINGTON, January 7, 1938—6 p. m.

2. Your No. 3, January 7, 3 p. m. A correspondent in the press conference yesterday morning said there were current press reports to the effect that French and British Governments had protested over the treatment accorded the Jewish people in Rumania, and asked whether this Government has taken any action. I replied that notwithstanding our policy of supporting such doctrines as freedom of religion and equal treatment of those of different religions, as well as races, this Government, standing as it does for the doctrine of non-intervention in the domestic affairs of other nations, except where the rights of its nationals are involved, is not in a position to depart from that doctrine in any case. I went on to say that we are not unmindful

of developments in every part of the world as they relate to treatment of minorities and we observe with close interest the developments in the instant case.

You may continue, as occasion arises, to express general interest in developments which might indicate discriminatory action because of the interest of public opinion here, without taking any action which might be construed as intervention in the domestic affairs of Rumania not involving the rights of American citizens.

HULL

871.4016 Jews/56

The Secretary of State to the Chairman of the Senate Foreign Relations Committee (Pittman)

WASHINGTON, January 18, 1938.

MY DEAR SENATOR PITTMAN: I have received your letter of January 11, 1938³ enclosing a copy of a Resolution submitted in the Senate⁴ which calls on the President for information concerning the treatment of Jews in Rumania. In your letter you ask for my consideration of the Resolution and for any comment I care to make thereon.

The Department has been in close touch with the American Minister in Bucharest but has received no reports from him of edicts of the Rumanian Government which are said to be directed against the Jews. There would appear to have been some misunderstanding or confusion with respect to measures which have been considered by the Rumanian Government and those which have actually been taken. The Minister has had several conversations with prominent officials of the Government who have assured him that the Government itself will take no official steps that might be illegal, or contrary to the Rumanian Constitution. Furthermore it is reported that any measures that may be taken by the Government will be directed only against those Jews who have in recent years immigrated into Rumania from other European countries and who have not since their arrival obtained Rumanian naturalization.

Not unmindful of the solicitude in the United States regarding the lot of Jews in Rumania, the Department is following the course of events with sympathetic consideration. In this connection, however, I must point out that any action taken by the Rumanian Government concerning the peoples within its borders is a matter which lies within the jurisdiction of that Government. This Government, in the ab-

³ Not printed.

⁴ Senate Resolution 218, 75th Cong., 3d sess.

sence of treaty provisions, cannot intervene in the domestic affairs of another country, except in special circumstances where American citizens or interests are involved. Reference has been made in the press to the Treaty between the Principal Allied and Associated Powers and Rumania, signed at Paris on December 9, 1919⁵ and known as "the Minorities Treaty", which provides for guaranties of civil and political rights to all inhabitants of Rumania without distinction of birth, nationality, language, race or religion. While the Treaty was signed on behalf of the United States it was not ratified by this Government, and consequently the United States is not a party to the Treaty. However this fact does not mean that the Department is indifferent to developments in Rumania.

In conclusion I wish to point out that Article XII of the Treaty provides a forum—the League of Nations—before which any infractions of the terms of the Treaty may be brought by states which are members of the League and by the Minorities themselves.

Sincerely yours,

CORDELL HULL

871.4016 Jews/62 : Telegram

The Minister in Rumania (Gunther) to the Secretary of State

BUCHAREST, January 20, 1938—3 p. m.

[Received January 21—5:53 a. m.]

12. Prime Minister Goga told me casually last night after dinner that Foreign Minister Micescu had just telephoned him from Geneva to say that to all remonstrances regarding Jewish or minority issues in Rumania he had countered that Rumania would do just as Poland has done in similar situations in the past, to wit, reject interference and be prepared to withdraw from the League if necessary. Nevertheless I take this stand as striking an attitude preliminary to negotiations.

The poet Prime Minister is both sane and moderate in the internal Jewish problem and has to date withstood the vicious onslaughts of the octogenarian extreme anti-Semite Professor Cuza putting him off with the fulfillment of the economic phases of the Party program, deflationary measures designed to reduce the cost of living and with administrative provisions for the sifting of the records of Jews in order to classify them. Though he will suffer different degrees of ostracism the white collar Jew of good standing has little to fear if he can avoid occasional unauthorized public roughness. I have only known the Prime Minister to show any heat himself when he talks of the wandering, money-lending Jew still in robe, cap and curls,

⁵ League of Nations Treaty Series, vol. v, p. 335.

who has fastened on the villages running the peasant into debt in the local wine shop and store. I asked him again last night what is to be the solution. This is not a popular question with any cosmopolite statesman. He replied: Why not send them back to Russia and Poland where they came from? That may not be so easy. Madagascar is still a hope and aggregations of village Jews in Bessarabia have just now petitioned my Italian colleague to be permitted to go to Abyssinia; and my Brazilian colleague to Brazil, both most improbable of acquiescence. The Mexican Minister stated in conversation that his country might accept certain categories. He is being besieged with requests.

I regret to report my conviction that even if this Government should not survive the elections the issue itself is now so much to the fore that it will have to be espoused by any succeeding government or even dictatorship in response to a determined insistent public demand. The question therefore is not likely really to simmer down for some time to come.

I understand that the King may give an interview soon to the *New York Times* correspondent from Vienna, a British subject. Mr. Montgomery, who is here, tells me that Gedye^o is of Armenian Jewish origin. I did not actually ask for this audience but was instrumental in getting it suggested to the King. It should be interesting if accurately reported. I am constantly seeing newly arrived correspondents of the American press, mostly Jewish, and am endeavoring in every way to assist them to obtain an accurate and not too sensational view of the general situation.

GUNTHER

871.00/595

The Minister in Rumania (Gunther) to the Secretary of State

[Extract]

No. 144

BUCHAREST, January 25, 1938.

[Received February 8.]

SIR: Referring to my despatch No. 130 of January 11th last⁷ and my several telegrams regarding developments under the new Goga regime . . .

As already reported, the New Government's slogan is anti-Semitism. Among the many measures taken against the Jews of this country since the time of my last despatch on this subject may be mentioned: The closing of Jewish libraries in Bessarabia on the charge that they are centers of communist propaganda; the dismissal of 140

^o G. E. R. Gedye, the *New York Times* correspondent in South Central Europe.

⁷ Not printed.

Jewish doctors; the elimination from the Jassy Bar of 160 Jewish lawyers; the prohibition against Rabbis teaching the Jewish religion in State schools; local orders against "kosher slaughter"; a decision by the Minister of Labor, Health and Social Welfare prohibiting the employment by Jews of Christian servants under forty years of age on the ground that servant girls were often sold into white slavery (this order created so much unfavorable criticism that its execution has been suspended "until spring, when the peasant girls go back to the fields"); the expulsion of Jewish lawyers from the Bucharest Bar; the closing of certain Jewish theatres and outlawing of certain Jewish theatrical troops; the publishing of a Royal Decree outlining the procedure to be followed in revising the citizenship titles; an order to prohibit the approval of requests for foreign currency by Jews; and many other steps of a similar nature. There have also been reports, not all confirmed, of frequent cases of "rough-housing", illegal assessments, beatings, and other individual instances of maltreatment.

Respectfully yours,

FRANKLIN MOTT GUNTHER

871.012/30

The Minister in Rumania (Gunther) to the Secretary of State

No. 156

BUCHAREST, January 27, 1938.

[Received February 8.]

SIR: With reference to my previous discussions of the anti-Semitic measures proposed by the National Christian and Peasant Union of Rumania headed by Prime Minister Goga and Minister without Portfolio Cuza (See despatches Nos. 141 of January 21^s and 144 of January 25), I have the honor to transmit herewith a translation of a decree issued on January 20, 1938^s providing for a legal examination of the citizenship of all Jews residing in Rumania.

There have been many measures proposed and some passed abrogating the rights of Jews since the present Government came into power and an over zealous populace now takes advantage of the present wave of anti-Semitic feeling fostered by the electoral campaign to molest and insult Jews, particularly in public places, but this decree is the key stone of this Government's policy. In fact it is the only well formulated policy so far announced [*far announced*] and certainly the measures upon which the attention of the public both here and abroad has been most attentively fixed. All the leaders of the party now in power and the King have openly and repeatedly avowed

^s Not printed.

their desire for a State governed solely by Rumanians, "Rumania for the Rumanians" and their belief in an imminent ethnic renaissance of the nation for which all must strive at no matter what sacrifice. They have likewise attributed all the ills, both economic and spiritual, from which the country is now suffering to the influx of Jews into Rumania since 1918. According to various statements these number from 250,000 (the King) to a million (Cuza). The present Government claims that these Jews are residing here illegally or that they have acquired their citizenship rights fraudulently. The present decree provides a method of determining citizenship although it is loosely worded and may in fact be unconstitutional since it discriminates against a portion of the population although its terms are general. No one has yet offered a satisfactory solution of what is to be done with those Jews who are found to be residing in the country illegally and without citizenship rights although there has been much vociferous talk of expulsion to an undetermined destination. However regardless of their ultimate fate it is obvious that if this decree is rigidly enforced and it will unquestionably be during the electoral campaign—the Jews will suffer greatly.

The decree in substance endeavors from a legal point of view to verify the following categories of citizenship:

- 1) Citizenship acquired by registration in the nationality registers of the annexed territories;
- 2) Citizenship acquired through the granting of citizenship rights, apparently referring to the decree laws of 1918 and 1919;
- 3) Citizenship acquired through Commissions of Appeals and other court decisions; and
- 4) Citizenship acquired by subsequent registration in the nationality registers.

While these categories appear to be general in application it will be observed by a study of the decree that it will be applied to Jews only.

In regard to the first category, article 5 of the decree provides that the mayors of the Communes "shall compile a list of Jews recorded in the nationality register of the communes." Article 6 provides a period of 20 days for these Jews to prove that they have fulfilled the conditions required by Article 56 of the nationality law of 1924 (article 56 is based on the Peace Treaties namely, *pertinentia* [pertinentia?] rights). If they do not comply within the period of 20 days, the decree considers those who have failed to do so as having admitted that they did not fulfill the conditions required to acquire Rumanian citizenship.

The second category refers to decree law No. 2085 of 1919, regarding persons to whom citizenship rights were granted. These persons (Jews) are obliged to present within 20 days (a) birth certificate, (b) evidence that parents resided in the country, if the applicant was born

abroad, (c) evidence that the applicant was not a citizen of a foreign country, (d) evidence of recruitment in the army or mobilization after 1913 and, (e) other documents according to the decree law of 1919. The same sanctions are applied as under category one if application is not filed within 20 days.

The third category is effected ex officio by the courts based on complaints or other evidence obtained by the courts. The interested party has a right to appeal the decision.

The fourth category apparently refers to registrations to be effected in the nationality registers in the future.

As of possible use to the Department in reviewing this question there are also transmitted herewith a memorandum prepared by this office⁹ entitled "Citizenship Status of Jews in Rumania" and a discussion⁹ from the legal point of view of the cancellation of civil rights granted to Jews in Rumania prepared by Mr. B. Smolar of the Jewish Telegraph Agency.

As an example of the extremist tendency in anti-Semitism there is also enclosed a translation of a decree issued on January 4th⁹ prohibiting Jews from employing Christian servant girls under the age of 40 on the grounds of white slave traffic. This measure, which is said to have been the pet of Professor Cuza, has created such a bad impression and has been so thoroughly ridiculed by even members of the party that an order has been issued abrogating its enforcement until the Spring planting season when the peasant girls can find employment in the fields. I am reliably informed that this is in conformity with the King's wishes and it is not likely that the measure will ever be enforced although it will remain on the statute books as a reminder of Rumania's first great nationalist purge.

Respectfully yours,

FRANKLIN MOTT GUNTHER

871.4016 Jews/97

Memorandum of Conversation, by the Chief of the Division of European Affairs (Moffat)

[WASHINGTON,] February 9, 1938.

Mr. Babes, Rumanian Chargé d'Affaires called. He had two things in mind. The first was that although much publicity had been given to the reports of anti-Semitic excesses in Rumania, virtually no publicity had been given to the State Department's letter¹⁰ pointing out that it could not intervene in the Rumanian picture. He said that the *Congressional Record* made the whole episode clear but that nobody read the *Congressional Record*.¹¹

⁹ Not printed.

¹⁰ See letter of January 18 to Senator Pittman, p. 675.

¹¹ See *Congressional Record*, vol. 83, pt. 1, pp. 249 and 1073.

He said that most Americans were fair-minded and wanted all the facts but that under present conditions the average citizen who relied on his daily papers was not in possession of all the facts.

Mr. Babes then started to discuss the situation in Europe and advanced the hypothesis, to which he was personally inclined to give credit, that Great Britain in a desire to break the Rome-Berlin axis had in a secret agreement given Germany her blessing to absorb Austria. He said that on the surface this would not seem consistent with Ribbentrop's¹² appointment as the latter was the spiritual father of the Rome-Berlin axis. On the other hand, Ribbentrop (like all good diplomats) was an opportunist and would willingly let go a small fish if he thought he could hook a larger one.

PIERREPONT MOFFAT

871.012/31

The Minister in Rumania (Gunther) to the Secretary of State

No. 234

BUCHAREST, March 23, 1938.

[Received April 5.]

SIR: I have the honor to refer to my despatch No. 156 of January 27, 1938, enclosing a translation of a decree issued on January 20th last by the National Christian and Peasant Union Government, headed by Octavian Goga, providing for the revision of the citizenship of all Jews residing in Rumania and to transmit herewith a résumé in translation (full text in Rumanian is also attached) of a second decree issued on March 8, 1938,¹³ under the new Rumanian Constitution regulating the same question. The object of this decree is the same as that of the preceding one, namely to deprive all Jews of citizenship rights obtained fraudulently. It is, however, less drastic in its application as the provisions regarding native born Jews have been formulated with greater care and more time is allowed for the presentation of documentary proofs and for appeal.

The revision applies to all Jews except those who were naturalized by law or decree or were granted political rights as inhabitants of the Dobrudja.

Mayors throughout the country will be required to display lists of all Jews in their districts. All persons who professed the Hebrew faith on December 1, 1918, even if later they abandoned it, are to be regarded as Jews. All Jews from the new provinces who can prove that they were natives of Bucovina, Transylvania, or the Banat, as Austro-Hungarian subjects, or of Bessarabia as Russian subjects, in

¹² Joachim von Ribbentrop, appointed Minister for Foreign Affairs of Germany February 4, 1938.

¹³ Not printed.

1918 will be considered to be Rumanian nationals unless they opted for another nationality, or renounced their Rumanian nationality. In the Old Kingdom, Jews living in Rumania, born in the country or of parents settled there, Jews who have complied with the recruiting law, Jews mobilized during the 1913 and subsequent campaigns, and widows and legitimate children of Jews killed in the 1913 and later wars will be considered to be Rumanian nationals.

Among other things, the exercise of the right to vote in a foreign State or civil or military service for another State without the Rumanian Government's permission will be regarded as "opting" for another nationality.

Those Jews whose names figure in the mayors' notices are required within 50 days to lay the proofs of their Rumanian nationality before tribunals. There will be a right of appeal and the 50-day term may be extended for another 20 days if necessary. Jews failing to bring proof of their Rumanian nationality will automatically lose it.

Since the promulgation of the new Constitution the plight of the Jews has ameliorated. While it can not be said that anti-Semitism has abated, its expression is more controlled and there have been none of the excesses either in speech or incident so prevalent during the Goga regime. The objective of the Government has not changed but it is realized that a more rational, a more legal approach to the problem must be made. With the abolition of political parties and the elimination of the constant strife to which their activities led, there has been an effort, at least on the surface, to unite the native born Jewish element in the nationalist movement for a greater Rumania.

Almost simultaneously with the appearance of this new decree there was published an open letter from the Patriarch of the Orthodox Church and Prime Minister of the present National Union Government to the Chief Rabbi of Rumania asking him to set aside Sunday, March 13th, in all the Synagogues and other places of Jewish worship in his jurisdiction as a day of prayer for peace and tranquillity among all Rumanians, for fidelity to the Fatherland and the Throne. To this appeal, Dr. Niemirower, Chief Rabbi, replied in terms of brotherly agreement and such services were held in all synagogues as well as all churches of the Orthodox, Roman Catholic and other rites. In these services prayers were also held for the release of the faithful from all oaths except those of a legal character (i. e. oaths of allegiance to political organizations such as the Iron Guard), there being left but one oath to the State and the Crown. (Copies of the two letters are annexed.¹⁴)

The Patriarch's action came as a surprise, constituting as it does such a complete "volte face" from the attitude of the Crown and Gov-

¹⁴ Not printed.

ernment towards the Jews less than a month before. It has been well received and taken as a token of a sincere desire on the part of the King for peaceful relations among all his subjects. Certainly the action was taken with his knowledge and consent, but whether at his instigation is not known. I am reliably informed that the idea originated with the Archbishop of Canterbury who maintains very close and cordial relations with the Patriarch. This may be true in view of the great interest taken by the British Government in the Jewish question here and its informal intervention in the matter during the Goga Government, although the British Minister professes no knowledge of it. In any case, it was well designed to secure for King Carol a more cordial reception upon his State visit to England which has now been postponed because of events unforeseen at that time.

Before the German annexation of Austria,¹⁵ and more insistently since, there have been rumors of a rearrangement of the present cabinet which obviously can not be of long duration as at present constituted. In this new alignment it is thought that Vaida Voevod¹⁶ will become Prime Minister and that a place will be found for ex-Prime Minister Goga, probably as Minister without portfolio. Goga's pro-German sympathies, as well as his personal friendship with Hitler, are well known (Goga happened to be in Vienna at the time of the *Anschluss* and at Hitler's personal request was given a room with balcony at the Grand Hotel to witness the triumphant entry and celebration) and it is said that by his inclusion in the Cabinet the King would secure a valuable bridge to Germany in case of necessity in the rapidly shifting Central European scene. Others maintain, and with their conclusions I am in agreement, that Carol will not make any such cabinet shifts in the near future until he is more certain of the trend in European politics as it would obviously not be to his advantage to appear to veer too quickly from his old friends in the Anglo-French group for uncertain benefits to be obtained from the Rome-Berlin axis.

However, the possibility of the entry of Goga into the Government in any capacity is the outstanding cause for alarm among the Jews at present. I believe their fear is unwarranted as I think the King has learned from the reckless experiment with the Cuza-Goga anti-Semitic policies that such an attitude brings internal unrest to the country, both political and economic, as well as strained relations abroad at a time when calm is essential and that he will deal with the Jewish problem firmly but along rational legal lines.

Respectfully yours,

FRANKLIN MOTT GUNTHER

¹⁵ See vol. I, pp. 384 ff.

¹⁶ Rumanian Minister without Portfolio.

840.48 Refugees/1196 : Telegram (part air)

The Minister in Rumania (Gunther) to the Secretary of State

BUCHAREST, December 25, 1938—9 a. m.

[Received December 30—8:10 a. m.]

153. British Minister here informs me that press report to the effect that the Rumanian Government has formally applied to the British Government for permission to send 50,000 Jews a year for 3 years to Palestine is greatly exaggerated as the only conversation so far on the subject has been but tentative. He added that even if such a request were made he did not think it had a chance of being granted but that he himself personally would be in favor of a "token" emigration from Rumania to Palestine. The Rumanian authorities are much distressed at the continued refusal of the International Committee to consider also the Jewish problem in Rumania.¹⁷

GUNTHER

¹⁷ For correspondence on the efforts of the International Refugee Committee to provide refuge for persecuted European Jews, see vol. I, pp. 740 ff.

SPAIN

THE SPANISH CIVIL WAR

(See volume I, pages 149 ff.)

SWEDEN

**ARRANGEMENT BETWEEN THE UNITED STATES AND SWEDEN FOR
RELIEF FROM DOUBLE INCOME TAX ON SHIPPING PROFITS,
EFFECTED BY EXCHANGE OF NOTES, SIGNED MARCH 31, 1938**

[For text of notes signed March 31, 1938, see Department of State
Executive Agreement Series No. 121, or 52 Stat. 1490.]

UNION OF SOVIET SOCIALIST REPUBLICS

(See *Foreign Relations, The Soviet Union, 1933-1939*,
pages 504-730.)

YUGOSLAVIA

PROPOSALS FOR THE REGULATION OF COMMERCIAL RELATIONS BETWEEN THE UNITED STATES AND YUGOSLAVIA ¹

611.60H31/87

*Memorandum of Conversation, by the Assistant Chief of the
Division of Trade Agreements (Deimel)*

[WASHINGTON,] February 5, 1938.

Participants: Mr. Constantin Fotitch, Minister of Yugoslavia
Mr. Rybář, Counselor of Yugoslav Legation
Assistant Secretary Sayre
Mr. Tittman, Eu ²
Mr. Coe, Eu ³
Mr. Deimel, TA

The Yugoslav Minister called on Mr. Sayre by appointment today to present a memorandum containing his Government's reply to our counter proposals handed him on December 15.⁴ He read the memorandum which said, in substance, that the Yugoslav Government would accept our points 1 and 2 regarding transferability of quotas and a single global quota for minor controlled products; that as to point 3, his Government pointed out that the transferability of quotas would make it possible to expand our automobile shipments, and that further than this, the Yugoslav Government would be willing to give us an increased quota for automobiles if our imports from Yugoslavia increased. Mr. Sayre pointed out that the transferability of quotas would not give much scope for increase in our automobile trade since not only would that transferability be needed within the other quotas themselves, but our automobiles formed the major proportion of Yugoslav controlled imports from us; as to the further proposition he pointed out that this seemed to involve the principle of bilateral balancing which, of course, we could not possibly accept.

The Minister said he expected as much and thought it would be better if he did not deliver this memorandum, but took it back and rewrote it to delete the reference to imports from us, and then if he handed it in it would form the basis for discussions of what increase

¹ Continued from *Foreign Relations, 1937*, vol. II, pp. 586-595.

² Harold H. Tittman, Assistant Chief of the Division of European Affairs.

³ Robert D. Coe, of the Division of European Affairs.

⁴ *Foreign Relations, 1937*, vol. II, p. 593.

in automobile quotas for us would be acceptable. Mr. Sayre mentioned some of the statistics regarding Yugoslav imports of automobiles to Mr. Fotitch, pointing out how our share had declined from 48 percent of the total in 1935 to 6 percent for the first six months in 1937, and that our point of view would be that we ought to get 48 percent of the total; however, that it seemed to him to be up to the Yugoslav Government to make an offer and then we could consider that. The Yugoslav Minister said that he was expecting some further word by the next mail and hoped he could bring it in when he brought the revised memorandum of reply.

There was some discussion of the increase in our imports from Yugoslavia, and at the end the Minister asked if we could phone him the total of our imports from Yugoslavia for 1937 as soon as these figures are available.

611.60H31/78

*The Yugoslav Legation to the Department of State*⁵

MEMORANDUM

The Royal Yugoslav Government has given its very careful consideration to the Memorandum presented by the United States Government on the 15th of December regarding the regulation of trade relations between the two countries.

1. The Yugoslav Government accepts that any unused amount of the quota of any of the controlled articles in one quarter could be used for import of any of the controlled articles in the following quarters.

2. The Yugoslav Government accepts to grant a single quota for the import of the controlled articles of which very small amounts were imported from the United States to Yugoslavia and which have been mentioned in the aforesaid Memorandum of the United States Government.

3. The Yugoslav Government is prepared also to accept to carry over the unused quotas of certain articles for the import of other controlled articles.

4. With respect to the automobiles, the Yugoslav Government is prepared to accept that the unused quotas allotted for the import of other controlled articles may be used and carried over for the import of automobiles. To increase the import of automobiles this increased quota for the automobile shall be fixed by common agreement.

⁵ This undated memorandum was received in the office of Assistant Secretary of State Sayre on February 9, 1938.

611.60H31/86

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

[WASHINGTON,] February 23, 1938.

The Minister of Yugoslavia called to see me this morning. The Minister said that he had called primarily to express his very earnest hope that there might be no break-down in the negotiations for a trade agreement between Yugoslavia and the United States. He told me that he and Mr. Sayre and Mr. Hawkins^o had now apparently reached an agreement on all of the main points involved, except on the question of automobiles, and that he hoped very earnestly that this Government would understand the difficult situation of the Yugoslav Government and its inability to go very much further than it already had indicated its willingness to go. He said that in the present situation of Europe the one ray of hope that presented itself was the trade agreement program and that it seemed to him of compelling importance at this time, both for political and economic reasons, that a trade agreement between our two countries be consummated. I explained to him my complete sympathy with the objective he had in mind and said that I should, of course, be glad to bring his views to the attention of the Secretary of State and Mr. Sayre.

611.60H31/96

*Memorandum of Conversation, by the Assistant Chief of the
Division of Trade Agreements (Deimel)*

[WASHINGTON,] March 12, 1938.

Participants: The Minister of Yugoslavia, Mr. Fotitch
Mr. Hawkins Mr. Coe
Mr. Tittman Mr. Deimel

Mr. Fotitch, the Minister of Yugoslavia called to inquire as to our views with respect to the memorandum he had recently handed in pursuant to his conversation of February 5, 1938, with Mr. Sayre.

It was pointed out that on the first three points mentioned in his memorandum, relating to (1) carrying over of quotas from quarter to quarter; (2) a single quota for minor articles; (3) carrying over from quota to quota; we were in accord, but that with respect to the fourth point relating to imports of American automobiles into Yugoslavia the proposal appeared to us inadequate since it meant an increase in our share of the Yugoslav market from the quite unsatisfac-

^o Harry C. Hawkins, Chief of the Division of Trade Agreements.

tory 6 percent of last year only to 18 percent of the total whereas on a representative period basis we should have 48 percent.

In the ensuing discussion the Minister mentioned Yugoslavian exchange difficulties, the trade balance between Yugoslavia and the United States and also an alleged preference in Yugoslavia for lighter automobiles than the American type because of the high cost of gasoline and said he thought that the American industry could probably not sell a larger proportion of Yugoslavian purchases; he intimated that, if it could, means might be found of increasing the quota after it had been filled.

The last-mentioned possibility was further discussed and at the Minister's request it was agreed that we would give the question further study with a view to devising if possible some formula by which we could be assured that any initial quota would not be absolute and would be subject to expansion on the basis of evidence that the demand for American automobiles in Yugoslavia would afford scope for increased sales beyond the quota.

611.60H31/102 : Telegram

The Secretary of State to the Minister in Yugoslavia (Lane)

WASHINGTON, May 13, 1938—7 p. m.

10. Your despatch 224, April 20, and 228, April 22, and telegram 59, May 10.⁷

1. The Department has been giving consideration to a proposed unilateral declaration by the Yugoslav Government concerning the application of quota control to American imports, as presented by Fotitch. The conclusion has been reached that the contemplated declaration would be unsatisfactory because of the treatment which it envisages for American automobiles imported into Yugoslavia. We feel entitled to a much larger share of Yugoslav automobile trade than that proposed in Fotitch's latest communication.

2. However, even if the proposed declaration should provide the United States with a fair share of the automobile trade, we should much prefer to conclude a satisfactory *modus vivendi* to govern our trade relations with Yugoslavia. The Department therefore has noted with interest intimations from you to the effect that the Yugoslavs would welcome a proposal from us looking to a liberalization of their trade policy and that the present moment would seem opportune for the presentation of such a proposal. Accordingly in your forthcoming interview with Stoyadinovitch⁸ you are instructed to

⁷ None printed.

⁸ Milan Stoyadinovitch, Yugoslav Prime Minister.

indicate why the proposed unilateral declaration is not considered satisfactory and to suggest to him the desirability of concluding a *modus vivendi* on the most-favored-nation basis which, by assuring non-discriminatory treatment of American trade in Yugoslavia, would likewise assure Yugoslav trade of continuing enjoyment of benefits of trade agreements negotiated with third countries. Such an agreement would be along the lines of the *modus vivendi* proposed to the Yugoslav Government in December, 1936,⁹ copy of which was transmitted to the Legation along with a copy of the Note of December 17, 1936,¹⁰ in Instruction 183, December 21, 1936.¹¹ For a later draft of an agreement negotiated for a similar purpose you may wish to refer to the annex to the temporary commercial arrangement of December 16, 1937 with Italy, text of which appears in the Executive Agreement Series No. 116.¹² If it is indicated by the Yugoslav Government that the negotiation of such a *modus vivendi* is possible the Department would be prepared to send you a revised draft for transmission to the Yugoslav officials.

3. We are, of course, always prepared to consider and review the possibilities of concluding a trade agreement with the Yugoslav Government. The principal difficulty appears to be that Yugoslavia is in general not a leading supplier of the products we buy from her. In consequence Yugoslavia's main benefit from our trade-agreements program would seem to lie in the generalization policy under which Yugoslav goods receive the reduced tariff rates provided in trade agreements negotiated with other countries. It should be noted that products imported into the United States from Yugoslavia with respect to which the benefits of trade-agreement concessions are now extended to Yugoslavia (the most important of which are natural cherries, hops, shoes and cement) accounted for 11 percent of the value of total imports of Yugoslav products into the United States in 1936. It is further significant that in the case of many of these articles there were no imports from Yugoslavia prior to the tariff reductions going into effect. Products of interest to Yugoslavia with respect to which concessions may be granted in agreements at present contemplated accounted for a further 6 percent of imports from Yugoslavia in 1936.

4. The conclusion of a *modus vivendi* such as proposed in paragraph numbered 2 above would not in any way prejudice the possibility of negotiating a trade agreement later if and when satisfactory basis therefor might be found, but would rather serve to improve the

⁹ *Foreign Relations*, 1936, vol. II, p. 827.

¹⁰ *Ibid.*, p. 825.

¹¹ Not printed.

¹² For correspondence concerning commercial arrangement with Italy, see *Foreign Relations*, 1937, vol. II, pp. 435 ff.

prospects by regularizing our commercial relations upon a substantially more satisfactory basis than that envisaged in Fotitch's proposals.

For your information Fotitch is being informed of the sense of the foregoing.

HULL

611.60H31/110a

The Secretary of State to the Minister in Yugoslavia (Lane)

No. 55

WASHINGTON, June 24, 1938.

SIR: With reference to the Department's telegram 10, May 13, 7 p. m., and to the Legation's telegram 67, May 21, 7 p. m.,¹³ concerning the possibility of concluding a *modus vivendi* between the United States and Yugoslavia, there is enclosed herewith the new draft *modus vivendi*¹⁴ which you may submit to the Yugoslav Government under cover of an appropriate note of transmission.

The new draft *modus vivendi*, which embodies the same principles of policy as contained in the text of the draft which was proposed to the Yugoslav Government through its Minister here in December 1936, is designed to secure, for the trade between the United States and Yugoslavia, mutual equality of treatment in respect of all forms of trade control measures. The following observations may be useful in the clarification of those provisions of the new *modus vivendi* which are designed specifically to accomplish this objective.

Article I embodies the general most-favored-nation clause and except for the addition of the word "taxation" after the word "sale" in the seventh line, and the deletion of the phrase "Accordingly, it is understood that" at the beginning, the Article is identical with paragraph 2 of the proposed draft of December 1936. The provisions of this Article are designed primarily to assure to each country equality of treatment with third countries in the application and administration of customs duties and other charges imposed on or in connection with the importation or exportation of merchandise.

The provisions of Article II are designed to insure, as nearly as possible, the equivalent of most-favored-nation treatment with respect to the importation of goods subject to quantitative restrictions. The provisions of this Article differ in certain respects from and are somewhat more flexible than the corresponding provisions of the *modus vivendi* previously proposed to the Yugoslav Government.

The first section of the Article provides for a generally-recognized application of the most-favored-nation principle, in the broadest

¹³ Latter not printed.

¹⁴ Not printed.

possible terms, to quantitative restrictions and is essentially the same as paragraph 4 of the draft of December 1936. The second section of the Article is intended to prevent quantitative restrictions from being administered by either Government as an instrument for diverting or canalizing trade at the expense of the other country and provides, at the option of the country which imposes the restriction, for two alternative methods of procedure. The first method, which is described in subparagraph (a), would, in effect, involve the imposition of a global quota on imports from all sources without any restriction on the share of this quota which may be supplied by the other country or any third country. The second method, which is provided in sub-paragraph (b), involves the allotment of shares among the various exporting countries and provides that the share allotted to the other country party to the agreement shall be equivalent to the proportion of the total importation supplied by the other country in a previous representative period. The paragraph differs from paragraph 3 of the proposed *modus vivendi* of December 1936 in setting forth in addition certain other factors which should also be taken into account in such allocation.

The provisions of Article III approach the problem of exchange control in a different manner from that contained in paragraph 3 of the proposed draft of December 1936, which dealt with exchange control and quotas together. Article III provides that exchange shall be available without restriction, at the most favorable rate with respect to both products and countries, in payment for all goods permitted to be imported from the other country subsequent to the effective date of the *modus vivendi*. Its purpose is to prevent the accumulation of blocked balances in connection with such products as are actually imported from the other country. It means that exchange control shall not be used for the purpose of controlling, directly or indirectly, the volume of goods imported from the other country. Any quantitative regulation of imports from the other country must be in accordance with the provisions of Article II. In effect, the new exchange provision transfers the full burden of insuring non-discriminatory treatment with respect to both quantitative restrictions and exchange control measures to the quota article.

The first paragraph of Article IV is designed to insure to the other country a fair and equitable share of the market if the government of one country establishes or maintains a monopoly for the importation or sale of a particular commodity or grants exclusive privileges to an agency to import or sell a particular commodity. Its purpose is to guard against arbitrary diversion of trade by monopolies on other than purely economic grounds.

The second paragraph provides for most-favored-nation treatment with respect to government purchases generally, but does not prevent

either Government from giving preference to its own nationals with respect to such purchases.

Your attention is called to the fact that the provisions of Article III and of the first paragraph of Article IV were included in the annex to the temporary commercial arrangement concluded between the United States and Italy on December 16, 1937, a copy of which is enclosed.

You will note that Article V contains the usual reservations with respect to the trade of the United States with its outlying possessions and with Cuba but omits any reference to possible Danubian preferences. It is assumed that the Yugoslav officials may wish to have included a reservation in respect of those commodities which are now subject to preferences accorded by Yugoslavia to Czechoslovakia, Hungary, Rumania, or Bulgaria. You are authorized to accept a provision containing such a reservation somewhat along the following lines:

The advantages now accorded or which may hereafter be accorded by the Kingdom of Yugoslavia to Czechoslovakia, Hungary, Rumania, or Bulgaria for the purpose of closer mutual economic cooperation between the Danubian countries, in respect of those commodities benefiting from special advantages now accorded by the Kingdom of Yugoslavia to such countries, shall be excepted from the provisions of this Agreement.

The above proposal is essentially the same as the Danubian preference provision contained in paragraph 4 of Article XIV of the trade agreement with Czechoslovakia.¹⁵

If the text of the new *modus vivendi* contains passages that are obscure to you or provisions which in your opinion should be altered, you should withhold action and consult with the Department by telegraph. Immediately upon presenting the new *modus vivendi* to the Yugoslav Government you should inform the Department of your action by telegram.

There are enclosed,¹⁶ for your information, a table giving the value of imports for consumption into the United States from Yugoslavia in 1936 of products with respect to which benefits of trade-agreement concessions are now being extended to Yugoslavia (Table II); a table giving the imports for consumption into the United States from Yugoslavia in 1936 of products with respect to which concessions may be granted in agreements under negotiation with Turkey, the United Kingdom, or Canada (Table III); a table summarizing the first two (Table I); and a table giving the commodities imported for consumption into the United States in 1936 of which Yugoslavia was first,

¹⁵ See pp. 223 ff.

¹⁶ Enclosed tables not printed.

second, third, or fourth supplier (Table IV). There is enclosed also a copy of a memorandum of conversation of May 21 with the Yugoslav Minister here,¹⁷ parts of which may be of use to you in your discussions with the Yugoslav authorities.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.60H31/123 : Telegram

The Minister in Yugoslavia (Lane) to the Secretary of State

BELGRADE, September 19, 1938—9 p. m.

[Received 9 : 50 p. m.]

118. First meeting with Yugoslav trade delegation took place this morning. Following is substance of statement given to press this afternoon by the Foreign Office :

“The Governments of the United States and Yugoslavia, after having up to the present time maintained contacts through regular diplomatic channels, have decided to entrust to a delegation the regulation of the question of the application of Yugoslav import control.” (Here follow names of members of delegation and statement that first meeting was held this morning.)

Pilja¹⁸ stated that while subsequently Yugoslav Government might be prepared to sign agreement along the lines of the Department's draft *modus vivendi*¹⁷ (as transmitted with Department's instruction No. 55 of June 24) present desire is to conclude “practical agreement” covering solely importation of automobiles. Following agreement on this point, *modus vivendi* to be followed by formal treaty might be negotiated including settlement of other matters of mutual economic importance. He advanced as reason for non-acceptance of *modus vivendi* that if such an instrument were signed, adoption of policy of non-discrimination would have to be applied to all countries which would mean abolishment of present import control. While admitting that remittances from Yugoslav emigrants in the United States constitutes large item in balance of payments he contended that service of the Yugoslav Government and state mortgage bank debts together with unfavorable trade balance more than offsets this item.

With respect to importation of American cars he proposed that instead of taking as a basis the year 1935 (as proposed by us and constituting 45% of total imports) which according to him was an especially favorable year to the United States, he proposed that all the years since the World War be taken as basis of calculation which would

¹⁷ Not printed.

¹⁸ Miliwoje Pilja, Yugoslav Assistant Minister for Foreign Affairs.

show that the United States had on an average received a 25% share of the market. I stated that while I had no authorization to accept or reject this offer I felt reasonably certain that my Government would not accept any figure based in part on years in which import control was exercised. Pilja requested me, however, to submit this offer to the Department, adding that the 25% would be applied to the total Yugoslav importation of automobiles during the previous year and that in actual practice calculation be made quarter by quarter.

Subsequent to meeting Macatee¹⁹ has made computation based on Yugoslav Government statistics indicating that from 1925 to June 30, 1936, our share of passenger automobile imports amounted in volume to over 49% and in value to over 46%, and from 1925 to December 31, 1937, over 42% in both volume and value. Our share of truck imports for these two periods amounted respectively to 33% of volume and 42% of value and 26% of the volume and value. Figures from 1919 to 1924 inclusive are not available to us inasmuch as automobiles were for that period classified under the general heading of vehicles embracing all means of transport including railroad cars. Pilja has promised to furnish us with definite figures at next meeting which will take place on the day following Department's reply to this telegram.

The fact that Yugoslav Government has proposed definite percentage figure, which is in fact considerably greater than the proposed quota of 18,000,000 dinars, is encouraging and may even though not satisfactory be considered as a point from which definite progress may be made. Please telegraph instructions. As Pilja states that he must go to Berlin and Rome at the beginning of the month urgent reply will be greatly appreciated so that negotiations can, if possible, be terminated by that date.

LANE

611.60H31/123 : Telegram

The Secretary of State to the Minister in Yugoslavia (Lane)

WASHINGTON, September 24, 1938—3 p. m.

35. Your 118, September 19, 9 p. m. You should inform the Yugoslav authorities that this Government would much prefer that the entire trade between the two countries be regularized by a *modus vivendi* substantially along the lines of the one transmitted in the Department's instruction No. 55 of June 24.

You might point out that action by the Yugoslav Government in respect of the quota to be applied to imports of American automobiles would not, of course, furnish a basis for a formal agreement between

¹⁹ Robert B. Macatee, Consul at Belgrade.

the two countries. In our opinion the conclusion of a *modus vivendi* providing for non-discriminatory treatment would appear to be far more effective as a means of counteracting demands by other countries for preferential treatment than unilateral action by the Yugoslav Government to accord to the United States an equitable quota on automobiles.

You should reaffirm this Government's desire for a quota based on a ratio of 45 percent. The ratio suggested by Pilja is considerably smaller than any figure based upon a representative period. During the entire period covered by available statistics on automotive products alone, excluding the recent period of trade diversion, no ratio of less than 45 percent would represent a fair share. Separate statistics apparently are not available for years prior to 1925, and, in any event, this period would appear to be too far removed in time to be representative of more recent trends.

With reference to the method of applying the ratio, we should prefer that the Yugoslav Government establish a quota covering imports from all countries with a quota period of not less than 3 months, beginning with the last 3 months of 1938. The ratio for imports of American automobiles would then be applied to this current global quota.

For your information, if the Yugoslav Government should wish to establish separate quotas for automobiles and trucks and any other classification such as automotive parts, there would appear to be no objection. This might make our proposal more acceptable to the Yugoslav authorities. If it should be found possible for the two Governments to reach an agreement as to the quota basis for American automotive products, there would appear to be no compelling reason why the Yugoslav Government could not readily agree to the principles expressed in the draft *modus vivendi*.

HULL

611.60H31/126 : Telegram

The Minister in Yugoslavia (Lane) to the Secretary of State

BELGRADE, September 28, 1938—noon.

[Received 3 : 23 p. m.]

133. Department's telegram No. 35, September 24, 3 p. m. Second meeting was held yesterday morning. Pilja said that while he had no objection to normalizing trade relief through the medium of a *modus vivendi* it would be impossible for Yugoslavia to accept *modus vivendi* along the lines of the Department's draft as acceptance would expose Yugoslavia to the necessity of applying this principle to other

countries. In agreements with other countries two main principles have been insisted upon: (1) The maintenance of balance of trade favorable to Yugoslavia, and (2) with regard to discrimination, such countries would be satisfied merely by Yugoslavia's undertaking not to apply the import control so long as the trade is balanced or in favor of Yugoslavia.

He said that the third country would be in a position to protest only on some engagement which adopted nondiscrimination as a matter of principle, for example, as in the Department's draft *modus vivendi*. When such an undertaking is, however, made in order to attain some specific aim, for instance through granting of a definite quota to use for automobiles and trucks, he could then justify his position.

I reaffirmed the Department's desire for a quota on automobiles based on a ratio of 45 per cent, pointing out that according to our figures this is the average for the years from 1925 to the beginning of the control. Pilja agreed to compare their figures with ours at next meeting leaving matter in abeyance for the moment.

With regard to Department's preference for the establishment of a global quota, Pilja said that the adoption of such a measure would fundamentally alter Yugoslavia's basic policy and for technical reasons would be impossible. He added, however, that if eventually Yugoslavia might be able to apply import control to both clearing and non-clearing countries our formula could be accepted at once. At present stage he contended it would be harmful to the United States in the event that the total imports of cars should diminish, for now Yugoslavia would be disposed to give us a share independent of total imports or of the import control.

Due to more important questions yet to be decided upon, I did not yesterday bring up the subject of the last paragraph of the Department's telegram.

It is our opinion that there is considerable reason in Pilja's contention regarding non-acceptability of principles embodied in draft *modus vivendi* during present phase of Yugoslavia's trade relations with non-clearing countries.

LANE

611.60H31/126 : Telegram

The Acting Secretary of State to the Minister in Yugoslavia (Lane)

WASHINGTON, October 6, 1938—2 p. m.

39. Your 133 September 28, noon. It is not clear from your telegram and recent despatches whether the Yugoslav authorities still desire to negotiate a *modus vivendi*. If they object to concluding a *modus vivendi* prior to agreement on a quota for American automo-

biles the Department believes there is nothing to be gained by insisting on such a course. However, as indicated in telegram 35, September 24, 3 p. m. the Department believes that a basis for better economic relations between the two countries depends largely upon the regulation of trade by means of an agreement providing reciprocally for nondiscriminatory treatment in general.

After repeating to the Yugoslav officials our desire for an agreement embodying the principles contained in the proposed draft *modus vivendi*, you should point out that we could not enter into any so-called "practical" agreement such as appears to be desired by some of the Yugoslav authorities since such an agreement would not be in harmony with our commercial policy. Moreover, any question of negotiating a new treaty between the two countries would also seem to be precluded at this time if the two Governments do not succeed in agreeing on the principles to which reference is made above.

If the Yugoslav authorities are not prepared to sign such a *modus vivendi* the only alternative would appear to be individual adjustments with respect to trade matters. If *modus vivendi* discussions have to be dropped for the present, you should not fail to bring up in your discussions any products in addition to automobiles in respect of which quota adjustments are called for.

With respect to the application of the ratio to imports of American automobiles, you should point out that a ratio must of necessity be related to either total past or total prospective imports during a particular period. If the Yugoslav authorities should insist on relating the ratio to total imports in the preceding year we have no great objection although we would prefer the establishment of a global quota for total prospective imports.

WELLES

611.60H31/130: Telegram

The Minister in Yugoslavia (Lane) to the Secretary of State

BELGRADE, October 8, 1938—4 p. m.

[Received October 8—3:50 p. m.]

148. Department's 39, October 6, 2 p. m. As stated in second [first] paragraph of my 133, Yugoslav authorities have no objection to negotiation of a *modus vivendi* but do object to one along the lines of Department's draft *modus vivendi*. In other words they decline to conclude an agreement providing for non-discriminatory treatment in general or specifying any other principles such as most-favored-nation treatment. Pilja informed me this morning that by "practical" agreement he had in mind solely the application of import control to American goods or, to use the Department's lan-

guage, "individual adjustments with respect to trade matters." Pilja said that if the Department prefers such adjustments may be effected through the medium of a *modus vivendi*.

The Department instructs me to point out that we could not enter into any so-called "practical" agreement since it would not be in harmony with our commercial policy. On the other hand in the absence of specific authorization if I might infer from the statement "the only alternative would appear to be individual adjustments with respect to trade matters" that the Department has no objection to our proceeding to a discussion of the following points with a view to reaching what Pilja terms a "practical agreement":

- (1) quota to be allotted to automobiles and trucks;
- (2) method of application of ratio to automobiles (last paragraph of Department's 39);
- (3) treatment to be accorded to other American products included on import control list.

Our feeling is that even though Foreign Office is unwilling to commit itself in writing to accord us nondiscriminatory treatment it is desirous of finding some practical formula which will enable the United States to feel that we are not being discriminated against materially.

I should appreciate Department's urgent telegraphic instructions as to whether in the light of the foregoing I am authorized to negotiate three points mentioned. Next meeting to be held Monday morning October 10.

LANE

611.60H31/130 : Telegram

The Acting Secretary of State to the Minister in Yugoslavia (Lane)

WASHINGTON, October 10, 1938—7 p. m.

41. Your 147, October 8, 3 p. m.²¹ The Yugoslav Minister was asked to come in on October 8. He had not been informed of the new import restrictions and promised to telegraph his Government about it immediately. We are of course gratified by the result of your representations.

Your 148, October 8, 4 p. m. You should express regret that the Yugoslav authorities are not prepared to conclude the proposed *modus vivendi* at this time, and proceed to work out with them satisfactory solutions in the case of individual products.

WELLES

²¹ Not printed; the Minister reported that Pilja had informed him that additions to the import control list had been made by the Yugoslav Minister of Finance, but that he, Pilja, would see to it that they were cancelled within the next few days (660H.006/19).

611.60H31/145 : Telegram

The Secretary of State to the Minister in Yugoslavia (Lane)

WASHINGTON, November 10, 1938—1 p. m.

46. Your November 4, 7 p. m., 324, November 8, noon, 328, November 9, 3 [6] p. m. from Rome.²² With respect to automobiles and trucks, you should indicate that we cannot, in view of our policy in these matters, put ourselves in the position of accepting a share (such as 30%) which is not equivalent to the proportion supplied by this country in a representative period. The same applies to other important articles on the control list, for which you should request representative period quotas.

You may in your discretion as to timing inform the Yugoslav authorities that if they are unable to give us quotas based upon our share in representative periods, any improvements, approaching such quotas as closely as possible, would of course be appreciated but could not be considered as satisfying the requirements of our policy.

For your information. Unless the quotas conform to the representative period basis, we would not wish to enter into any exchange of notes which could be construed as constituting an agreement in derogation of that policy.

Any question of transferability would arise only in respect of items of which the United States is a minor supplier and which might advantageously be included in a lump sum quota.

We would expect that unused portions of quotas on automobiles as well as on other products of particular interest to us would be carried over to the next period or periods. This is of course especially important in the case of seasonal items.

HULL

611.60H31/148 : Telegram

The Minister in Yugoslavia (Lane) to the Secretary of State

BELGRADE, November 15, 1938—6 p. m.

[Received 7:30 p. m.]

164. Department's 46, November 10, 1 p. m.

1. As soon as Pilja and other negotiators return from Rome I shall request meeting in order to emphasize to them Department's views contained in paragraphs 1 and 2 of Department's telegram.

2. As to paragraphs 2 and 3, in the event that we cannot persuade Yugoslav Government to agree to grant to us percentages covering representative period (that is quota of 40 per cent for passenger automobiles and 35 per cent for trucks) will the Department accept, with the reservation that it does not satisfy the requirements of the policy of the United States Government, a unilateral declaration on the part

²² None printed.

of the Yugoslav Government that it will grant us quotas for passenger automobiles and trucks each for 30 percent of the total importations of the respective products into Yugoslavia for the preceding 3 months? Thus if the total passenger automobile imports for the last 3 months of 1938 should amount to 25,000,000 dinars we should have a quota for the first 3 months of 1939 of approximately 7,500,000 dinars, any unused portion to be carried over to the next quarter or quarters.

3. We are compiling figures on other controlled items and will submit shortly to the Department our recommendations. It must be borne in mind, however, that Yugoslav authorities have indicated unwillingness to grant percentage quotas for these items although they are apparently willing to grant us same quantitative importations as we enjoyed in 1935. Even should Yugoslav Government agree to grant us a percentage quota for each controlled product negotiations would necessarily be extended.

4. As to paragraph 2 *supra* I should appreciate the Department's specific instructions, for my guidance, (a) whether unilateral declaration by Yugoslav Government with respect to automobiles and trucks would be acceptable as a temporary expedient, even though we may not now be granted quotas for other controlled products other than those equal to our 1935 quantitative importations; (b) if so whether it should be tendered to us orally or in writing; (c) and in latter case what reservation we should make in acknowledging note.

5. In view of my proposed departure on November 27 I should appreciate an urgent reply so that I may be prepared for next meeting.

LANE

611.60H31/148 : Telegram

The Secretary of State to the Minister in Yugoslavia (Lane)

WASHINGTON, November 17, 1938—6 p. m.

48. Your 164, November 15, 6 p. m. (a) We have no objection to a unilateral declaration as you propose. (b) Such a declaration might be given in the form of a memorandum. However, (c) there should be no acknowledging note.

HULL

611.60H31/149 : Telegram

The Minister in Yugoslavia (Lane) to the Secretary of State

BELGRADE, November 26, 1938—9 p. m.

[Received November 27—9:50 a. m.]

174. Department's 48, November 17, 6 p. m. At meeting this evening after I had stated our position, Yugoslav negotiators offered to furnish us on Monday a memorandum in the following terms:²³

²³ Memorandum dated November 29, containing the unilateral declaration of the Yugoslav Government, was delivered to the American Legation on November 30 (611.60H31/151).

"The Government of Yugoslavia, while regretting that it can not, for practical reasons, accord to the United States the quotas for passenger automobiles and trucks which conform to the United States Government's views as being representative of the imports from the United States in the past, is pleased to grant assurance that, during the calendar year 1939, import permits providing for payment in free exchange will be granted for passenger automobiles and trucks manufactured in the United States equivalent to 30% each of the value of the total Yugoslav imports of passenger automobiles and trucks, such percentage to be calculated in the following manners:

During the 6 months period January 1 to June 30, 1939 the value of permits to be granted will be 30% of the total Yugoslav imports of passenger automobiles and trucks, calculated separately, during the immediately preceding half year (i. e. July 1 to December 31, 1938). Calculations for the second half year of 1939 will in like manner be based on the total imports of passenger automobiles and trucks in the immediately preceding half year.

The Yugoslav Government will supply to the Legation of the United States at Belgrade at the beginning of each half year of 1939 statements of the total imports of passenger cars and trucks, compiled separately, during the preceding half year, on which the 30% quota for the United States will be based.

The Yugoslav Government will be ready at any time to continue these conversations regarding the application of the import control and to inaugurate conversation relating to the conclusion of a regular commercial agreement."

I emphasized the Department's desire that unused portions of quotas for automobiles and trucks be carried over to the next period or periods and reminded the Yugoslav delegation that this had, in principle, been agreed upon as long ago as February [5,] 1938 when Fotie [*Fotitch*] indicated acceptance of point 1 of Department's counter proposals of December 15, 1937. The Yugoslav delegation however maintained that such acceptance referred only to an offer of fixed quotas based on American exports to Yugoslavia in 1935 and not to percentage quotas such as those offered, arguing that the national endeavors to maintain the importation of controlled articles at uniform rate and that an accumulation of unused quotas from one period to another might lead to inconvenient fluctuations. I then proposed that the quota periods be increased from 3 months to 6 months each, thus insuring importers more time for adjusting their imports to seasonal demand, and this latter proposal was accepted.

LANE

THE NEAR EAST AND AFRICA

EGYPT

REQUEST BY EGYPTIAN GOVERNMENT FOR A REDUCTION OF THE UNITED STATES TARIFF RATE ON LONG-STAPLE COTTON

611.8331/101

The Egyptian Chargé (Rady) to the Secretary of State

No. 570

The Chargé d'Affaires ad interim of Egypt presents his compliments to the Honourable the Secretary of State, and acting on official instructions has the honour to submit the following for the kind attention of Mr. Hull:—

The Egyptian Ministry of Finance has observed a falling off in the exportation of cotton during this year, although harvest yields have increased and are increasing year by year due to the betterment of conditions of culture, the selection of varieties and the extension of land under cultivation which is being changed as a result of irrigation and drainage projects. For this reason the Egyptian authorities are anxious to increase the amount of cotton exported to foreign countries—particularly to those countries which have reduced their importation of cotton or which are importing insignificant quantities thereof in comparison with the amount of their exportations to Egypt.

The United States of America is among these countries. The following is a brief sketch of the commercial relations with them.

Until the middle of 1930 the United States was numbered among the large purchasers of Egyptian cotton, as will be seen from the following statistics:

| <i>Year</i> | <i>Quantity of Egyptian cotton imported Cantars</i> |
|-------------|---|
| 1925 | 1, 038, 700 |
| 1926 | 1, 044, 300 |
| 1927 | 1, 226, 300 |
| 1928 | 977, 300 |
| 1929 | 1, 277, 100 |

However, after the passing of the Smoot-Hawley Tariff Act of 1930,¹ which placed a seven cents per pound tax on long fibre cotton,

¹ 46 Stat. 590.

exportations of cotton to the United States of America were considerably reduced, as will be seen from the figures given hereunder :

| <i>Year</i> | <i>Quantity of Egyptian cotton imported Cantars</i> |
|-------------|---|
| 1930 | 373,000 |
| 1931 | 186,500 |
| 1932 | 405,000 |
| 1933 | 375,350 |
| 1934 | 358,400 |
| 1935 | 270,600 |
| 1936 | 261,100 |
| 1937 | 257,750 |

In addition, it is observed that the commercial balance with Egypt showed a surplus nearly every year, as will be seen from the following figures for the last eight years:—

| <i>Year</i> | <i>In favour of Egypt L. E.</i> | <i>In favour of the U. S. A. L. E.</i> |
|-------------|-------------------------------------|--|
| 1930 | 249,000 | |
| 1931 | 676,000 | |
| 1932 | | 462,000 |
| 1933 | | 408,000 |
| 1934 | | 21,000 |
| 1935 | 300,000 | |
| 1936 | | 329,000 |
| 1937 | 487,000 | |

The only reason it was in favour of Egypt in 1937 was because the Royal Egyptian Ministry of Finance sold a quantity of gold to a large London house and this was exported directly from Egypt to the United States of America.

But, on deducting the price represented by the sale of this gold, which amounts to L. E. 1,069,000 from the total exportations from Egypt because of its purely accidental character, we find the normal commercial balance revealed—that is to say it was in favour of the United States for the sum of L. E. 582,000.

The Egyptian Government has already taken official steps with a view to persuading the American Government to rectify this heavy tax on cotton, onions and manganese but without result; although American industries themselves have made representations for a reduction in the interest of the tire industry.

In the circumstances the Egyptian Government hopes that the American Government will be prepared to exert its friendly cooperation with a view to re-establishing the commercial balance through appropriate measures which would increase the bulk of importations of Egyptian products, with particular reference to cotton, and thus strengthen and render more fruitful the good relations which so happily exist between the two countries.

It should be added that with the exception of moderate protection accorded to certain rising industries, Egypt has taken no restrictive measures in respect of importations from any country whatsoever. But, having regard to actual economic conditions and to the restrictions to which her products are subjected abroad, she endeavours to maintain equilibrium of the commercial balance by appropriate measures and to keep intact her relations with the countries in which her products find an important market. Moreover, these countries are all concerned in her views in this regard, not only because of Egypt's search for mutual interest, but also owing to the fact that the Egyptian products which are exported are for the most part raw materials used in supplying industry and trade in these countries.

In conclusion, the Royal Egyptian Government is convinced that in this manner a particularly favourable solution will be found, obviating the necessity of having recourse to such measures which interest in preserving the commercial balance would inspire.

The Chargé d'Affaires will appreciate it very much indeed if Mr. Hull will kindly inform him of the point of view of the United States Government in regard to this question; and avails himself [etc.]

WASHINGTON, 5 July, 1938.

611.8331/101

The Secretary of State to the Egyptian Chargé (Rady)

The Secretary of State presents his compliments to the Chargé d'Affaires ad interim of Egypt and acknowledges the latter's note No. 570 of July 5, 1938, expressing the hope that this Government will be prepared to accord its friendly cooperation with a view to the promotion of trade between the two countries through appropriate measures which would increase the bulk of importations of Egyptian products, with particular reference to cotton.

The Chargé d'Affaires is assured that this Government has constantly in mind the development by all practical means of its trade with other countries on the basis of a mutuality of interests and that the most careful consideration will be given to the facts set forth and to the views expressed in his communication.

WASHINGTON, July 11, 1938.

611.8331/104

*Memorandum of Conversation, by Mr. Jacques J. Reinstein of the
Division of Trade Agreements*

[WASHINGTON,] August 16, 1938.

Mr. Rady called by appointment to see Mr. Hawkins² this afternoon to get information on several matters for his Government. He asked

² Harry C. Hawkins, Chief of the Division of Trade Agreements.

about the concession which the United States granted to Brazil on manganese and was furnished a copy of the Brazilian agreement.³ He was informed that the concession is extended to Egypt. Mr. Rady asked if any further reduction in the manganese duty would be made in the trade agreement with the United Kingdom. He was told that it was impossible to say at the present time exactly what the terms of the agreement would be.

Mr. Rady also asked for any information of a general character which he could transmit to his Government on the negotiations with the United Kingdom.⁴ He was given copies of the notice of intention to negotiate with the United Kingdom⁵ and of the list of products on which the United States will consider granting concessions. He was told that the negotiations were progressing, but that in view of the large number of products involved, it was difficult to say when the agreement would be concluded.

At the conclusion of the conversation, Mr. Rady referred to the Egyptian note of July 5, 1938, requesting a duty reduction on long-staple cotton. Mr. Hawkins said that the only way in which the request could be granted would be in connection with a trade agreement and that the possible bases for an agreement were now being studied. Mr. Rady asked whether the bases for such an agreement would be those which had been outlined by the Secretary of State and other officials of the Department in speeches. He was informed that the principle of unconditional most-favored-nation treatment and the other policies which have been referred to in public statements are those upon which our trade agreements are based, and that we would probably wish to discuss them with him in greater detail at some later date.

611.833/62

Memorandum of Conversation, by the Assistant Chief of the Division of Near Eastern Affairs (Alling)

[WASHINGTON,] December 8, 1938.

Participants: The Egyptian Minister;⁶
 Mr. Rady, First Secretary of the Egyptian Legation;
 Mr. Murray;⁷
 Mr. Hawkins;
 Mr. Reinstein;
 Mr. Alling.

The Egyptian Minister called today by appointment to discuss further the status of the request of the Egyptian Government for a reduc-

³ Signed February 2, 1935, Department of State Executive Agreement Series No. 82, or 49 Stat. 3808.

⁴ See pp. 1 ff.

⁵ Department of State, *Press Releases*, January 8, 1938, p. 45.

⁶ Mahmoud Hassan Bey.

⁷ Wallace Murray, Chief of the Division of Near Eastern Affairs.

tion in or abolition of the duty on long-staple cotton. The Minister rehearsed at some length the unfavorable effect which the present duty had had upon exports of cotton from his country to the United States, stressed the fact that his Government had, up to the present, taken no retaliatory measures against American trade and expressed the strong hope that early action would be taken to give his Government satisfaction. Mr. Murray and Mr. Hawkins explained to the Minister in detail the machinery used in the negotiation of trade agreements and also explained that a reduction in the duty on cotton could for all practical purposes be brought about only through a trade agreement. The Minister was given further assurance by Mr. Hawkins that the various interested departments and agencies of the Government were pressing their studies as rapidly as possible and that it was hoped that some decision could be reached in the not distant future. The Minister replied that the matter had been under consideration for several years, that one of the main reasons he had been sent here was to try to reach an agreement on this important question and he again expressed the hope that a decision could be expedited.

ETHIOPIA

REPRESSIVE MEASURES BY THE ITALIAN AUTHORITIES AGAINST FOREIGN MISSIONARY ACTIVITIES IN ETHIOPIA¹

365D.1163/107

The Vice Consul at Aden (Chiperfield) to the Secretary of State

No. 115

ADEN, January 13, 1938.

[Received February 5.]

SIR: I have the honor to acknowledge the receipt of the Department's confidential instruction dated December 16, 1937,² enclosing a copy of a despatch of the American Ambassador at Rome entitled "Protestant Missions in Ethiopia",³ and inviting comment thereon.

Under date of December 13, 1937, the Consulate submitted despatch No. 108,⁴ entitled "Conditions in Ethiopia", in which certain comments were made regarding the treatment of American missionaries in that country. Unfortunately, little additional information is now available, and the undersigned has heard no reports regarding the proposed advisory committee of Protestant Ethiopian Missions in Rome.

Whether the American Protestant Mission in Addis Ababa will approve of this plan of an advisory committee and cooperate is not known, but it appears from such information as is before this office that the Italians are determined eventually to "take over" the work of all foreign missions in Ethiopia. The missionaries are being slowly pushed from the country, largely by Italian restriction of their activities and the forced sale of Mission property to the Italian authorities. The restrictions, such as prohibition of travel outside of Addis Ababa, or other cities, applies equally to all civilians, and is equally irksome to business men in that country. In the case of the missionaries, of course, it has put an end to all of their field work. In regard to the forced sale of Mission property, it is understood that in some cases the Italian authorities have simply served notice that certain property or residences will be required for official use in the near future, and a fair price has been paid the Mission. There is an acute housing

¹ Continued from *Foreign Relations*, 1937, vol. II, pp. 697-717.

² Not printed.

³ Despatch No. 668, November 26, 1937, *Foreign Relations*, 1937, vol. II, p. 714.

⁴ *Ibid.*, p. 716.

shortage now in Addis Ababa, and it appears almost impossible for the missionaries to obtain other suitable living quarters and clinics. It is believed, however, that the Italian authorities have similarly acquired other property from aliens in business at Addis Ababa, and not solely from missionaries.

The American Mission (United Presbyterian) at Addis Ababa, until last month at least, has had none of their property acquired by the Italians, but it is understood that the Sudan Interior Mission and the Seventh Day Adventist Mission have had to give up certain property. There is the likelihood of kindlier treatment to the American group because it is representative of a nonsanctionist country. The Sudan Interior Mission is half American, however, and now has at least seven American missionaries in Addis Ababa.

Mr. Duff, the American head of the Sudan Interior Mission at Addis Ababa predicted in a conversation with the undersigned about five weeks ago that by the end of 1938 no American missionaries, at least, would be left in Ethiopia. In my despatch No. 108 the names of all American missionaries now in Ethiopia were listed. It is believed that at the present time there are 22 American missionaries and 2 American children in Addis Ababa. While the missionaries have been slowing [*slowly*] leaving Ethiopia for some time, singly or in small groups, this office has heard of no case where any of these persons has been actually expelled by the Italian authorities.

It seems very doubtful that any of the foreign missions will continue much longer in Ethiopia due to the difficulties confronting them. Possibly some feel that as the Italians are taking over certain hospital work, their services might be more useful and needed in other fields.

Respectfully yours,

C. B. CHIPERFIELD

365D.1163/108

The Ambassador in Italy (Phillips) to the Secretary of State

No. 782

ROME, January 28, 1938.

[Received February 8.]

SIR: I have the honor to refer to the Department's instruction No. 183 of September 15th, 1937 (File No. 365D.1163/99),⁵ concerning certain mission properties of the United Presbyterian Church of North America in Western Ethiopia which were occupied by the Italian military authorities in November 1936, shortly after the withdrawal of the missionary staff.

Immediately upon receipt of the Department's instruction under reference, the Embassy informally approached the Italian Foreign

⁵ *Foreign Relations*, 1937, vol. II, p. 713.

Office in the matter, as requested, but unfortunately so far little has been accomplished. On September 27th, 1937, the Counselor of the Embassy, Mr. Reed, addressed an appropriate letter to Commendatore Grazzi, who, with the rank of Minister, is in charge of the direction of Overseas Affairs in the Foreign Office. Commendatore Grazzi replied that he had brought the matter to the attention of the Ministry of Italian Africa, but on November 12th, when Third Secretary McGregor called at the Overseas Division on other affairs, he learned that no word had been received on the subject. On the 22nd of December, Mr. Reed received a letter from Commendatore Grazzi stating that he was doing his best to expedite matters but that he had nothing new to report. On January 24th, 1938, Mr. Reed called on Commendatore Grazzi with a memorandum concerning cases still pending between the Embassy and the Foreign Office, which Signor Grazzi promised he would expedite. Finally, the Embassy has now received an *Aide-Mémoire* from the Italian Foreign Office dated January 28th, stating that

“With reference to the Memorandum of the Embassy of the United States of America dated January 24, and particularly to the question of the occupied property in Ethiopia belonging to the United Presbyterian Church of North America, the Royal Ministry of Foreign Affairs has the honor to state that this important question is now being studied by the competent Royal authorities.

As soon as the reply, which has already been repeatedly solicited, has been received from the Ministry of Italian Africa, this Ministry will immediately notify the Embassy of the United States.”

The Embassy will continue to press this question to the best of its ability.

Respectfully yours,

For the Ambassador:
EDWARD L. REED
Counselor of Embassy

365D.1163/111

The Consul at Nairobi (Smith) to the Secretary of State

No. 31

NAIROBI, February 4, 1938.

[Received March 12.]

SIR: I have the honor to report that, there being no American Legation or Consulate in Ethiopia, I have made inquiries regarding the status of American missionary societies and personnel in that territory, and have been reliably informed that the Sudan Interior Mission at Addis Ababa was to be closed down January 15, 1938, and the Italian Government was to purchase the mission property. My informant regarding this information, Mr. George W. Rhoad, a mis-

sionary who had spent five years at Addis Ababa just prior to 1932, stated that he had been told that the Italian Government had already occupied the buildings of the mission, except the leper building. The main building, situated on a bluff over the city, was immediately taken over, upon the arrival of the Italian troops two years ago, and probably turned into a fortress, as it overlooked the entire city, and commanded the road to the city from the south.

My informant stated that there were only three American Missionary societies operating in Ethiopia, The Sudan Interior Mission, referred to above, The United Presbyterian Mission and The Seventh Day Adventists. He stated that all were closing down, the Italian Government purchasing the properties and the missionaries leaving the territory. It was his view that the policy of the Italian Government was apparently to re-place all missionaries with Italian Roman Catholic priests, and even the French Roman Catholic missionaries, according to him, had been asked to leave, and had departed. He stated that the only possible exception might be a few American medical missionaries, who might be permitted to remain, and carry on strictly medical work, leaving the saving of souls to the Italian Roman Catholics.

Another informant, a member of the local Seventh Day Adventists, stated that his organization was still carrying on at Addis Ababa, and that there were three Americans with their wives still there. He stated further, as their tour of duty had expired long ago, they had been trying to get out of Ethiopia for the last year, but that the Italian Government would not permit them to leave. It was his view that this attitude on the part of the Italian Government was caused by the fear that they knew too much about conditions obtaining at Addis Ababa. When I asked him whether this office should take steps to see that they were permitted to leave the country, he said that The Seventh Day Adventists organization in Washington knew the situation and had probably already approached the Department of State. This is the only case I have heard of in which the Italian Government is alleged to be holding missionaries in Ethiopia, and I am inclined to view it skeptically.

The Seventh Day Adventists, my informant states, are still running a boys' school and a hospital at Addis Ababa. Their hospital at Dessie was badly damaged during the conquest, and the organization now carries on no operations outside of Addis Ababa.

In short, the Sudan Interior Mission, which formerly had a personnel of 70, is now practically out of Ethiopia. The United Presbyterian Mission, which formerly had a personnel of about 30, is also practically closed up. The Seventh Day Adventists, which formerly had between 30 and 40, still maintain a small staff at Ethiopia, and

according to my local informant, do not intend to leave Addis Ababa unless they are obliged to do so. But their activities are confined to teaching and to medical work and no religious work by this or any other American missionary organization is now being permitted. Thus the number of American missionary personnel in Ethiopia is probably less than ten.

Should any further information come to this office, it will, of course, be forwarded to the Department for its information.

Respectfully yours,

E. TALBOT SMITH

365D.1163/106

The Secretary of State to the Ambassador in Italy (Phillips)

No. 253

WASHINGTON, February 7, 1938.

SIR: The Department refers to instruction No. 183 of September 15, 1937,⁶ in which the Embassy was requested to bring informally to the attention of the appropriate Italian authorities the desire of the United Presbyterian Board of Foreign Missions, in Philadelphia, to be informed of the intentions of the Italian Government with regard to the mission properties at Sayo and Gore, in Western Ethiopia, which were occupied by the Italian military authorities in November of 1936.

There is enclosed for your information a copy of a further communication from the Board, dated January 24, 1938,⁷ expressing its continued anxiety over the status of its properties in Western Ethiopia. All reports reaching the Department indicate that the principal difficulty experienced by the missionaries in Ethiopia has been the expropriation of their properties. You will have noted, however, that the Consul at Aden states in the last paragraph of his despatch of December 13, 1937,⁸ a copy of which was transmitted to the Embassy, that he is informed that fair prices are being paid by the Italian authorities for mission properties which have been taken over. If the information reported by the Consul at Aden is correct, the Department fails to understand why the United Presbyterian Board is apparently receiving less considerate treatment than the other societies. In the event, therefore, that the Embassy has not received a reply to its earlier inquiry, it is requested to bring the matter once more to the attention of the appropriate Italian authorities, and to ask to be informed of the steps which will be taken toward a settlement with the Board.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

⁶ *Foreign Relations*, 1937, vol. II, p. 713.

⁷ Not printed.

⁸ *Foreign Relations*, 1937, vol. II, p. 716.

365D.1163/119

The Consul at Nairobi (Smith) to the Secretary of State

No. 81

NAIROBI, May 11, 1938.

[Received June 22.]

SIR: I have the honor to refer to this office's despatch No. 31 of February 4, 1938 entitled "American Missionaries in Ethiopia" and to the confidential informal comments of the Chief of the Division of Near Eastern Affairs dated April 2, 1938^o on this report.

One Yervant S. Saatjian, an Armenian, who states that he worked as a clerk in the American Legation at Addis Ababa for three years and left Ethiopia at the end of March, 1938, has just arrived in Nairobi, and I took the occasion to secure the latest data from him regarding the status of American missions in Ethiopia. Mr. Saatjian confirms the allegation of the Division of Near Eastern Affairs that Seventh Day Adventists were not detained by the Italian authorities, and adds that the statement on the first page of my despatch No. 31 to the effect that the Italian Government had taken over all the buildings except the leper building from the Sudan Interior Mission is not true.

The following statement by Mr. Saatjian covers the situation up to the end of March, 1938, and should be considered as complementary to and correcting my previous report:

There exist at the present four missionary groups in Ethiopia. Their principal activities are carried on in Addis Ababa. These are:—

1. The United Presbyterian Mission (American Mission Hospital).
2. Sudan Interior Mission.
3. Seventh Day Adventists Mission.
4. An independent mission.

United Presbyterian Mission.

This mission was established about 15 years ago and maintains a hospital in Addis Ababa and a station in Sayo (Wollaga [*Walega*] Province). The Addis Ababa hospital, which is the main activity of the mission at present, treats principally natives and a number of foreigners (Armenians, Greeks, Arabs and Indians). Very few Italian civilians frequent it. The chief doctor is Dr. Kramer (?), and the general manager is a certain Mr. Henry, both Americans. As far as is known, the Italian Government has not interfered in any manner with the activities of this hospital. Mr. Henry, however, was beaten up near the center of the town on the day of the attempt on the life of Marshal Grazziani, February 19, 1937. This incident, it is be-

^o Not found in Department files.

lieved, is known to Washington.¹⁰ Since then nothing of importance has happened in regard to the hospital and this institution has carried on its hospital activities very regularly. No military body, military official, or any civil employee is engaged at or lives on the hospital grounds.

The annexed elementary school no longer exists because the Italian Government has taken over all native education to itself.

All Italian military patients are treated in the government military hospital and the civilians in general are treated in the modern Italian hospital. The few Italians who frequent the mission hospitals for treatment are generally those who have contracted some venereal disease, and avoid the Italian hospital to conceal their condition. The work of the hospital in general is prosperous and it is believed fully self-supporting.

This mission also maintains its station in Sayo.

Sudan Interior Mission.

As is probably known to the Department, this missionary organization was established a few years ago by Dr. Lambie and was the largest missionary organization in Ethiopia. The mission has a large leprosy section on the outskirts of Addis Ababa on one side of the principal Italian aerodrome and residences are on the other side of the aerodrome. They had a good many stations in the south and south-east sections of Ethiopia. The mission is composed of Americans, English, Australians, Canadians and New Zealanders.

During the Italian Ethiopian war and at the end of the war, almost all of the missionaries in the interior of the country had to evacuate under difficult conditions and a small number of them were killed by Ethiopian bandits. Most of them gathered in Addis Ababa, while one passed direct into Kenya Colony (Smith?).

The missionaries in the interior lost all their personal effects. The Government did not show any particular inclination to encourage their work or to indemnify their losses. The buildings or premises in the interior were occupied by the Italian army or Italian civilians, as these posts were gradually conquered. The attitude of the Italian Government from the beginning has been unsympathetic and suspicious, particularly towards this mission. Reasons for this attitude must exist and some of them probably are:

1. Dr. Lambie gave help in many ways to the Ethiopian Government during the war.
2. The existence of too many Britishers and other nationals in the mission, and the Italian-British tension during the past few years.

¹⁰ See telegram No. 48, February 20, 1937, 2 p. m., from the Minister Resident in Ethiopia, *Foreign Relations*, 1937, vol. II, p. 680.

3. Some of the members of the mission have taken an active part in political questions. There have even been journalists among them.

4. The organization was too great and too close to the Ethiopians and the institution seemed too antagonistic, imparting to the natives religious or other principles not in harmony with the ideas of the dictatorial regime. Their teachings, in other words, made it more difficult to enforce the repressive measures of the Fascist regime.

5. The leprosy buildings and the residences are too near to the aerodrome, the only one in Addis Ababa, and activities could not be carried on with the privacy the Italians desired.

The clause concerning British subjects and missionaries in Ethiopia in the new Italo-British agreement¹¹ affects principally the members of this mission.

On several occasions before the beginning of 1938, government officials formally, and sometimes informally, have shown interest about the details of the mission, about renting or occupying the premises, about themselves managing the leprosy, et cetera. They have, in other words, shown continuously that the mission was not wanted. Dr. Lambie had to leave the country soon after the Italian occupation, while many of the other members gradually departed leaving in Addis Ababa a handful of the staff. The management is now in the hands of a Mr. Duff (British).

At about the beginning of 1938 the Government made known its intention of taking over the buildings and grounds. Estimates were made and after long consideration, the Italian Government agreed to pay about £14,000 for all buildings and rights in Addis Ababa and in the interior. The Government tried by every means to pay this sum in Italian lira, but Mr. Duff firmly refused to accept such payment and refused to sign any contract presented to him before receiving the whole sum in pound sterling check. The question was referred to Rome by a special messenger and just about the end of March Mr. Duff was informed that authorization had been received to pay in pounds sterling.

As the premises will be evacuated, few missionaries will continue to stay in Addis Ababa where lodging is very difficult to procure and living conditions are poor.

Seventh Day Adventists.

The head of this mission has been for a long time a Mr. Sorenson, an American citizen of Swedish origin. This mission maintains a large hospital in Addis Ababa and in general it has more capable physicians than the American Mission Hospital (United Presbyterian Mission). The name of the hospital is Filowa Hospital. It has an excellent reputation among the foreign populace of Addis Ababa and

¹¹ Anglo-Italian agreement signed at Rome, April 16, 1938; for text, see League of Nations Treaty Series, vol. cxcv, p. 77.

many Greeks, Armenians, Arabs and Indians patronize it. As far as could be observed from conversations with Mr. Sorenson, the hospital is not interfered with at all by the Government. The staff is made up entirely of Americans and Swedes. There are generally one or two doctors, one lady doctor, and about three nurses, most of whom are now Americans of Swedish origin. The hospital is doing well and most certainly is making a surplus over expenses.

The school of this mission has not been so fortunate, as there has been some friction with local authorities. On several occasions servants and some of the pupils have been arrested. There have been too many calls and inquiries about the operation of this school, and occasional complaints by the Government.

This mission had valuable grounds and premises in Eritrea, Dessie and in some other parts of northern Ethiopia. The property in Eritrea was confiscated at the beginning of the Italian-Ethiopian conflict, and immediately after the war, the properties in Dessie and in other parts were confiscated, leaving to the mission only the Addis Ababa establishment. The director, Mr. Sorenson, has been in controversy with the Government about these properties and has on several occasions demanded rent and their return. No solution had yet been arrived at when Mr. Saatjian left Ethiopia at the end of March. Mr. Sorenson is not in sympathy with the present regime, and this doubtless is militating against a settlement.

Few Italians frequent the hospital of this mission, but they form a larger number than those who go for treatment to the American Mission Hospital. Difficulty with the Government regarding this hospital is not contemplated in the near future.

There are only about four Americans still connected with this mission. Actually they do not have any posts outside Addis Ababa.

Independent and Free Mission of Miss Dammermugh, Miss Shippey and Miss French—All Americans.

These ladies do not belong to any sect or organization, but work independently, receiving their income from private sources in the United States. They say they hardly cover expenses. They carry on educational work and Bible teaching to native Ethiopians as well as to Armenians. They have adopted one or two native babies, but are prohibited from taking them abroad. As the Department probably knows, these ladies were accused of being British spies early in 1936 in a broadcast on the Rome radio, but no particular order or instruction has been issued against them in Addis Ababa. They have been very unfortunate as to their housing and lodging, and during the past four years have been obliged to change their premises five times, each move being at a distant quarter from the other. They occupied the premises of the Swedish mission, the mem-

bers of which were all deported, but recently an Italian Protestant Bishop (a military official) claimed these premises and the three ladies were obliged to satisfy themselves with one or two rooms only and probably they will be chased away again. They do not, as yet, pretend to be discouraged and do not intend to leave the country.

General.

It is believed that of the formerly existing fifteen missions in the interior only one or two are left, all others being abandoned. The medical and all other supplies for the missionaries are provided generally from the local market of Addis Ababa and imported from Italy. Occasionally, by special authorization procured from the Government, some instruments or equipment or parts thereof are brought from the United States or England on the basis of a bona fide declaration that no foreign exchange will be required for the cost or for the transport charges. In other words, capital must be coming from without, nothing being taken from within, but such imports from England or America amount to an insignificant quantity. Personal effects or clothing come in occasionally by parcel post from the United States or England to various members of the missionary organizations and are delivered after special authorization by the Government. Usually there is a delay of about a month for such permits, but rarely are they refused.

Mr. Saatjian impresses me as a thoroughly reliable young man, and it is believed that he has taken every care to make his statement as correct as possible. But, as in my previous report, the Department will realize that this is hearsay, and that I have no means here of confirming Mr. Saatjian's statements.

Respectfully yours,

E. TALBOT SMITH

365D.1163/116

The Ambassador in Italy (Phillips) to the Secretary of State

No. 922

ROME, May 24, 1938.

[Received June 7.]

SIR: With reference to the Embassy's despatch No. 752 [782] of January 28, 1938 and to the Department's instruction No. 253 of February 7, 1938 (File No. 365D.1163/106) concerning the United Presbyterian Mission properties in Italian East Africa, I have the honor to inform the Department that this matter has been repeatedly called to the attention of the Foreign Office and a definitive reply solicited.

On the occasion of a call on May 23 by a member of the Embassy staff on the Foreign Office official in charge of African affairs, the latter stated that the matter was still under consideration by the Vice

Regal authorities in East Africa and that an estimate of the value of the properties was in the course of preparation. He understood that, in drawing up the estimates, the Mission authorities were being consulted. As soon as the estimates could be prepared, the question of the funds involved would then have to be taken up with the Exchange Minister. Commendatore Guarnaschelli promised, however, to keep the Embassy informed of any developments in this connection.

Respectfully yours,

For the Ambassador:
EDWARD L. REED
Counselor of Embassy

365D.4163/6

The Ambassador in Italy (Phillips) to the Secretary of State

No. 995

ROME, July 8, 1938.

[Received July 20.]

SIR: With reference to the Department's instruction No. 330 of June 24, 1938,¹³ transmitting a memorandum prepared in the Division of Near Eastern Affairs relating to the recent Anglo-Italian Accords and the provisions thereof concerning the treatment of British religious bodies, I have the honor to submit the following observations.

According to the basic ordinance drawn up for the organization and administration of Italian East Africa, Royal Decree Law No. 1019 of June 1, 1936, Article 31 (see Embassy's despatch No. 1743 of June 17, 1936¹³), "absolute respect of religion is guaranteed in Italian East Africa". In so far as the Embassy has been able to ascertain no subsequent Italian legislation deals with the question of missionary rights in the Italian territories, but the Embassy will continue to follow the situation and will report immediately any new legislative developments.

It will be recalled, however, that the Minister of Foreign Affairs informed me on June 18, 1937 that

" . . . the Duce to whom the question regarding the foreign missions in Italian East Africa had been submitted, has in fact decided not to entrust to foreigners to whatever religion they may belong, the work of establishing schools of any grade in the territories of the Empire. The decision has a general character and responds to criteria of a general character.

If the said missions, outside the educational field, intend to carry on work of a humanitarian and philanthropic character, any requests will in due time be examined, when the juridical question of recognition of the Empire has become an established fact." (see Embassy's despatch No. 442 of June 23, 1937.¹⁴)

¹³ Not printed.

¹⁴ Not printed, but see telegram No. 291, June 21, 1937, 1 p. m., from the Ambassador in Italy, *Foreign Relations*, 1937, vol. II, p. 710.

It would seem that this criterion had also been applied in the negotiations with Great Britain, since the British Ambassador informed the Embassy at the outset of the conversations that he had been instructed to seek an agreement to afford facilities to missionaries in Ethiopia without distinction of nationality or religion or, in other words, to endeavor to apply the provisions of Article 11 of the Treaty of St. Germain-en-Laye of 1919¹⁵ to the former Abyssinian territory. He was unsuccessful in obtaining further assurances than those contained in Annex 7 of the Accord.

Respectfully yours,

WILLIAM PHILLIPS

865D.00/38

The Vice Consul at Aden (Chiperfield) to the Secretary of State

[Extract]

No. 157

ADEN, September 6, 1938.

[Received September 26.]

SIR: I have the honor to report certain information which I have gained from one Reverend Everett Lewis, an American missionary who recently passed through Aden en route to Egypt from Addis Ababa. He has spent most of the past ten years in Ethiopia.

Americans Now Resident in Ethiopia.

There is enclosed a list¹⁶ of all Americans now known to be resident in Ethiopia according to the statements of Mr. Lewis. It will be noted that of these 18 persons, 13 are missionaries, 4 are children, and the remaining individual is an aged American Negro.

Withdrawal of the Sudan Interior Mission.

All the members of the Sudan Interior Mission at Addis Ababa left Ethiopia late in August. The Americans leaving are listed below.

Rev. & Mrs. Everett Earl Lewis

Children: Alma Ruth

Phillip Irwin

Rev. & Mrs. Clarence W. Duff

Child: Donald James

Miss Ruth Bray, R. M.

Miss Selma Bergsten

Mr. Lewis explained that his mission had decided to give up work in the country because of the difficulties encountered which so ham-

¹⁵ Convention for the revision of the General Act of Berlin of February 26, 1885, and the General Act and Declaration of Brussels of July 2, 1890, signed at Saint-Germain-en-Laye September 10, 1919. This convention was ratified by the United States, subject to an understanding, April 11, 1930, and was proclaimed by the President, November 3, 1934. For text, see Department of State Treaty Series No. 877, or 49 Stat. 3027.

¹⁶ Not printed.

pered their activities that they felt better results could be obtained by turning to another field. The Italians have in no sense "expelled" these persons, but by restriction of their activities and expropriation of their property have made their departure the only sensible move. It might be said that the restrictions of activity were not directed only against these persons, but are applied to all foreigners in Ethiopia, and in most cases against resident Italians themselves. The chief complaint in this regard is that permits are required for practically everything, from travel even outside Addis Ababa to buying certain goods, and the delay and trouble incident to obtaining these permits has caused many residents to leave the country in disgust. With regard to the expropriation of the mission property, Mr. Lewis stated that in every case a fair price was paid, and in certain instances his Mission realized a far better return on their investment than ever expected. Upon the insistence of the Mission all these moneys were paid in English pounds sterling. Admittedly there is an acute housing shortage in Ethiopia, and this action on the part of Italians was expected.

Mr. Lewis stated that he feels a certain prejudice was shown in taking over all the property of the Sudan Interior Mission rather than that of other missions, due to the fact that it is half British in its organization. Also, Dr. Lambie, American head of this mission during the Italian-Ethiopian conflict was a close friend of Haile Selassie, and extremely pro-Ethiopian.

Respectfully yours,

C. B. CHIPERFIELD

365D.1163/128 : Telegram

The Acting Secretary of State to the Ambassador in Italy (Phillips)

WASHINGTON, November 30, 1938—7 p. m.

119. General Conference of Seventh Day Adventist Church has received cable from its European representative reporting that the Adventist mission properties at Addis Ababa and Addis Alem have been expropriated by Italian authorities who have also apparently demanded that mission hospital at Addis Ababa be turned over by December 8th. Please investigate and telegraph whether report is correct and what are the intentions of Italian authorities regarding the mission's activities in Ethiopia.

WELLES

365D.1163/129 : Telegram

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

ROME, December 1, 1938—6 p. m.
 [Received December 1—2:40 p. m.]

356. Department's No. 119, November 30, 7 p. m. The Foreign Office was informed verbally by the Ministry of Italian Africa this afternoon that according to information received from Addis Ababa the Vice Regal authorities had decided to proceed with the expropriation of the Seventh Day Adventist properties at Addis Ababa in accordance with due process of law. It appears that the local representative had been discussing a settlement with the authorities but that the Ministry is without detailed information on the subject. The Ministry will, however, request a report from Addis Ababa by telegram.

REED

CONTINUED NON-RECOGNITION BY THE UNITED STATES OF THE
 ITALIAN ANNEXATION OF ETHIOPIA ¹⁷

701.6511/895

*Memorandum of Conversation, by the Assistant Chief of the Division
 of European Affairs (Tittman)*

[WASHINGTON,] October 5, 1938.

In a conversation today Signor Cosmelli, Chargé d'Affaires of the Italian Embassy, told me that it was his understanding that Ambassador Suvich would, soon after his arrival in Washington sometime toward the end of this month, be leaving again to take up his new position as head of one of the larger insurance companies in Trieste. It was probable, therefore, that the question of the appointment of a new Italian Ambassador to the United States would shortly arise.

Cosmelli said that in looking through his files he found that Signor Suvich's credentials in the name of the King of Italy and Emperor of Ethiopia had been accepted by the President with a reservation to the effect that such acceptance should not be construed by the Italian Government as recognition by us of the Empire.¹⁸ Although Cosmelli said he realized that matters of such high policy would have to be discussed by the Ambassador with the Secretary, nevertheless he be-

¹⁷ For previous correspondence, see *Foreign Relations*, 1937, vol. II, p. 679 ff.; see also section on Anglo-Italian Agreement of April 16, 1938, *ibid.*, 1938, vol. I, p. 133 ff.

¹⁸ See telegram No. 69, June 17, 1936, 2 p. m., to the Chargé in Italy, *ibid.*, 1936, vol. III, p. 244.

lieved that it might be useful to point out to me informally well ahead of time so that we could be thinking about it that it was his opinion that his Government would not be prepared to send a new Ambassador to Washington if the above-mentioned reservations were again insisted upon by us. He asked me if I could in turn tell him informally what the general feeling was today in the Department in regard to the matter. Cosmelli added that it looked as though the Empire would be recognized before long by both Great Britain and France and that he had already suggested to his Government that it might be well to postpone the naming of a new Ambassador to the United States until this had been accomplished. Apparently Cosmelli felt in making this recommendation that it would be easier for us to recognize the Empire after England and France had done so. In fact, he stated in so many words that action on the part of Great Britain or France might present a good opportunity for us to take a similar step in connection with the appointment of a new Italian Ambassador.

I told Cosmelli that I was not competent to pronounce upon a subject of such high policy, but that it was my personal impression that as far as I could see there had been no change in our attitude. Cosmelli said that he thought that this was probably the case as he recognized that the principles determining this attitude were deeply imbedded in the foundations of our foreign policy.

701.6511/901

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

[Extract]

[WASHINGTON,] November 5, 1938.

The Italian Ambassador called to see me this morning at my request. I informed the Ambassador that the President desired me to let him know that Prince Ascanio Colonna would be acceptable to him as the Italian ambassador to replace Signor Suvich; but that he had requested me to make it very clear to the Ambassador that in receiving the new Italian ambassador, exactly the same procedure would be followed as in the case of the reception of Signor Suvich two years ago, and that the acceptance of letters of credence for the new ambassador from the "King of Italy and Emperor of Ethiopia" would imply in no sense any change in our relationship with Italy nor any intention on our part to undertake such a new relationship.

The Ambassador said that he understood fully the import of my statement, and that it meant that the reception by the President of the new ambassador would not imply recognition by this Government

of the Ethiopian Empire any more than it had implied such recognition when he himself was received. I said that this was exactly the message which the President had desired me to convey to him. The Ambassador seemed to be in no way surprised or disconcerted by the message given him, and merely said that he would inform his Government accordingly by telegram.

S[UMNER] W[ELLES]

741.65/659 : Telegram

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

ROME, November 16, 1938—6 p. m.
[Received November 16—3 p. m.]

337. Embassy's 322, November 5, noon.¹⁹ It is officially announced that the British Ambassador was received by Count Ciano this morning and informed him that the British Government had decided to recognize Italian sovereignty over Ethiopia. At the same time Perth presented new letters accrediting him to the King of Italy Emperor of Ethiopia.

This afternoon Ciano and Perth signed a joint declaration²⁰ putting into effect the Anglo-Italian accord signed on April 16 and took steps to inform the Egyptian Government.

Although the newspapers welcome today's events as restoring the possibility of new and frank collaboration between the two "empires" emphasis is primarily laid upon the recognition by Great Britain of the Empire. The *Tribuna* adds that in fact the restoration of relations between the two countries took place 7 months ago and that the intervening period has served to create a new atmosphere in which the accord may operate and produce useful results.

REED

741.65/660 : Telegram

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

ROME, November 17, 1938—6 p. m.
[Received November 17—2:15 p. m.]

340. Commenting on the significance of the Italo-British accords Gayda²¹ this evening affirms that all the British Dominions which

¹⁹ Not printed.

²⁰ For text, see League of Nations Treaty Series, vol. cxcv, p. 90.

²¹ Virginio Gayda, spokesman for the Italian Foreign Office.

have not yet done so will now proceed to recognize the **E**mpire, and then says "it will be of interest to note at this point although without the slightest preoccupation that in addition to these recognitions there are now lacking only those of Soviet **R**ussia and **R**oosevelt's United States. This coincidence of notations and anti-historical attitudes may well furnish food for useful thought in considering the general picture of world policy."

REED

IRAN

RESUMPTION OF IRANIAN DIPLOMATIC REPRESENTATION IN THE UNITED STATES¹

701.9111/642 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, January 17, 1938—9 a. m.

[Received 11:25 a. m.]

5. Department's 62, December 23, 7 p. m.² In conversation with the Prime Minister³ yesterday he assured me that he was making every effort to have the Legation in Washington reopened.

ENGERT

701.9111/643 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

[Extract]

TEHERAN, March 1, 1938—9 a. m.

[Received 6:55 p. m.]

20. Personal for Murray.^{3a} The death of the Foreign Minister⁴ may delay reopening of the Iranian Legation in Washington several months. He had taken great personal interest and had almost succeeded in persuading the Shah when he was taken ill. No immediate appointment of a successor is likely and while other members of the Cabinet are also favorably disposed they are too timid to discuss the subject with His Majesty.

ENGERT

891.458/34 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, March 8, 1938—11 a. m.

[Received 3:37 p. m.]

23. Personal for Murray. Incidents similar to the one described in my despatch 1212, January 13,⁵ have literally so frightened Cabinet

¹ For previous correspondence, see *Foreign Relations*, 1937, vol. II, pp. 718 ff.

² *Ibid.*, p. 727.

³ Mahmud Djam.

^{3a} Wallace Murray, Chief of the Division of Near Eastern Affairs.

⁴ Enayafollah Samiy.

⁵ Not printed.

officers that they will not mention to the Shah anything they fear might annoy him. With the approval of the Acting Minister for Foreign Affairs I have therefore requested the Prime Minister to read to the Shah himself the telegram which the President will presumably address to His Majesty on his birthday March 15 and I have suggested that he take that occasion to refer to the desirability of normalizing the relations with the United States. This he has promised to do.

The Department may therefore wish to bear this special circumstance in mind when submitting a draft of the message to the White House. The telegram should if possible arrive Monday night.

I shall reply later to your kind message of March 4, 7 p. m.⁶

ENGERT

891.458/34 : Telegram

President Roosevelt to the Shah of Iran (Reza Shah Pahlavi)

WASHINGTON, March 13, 1938.

It affords me great pleasure to extend to Your Majesty cordial birthday greetings and my sincere best wishes for a long, happy and prosperous reign.

With the near approach of the Iranian New Year festivities, I likewise wish to express the hope that the coming year will witness the strengthening of those close bonds of friendship which for so long have united the American and Iranian peoples.

FRANKLIN D. ROOSEVELT

891.458/35 : Telegram

The Shah of Iran (Reza Shah Pahlavi) to President Roosevelt

[Translation]

TEHERAN, March 17, 1938.

[Received March 17—12:50 p. m.]

I sincerely thank Your Excellency for the kind good wishes and felicitations which you have been so good as to formulate on the occasion of my anniversary and the New Year and I express reciprocal wishes and my desires for the consolidation of the bonds of friendship between our two nations.

REZA SHAH PAHLAVI

⁶ Not printed.

701.9111/645 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, March 21, 1938—9 a. m.

[Received 11 a. m.]

27. Department's 11, March 4, 7 p. m.⁷ The following are my considered views regarding the situation:

1. There seems to be no immediate prospect that the Iranian Legation in Washington will be reopened. The President's telegram was submitted to the Shah as suggested in my 23, March 8, 11 a. m. and the Acting Minister of Foreign Affairs now informs me that the only answer His Majesty made was an order to prepare a cordial reply. When I expressed disappointment he said that the matter was very delicate and His Majesty could not be hurried.

2. The Acting Minister then said (although I had never mentioned such a possibility) that if the United States Government could send an economic mission here in connection with the proposed trade negotiations the reopening of the Legation would be facilitated. In reply I inquired whether it would not be just as easy to send some one to negotiate in Washington and incidentally open the Legation. He replied emphatically that such a step was out of the question. I gained the distinct impression that they would like to use the arrival of an American trade delegation to represent it to the Shah as a special mission and make him feel that he had won his point after all.

3. I then reminded the Acting Minister that owing doubtless to the absence and later the illness of the Minister for Foreign Affairs I had never received a reply to my note of last October which contained the substance of the Department's 50, October 5, 4 p. m.⁸ nor to my oral inquiries based on the Department's 8, February 10, 6 p. m.⁹ He made an evasive answer and promised to look into the matter. I told him that there would obviously be no use sending a trade delegation, even if the American Government contemplated such a step, unless we first obtained definite assurances regarding the points raised in my inquiries. I personally doubt whether such assurances can now be expected in the near future.

4. Murray's letter of February 4th¹⁰ not yet received, was it sent by pouch? Standard draft for trade agreements mentioned in Department's telegram 8 also not received.

ENGERT

⁷ *Post*, p. 762.⁸ *Post*, p. 757.⁹ *Post*, p. 759.¹⁰ Not printed.

701.9111/645: Telegram

The Secretary of State to the Chargé in Iran (Engert)

WASHINGTON, March 26, 1938—3 p.m.

16. Legation's No. 27, March 21, 9 a. m. While the Department was pleased to note the Shah's cordial response to the President's telegram, your ensuing conversation with the Acting Foreign Minister raises the question whether the Iranians may not have misinterpreted our motives in the matter. In this connection see the Department's telegram of June 18, 1937, 5 p. m.,¹¹ and Murray's amplifying letter of August 30, 1937,¹² regarding the improvement of our relations with Iran. The views therein expressed are regarded as essentially applicable to the present situation.

Under the circumstances the Department desires that, while continuing to maintain a cordial and correct attitude toward the Iranians, you carefully avoid giving the impression that this Government is soliciting the reopening of the Iranian Legation here. Although the Department is always ready to meet the Iranians half way in any reasonable steps which they may make toward the resumption of normal relations it is strongly of the opinion that the initiative in this matter, as well as that of the trade agreement, should rest with them. This policy would seem to recommend itself all the more in view of the fact that American interests do not appear to be disadvantageously affected under the existing situation.

HULL

701.9111/646: Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, March 29, 1938—1 p. m.

[Received 2:50 p. m.]

29. Your 16, March 26, 3 p. m. The Department's point of view is entirely shared by me and has been strictly adhered to since my arrival. The suggestion contained in my 23, March 8, 11 a. m., was made informally and in response to a definite request that I assist in bringing the matter before the Shah and I am sure our motive was not misunderstood. Either the Premier or the Acting Foreign Minister or both probably lost their nerve at the last moment and said nothing to His Majesty although I know that the entire Cabinet is in favor of reopening their Legation.

While I agree that American interests do not seem to be suffering there is always the danger that the slightest hitch may cause the

¹¹ *Foreign Relations*, 1937, vol. II, p. 725.¹² Not printed.

situation to deteriorate further. This Legation has now for 2 years been rather delicately poised and if indefinitely prolonged its position may become embarrassing.

ENGERT

123 En 3/580 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, April 19, 1938—10 a. m.

[Received 5 : 20 p. m.]

35. As I anticipated, the news that I had been granted home leave and that no senior officer would be sent to take my place has caused considerable agitation in Government circles. The wives of three Cabinet officers called on Mrs. Engert to express the hope that we would return and 2 days ago the Grand Master of Ceremonies of the Shah who, although an old friend, had never before dared to call in person came to see me to tell me that the entire Government was in favor of reopening the Legation at Washington but that everybody was afraid His Majesty would fly into a rage if it were proposed to him. I suggested that their fears were perhaps a little exaggerated as after 2 years the Shah might no longer feel so strongly on the subject. My friend then asked if I had any suggestions as to how it should be done. I inquired whether a hint from Ankara might help them to which he replied that it certainly would if it could be arranged as His Majesty was apt to listen to advice from that quarter.

I submit the above for the Department's consideration in case it should feel inclined to speak of it to the Turkish Ambassador without, of course, mentioning the source. It may prove a means of ending the ridiculous impasse in which the Government finds itself.

ENGERT

701.9111/649 : Telegram

The Acting Secretary of State to the Chargé in Iran (Engert)

WASHINGTON, April 22, 1938—7 p. m.

24. Your No. 35, April 19, 10 a. m. In view of the considerations set forth in the Department's No. 34, August 8, 1936, noon,¹³ and the negative results which attended the Turkish Ambassador's efforts at that time the Department deems it inadvisable to approach him in the sense you suggest.

¹³ *Foreign Relations*, 1936, vol. III, p. 373.

Generally speaking and bearing in mind its telegram No. 16 of March 26, 3 p. m., the Department feels that if Iranian officials are sufficiently desirous of regularizing relations they should be able on their part to find some means of accomplishing that end.

WELLES

701.9111/651: Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, May 25, 1938—11 a. m.
[Received May 25—10:30 a. m.]

53. Legation's 50, May 21, 8 p. m.¹⁴ I have just had my first interview with the new Minister of Foreign Affairs¹⁵ whom I had met several times in London last Spring.

He could not have been more cordial and began the conversation by stating at once that "we simply must do something to normalize our official relations. I believe I understand the position of the American Government better than most Persians and you may count on my helping in every possible way."

Later I referred to the article in *Times* of April 25th and he said he knew we had no control over our press "less even than the British have over theirs."

He did not mention the Amiranian Oil Company¹⁶ and neither did I.

ENGERT

711.91/65: Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, June 23, 1938—noon.
[Received June 23—10:28 a. m.]

76. My 70, June 13, 11 a. m.¹⁴ To show the Department how utterly impossible it seems to make any headway beyond a certain point, the Minister for Foreign Affairs asked me this morning whether I could not on my arrival in Washington privately suggest to the Secretary of State that a special mission be sent to Iran "under the pretext" of negotiating a commercial agreement or looking over industrial and mining possibilities. He added that the head of such a mission could afterwards perhaps present his credentials as Min-

¹⁴ Not printed.

¹⁵ Ali Soheily.

¹⁶ See pp. 752 ff.

ister! I replied that when in Washington I would repeat to the Department what he had said but that I could not hold out much hope that his suggestion would be accepted. I said that I personally felt the reestablishment of normal relations between our two countries could easily be accomplished without resorting to any subterfuges.

Considering that the Foreign Minister is an intelligent man and animated by genuinely friendly feeling towards us his remarks—which he obviously meant to be a constructive contribution—are to say the least discouraging.

ENGERT

111.23/60 : Telegram

The Secretary of State to the Chargé in Iran (Moose)

WASHINGTON, August 12, 1938—4 p. m.

42. The Department wishes you to seek an early occasion to call on the Foreign Minister and to leave with him the following *aide-mémoire* after conveying to him orally the substance thereof. The *aide-mémoire* should be accompanied by a very careful translation prepared by the Legation interpreter.

“Acting under instructions from his Government, the American Chargé d’Affaires called upon His Excellency the Iranian Minister for Foreign Affairs on (date) to inform him that Mr. Wallace Murray, Chief of the Division of Near Eastern Affairs of the Department of State, is proceeding abroad on about September 1st for the purpose of visiting, in official capacity, various countries of the Near East and that he expects to reach Teheran on the evening of October 1st, where he will remain for a period of about 9 days.

Mr. Moose was instructed to state that his Government would be pleased if it were agreeable to His Imperial Majesty Reza Shah Pahlavi to receive Mr. Murray in audience during his presence in Iran and that an indication of His Majesty’s wishes in the matter would be appreciated.

Mr. Moose added that he understood that President Roosevelt contemplates entrusting Mr. Murray with a personal and friendly message to His Imperial Majesty”.

If, during your subsequent conversation with the Foreign Minister, you should be questioned as to the purport or purpose of the President’s letter, you should of course reply that you have no information whatever in that regard. It would seem fitting however, in any case, for you to refer, during your conversation, to this Government’s Good Neighbor policy in which the President is deeply interested and which has become the guiding principle in our relations with other countries of the world. You may mention in this connection the personal message which was addressed by the President not long ago to President

Atatürk and which was subsequently published, together with Atatürk's reply in the Turkish press.¹⁸ See Murray's letter to Engert of August 2, 1937.¹⁹

You should state orally to the Foreign Minister that in view of the short time remaining before Mr. Murray's departure from Washington the Department would greatly appreciate a reply to its inquiry as soon as may be possible.

Please keep the Department promptly informed by telegraph of developments.

HULL

111.23/60

*President Roosevelt to the Shah of Iran (Reza Shah Pahlavi)*²⁰

WASHINGTON, August 12, 1938.

YOUR MAJESTY: I am very happy to avail myself of this opportunity to convey to You in this manner my cordial greetings and an expression of my warm personal regard.

It is with the greatest interest that I have followed the important and far-reaching reforms that have been introduced in Iran under Your Majesty's inspiration and guidance for the improvement of conditions, both social and economic, among Your people. And only recently I have been pleased to learn that the great Trans-Iranian railway linking the Persian Gulf with the Caspian Sea is nearing completion. The accomplishment of this difficult feat of engineering planned by Your Majesty has aroused admiration in the United States, where we had similar obstacles to overcome when we were constructing our great railroad lines spanning the continent from the Atlantic to the Pacific Ocean.

As Your Majesty is doubtless aware, we, also, are faced with problems of a social and economic nature which we are making vigorous efforts to solve through a broad program of reform, which I am happy to say has made steady progress. We are endeavoring at the same time to understand the needs and problems of other peoples as well, and to enlist their cooperation. This we call the policy of the Good Neighbor and it has become the guiding principle in our relations with other countries of the world.

¹⁸ Not printed. The President's letter, April 6, 1937, expressed admiration for the achievements of modern Turkey under Atatürk's leadership to which Atatürk sent an appreciative reply, June 6, 1937. (811.001 Roosevelt, F. D./5582)

¹⁹ Not printed.

²⁰ Letter carried to Teheran by Wallace Murray, Chief of the Division of Near Eastern Affairs, and presented to the Shah on October 6.

I recall in this connection the fine leadership of Your Majesty in bringing about the conclusion of the Saadabad Pact in 1937,²¹ which will, I feel sure, bring lasting benefits to the peoples of the Near and Middle East.

For long years the most cordial and sympathetic relations have existed between our two peoples and the recollection of the confidence reposed in us in past times by the Iranian people is a gratifying one. I am therefore confident that Your Majesty shares with me the desire that our relations shall become steadily closer, not only for the mutual benefit of our two countries, but also in order that we may make a common contribution to the well-being of mankind.

In bidding Your Majesty farewell, I desire to assure you again of my most friendly sentiments and to express my earnest wishes for the welfare and prosperity of the Iranian people.

Your good friend,

FRANKLIN D. ROOSEVELT

111.23/61 : Telegram

The Chargé in Iran (Moose) to the Secretary of State

TEHERAN, August 17, 1938—2 p. m.

[Received August 17—10 : 29 a. m.]

88. Department's telegram 42, August 12, 4 p. m. I today delivered to the Foreign Minister the *aide-mémoire* and translation after verbally conveying to him the substance thereof.

The Foreign Minister was visibly pleased to learn of Murray's intended visit and promised to see the Shah personally at the first opportunity and to recommend that an audience be granted. He did not ask the purpose of the visit but spoke at some length about the high opinion of the United States held by Persians meanwhile deploring the action of certain American publications which resulted in the present abnormal relations. Brief reference in general terms was made to the Good Neighbor policy.

MOOSE

111.23/64 : Telegram

The Chargé in Iran (Moose) to the Secretary of State

TEHERAN, August 21, 1938—3 p. m.

[Received August 22—6 : 15 a. m.]

91. My telegram No. 90, August 20, 2 p. m.²² This morning I was received by Entezam, Chief of the Third Political Division, who ex-

²¹ Treaty of Nonaggression signed at Saadabad Palace, Teheran, July 8, 1937, by Afghanistan, Iran, Iraq, and Turkey; League of Nations Treaty Series, vol. cxc, p. 21.

²² Not printed.

plained that the Foreign Minister had been unexpectedly detained by the Soviet Ambassador. Entezam, acting on behalf of the Minister, began by explaining that the Iranian Government is deeply moved by Murray's proposed visit to Teheran bearing a message from the President and that the Shah has not definitely refused to receive him. The Ministry of Foreign Affairs however thought it appropriate [to] make the following two observations in this connection.

1. Considering the visit of the French Senator and ex-Cabinet Minister as a precedent (see despatch No. 1114, August 20, 1937²³) the Ministry would consider it more appropriate if the message were conveyed by a person of at least ministerial rank.

2. Since Murray was Chargé d'Affaires here at a period when relations between the United States and the Iranian Government were rather tense the designation of a different envoy might evoke fewer unpleasant memories.

Entezam made it clear that he was not suggesting the despatch of an envoy extraordinary and minister plenipotentiary to Iran but merely a person of substantially equivalent rank. I replied that I had no knowledge of the nature of the proposed message and so was in no position to form an opinion about the rank appropriate to the bearer. It was also observed that the Ministry's latest suggestion is practically the same as those which it previously advanced for the resumption of more nearly normal diplomatic relations. Naturally I acceded to the request that the Ministry of Foreign Affairs' suggestion be transmitted to the Department.

The fact that Entezam once during the conversation said that the Shah "does not wish to refuse an audience to Mr. Murray" makes me believe that it might be advisable for any further request to appear to originate in the Legation.

MOOSE

111.23/64 : Telegram

The Secretary of State to the Chargé in Iran (Moose)

WASHINGTON, August 23, 1938—5 p. m.

43. Your 91, August 21, 3 p. m. It appears from your conversation of August 21 with the Chief of the Third Political Division that the Iranian Government, while pleased at the prospect of Mr. Murray's forthcoming visit, is in some doubt as to Mr. Murray's rank and is therefore disposed to suggest that it would be more appropriate if the President's message to the Shah were conveyed by a person of rank "substantially equivalent" to that of Minister.

²³ Not printed.

You should inform the Foreign Minister in the above connection that no officials of the Department of State while on duty in the Department bear the title of Ambassador or Minister, but that, according to the rules of precedence as established by the Department of State, the chief of a political division has rank identical with that of an envoy extraordinary and minister plenipotentiary.

During your further conversation with the Foreign Minister you should carefully avoid giving the impression that the Department is specifically requesting an audience with the Shah for Mr. Murray. You should at the same time explain in the most courteous language that the thought that His Majesty might desire to receive Mr. Murray during his sojourn in Teheran has been put forward by your Government as a courteous gesture of good-will toward Iran, having in mind particularly that Mr. Murray is the bearer of a personal message addressed by the President to His Majesty and that moreover Mr. Murray was, while American Chargé d'Affaires in Iran, the recipient of many marks of friendship and kindness from His Majesty. Your Government has, of course, never doubted that Mr. Murray would be accorded every courtesy suitable to the occasion.

In the event you have not already done so, you should refer in conclusion to the cordial letters exchanged last year between President Roosevelt and President Atatürk that were published in the Turkish press, together with extensive editorial comment.

For your strictly confidential information the Department considers that Mr. Murray should make the trip to Iran regardless of the outcome of the present discussions concerning the audience but for obvious reasons you should disavow any knowledge of his intentions in case an early and favorable decision on the audience is not forthcoming, and you should in particular not encourage any speculation as to what would, in that eventuality, become of the President's letter.

Please report promptly by telegraph all further developments.

HULL

701.9111/653 : Telegram

The Chargé in Iran (Moose) to the Secretary of State

TEHERAN, August 29, 1938—9 a. m.

[Received 9:20 a. m.]

95. Legation's telegram 52 [53], May 25, 11 a. m. I have just learned from a source believed to be trustworthy that while Soheily was Minister of Foreign Affairs he suggested to the Shah the reopening of the Iranian Legation in Washington and that the Shah rejected the suggestion saying that the Americans had been rude to Iran.

MOOSE

111.23/67 : Telegram

The Chargé in Iran (Moose) to the Secretary of State

TEHERAN, August 29, 1938—noon.
[Received August 29—9:42 a. m.]

96. Legation's telegram 94, August 27, 1 p. m.²⁴ Half an hour ago the Minister for Foreign Affairs stated that during Murray's visit in Teheran the Shah would receive him in audience. The exact date will be fixed after Murray's arrival here.

The Minister stated that he had strongly urged the Shah to grant the audience and that his advice had been accepted when he pointed out that Murray would be impressed to a much greater extent by the progress achieved under the present dynasty than a person who had not seen Iran under the old regime. He also expressed the hope that Mr. Murray's visit would be a step toward the establishment of normal American-Iranian relations.

MOOSE

111.23/76 : Telegram

The Chargé in Iran (Moose) to the Secretary of State

TEHERAN, October 2, 1938—noon.
[Received October 3—1:45 p. m.]

105. From Murray. The Shah has indicated his desire to receive me in audience on October 6 when I shall deliver the President's letter which will be read to him in Persian translation prepared by the Legation's interpreter.

At my suggestion Moose discussed yesterday with the Acting Foreign Minister the all important question of interpreters and suggested that the exceptionally competent interpreter of this Legation be permitted to accompany me during the audience although the Shah has generally refused since the abolition of the capitulations 10 years ago to allow Legation interpreters to enter his presence.

While the Acting Foreign Minister was entirely agreeable to the above suggestion in view of the unusual character of my visit and since there are no competent English interpreters either at the Palace or in the Foreign Office, the Shah disapproved. The conversation with His Majesty will accordingly be conducted in French and the Acting Foreign Minister will act as my interpreter. My reception by Iranian officials has been extremely courteous and they are observing all formalities customary upon receiving a new Chief of Mission. [Murray.]

MOOSE

²⁴ Not printed.

111.23/77: Telegram

The Chargé in Iran (Moose) to the Secretary of State

TEHERAN, October 6, 1938—2 p. m.
[Received October 7—11:35 a. m.]

106. Referring to the Legation's telegram No. 105 October 3 [2], noon. From Murray. The Shah received me this morning and the audience lasted nearly an hour to the astonishment of Palace and Foreign Office officials who had informed me that 15 minutes was the maximum that I might expect to remain with His Majesty.

The Shah opened the conversation by expressing his particular satisfaction that the President had seen fit to send me to Persia on the present visit since His Majesty felt I would be better able than any other to appreciate the significance of what has happened in Persia during the years since I was here.

The Shah listened attentively to the reading in Persian translation of the President's letter and expressed profuse thanks for the signed original which he said he expected to answer personally. He seemed particularly impressed with the specific references in the letter to his reforms and said he could observe that President's remarks represented his true sentiments. He added that he fully appreciated the greatness of President Roosevelt and the importance of his program of reform in the United States and could only regret that there was not a more general understanding in the United States of what he, the Shah, was endeavoring to do for Persia. (This was undoubtedly a veiled reference to the American press.)

The Shah then to my surprise referred, but without any sign of resentment, to the Elkton incident,²⁵ whereupon I took the opportunity to reiterate the profound regret we had felt over the matter. I did not however fail to refer to the difficulties arising for us out of the fact that the incident occurred in a jurisdiction beyond the control of the Federal Government and to remind him courteously of the prompt and sincere expressions of regret which both the Secretary of State as well as the Governor of Maryland had conveyed to the Persian Minister in Washington at that time.

The above remarks offered a suitable occasion for me to explain to His Majesty the importance which the President attaches to his policy of the Good Neighbor which was evidenced by my present visit to Persia and by the cordial personal message with which the President had entrusted me for delivery in person to His Majesty. I assured the Shah that my Government and the people of my country entertain feelings of warmest regard for him personally and for the Persian people and I expressed the hope that the past might be for-

²⁵ Concerning the arrest of the Iranian Minister in the United States, Djalal, by Maryland police, *Foreign Relations*, 1936, vol. III, pp. 342 ff.

gotten and that we might look forward to a future of mutual trust in each other and fruitful cooperation. I referred in that connection to the substance of the Department's triple priority circular telegram of September 27²⁶ requesting Persian cooperation during the Czechoslovak crisis and it was clear that our action in that instance had been pleasing to the Shah.

Realizing the pride which the Shah takes in the progress of his program of modernization and reform I took occasion repeatedly during the audience to compare the old Persia that I had known nearly 14 years ago with the new Pahlavi Iran of Reza Shah and stated that even the progress of reform in Turkey had not impressed me more than that in Iran. This remark led the Shah to compare the problems of Persia with those of Turkey and quite properly to state that the difficulties facing him when he started his reforms in Iran were much greater than those facing Atatürk in Turkey by reason of the dark forces of religious fanaticism that were far more powerful and hostile to progress here than they had ever been in Turkey.

As an example of what he had been up against he cited the killing of Vice Consul Imbrie by a fanatic mob in 1924²⁷ which he said had been a cause of deep sorrow and humiliation to him personally and to the Persian people. The fact that Reza Shah mentioned the Imbrie incident at all was most surprising but it was gratifying to note that his remarks were not tinged with the slightest sign of resentment or bitterness which I am sure was in the first instance feared by Foreign Office officials as a possible result of my visit.

During the course of the conversation I took the opportunity to refer to the Crown Prince in complimentary terms and to his recent betrothal. The Shah immediately sent for the Prince and presented him.

Before terminating the audience the Shah said he wanted me to feel at home during my stay in Iran and turning to the Acting Foreign Minister who was present instructed him to render me every assistance and to hold himself in readiness for any further conversations I might wish to have at the Foreign Office. I assume that this was intended by His Majesty to authorize his officials to discuss freely with me matters of concern to our two Governments at this time including of course that of diplomatic relations. Since the Moslem weekend started at noon today and lasts until Saturday the Acting Foreign Minister has set Saturday morning for our next conversation which I shall report in due course.

As an obvious indication of the Shah's good will the Government is giving a luncheon in my honor on Sunday and I shall return the honor on Monday.

²⁶ Vol. I, p. 677.

²⁷ See *Foreign Relations*, 1924, vol. II, bracketed note, p. 539, and Marjorie M. Whiteman, *Damages in International Law*, pp. 136-138, 732-733.

I may say in conclusion that contrary to current rumors of the Shah's bad state of health and decrepitude I found him in excellent physical shape and quite as alert mentally as when I had much to do with him in 1924. [Murray.]

MOOSE

701.9111/655 : Telegram

The Chargé in Iran (Moose) to the Secretary of State

TEHERAN, October 8, 1938—6 p. m.
[Received October 8—1 : 50 p. m.]

108. From Murray. My telegram 106, October 6, 2 p. m. Rais, the Acting Foreign Minister, this morning confirmed fully the statements of the Shah set forth in my telegram under reference and while he had not yet spoken with His Majesty since the audience, his impression was even stronger than mine that it is the clear intention of the Shah to restore normal relations with the United States without undue delay.

He said the Shah was visibly affected by my expression of hope that "the past might be forgotten" et cetera and that the Shah had replied with a significant Iranian proverb "a new day—a new life".

Rais then inquired whether the Iranian Government might assume that we would be prepared to appoint a Minister to Teheran in the almost certain event that the Shah decides to appoint a Minister to Washington. I thereupon conveyed to him the suggestion put forward by Mr. Welles before my departure that a simultaneous appointment of Ministers by the two Governments would appear to be the most practicable procedure under the circumstances.

Rais seemed both relieved and delighted at this suggestion which he said would be most helpful. He informed me at the same time that in all likelihood the Shah's reply to the President's letter would be ready before October 12 when I expect to leave Teheran. [Murray.]

MOOSE

111.23/93

The Shah of Iran (Reza Shah Pahlavi) to President Roosevelt ^{27a}

[Translation]

HONORABLE FRIEND: We were happy to receive your letter of August 12, 1938. The sentiments you expressed in the letter and through Mr. Wallace Murray have been a source of utmost pleasure and gratitude. Although we have asked Mr. Murray to convey to Your Excellency Our thanks and special greetings, nevertheless We are pleased to re-

^{27a} Letter delivered by an official of the Iranian Foreign Office at Teheran to Mr. Murray on October 12, and brought by him to Washington. The letter was sent to President Roosevelt under cover of letter from the Under Secretary of State, dated November 28, 1938 (not printed).

peat those feelings in this letter. We personally as well as the Iranian people value, in the same degree as expressed by Your Excellency, the maintenance and strengthening of the friendship which for long years has existed between the two countries and are interested in having it continue.

In the same manner that Your Excellency has followed the efforts exerted in our country for the achievement of reforms, making particular reference to the happy completion of the Trans-Iranian railway this year, We also have been fully aware of the efforts made by the American people under Your Excellency's guidance towards economic and social reforms, and We admire and appreciate the progress thus achieved for the American people notwithstanding all the difficulties. We have no doubt that you will with equal success achieve the remainder of the program which you have before you.

Understanding the needs and problems of other nations which in your letter you have called the policy of Good-Neighbor has always been Our aim also and we have endeavored in our relations with other nations to take into consideration the principles of humanity and to settle differences in a peaceful manner. It was in the spirit of this policy that we eliminated frontier and other differences with our neighbors and succeeded in concluding the Saadabad Pact. And We hope that this pact will not only prove to be effective in maintaining peace in the Near East, but with the extension of this spirit of good will and cooperation, will make a contribution to world peace of which the American Government is an earnest advocate.

It has always been our intention to maintain warm friendly relations with the American people, and we assure Your Excellency that the Imperial Government will not spare any effort to cooperate (with your Government) to attain this aim.

In concluding this letter we renew our sentiments of friendship and good will and express our most sincere wishes for the happiness and success of Your Excellency and the American people.

Your sincere friend

REZA

PAHLAVI PALACE, October 9, 1938 (Mehrماه, 17, 1317).

701.9111/656 : Telegram

The Chargé in Iran (Moose) to the Secretary of State

TEHERAN, October 12, 1938—4 p. m.

[Received 6:35 p. m.]

111. Referring to the Legation's telegram No. 109 October 12, 5 p. m.²⁵ The following briefly summarizes developments since the Legation's No. 108 of October 6, 2 p. m. [*October 8, 6 p. m.*]: On the

²⁵ Not printed.

morning of October 9 Murray called on the Acting Minister of Foreign Affairs and explained the position of the press in the United States and the moral certainty that whenever the press learns of the appointment of an Iranian Minister to Washington it will refer to the events preceding the closing of the Iranian Legation. Such reference it was pointed out may be displeasing to the Iranian authorities and Murray explained with illustrative examples that it cannot be prevented nor can retractions be secured through official channels. Rais thanked Murray for his frankness on a problem about which the Iranian officials had already thought and prepared a memorandum thereon for submission to the Minister for Foreign Affairs when he returns to Teheran.

The same day Rais gave a luncheon for Murray to which were invited 15 high Government officials including the Prime Minister and the staffs of the Turkish Embassy and American Legation.

The following day by previous arrangement with the Minister of Foreign Affairs two newspaper editors interviewed Murray—an innovation in local press procedure. Naturally Murray commented favorably on changes in Iran during the last 14 years and did not fail to express confidence that relations of the United States with Iran will be closer in the future. The interview should be published with photographs in this evening's papers.

On October 10 Murray gave an official luncheon, which was attended by seven high Iranian officials including the Prime Minister who rarely accepts such invitations from Diplomatic Missions. No member of the staff can remember a precedent in this Legation. Also contrary to custom on Murray's proposal a toast was drunk to the Shah and the Prime Minister responded with a toast to the President.

Yesterday the Chief of the Third Political Division of the Ministry of Foreign Affairs while delivering the Shah's letter to Murray affirmed that there can be no question of the royal decision to appoint a Minister to Washington.

Unofficial comment by Iranian officials continues to reach me indirectly and it uniformly approves the results of Murray's visit and the dignified way in which they were achieved.

MOOSE

701.9111/656 : Telegram

The Secretary of State to the Chargé in Iran (Moose)

WASHINGTON, October 14, 1938—6 p. m.

47. Your No. 111, October 12, 4 p. m. The Department assumes that the next step toward the resumption of normal diplomatic relations will be in the form of a proposal by the Iranian Government for

the simultaneous appointment of Ministers. It is further assumed that definitive action in the matter will not be taken until sufficient time has elapsed to permit of the delivery of the Shah's letter to the President. Please confirm and keep Department currently advised of developments.

HULL

701.9111/659: Telegram

The Chargé in Iran (Moose) to the Secretary of State

TEHERAN, November 8, 1938—9 a. m.

[Received 2:25 p. m.]

121. Referring to the Legation's telegram 118, October 31, 10 a. m.²⁹ The Minister for Foreign Affairs last evening stated that the Iranian Government intends to appoint a Chargé d'Affaires in Washington without delay meanwhile continuing its search for a good Minister for the post. The Foreign Minister added that he was unable to give the name of the person to be designated Chargé d'Affaires though he hoped to do so in a few days.

I expressed satisfaction and gratification that the Iranian Legation in Washington will be reopened.

Ali Akbar Daftary, brother of the Minister of Justice, is rumored to be a candidate for the post of Chargé d'Affaires.

Murray is being so informed by cable to Tangier.

MOOSE

701.9111/663: Telegram

The Chargé in Iran (Moose) to the Secretary of State

TEHERAN, November 19, 1938—4 p. m.

[Received 4:67 p. m.]

122. Referring to the Legation's No. 121, November 8, 9 a. m., the Minister for Foreign Affairs has just confirmed that in "a day or two" when budgetary arrangements have been made Ali Akbar Daftary will be ordered from Berlin to Washington to reopen the Iranian Legation. He expressed a hope that the arrival of the new Chargé d'Affaires would cause no unfavorable comment in the American press.

It appears that such a nomination will completely alter the premises on which were based the assumptions described in the Department's telegram 47, October 14, 6 p. m.; and the Foreign Minister's observations in that connection will not be invited again unless the Department indicates that such action should be taken.

MOOSE

²⁹ Not printed.

701.9111/667 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, December 8, 1938—2 p. m.
[Received December 8—11:35 a. m.]

127. At my first interview with the Minister for Foreign Affairs yesterday he was very cordial and stated that he was delighted that normal relations between Iran and the United States were about to be resumed. He expressed regret that he was absent when Mr. Murray was here but hoped to meet him some other time. He added "for the present we are sending only a Chargé d'Affaires to Washington and will wait to see how things are going before appointing a Minister." He implied that reports from the Chargé d'Affaires would be awaited before making further decisions.

ENGERT

701.9111/689

The Chargé in Iran (Engert) to the Secretary of State

No. 1494

TEHERAN, December 31, 1938.
[Received February 17, 1939.]

SIR: In continuation of the Legation's despatch No. 1485, December 21, 1938,³⁰ I have the honor to report that not until December 28th did the Iranian Government announce that a Chargé d'Affaires had been sent to Washington.

On that date all local newspapers carried the following item:

"Mr. Ali Akbar Daftary, formerly Secretary of the Iranian Legation in Berlin, has been appointed Chargé d'Affaires of the Imperial Government in Washington."

Daftary's arrival in America was not announced, nor has any comment appeared regarding the reopening of the Iranian Legation in Washington.

By an odd coincidence the item about Daftary's appointment was published on the eve of the sudden rupture of diplomatic relations with France, which will be dealt with in a subsequent despatch.³¹

Respectfully yours,

C. VAN H. ENGERT

³⁰ Not printed.

³¹ Despatch No. 1500, dated January 9, 1939, not printed. Iran severed diplomatic relations with France, December 30, 1938, because of Iranian objections to articles appearing in the French press. Diplomatic relations were reestablished February 20, 1939. (751.91/26, 27)

701.9111/676

*Memorandum by the Chief of the Division of Near Eastern Affairs
(Murray)*

[WASHINGTON,] January 5, 1939.

I had a long talk this morning with Dr. Ali Akbar Daftary,⁸² the Chargé d'Affaires designate of Iran, regarding the continued absence of any authorization from his Government to present himself officially to the Acting Secretary of State as Counselor of Legation and Chargé d'Affaires ad interim.

Dr. Daftary asserted that he was convinced that he would have received telegraphic instructions authorizing him to reopen the Legation as of January 1 had it not been for the recent unfortunate rupture in Iranian diplomatic relations with France. Since the Shah in his wrath over the French press has taken the unprecedented action of ordering a complete severance of relations with France, Dr. Daftary senses no little nervousness on the part of the Iranian Government to authorize him to enter upon his new duties.

The particular purpose of Dr. Daftary's visit today was to inform me he had received yesterday morning a telegram from his Government asking whether he could "assure" it that there would be published no further stories derogatory to His Majesty or to Iran in case the Legation here reopened. It should be noted that this inquiry was made despite the information received by the Iranian Government from Dr. Daftary that Mr. Welles had made it a point to speak in confidence to the press representatives at the Department of State asking them to cooperate with the Department in avoiding any unfavorable publicity incident to the forthcoming reopening of the Iranian Legation.

Dr. Daftary's dilemma is a painful one. He cannot of course give any such assurances as have been requested by his Government. If he did so and any objectionable stories were printed subsequently it would be the end of his career. It may be mentioned at this point that all Iranian representatives abroad are under standing instructions to telegraph instantly the substance of any published stories that might be regarded as offensive by His Majesty.

If the information from Iranian representatives abroad reaches His Majesty subsequent to reports from other quarters it means the end of those representatives' careers.

I told Dr. Daftary that I was sure his Government could no longer have any doubts as to the entire good-will of this Government toward the Shah and the Iranian people. This was manifest from the results

⁸² Dr. Daftary had arrived in Washington on December 23, 1938.

of my recent visit to Iran and my audience with His Majesty. Such being the case I earnestly hoped that it would be possible to persuade His Majesty to have patience in case of the publication, contrary of course to our efforts and desires, of any objectionable material. I at the same time mentioned to Dr. Daftary the recent communiqué issued by the French Government regarding the rupture in Franco-Iranian relations and the reference therein to the part which "an unfriendly Power" was suspected of having had therein. This reference was undoubtedly to Germany.

I then told Dr. Daftary quite frankly that I earnestly hoped his Government would be on the alert to sense any endeavor on the part of third and ill-disposed Powers to disturb the already substantial progress in the reestablishment of confidence and good-will between the United States and Iran. I felt sure that His Majesty would understand that any such outside interference in the progress of our good relations could only work to his detriment in the end.

Dr. Daftary, who has only lately served as First Secretary of the Iranian Legation in Berlin, seemed to be deeply impressed with the logic of the above remarks and said he intended to put his Government on its guard without delay in a telegram he intends to send today. He remarked in this connection that since his arrival in Washington he had become keenly aware of the many advantages to be gained by his Government, not only through a restoration of diplomatic relations but also through closer commercial and economic affiliations. He will also give expression to views along these lines in his telegram of today.

The situation as it is developing is, as I see it, briefly this: With the complete rupture of Franco-Iranian relations now an accomplished fact, Dr. Daftary is anxious to take no step that might serve to worsen rather than to improve Iran's present relations with the United States. In other words, he fears that if anything should appear in the American press offensive to His Majesty after the restoration of our now half-severed relations, His Majesty might resort to the drastic steps taken in the case of France and sever relations completely with us. If, on the other hand, any objectionable stories were to appear before the formal reestablishment of relations, he believes that royal disfavor might be manifested merely by continued delay in reopening the Legation.

While I appreciate fully Dr. Daftary's dilemma and concur in his reasoning, I realize at the same time that it offers no immediate solution of the problem.

Under the circumstances there would appear to be nothing else to do for the moment than to await the reaction of the Shah to the communication which Dr. Daftary is sending forward today.

WALLACE MURRAY

701.9111/676a : Telegram

The Secretary of State to the Chargé in Iran (Engert)

WASHINGTON, January 14, 1939—3 p. m.

3. Department's 57, December 30, 11 a. m.³³ Daftary has not yet presented himself officially to the Department. He states that the Iranian Foreign Office, evidently perturbed by the recent turn in French relations, is withholding instructions to reopen the Legation pending the submission of his views regarding the disposition of the American press toward Iran and the Shah.

Fully aware of the impossibility of giving any specific and comprehensive assurances in the matter but desirous of doing something to break the present impasse, Daftary had expressed the hope that a suitably favorable atmosphere might be created by inspiring friendly articles on Iran in the American press and had referred in that connection to a letter which he bore from the Chief of the Berlin Office of the Associated Press to Berding, representative at the Department of the Associated Press.

In a conference on this subject at the Department on January 11 between Daftary, the Chiefs of the Divisions of Near Eastern Affairs and Current Information and Berding the following conclusions were reached:

1. That it would be ill-advised to attempt to inspire favorable publicity regarding Iran in the American press except on the materialization of some event of real news value.

2. That the only event of that kind which may be anticipated in the near future would be the re-opening of the Legation itself. If on that occasion the Secretary of State should make a statement regarding Iran, couched in friendly terms, favorable newspaper publicity would presumably follow.

3. The recent return of the Secretary from Lima affords a particularly suitable occasion for carrying this plan into effect.

Daftary professed to be fully in accord with these suggestions and stated that he intended telegraphing his Government to that effect immediately.

In the event that you perceive no objection, you are authorized to seek an occasion to discuss this matter with the Foreign Minister with a view to ascertaining whether he agrees that the tentative proposals outlined above might not afford a favorable basis for reopening the Legation.

In this general connection you will recall that at the time of Murray's visit to Teheran no stipulation was made by the Iranian Foreign Office that the re-opening of the Iranian Legation in Wash-

³³ Not printed.

ington would be conditioned on assurances regarding the American press.

HULL

701.9111/684

Memorandum by the Chief of the Division of Near Eastern Affairs (Murray)^{33a}

[WASHINGTON,] January 20, 1939.

Referring to my attached memorandum of January 12, 1939,³⁴ with regard to the reopening of the Iranian Legation in Washington, I have the following further developments to report:

Dr. Ali Akbar Daftary, Chargé d'Affaires designate of Iran in Washington, called this morning to discuss with me telegraphic instructions just received from his Government in response to the telegram sent by him on about January 12 and referred to in the attached memorandum. This telegram, signed by the Iranian Foreign Minister, which reached the Legation this morning, reads about as follows:

"I have taken your telegram to His Majesty and he has ordered:

'Announcement by the Secretary of State is not advisable. Present yourself without any noise.'

After discussing the above development with Mr. McDermott³⁵ it is our considered view that the best procedure to follow under the circumstances would be as follows:

After Dr. Daftary presents himself officially to the Secretary of State early next week, an inquiry will be made by one of the correspondents at the Secretary's press conference that day as to whether there have been any recent developments looking to the reopening of the Iranian Legation in Washington. In reply to this inquiry it is suggested that the Secretary might make a few remarks along the lines of the attached draft.³⁴

The above remarks, coming as they would in reply to a question, would in our opinion and in that of Mr. McDermott obviate the apparent objection of the Shah to any formal announcement on the part of the Secretary of State, but would at the same time strike a friendly official tone, the effect of which would not be lost upon the correspondents and would, so we believe, provide a good sendoff for the resumption of our relations with Iran.

After the above remarks would have been made by the Secretary it would be our intention to telegraph the transcript thereof to our Legation in Teheran in order that the Iranian Government might be

^{33a} Addressed to the Secretary of State and the Under Secretary.

³⁴ Not printed.

³⁵ Michael J. McDermott, Chief, Division of Current Information.

informed of the tenor of the remarks as well as the exact circumstances under which they were made. Dr. Daftary is in accord with the above procedure.

If the above suggestion meets with your approval we shall lay our plans accordingly.

Dr. Daftary has now sent a communication to the Secretary stating that he has been instructed to reopen the Legation and asking when it would be convenient for him to be received. I understand that the Secretary's office has set 11:30 a. m. on Wednesday as the time for Dr. Daftary to call upon the Secretary.

WALLACE MURRAY

701.9111/682

The Iranian Chargé (Daftary) to the Secretary of State

No. 538

WASHINGTON, January 20, 1939.

EXCELLENCY: I have the honor to inform you that I have been instructed by my Government to assume charge of the Iranian Legation in Washington in the capacity of Counselor and Chargé d'Affaires ad interim.

I shall be appreciative if you will indicate when it would be convenient for you to receive me.

Please accept [etc.]

DR. ALI AKBAR DAFTARY

701.9111/682

The Secretary of State to the Iranian Chargé (Daftary)

WASHINGTON, January 21, 1939.

SIR: I have received your note of January 20, 1939, in which you state that you have been instructed by your Government to assume charge of the Iranian Legation in Washington in the capacity of Counselor and Chargé d'Affaires ad interim and ask that I fix a date for receiving you.

I am happy to hear of the decision of your Government to reopen its Legation in Washington and I shall look forward to the pleasure of greeting you personally on Wednesday morning, January 25, at half-past eleven.

Accept [etc.]

CORDELL HULL

701.9111/682a : Telegram

The Secretary of State to the Chargé in Iran (Engert)

WASHINGTON, January 25, 1939—7 p. m.

5. Department's 3, January 14, 3 p. m. Daftary called at the Near Eastern Division again on January 20 and said that he had received

instructions (1) that an announcement by the Secretary of State regarding the reopening of the Legation was undesirable and (2) that he should present himself "without noise".

I received Daftary this morning. Reports regarding the reopening of the Legation having come to the attention of press correspondents, one of them raised the question at this morning's press conference. In replying I confirmed the above-mentioned reports and considered it desirable to add a few informal remarks, the transcript of which follows:

"In reply to a correspondent's question whether it was correct that the Iranian Legation in Washington had been reopened, the Secretary of State said that he had had the pleasure this morning of meeting the new Iranian Chargé d'Affaires who had reopened his country's Legation here. The Secretary added that this action came about largely as a result of the recent visit which Mr. Wallace Murray, Chief of the Division of Near Eastern Affairs, had made to Teheran, where he was most courteously received by His Imperial Majesty the Shah. The Secretary pointed out that the reopening of the Legation called to mind the long record of friendship between the two peoples and the confidence which Iran had reposed in us on many past occasions.

"The Secretary expressed the view that the remarkable strides which Iran had made in recent years under the guidance of its able and progressive ruler and the part which Iran had played as a stabilizing force in the Middle East were probably not fully realized or appreciated by our own people. In this latter connection he stated that he had particularly in mind Iran's sponsorship of the Saadabad Pact, which was a regional agreement designed to promote peace and understanding in Western Asia. Its essential purpose was similar to some of the agreements which we had signed during recent years in this hemisphere, since it contributed definitely toward a regime of order under international law.

"The Secretary called attention to the fact that improvements in the means of communication during the past few years had brought us into closer and closer contact with Iran, resulting in a mutually profitable and growing trade and also in a development and broadening of American-Iranian cultural relations. The Secretary expressed the view that the reopening of the Iranian Legation in Washington would contribute to a further strengthening of these already existing ties and would enable both countries more fully to understand and appreciate the efforts which each was making toward an improvement in the welfare of its people and toward the cause of world peace."³⁶

You may make such use of the foregoing as may be appropriate and helpful, bearing in mind that the above informal remarks are not to be regarded as an "announcement" but as a necessary procedure under our practice in dealing with the correspondents in order to set as favorable a tone as possible to press comments on the present event.

HULL

³⁶ Issued as a press release January 25, 1939; printed in Department of State, *Press Releases*, January 28, 1939, p. 55.

**CANCELLATION BY THE SEABOARD OIL COMPANY OF ITS OIL
CONCESSIONS IN IRAN AND AFGHANISTAN ³⁷**

891.6363 Amiranian/51a : Telegram

The Acting Secretary of State to the Chargé in Iran (Engert)

WASHINGTON, April 27, 1938—1 p. m.

28. To be decoded by Engert and to be divulged to no one:

1. Seaboard Oil Company has informed the Department that it has decided to terminate its concessions in Iran and Afghanistan. Hart ³⁸ will proceed to Teheran and Clapp ³⁹ to Kabul within the next week or two from Baghdad where they now are in order to give the two governments formal notification of the decision. Inasmuch as the decision may cause adverse effects, especially in Teheran, it will probably be necessary for you to remain there until the situation becomes clarified. Bearing in mind the difficulties which Dubois experienced in leaving Iran some years ago at the time the Ulen concession was terminated,⁴⁰ the Department desires you to consider possible ways and means of assisting Amiranian's American employees in departing from the country in the event that the Iranian Government should attempt to impede their movements.

2. Referring to your 39, April 25, 1 p. m.,⁴¹ these developments will probably obviate the necessity of your consulting at the Department and visiting Kabul. Pending further developments, however, it will be necessary to ask you to defer all plans for leave.

WELLES

891.6363 Amiranian/74

*Memorandum by the Chief of the Division of Near Eastern Affairs
(Murray)*

[WASHINGTON,] May 7, 1938.

Only a little over a year ago the Seaboard Oil Company (American) appeared to be making important oil history when, after three years of negotiation, it succeeded in obtaining extensive oil concessions in both Afghanistan and Iran. Within the last few days, how-

³⁷ The concessions were actually granted to subsidiary companies, the Amiranian Oil Company for Iran and the Inland Exploration Company for Afghanistan. For previous correspondence on these concessions, see *Foreign Relations*, 1937, vol. II, pp. 734 ff. and pp. 597 ff.

³⁸ Charles C. Hart.

³⁹ Frederick C. Clapp.

⁴⁰ In October, 1932, Arthur W. Dubois, manager of Ulen & Co., was refused an exit visa by the Iranian Government unless he first transferred his power of attorney to another representative. He was granted the visa after a strong protest by the United States.

⁴¹ Not printed.

ever, we have learned from the Seaboard Company that the Afghan and Iranian chapters of their activity are about to be brought to an unexpected and sudden conclusion as a result of their decision to give notice to the Iranian and Afghan Governments of the company's intention to withdraw from both concessions. In the case of Iran, it is understood that the company's representatives (one being Mr. Charles C. Hart, former American Minister to Iran) are now in Teheran and that notice may be given any day now, following which the representatives will proceed to Kabul on a similar mission.

According to an official of the Seaboard Company, the following reasons will be given to explain the company's decision:

1. The only oil bearing areas discovered thus far in the territory included in the company's concessions lie in the northern part of Iran and Afghanistan. The exploitation of these areas has been rendered uneconomic by the recent discovery of oil in important quantities on the Arabian mainland near the Persian Gulf coast which it will be possible to put on the market at a fraction of the price of oil produced in northern Iran and Afghanistan, which lie a thousand miles or more from the sea.

2. The present economic situation in the United States has caused the company to adopt a more conservative attitude with regard to the extent of its operations.

3. The discouraging nature of developments in the international picture are regarded as disquieting. In this connection, a company official said that he particularly had in mind developments in Mexico in which his company was involved. He added, however, that no direct reference to the Mexican situation would be made to the Iranians.

In addition to the foregoing reasons which will be given the Governments concerned, we have been given confidentially to understand that the following considerations also enter into the picture:

1. The fairly recent deaths of Mr. Ogden Mills and of Mr. Case of the banking firm of Case, Pomeroy and Company, both of whom were interested in the Iranian and Afghan concessions.

2. Interest of the Seaboard Company in securing a concession in southern Iraq.

It goes without saying that the decision of the Seaboard Company, even though entirely in accord with the concession contract, will come as a stunning blow to the Iranian and Afghan Governments from the standpoints both of pride and of deflated hopes of increased revenue. It would by no means be surprising if considerable resentment resulted, particularly on the part of the Iranian Government, which is extremely sensitive in such matters and might be expected to be especially so in this instance due to the abnormal status of Irano-American relations since March, 1936, when Iranian representation in this country was withdrawn following the appearance in the American press of articles regarded by the Iranians as insulting to the

Shah.⁴² Furthermore, this situation will not be made easier as a result of the appearance of an article in *Time* which has already been taken up informally with our Legation in Teheran by the Iranian Foreign Office.

On the other hand, we have been told by representatives of the Seaboard Company that it is their intention to be as conciliatory as possible in approaching the Iranian Government and they tell us that they would be willing, should the Iranian Government so desire, to continue exploration activity perhaps until the end of the present year and to turn over any data obtained to the Iranian Government. Judging by our past experience with the Iranians, however, it will be a welcome surprise if this reasonable attitude on the part of the Seaboard Company meets with reciprocal good will on the part of the Iranian authorities.

The attached memoranda⁴³ contain a full account of these recent developments.

WALLACE MURRAY

891.6363 Amiranian/58 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, May 21, 1938—3 p. m.

[Received May 21—1:05 p. m.]

49. My 48, May 18, 2 p. m.⁴³ Informal and verbal notification was given by the company this morning to the Director of the Petroleum Bureau. The latter is reported to have said that this would make it practically impossible for any American interests ever again to obtain petroleum or any other concessions in Iran.

ENGERT

891.6363 Amiranian/61 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, May 29, 1938—11 a. m.

[Received 11:55 a. m.]

56. My 49, May 21, 3 p. m. I am informed Hart who is now in Kabul has decided to postpone notification to the Afghan Government until June 4 and formal written notification here until June 6. I also hear that Clapp intends to apply for oil concession in south-eastern Iran. It is difficult to reconcile these maneuvers with the

⁴² See *Foreign Relations*, 1936, vol. III, pp. 342 ff.

⁴³ Not printed.

company's decision and they may have a deplorable effect upon a situation which is already bad enough.

ENGERT

891.6363 Amiranian/62 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, June 6, 1938—9 a. m.

[Received June 6—6:45 a. m.]

62. I learn from a source close to the Palace that when the decision of the company was communicated to the Shah the latter merely remarked "so much the better" and has not referred to it.

ENGERT

891.6363 Amiranian/65 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, June 7, 1938—10 a. m.

[Received June 7—9:10 a. m.]

64. My 56, May 29, 11 a. m. Clapp informs me he may accept tentative offer of Iranian authorities subject to Shah's approval to appoint him Chief of Geological Survey with special reference to petroleum. I see no objection as the continuation of such contacts may prove helpful to American interests in general.

ENGERT

891.6363 Amiranian/64 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, June 12, 1938—11 a. m.

[Received June 12—9:45 a. m.]

68. My 56, May 29, 11 a. m. Official written notification was only presented this morning.

ENGERT

891.6363 Amiranian/66 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, June 15, 1938—10 a. m.

[Received June 15—8:20 a. m.]

71. Summary of proceedings in Parliament June 12, published this morning, contain business-like remarks by the Minister of Finance informing Parliament of the withdrawal of the Amiranian. The

only comment came from Taheri, Vice President of the Chamber and Deputy from Yezd, who expressed surprise and doubted whether the reasons assigned by the company were the real ones.

ENGERT

890H.6363/104 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, June 21, 1938—9 p. m.
[Received June 22—9 a. m.]

74. Hart returned from Kabul this afternoon. Gave written notification to the Afghan Government June 19th. He states Government offered concession on more favorable terms if that would induce the company to reconsider decision and made him promise to try and interest some other American company in Afghan oil. Authorities, although stunned by the decision to terminate concession, continued to show most friendly feelings and Hart believes six Americans on his staff now still in Afghanistan are in no danger.

ENGERT

891.6363 Amiranian/70 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, June 22, 1938—11 a. m.
[Received 4:30 p. m.]

75. My 71, June 15, 10 a. m. Now that the news is at last generally known some extremely interesting observations are reaching me from Iranian official and foreign diplomatic sources which I am summarizing below. I am of course denying in conversations any false reports.

1. The American interests were bought out by the British.
2. The Soviet Government forced the Iranian Government to terminate the concession.
3. The American Government obliged the company to withdraw because of the Mexican situation.
4. Ditto because of the impending outbreak of a European war.
5. The Iranian authorities had put great obstacles in the way of the company and the American Government was also annoyed by the continued absence of Iranian representation in the United States.
6. The company found no oil whatever and the concession was worthless.

Present indications are that the Iranian Government would prefer not to give the concession to any other foreign company and to exploit itself such oil as may exist for the purpose of supplying railroad and local industries. Germans are extremely active in trying to obtain a

concession and the French (see my 123, December 3, 11 a. m.⁴⁵) are also interested. It is generally believed that the Soviets would literally not permit the concession to go to German interests.

Italian Minister tells me that the withdrawal of Americans is a great disappointment to his Government as it had hoped to supply its East African possessions through the American company instead of paying about pound sterling 100,000 a month to the Anglo-Persian Oil Company. I have suggested that Bahrein and Arabia might perhaps serve the same purpose.

ENGERT

RESUMPTION OF PRELIMINARY DISCUSSIONS FOR A TRADE AGREEMENT BETWEEN THE UNITED STATES AND IRAN⁴⁶

611.9131/93 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, September 27, 1937—10 a. m.

[Received September 27—8:45 a. m.]

90. Foreign Office has requested me both orally and in writing that conversations regarding a trade agreement be resumed. Please instruct.

ENGERT

611.9131/93 : Telegram

The Secretary of State to the Chargé in Iran (Engert)

WASHINGTON, October 5, 1937—4 p. m.

50. Your 90, September 27. The Department has been pleased to receive the suggestion of the Iranian Government with regard to the resumption of trade agreement conversations. You may so inform the Foreign Office and explain that in view of the lapse of time since the discussions of 1935 and early 1936, it will be necessary to study the trade between the two countries, and in accordance with established practice, to consult with the other interested agencies of the Government before it will be possible to inform the Iranian Government that we are definitely prepared to resume the conversations. This study and the consultations are being undertaken and it is hoped that within the next few weeks it will be possible to give the Iranian Government a favorable reply.

⁴⁵ Not printed.

⁴⁶ For previous correspondence, see *Foreign Relations*, 1935, vol. I, pp. 909 ff.

The Department understands that the suggestion of the Iranian Government contemplates the negotiation of a definitive trade agreement, similar to those recently concluded by the United States with other countries, which would include, in addition to reciprocal trade concessions, general provisions governing the treatment to be accorded by each country to the commerce of the other and providing for unconditional most-favored-nation treatment in respect of all commercial matters.

Should further conversations be undertaken with Iran, it would of course be understood that some changes might be made in the list of desiderata which we gave the Iranian Government during the earlier conversations. It is assumed that the Iranian Government is familiar with this Government's general practice of granting concessions only with respect to those products of which the country in question is the principal or an important supplier of United States imports.

The Department desires that the Legation prepare as soon as possible and with the collaboration of the Consulate a detailed report on Iranian trade restrictions containing suggestions as to specific concessions to be sought by us if negotiations are undertaken. When report is ready for mailing please summarize briefly by telegraph.

The Department's mail instruction of September 13⁴⁷ transmits memoranda containing background information relating to eventual trade agreement negotiations with Iran not touched upon in this telegram.

HULL

691.006/133 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, January 25, 1938—6 p. m.

[Received January 26—9:30 a. m.]

10. Legation's 126, December 8, noon and 3rd paragraph my 1, January 3, 11 a. m.⁴⁸ By decision of Council of Ministers basis of foreign exchange control has been radically altered. Although text is somewhat obscure it seems that henceforth private exporters of first and second class merchandise will receive saleable exchange sales certificates carrying conditional rights to obtain order—authorization for half the value of commercial exchange surrendered to an authorized bank while remainder will be utilized by Government organizations including Markazi.

Although official exchange rate remains at 80 rials to the pound, deferred exchange permits maturing after January 18th relating to

⁴⁷ Not printed.

⁴⁸ Neither printed.

merchandise not then cleared from customs will not be valid and importers will therefore be obliged to purchase at unofficial rates certificates mentioned above in order to secure exchange for remittance abroad. Bazaar rate today about 140 rials to the pound.

The Legation and Consulate will report further as soon as possible.
 ENGERT

611.9131/93 : Telegram

The Secretary of State to the Chargé in Iran (Engert)

WASHINGTON, February 10, 1938—6 p. m.

8. Department's 50, October 5, 4 p. m. You may inform the Iranian Foreign Office that the United States will be pleased to resume trade-agreement conversations. You should at the same time secure the confirmation of the Iranian Government with respect to the nature of the proposed negotiations as outlined in the second paragraph of our 50 of October 5. In amplification thereof you may state that adequate provision for unconditional most-favored-nation treatment in respect of all commercial matters would require, in this Government's opinion, that the agreement with Iran embody assurances that: (1) the treatment with respect to customs duties and similar matters specified in numbered paragraph 3 of the exchange of notes of May 14, 1928,⁴⁹ would be continued, and (2) import permits, quotas and exchange control would not be used by either Government to divert trade to a third country to the detriment of the other and that any advantages granted to any third country with respect to these matters would be accorded unconditionally to the other country. Such guarantees are provided in the standard draft of general provisions for inclusion in trade agreements,⁵⁰ copies of which are being sent you for transmittal to the Iranian Government.

The procedure followed by the United States in the negotiation of trade agreements customarily includes a preliminary public announcement by this Government that the negotiation of a trade agreement with the other country is contemplated. The purpose of this announcement is to afford American interests opportunity to present views as to the products to be covered. Such announcement includes the statement that at a later date formal public notice of intention to negotiate will be given. Accompanying the formal notice there is published a list of articles under consideration for concessions to the other country. The formal notice constitutes an invitation to our domestic interests to submit briefs with respect to articles included in

⁴⁹ *Foreign Relations*, 1928, vol. III, pp. 724-728.

⁵⁰ *Ibid.*, 1935, vol. I, p. 541.

the published list and sets a date for public hearings here. This Government does not make public announcement of products on which we seek concessions from the other country.

It is possible that preliminary announcement of contemplated negotiations with Iran may be omitted, but no decision has been reached on this point.

You may explain the trade agreements procedure of this Government to the Iranian authorities, pointing out at the time that it will only be possible to proceed to such formal negotiation after agreement has been reached between the two Governments as to the bases of negotiation mentioned in paragraph 1 of this telegram. In addition the Department desires to have an opportunity to study the possible effect of the new exchange control system reported in your 10 of January 25. It will be understood of course that at this point conversations between the two Governments should be regarded as strictly confidential.

While the Department does not wish to encourage the Iranian Government to submit a list of products on which it desires concessions until we are prepared to initiate definitive negotiations, should the Iranian authorities manifest a desire to do so you may say that the United States would be glad to have such a list, referring in this connection to the practice followed by this Government of granting concessions only with respect to those products of which the country in question is the principal or an important supplier of United States imports.

On January 12, formal notice was issued of intention to negotiate a trade agreement with Turkey.⁵¹ The list published with that notice of the products on which concessions to Turkey will be considered includes Oriental rugs. However, it is probable that any reduction which may be granted to Turkey on rugs would be restricted to those types which are of particular interest to Turkey and you may so inform the Iranian authorities should you think it advisable.

You are requested to report by telegraph as soon as possible the essential features of the new Iranian exchange control system, which were not clearly indicated in your 10 of January 25. Report should cover following points:

- (1) whether import permit-export certificate system has been abrogated;
- (2) whether new system applies to trade with Germany and Soviet Union which were granted special facilities under the previous system apparently discriminatory to our trade;
- (3) rates paid for exchange sales certificates in the open market;

⁵¹ See Department of State, *Press Releases*, January 12, 1938, p. 108.

(4) basis for classification of export merchandise with particular reference to commodities of importance in trade with the United States.

Report fully by mail.

HULL

611.9131/93

The Secretary of State to the Chargé in Iran (Engert)

No. 359

WASHINGTON, February 14, 1938.

SIR: Reference is made to the first paragraph of the Department's telegram No. 8, of February 10, 1938, in which it was stated that copies of the standard draft of general provisions for inclusion in trade agreements would be sent you. There are enclosed herewith copies of these provisions for transmittal to the Iranian Government. For your information and guidance, there are also enclosed copies of a memorandum⁵² explaining the general objective of the draft article relating to foreign exchange control and the purpose of the specific assurances it provides. It is believed that certain parts of this memorandum will be of assistance to you in explaining the purpose of this provision to the Iranian Government. There are also enclosed, for such use as you deem advisable in your conversations with the Iranian authorities, copies of a memorandum⁵² explaining the procedure followed by this Government in connection with trade-agreement negotiations and the Department's preliminary and formal announcements with regard to negotiations with Turkey.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.9131/95 : Telegram

The Chargé in Iran (Engert) to the Secretary of State

TEHERAN, February 18, 1938—9 a. m.

[Received 12:30 p. m.]

17. Department's 8, February 10, 6 p. m., and my 15, February 9, 10 a. m.⁵³ Foreign Minister is not yet out of danger and recovery may take several weeks longer. Under Secretary has returned from Geneva and I have acquainted him with the substance of the Department's 8. He doubts whether much can be done until the Minister is well enough to discuss the basic points upon which agreement is desired before negotiations are started.

⁵² Not attached to file copy of instruction.

⁵³ Latter not printed.

The following are brief replies to the questions at the end of the Department's telegram: (1) System has not been abrogated but its application somewhat liberalized; (2) new exchange control system does not affect trade relations with Germany and Russia; (3) present rate about 145 rials for future delivery 45 to 90 days; (4) basis seems to be relative marketableness of a given product. Only the list of third class merchandise has been published (see consular reports September 28 and November 29, 1937⁵⁴). Most of these articles are of little or no importance as exports to the United States. All others are in class 1 or 2 but categories have never been announced. Consulate learns informally that, for example, carpets and gum tragacanth would be in the first class and dried fruits in the second.

Please see also consular despatch No. 49, February 5, 1938,⁵⁵ when it arrives. Papers this morning announce that paragraph 4 on page 2 of the enclosure has been amended to assist exporters still further by changing delay of 3 months to 12.

ENGERT

701.9111/643: Telegram

The Secretary of State to the Chargé in Iran (Engert)

WASHINGTON, March 4, 1938—7 p. m.

11. Your 20, March 1, 9 a. m.⁵⁶ Personal from Murray.

My letter of February 4⁵⁵ suggested you defer departure on leave until after possible trade agreement negotiations which, if all goes well, might be undertaken at Teheran in April or May by same delegation which is proceeding shortly to Turkey. Such negotiations whether here or in Teheran will depend of course upon nature of the Iranian reply to proposal made in Department's 8, February 10, 6 p. m.

The Department would meanwhile welcome your views as to whether an insistence on our part that the negotiations take place in Washington might either hasten a decision of the Iranian Government to reopen its Legation here or assist in arriving at a satisfactory trade agreement with Iran.⁵⁷

As far as we can now foresee you will probably proceed to Kabul for short visit after home leave and then return to Teheran. [Murray.]

HULL

⁵⁴ Neither printed.

⁵⁵ Not printed.

⁵⁶ *Ante*, p. 727.

⁵⁷ With respect to failure to open trade agreement negotiations, see telegram No. 27, March 21, 9 a. m., from the Chargé in Iran, p. 729, the Department's reply, telegram No. 16, March 26, 3 p. m., p. 730, and telegram No. 76, June 23, noon, from the Chargé in Iran, p. 732.

IRAQ

TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES AND IRAQ, SIGNED DECEMBER 3, 1938¹

711.90G2/24

The Chief of the Division of Near Eastern Affairs (Murray) to the Minister Resident in Iraq (Knabenshue)

WASHINGTON, January 19, 1938.

DEAR PAUL: In connection with our present treaty negotiations with Iraq, it is not entirely clear from the Legation's despatch of December 8, 1937,² or from its enclosure, the note from the Foreign Office explaining the amendments proposed by the Iraqi Government, precisely what effect, if any, the amendment of Article II proposed by the Iraqi Government would have. The principal amendment occurs in the beginning of the article and represents the addition of the following words:

"Having regard to the volume and nature of the trade between the two countries, it is agreed that . . ."

With respect to this and a very minor amendment of Article II the note from the Foreign Office contains the following statement:

"Subject to these amendments, which are dictated by Iraq's extensive most-favored-nation obligations, Article II is acceptable."

While the additional language proposed by the Iraqi Government does not seem to involve any material change in the original language suggested by the Department, the explanatory statement made by the Foreign Office suggests that the Iraqi Government may regard the amendatory language as effecting possibly a material change in the language of the Department's original draft. If there should be any doubt as to whether the Iraqi amendment does effect a material change in the sense of the article, I assume that you would endeavor to ascertain the precise purpose which the amendment is designed to serve before making any final commitment as to our acceptance of Article II in its amended form. We should appreciate your reassuring us on this point as soon as you are able to do so.

Sincerely yours,

WALLACE MURRAY

¹ For previous correspondence, see *Foreign Relations*, 1937, vol. II, pp. 767 ff.

² Despatch No. 909, *ibid.*, p. 776.

711.90G2/24: Telegram

The Secretary of State to the Minister Resident in Iraq (Knabenshue)

WASHINGTON, January 21, 1938—4 p. m.

2. Your No. 909, December 8, 1937.^{2a} The Department is not disposed to accept new Article V in present form because it is unilateral and because of the short time. You should endeavor to persuade the Iraqi Government to withdraw its request for inclusion of this Article, pointing out that the proposed treaty differs from Iraq's Declaration to the League of Nations³ in being a freely negotiated bilateral instrument rather than a unilateral declaration on the part of Iraq. In this connection you may in your discretion confirm the impression of the Legal Adviser to the Foreign Office, as mentioned in your despatch under reference, that the United States might claim a more favored position under Article 7 of the Tripartite Convention of 1930⁴ which was signed more than 2 years before the Declaration to the League.

You should also emphasize the fact that the balance of trade between Iraq and the United States has for many years been favorable to the former and it would not appear likely that this situation would materially change during the 3 years in which the treaty is to be in force.

If the foregoing considerations should not induce the Iraqi Government to withdraw the proposed new article, which seems to have been proposed solely because of our insistence on article II, you may state that the Department would reluctantly agree to add to article II, in lieu of the proposed article V, a special provision for the termination of the article or treaty. If it should be necessary to submit this proposal the Department suggests the following language as an additional paragraph of article II:

"The Government of each High Contracting Party will give sympathetic consideration to any representations which the other Government may make in respect to the application of the provisions of this article. If agreement with respect to the question or questions involved in such representations shall not have been reached within 90 days from the date of the receipt of the said representations either Government may, notwithstanding the provisions of Article VII, terminate this article or this treaty, such termination to be effective at the expiration of 30 days from the date of the receipt of a notifi-

^{2a} *Foreign Relations*, 1937, vol. II, p. 776.

³ May 30, 1932, League of Nations Document No. A.17.1932.VII: *Request of the Kingdom of Iraq for Admission to the League of Nations*, p. 3.

⁴ Signed at London, January 9, 1930, by the United States, Great Britain, and Iraq, *Foreign Relations*, 1930, vol. III, p. 302.

cation of termination given by either Government to the other Government subsequent to the expiration of the 90-day period provided herein."

HULL

711.90G2/30

The Minister Resident in Iraq (Knabenshue) to the Chief of the Division of Near Eastern Affairs (Murray)

BAGHDAD, February 5, 1938.

[Received April 8, 1938.]

DEAR WALLACE: After receiving the Department's telegraphic instruction of January 21, 1938, regarding the last point of dispute in connection with our proposed commercial treaty with Iraq, I saw the Minister for Foreign Affairs on February 2nd and had a long discussion with him on the point at issue. I had told him a few days in advance the object of my visit, and in order to expedite matters, I suggested that probably he would like to have his Legal Adviser, Mr. McDougall, present. In consequence thereof, Mr. McDougall took part in the conversation. I confined myself to an effort to persuade them to eliminate entirely Article V. The Foreign Minister was, it was plain to see, sympathetic to my point of view. McDougall, who was responsible for having inserted that Article, acknowledged that on the face of it, it appears one-sided, but tried to justify himself as endeavoring to give Iraq a legal position to defend itself.

Without going into all of the various phases of the arguments I used and with which I was countered, I will merely tell you now that there is a fair degree of probability that I may succeed in causing the entire elimination of Article V, allowing the rest of the Treaty to stand. I am preparing a note to the Minister for Foreign Affairs, at his request, to support my point of view. He is to submit my note to the interested departments of the Government in order to see whether they will accept it. I fear, however, that I may have to resort to the alternative suggested by the Department, which of course I know from my conversation of last Wednesday would be acceptable; but inasmuch as the Department said that it would reluctantly accept that solution, I will still hold out as long as possible for the entire elimination of Article V without the amendment of Article II as suggested by the Department.

In any case, we have now reached the point where the Treaty will undoubtedly be signed soon in one form or the other.

Sincerely yours,

PAUL KNABENSHUE

711.90G2/27

The Minister Resident in Iraq (Knabenshue) to the Chief of the Division of Near Eastern Affairs (Murray)

BAGHDAD, February 26, 1938.

[Received March 9.]

DEAR WALLACE: In response to your letter of January 19th regarding the amendment suggested by the Iraqi Government to Article II of the Treaty of Commerce and Navigation which we are negotiating, I may say that while I was always satisfied that this amendment did not involve any material change in the meaning of the original article as worded by the Department, at least as affecting our interests, I felt it desirable to send Barbour⁵ to the Ministry for Foreign Affairs to discuss the matter with McDougall, the Legal Adviser. I am enclosing Barbour's memorandum⁶ of his conversation with McDougall, from which you will note that the additional language added by the Iraqi Government to the Article is intended to protect them from demands of other countries for similar terms as embodied in the rest of the Article. It is my personal opinion that even this additional language would not give the Iraqi Government the protection they seek, but inasmuch as they want it there and inasmuch as it does not affect our position in the slightest degree, I have no objection in allowing it to remain.

I am expecting reasonably early action from the Iraqi Government on the last stages of the negotiations, but before signing the Treaty, I will, of course, communicate again with the Department by telegram, and, in referring to this present letter to you, will ask for final instructions.

Sincerely yours,

PAUL KNABENSHUE

711.90G2/28: Telegram (part air)

The Minister Resident in Iraq (Knabenshue) to the Secretary of State

BAGHDAD, April 6, 1938—noon.

[Received April 11—6:30 a. m.]

9. Regarding commercial treaty Iraq Government willing to make terms of article V bilateral but added paragraph to article II as suggested by the Department in its 2 of January 21, 4 p. m., now expected to offer the following redraft of article V "should measures be taken by either High Contracting Party seriously affecting any of the chief exports of the other, the former will give sympathetic consideration

⁵ Walworth Barbour, Third Secretary of Legation.⁶ Not printed.

to any representations which the latter may make in respect to such measures. If agreement with respect to the question or questions involved in such representations shall not have been reached within 90 days from the date of the receipt of the said representations the government making the representations may, notwithstanding the provisions of article VII, terminate this treaty, such termination to be effective at the expiration of 30 days from the date of the receipt of a notification of termination given subsequent to the expiration of the 90 day period provided herein". Please telegraph whether acceptable to the Department and whether I may now sign treaty. The mutual concessions made and now proposed seem to provide satisfactory solution.

KNABENSHUE

711.90G2/28 : Telegram

*The Acting Secretary of State to the Minister Resident in Iraq
(Knabenshue)*

WASHINGTON, April 26, 1938—5 p. m.

5. Your No. 9, April 6, noon.

1) Redraft of Article V acceptable but Department would like certain verbal changes made in new Article V so that the Article will read as follows:

"Should measures be taken by either High Contracting Party seriously affecting the chief exports of the other Party, the Party taking such measures will give sympathetic consideration to any representations which the other Party may make in respect to such measures."

Remainder as in your telegram No. 9.

2) Some changes have been made in the standard commercial treaty provisions in so far as they touch upon arms and munitions. The new provision which, in the case of the treaty with Iraq, should be substituted for the present paragraph (1) of Article IV, reads as follows:

"Nothing in this treaty 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. It is agreed, further, that nothing in this treaty shall be construed to prevent the adoption or enforcement of measures relating to neutrality."

3) The Department understands that the treaty you will sign will be in exact conformity with enclosure 2 of your despatch No. 909 of

December 8, 1937, except as indicated in paragraphs 1 and 2 of this telegram. The Department also desires the following minor changes made in enclosure 2:

(a) Insert "growth," before the phrase "produce or manufacture" in the fourth and fifth lines of the second paragraph, and in the third and fifth lines of the third paragraph of Article I.

(b) "established" in the ninth line of Article II should be "establishes".

(c) The comma after the word monopoly in the fourth line of the third paragraph of Article IV should be struck out.

4) The final texts should be prepared for signature and signed in two originals in accordance with Chapter IX of the Printed Instructions to Diplomatic Officers, March 8, 1927, especially as regards alternate explained in section 2 of that chapter.

5) Subject to rewording indicated in paragraphs 2 and 3 above, you may proceed to signature.

WELLES

711.90G2/32 : Telegram

The Chargé in Iraq (Barbour) to the Secretary of State

BAGHDAD, July 28, 1938—noon.
[Received July 28—9:20 a. m.]

18. Note from Foreign Office confirms Legation's 17, July 21, 1 p. m.⁷

Iraq Government accepts changes suggested in the Department's 5, April 26, 5 p. m. except for the first paragraph of article No. IV with regard to which it suggests two alternatives:

(1) That the first sentence revert to wording as in enclosure to despatch No. 909 of December 8, 1937, and the new second sentence be omitted, or

(2) That the paragraph remain as in the Department's telegram 5 with the addition of the following to the second sentence "or to rights and obligations arising under the Covenant of the League of Nations".

BARBOUR

711.90G2/32 : Telegram

The Secretary of State to the Chargé in Iraq (Barbour)

WASHINGTON, August 4, 1938—8 p. m.

15. Your 18, July 28, noon. Alternative (2) acceptable. How soon can treaty be prepared for signature? Department would like to

⁷ Not printed.

have it signed at earliest date practicable. Will Iraq Government accept telegraphic full powers?

HULL

711.90G2/37: Telegram

The Minister Resident in Iraq (Knabenshue) to the Secretary of State

BAGHDAD, December 3, 1938—1 p. m.

[Received December 3—9:22 a. m.]

50. The Minister for Foreign Affairs Towfiq Suwaidi and I signed the Treaty of Commerce and Navigation at noon today.

KNABENSHUE

[For text of treaty, see Department of State Treaty Series No. 960, or 54 Stat. 1790.]

LIBERIA

FAILURE OF DUTCH CONCERN (NEEP) TO OBTAIN MINING CONCESSION IN LIBERIA; AMERICAN INTEREST IN DEVELOPING LIBERIAN IRON RESOURCES¹

882.635 Neep/31 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, January 6, 1938—noon.

[Received 2:50 p. m.]

3. For McBride. Liberian Government, through Minister at Paris, has made proposal that Amsterdamscher Bank of Holland become trustee of Neep² stock with the understanding that at no time would less than 60% be owned by other than the nationals of the Netherlands or Liberia.

Neep desirous that provision be changed from 60 to 51%. Government obdurate. Neep has failed to answer questions referred to in my telegram No. 67, December 6.³

Despite stalemate, Neep is building a road from Kumiberg to the Bong Mountains area. Belgian drillers are ascertaining potential supply of iron ore, which information would be a determining factor in dealing with transportation problem.

WALTON

882.635 Neep/55

The Chargé in Liberia (Wharton) to the Assistant to the Secretary of State (McBride)

[Extract]

MONROVIA, January 22, 1938.

DEAR MR. MCBRIDE: . . .

President Barclay has had quite a chat with me, he doing practically all the talking. As I have been here only a short time, I could very well take the part of an interested listener. His great concern is, as you know, the Neep concession. As far as I can ascertain, there has

¹ For previous correspondence, see *Foreign Relations*, 1937, vol. II, pp. 829 ff.

² Abbreviation for Noord Europeesche Erts En Pyriet Maatschappij, the Netherlands company interested in a mineral concession in Liberia.

³ *Foreign Relations*, 1937, vol. II, p. 854.

been no change in the situation since the Minister's telegram of January 3 [6], 12 noon.

In beginning his talk on Neep the President said that he has been placed in a most embarrassing position. I asked him how. He replied that when the Holland Syndicate ascertained that they could not exploit diamonds on a large commercial scale, but had discovered valuable deposits of iron, it was he, President Barclay, who asked the Holland Syndicate to look for some firm to exploit the iron deposits; that in consequence, the syndicate, represented by D. Caffé, contacted and interested the Neep Company in the proposition; that Neep has thus far expended appreciable sums in surveys and drilling, establishing their credit at the bank, etc., and that the entire outlay to work the concession proposes an investment of something like \$7,000,000, including a harbor at Monrovia and a railroad from the Bomi Mountain district by way of Suehn, Arthington and Millsburg to Monrovia.

He continued that Liberia cannot remain unmindful of the wealth of the country and must afford opportunities to foreign interests to exploit this wealth, particularly in view of the well known pronouncements of certain foreign countries seeking colonies in Africa. He assures me that he has been cautious in seeing that foreigners of nations possibly antagonistic to Liberia's best interest should not have control of any concession granted by his government. He added that he particularly brought this idea to the attention of Mr. Caffé, having in mind Great Britain and France because of their colonies contiguous to Liberia, and Germany whose repeated public statements on colonies are well known. He continued that in view of the present temper of the world and the desire of certain countries for territory and products in Africa, he feels it is imperative that Liberia at this time should not be accused of the "dog in the manger policy." In answer to my question as to the attitude of the people with respect to the Neep concession, he said that the mass of the people are interested in having the company here, especially in view of the proposed railroad and harbor. President Barclay undoubtedly believes that if he does not get a better offer from some source unquestionably known to be friendly to Liberia, he cannot very well turn down Neep's proposal without unfavorable repercussions. He feels that he has taken precautions in safe-guarding Liberia's best interests through his later stand that 60 percent of the shares of Neep at all times should be held by the Dutch and/or Liberians. He intimated that the attitude of the Department towards the proposed Neep concession seemed all right at first, but that the attitude of the Department later had changed. At this juncture I told him that the Department's interest has at all times been friendly and pointing towards the best interests of Liberia. The

President then said that he appreciates the situation and our deep interest in Liberia.

I ventured to ask if he had explained his position to Minister Walton. He said that he has kept the Minister well informed on all steps in the negotiations and that the day prior to the Minister's departure he had a long discussion with him along these lines. The President honestly believes that he has been cautious in the negotiations and that by requiring 60 per cent of the stock to be held by the Dutch and/or Liberians he is safe-guarding the interests of his country. I believe that he feels he will eventually have to reach a definite decision with reference to the Neep concession.

President Barclay appears to be deeply involved in view of his own request in the first instance to the Holland Syndicate, the present temper of certain powers who insist that potential wealth in Africa should be exploited and the desire of the people here to have further sources of employment and the railroad and harbor which are offered by Neep. I have carefully studied the files of the Legation and have been guided by your personal and confidential telegram to the Minister of December 3, seven p. m.⁴

During this conversation I had a good opportunity to ask President Barclay about the deposits and if he had furnished the Minister with geological reports and samples. He answered that the deposits are composed of both laterite and hematite, that he has not received geological reports and samples, but he hopes to receive them in the near future.

In briefly summarizing the present situation, it is my candid opinion that the President in asking the Holland Syndicate to find some firm to exploit the iron deposits here, the resultant coming of Neep, the President's initialing of the concession prior to its submission to the Legislature, the Legislature's approval of the concession with certain modifications which, I believe, were suggested by the President, and the Legislature finally empowering the President to solve controversial points in the concession places the entire responsibility of the outcome of the negotiations on the President's shoulders. He has gone far in this matter and unless the restricted provision with reference to share holders safe-guards Liberia's interests, it is my further opinion that there may be two solutions to the problem. Either some friendly interest must make a better offer than Neep or else American or other nationals of friendly countries must purchase sufficient shares in Neep to act as a balance of power in the company's operations. Either of these two solutions would ease President Barclay out of his present dilemma.

⁴ *Foreign Relations*, 1937, vol. II, p. 851.

I have thought it best to write you very frankly of the facts as I see them. The President is apparently waiting for further information and some indication from us as to the restrictive share provision. Any personal suggestions you may care to offer I am sure will be highly appreciated, for the President cannot hold Neep off indefinitely and save his face.

Very sincerely yours,

CLIFTON R. WHARTON

882.635 Neep/37 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, January 26, 1938—11 a. m.

2. Personal for Wharton from McBride.

1. I am disquieted by the information in the final paragraph of the Legation's 3, January 6, noon, indicating that Neep is proceeding with operations despite the fact that President Barclay has withheld his approval from the concession contract. These activities of Neep again raise the considerations referred to in paragraph 2 of my 26, October 26, 6 p. m.⁵ and discussed at length in my 35, December 3, 7 p. m.⁶

2. With reference to your 5, January 19, noon,⁷ important American interests approached personally and entirely unofficially have shown a favorable reaction toward possibility of developing iron ore deposits in Liberia. Since these interests are naturally interested in ascertaining character and extent of deposits anything you may be able discreetly to do toward obtaining and forwarding reports and samples in the near future will tend to expedite their early decision.

3. If these questions are raised in any conversations which you may have with President Barclay you may consider it appropriate to pass the foregoing on to him in strict confidence. [McBride.]

HULL

882.635 Neep/36 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, January 27, 1938—10 a. m.

[Received 2:28 p. m.]

6. Personal for McBride. Please refer to my telegram No. 3, January 6, noon. President Barclay states that Liberian Minister at

⁵ *Foreign Relations*, 1937, vol. II, p. 847.

⁶ *Ibid.*, p. 851.

⁷ Not printed.

Paris reports that Mr. Van Nierop, director of Amsterdamsche Bank, has informed him that (1) bank not interested in becoming trustee of stock if Neep to control; (2) bank is awaiting report from Neep technical mission in Liberia and expects report within next few weeks; (3) if technical details in the report are satisfactory the bank would thereafter begin at once formation of financial syndicate in which bank would take and keep control and thereby insure neutral Dutch character of capital; (4) his firm would desire to work in close collaboration with Liberian Government for establishment of the enterprise and to that end would not consider Neep their liaison agent for preliminary investigation as sufficient contact, suggesting contact through Liberian Minister at Paris.

WHARTON

882.635 Neep/39 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, February 4, 1938—2 p. m.

[Received February 5—7:30 a. m.]

8. Personal for McBride. Last Friday I informed President Barclay in strict confidence of the first two paragraphs of your cable number 2, January 26, 11 a. m. He thanked me for the information, he said that Neep activities are limited to drilling to determine extent and character of deposit and that they are not building roads, only passes to reach iron area. He further said that he is now waiting for early return of single copy of geological report in Dutch he sent to Grand Bassa to be transcribed English.

He added that Caffé denies that Liberian Minister at Paris contacted Amsterdamsche Bank with regard to trusteeship of stock and that he, Barclay, was waiting for confirmation from the Liberian Minister by air mail Tuesday, February 1st, of information reported in my telegram 6, January 27, 10 a. m. I called on him Tuesday after arrival air mail but he refrained from giving me any further information saying that he would notify me within a few days when I may call.

WHARTON

882.635 Neep/41 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, February 9, 1938—9 a. m.

[Received 4:46 p. m.]

10. Personal for McBride. Not having heard from President Barclay I called on him yesterday and day before yesterday. He informed me that he is still waiting for samples and the report and

confirmation from Liberian Minister Paris referred to in my 8, February 4, 2 p. m. He remarked that there are other iron ore deposits in Liberia. When asked their location and character he said that they are included in the report. When questioned further he said that he has gone so far in the present negotiations that if satisfied as to political implications and financial backing of Neep he will have to approve concession contract but in such an event he would be pleased to have the important American interests develop other deposits.

Caffe voluntarily approached me to inform me of his side of negotiations and learn my position towards Neep. With care and discretion I was able to obtain the following information from him: iron ore is hematite; thus far they have found 15,000,000 tons of ore and will continue drilling for they will need 40,000,000 tons to develop profitably. He said that present intention is to form another company with a nominal capital of 5,000,000 guilders, that he hopes that trucks will be able to reach Bomi District by May and that a harbor engineer will arrive soon but in view of present uncertainty of outcome of negotiations he, Caffe, is reluctant to go further until he knows where he stands.

Situation thus appears to be that the President is waiting for confirmation from his Minister at Paris and further assurances as to backing of Neep while latter is waiting for some word from President.

Urgently request authorization for Brown^s to use codes.

WHARTON

882.635 Neep/43 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, February 13, 1938—5 p. m.

[Received 11 : 30 p. m.]

12. For McBride. Definitely confirmed that Barclay has gone to the Bomi Mountain District. Reliable information indicates that the Amsterdamsche Bank has guaranteed funds for exploitation. It is believed that Barclay will sign Neep contract sooner or later. Preparations now are being made for him to make trip to interior shortly after his return to Monrovia.

I am now informed that Bomi deposit contains 80,000,000 tons iron ore and that there are two other deposits farther in interior which I conclude Barclay referred to for possible exploitation by American interests.

WHARTON

^s James E. Brown, clerk in the Legation.

882.635 Neep/44 : Telegram

The Minister in the Netherlands (Gordon) to the Secretary of State

THE HAGUE, February 14, 1938—5 p. m.

[Received February 14—4:34 p. m.]

17. My 120, December 22, 6 p. m.⁹ The director of the Amsterdamsche Bank therein referred to (Van Nierop, the managing director), having learned that the inquiry made of him was for the information of the Legation, called upon me today and said that he would be glad to acquaint me with the situation.

He repeated that the Neep people were very good clients and he has under consideration the possibility of forming a syndicate to finance the proposed ore concession. He expects that a report by experts sent to Liberia by the Neep people will be finished some time in March and if after study thereof the proposition looks good (as he appears inclined to believe it will) he will then seek to interest the necessary capital.

The managing director proposes in the first instance to approach American capital and then British capital if the Liberian Government has no objection; he said that in a conversation with the Neep people the possibility of interesting German capital had been broached but that he felt it was much more logical to approach his bank's American and British friends and felt that if sufficiently good prospects were found to exist he could raise the necessary capital with them.

I asked him what amount he had in mind as the total of the proposed syndicate's investment. He replied that the idea of the Neep people was approximately 10,000,000 florins but that he himself thought that this would not be nearly enough and that the amount would probably have to be upwards of 15,000,000. He added that Neep, of course, did not have sufficient resources to take more than a fractional share in the investment but that they would come in for what in Holland would be considered a handsome participation (I gather that this participation might amount to a fifth or less of the total).

The managing director said that if mutual matters reached the point that he would be approaching his American friends he thought it would be encouraging to tell them that he had discussed the matter with the American Legation here which was interested therein. I replied that I thought it much better to treat this and any other future conversation we might have as confidential and to say nothing thereof to third parties to which he at once agreed.

GORDON

⁹ Not printed.

882.635 Neep/45 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, February 15, 1938—8 p. m.

5. Personal for Wharton from McBride. Your 12, February 13, 5 p. m., and 4th paragraph your personal letter, January 22.

1. Please seek earliest opportunity to assure President Barclay that our attitude toward foreign concessions in Liberia has not, as he appears to believe, undergone any change. Our sole purpose from the first has been to favor any development of Liberian resources by responsible foreign concerns provided it was perfectly clear that such concerns had no ulterior motives. Our own inquiries have not completely satisfied us that Neep meets these requirements. We have been considerably concerned, for example, at the comparatively large number of foreigners of undetermined nationality who would be permitted to enter Liberia under the proposed terms of the concession and also by the fact that no indication has been given as to how Neep proposes to finance the extensive harbor project costing approximately 5 million dollars. Our information also indicates that Neep is apparently not an operating company and that its present resources are insufficient to complete its engagements. Our fears in this last respect are confirmed by confidential information received today from The Hague indicating that Neep does not have sufficient resources to take more than a fractional share, possibly one-fifth, in the proposed investment. We have also learned from the same source that Neep has suggested to the Amsterdamsche Bank the possibility of interesting German capital. The Bank, however, has felt that it would be more logical to approach American concerns.

2. Although we are not, of course, in a position to urge American concerns to make investments in Liberia or elsewhere, we are willing to render such assistance as we properly can toward bringing the Amsterdamsche Bank in touch with any American firms which might be interested, if President Barclay believes that American participation in the proposed concession would lessen any of the possible dangers thereof. We believe that any American concerns interested in participating in the Neep project will approach us within the next few days and we will immediately telegraph you as to their attitude toward possible participation.

3. Meanwhile, President Barclay may wish to defer any definite decision as to confirmation of the concession until the matters discussed above, so highly important to Liberia's future, are made more clear.

4. Please advise me promptly of the results of your conversations.
[McBride.]

HULL

882.635 Neep/47 : Telegram

The Secretary of State to the Minister in the Netherlands (Gordon)

WASHINGTON, February 16, 1938—8 p. m.

12. Your 17, February 14, 5 p. m. Although the Department cannot, of course, urge American concerns to invest in Liberia or any other foreign country, or even recommend that such investments be undertaken, it is willing to use its good offices toward bringing responsible foreign business interests in touch with American concerns which might be interested in foreign projects.

It is suggested therefore that you seek an early occasion to inform Van Nierop in confidence that after giving the matter further consideration you are inclined to believe that American concerns might be interested in his proposal, provided that the extent and quality of the iron ore deposits in Liberia can be satisfactorily established. You may add that among other American concerns which might be willing to consider the proposal, it would seem that the United States Steel Corporation would be an obvious organization to approach, and that you understand that Mr. John M. Sias, Assistant Vice President of the corporation, 71 Broadway, New York City, is in charge of raw material questions. If Van Nierop should decide to approach Sias you might suggest that communication be direct to him rather than through any intermediary.

HULL

882.635 Neep/48 : Telegram

The Acting Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, February 19, 1938—1 p. m.

7. For Wharton from McBride. Strictly personal and to be discussed only with President Barclay in strict confidence. My 5, February 15, 8 p. m. I am now told that responsible American concerns might give careful and sympathetic consideration to possible participation in the Neep concession or in making an outright purchase thereof. For obvious reasons they would probably not wish to approach Neep either directly or through the Amsterdamsche Bank; nor would they be likely to make any commitments until they are satisfied as to the extent and quality of the iron ore deposits. If the Amsterdamsche Bank, after receiving geological reports and ore samples, should decide to approach American concerns, we would be willing to use our good offices with a view to putting the Bank in touch with American firms which might be interested, although we cannot of course either urge or recommend that American interests make investments in Liberia or any other country.

Inasmuch as no responsible interests in any country would be willing to consider the Neep proposal before having geological reports and ore samples the importance of having such information available at some specified place for examination by interested concerns at the earliest possible moment cannot be overemphasized.

To give an idea of the relative importance of the Bomi deposits which you have reported to be 80 million tons, President Barclay may be interested to know that a few years ago one of the several important American companies mined from some of its American properties 1 million tons of iron ore a week for 19 consecutive weeks, or at the rate of over 50 million tons per annum. [McBride.]

WELLES

882.635 Neep/49 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, February 21, 1938—4 p. m.

[Received 9:25 p. m.]

14. Personal for McBride. President Barclay arrived here from Bomi District Friday night and I conferred with him today with reference to your telegrams 5, February 15, 8 p. m. and 7, February 19, 1 p. m.

He informs me that

(1) his findings concerning Neep are the same as our information to the effect that Neep is not an operating company, has limited capital and has suggested to Amsterdamsche Bank possibility of interesting German capital;

(2) his fears coincided with those expressed by you;

(3) he feels that American participation in the proposed concession would lessen possible danger thereof;

(4) he will appreciate any proper assistance you can render in bringing the Amsterdamsche Bank in touch with any American firms which may possibly be interested, and

(5) his decision on concession contract is being suspended indefinitely, as well as his planned trip to the interior of Bassa, until matters discussed are more clear and full geological and mineralogical reports and samples are available.

He states that information reported in my telegram 6, January 27, 10 a. m., has been confirmed and that bank is awaiting reports and samples. He says that he intends to confer with Caffé tomorrow afternoon calling attention to the fact that Neep has failed to answer questions referred to in Legation's 67, December 6, 5 p. m.,¹⁰ and has failed to follow suggestions about kind of capital desired to participate in concession, insisting that substantial American participation

¹⁰ *Foreign Relations*, 1937, vol. II, p. 854.

be arranged if possible through the Amsterdamsche Bank. He thereafter proposes to inform Amsterdamsche Bank through Liberian Minister, Paris, that if reports and samples are satisfactory that he would like substantial amount of American capital if possible to participate in concession. He would like to know, however, just how contact is to be made between the bank and American concerns. I would suggest that bank approach our Minister at The Hague.

According to President Barclay geological report will be available as soon as possible and I hope to receive preliminary report within a few days, which I shall forward by airmail. Samples of ore are being assayed. Apparently he was pleased with his trip to Bomi area which he states is preliminarily estimated to contain from 40 to 100 million tons of ore, borings are still in process.

WHARTON

882.635 Neep/52 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, March 3, 1938—5 p. m.

9. Your 14, February 21, 4 p. m.

1. We are gratified to learn President Barclay's views and that he has decided to suspend approval of the concession until geological reports become available and the situation generally becomes more clarified.

2. We see no objection to President Barclay's proposal to inform Amsterdamsche Bank through Liberian Minister in Paris of his desire for substantial American participation.

3. The director of the Amsterdamsche Bank has already discussed informally and in confidence with the American Minister at The Hague the question of possible American participation. Our Minister at The Hague has already suggested that the Amsterdamsche Bank approach direct certain American concerns which might be interested and he will of course be glad to continue to extend his informal good offices toward placing the Bank in touch with such concerns.

HULL

882.635 Neep/54 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, March 5, 1938—midnight.

[Received March 6—8:50 a. m.]

18. Referring to your 9, March 3, 5 p. m., I am informed by President Barclay that he conferred with Caffé yesterday and that he has

cabled his Minister at Paris as outlined in penultimate paragraph of my 14, February 21, 4 p. m.

WHARTON

882.635 Neep/57

The Minister in the Netherlands (Gordon) to the Secretary of State

No. 207

THE HAGUE, March 7, 1938.

[Received March 19.]

Subject: Potential Liberian Iron Ore Concession

SIR: With reference to my telegram No. 17 of February 14, and the Department's telegraphic instruction No. 12 of February 16, I have the honor to report that I have seen van Nierop and suggested to him that the U. S. Steel Corporation would be the most logical American concern to approach of those potentially interested in the above-entitled matter. Van Nierop's first question was to ask "Who are their bankers?". I then suggested that if he thought well of the idea of trying to interest the U. S. Steel, the simplest and best way might be for him to approach the Corporation direct, and then gave him the address of Mr. Sias. Van Nierop did not commit himself, but thanked me for Mr. Sias' name and address. He said that as soon as he had received the report and studied it, he would call up and ask to see me again.

With reference to the Legation's telegram No. 114 of December 15,¹¹ I have further to report that in a recent after dinner conversation with M. Bouillant-Linet, a member of the firm of Müller & Company, of Rotterdam, he referred to Mr. Patton's¹² conversation with another director of that company on December 15, in which the latter had stated that his company had ceased its interest in the Neep project.

M. Bouillant-Linet said that the director referred to above is no longer a member of the firm of Müller & Company; Bouillant-Linet then added that while his company had not been able to secure sufficient information to enable it to come to a definite decision, it was now distinctly interested in the matter again. He spoke highly of Ginsberg and the three Blochs, and gave the impression that his firm is at present in contact with these individuals.

M. Bouillant-Linet further volunteered that the French Minister here had recently spoken to him about Neep, but that he (Bouillant-Linet) had told him practically nothing.

Respectfully yours,

GEORGE A. GORDON

¹¹ *Foreign Relations*, 1937, vol. II, p. 856.

¹² Kenneth S. Patton, Consul General at Amsterdam.

882.635 Neep/56 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, March 11, 1938—7 p. m.

10. Referring to paragraph 3 of the Legation's 17, March 3, 10 a. m.,¹³ it is assumed that by "definite income" President Barclay has in mind a guaranteed minimum royalty instead of the sliding scale provided for in the amended Neep concession. Please inform the President that while we will be glad to study the matter in accordance with his request it may well prove impracticable to suggest at this time what a customary minimum royalty per ton might be, pending determination of the extent as well as the character and quality of the iron ore deposits through an examination of the promised geological report.

For the President's information it may be stated that it is not unusual for foreign concessions to provide for a minimum royalty based on an estimated average annual production and, in addition, a graduated payment in proportion either to earnings or to actual tonnage produced.

HULL

882.635 Neep/59 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, April 5, 1938—noon.
[Received April 6—11:05 a. m.]

23. 1. On March 31 President Barclay wrote me a note enclosing copy of a confidential letter dated March 23 from the Amsterdamsche Bank to Liberian Minister at Paris and stating that he would appreciate being informed by me if bank's statement concerning American participation is satisfactory to the United States Department of State. Bank's letter states that in the event that arrangement is reached between the Liberian Government and Neep and supposing that for execution of such agreement a syndicate is being formed under the auspices of their bank they are certainly willing to give assurance that acting as trustees for Liberian Government: (a) bank will secure [*see?*] that portion of shares held by Dutch investors will not be transferred to other nationals, and (b) "opportunity shall be made for American investors to acquire a substantial portion of the shares".

¹³ Not printed. In the third paragraph the Chargé stated: "President Barclay desires definite income rather than fluctuating return from concession and asks if you are able to suggest a fair sum per ton to be fixed as royalty." (882.635 Neep/51)

2. I called upon the President immediately and asked for further information on status of negotiations and relation between the bank and Neep. President said that he would cable Liberian Minister at Paris for more definite commitments from bank.

3. On April 1st I received a note from the Secretary to the President asking me to call yesterday for a conference and enclosing a copy of a confidential letter dated March 18th from the bank direct to the President. This letter which the President says he received after that dated 23rd purports to give details concerning floating of company but fails to state by whom. Letter states that company is to have capital of 5,000,000 Dutch florins of which 1,500,000 will be subscribed and paid for by Neep; that the bank intends to take a rather important interest in capital, the amount has not been exactly determined as yet, but it will at any rate be of such an extent that joint participation of Neep and bank will represent at least 51% of the capital; bank willing to guarantee shares of Neep will be lodged with bank and will remain there; that by these measures it will be made plain that the majority of capital will remain continuously in Dutch hands; intend to reserve the remainder for American, Swedish and other Dutch nationals and special attention would certainly be given to the President's desire that an important participation should be reserved for Americans; appropriate measures will be taken to guarantee that in event capital of company is increased over 5,000,000 control of majority will remain in Dutch hands. Bank further states that as long as agreement has not definitely been signed it will be impossible for Neep and the bank to approach friends in the United States, Sweden and Holland and it follows that for time being no names of proposed shareholders can be submitted; willing to remain in contact with Liberian Government to be able to take into account any wishes Government might have with respect to formation of company and to submit draft of articles of association to the Liberian Government.

4. In conference with the President yesterday he asked in the event that no satisfactory arrangement can be made with Neep is there possibility of an American company exploiting deposits along the lines of agreement of last August 23rd¹⁴ including the harbor project. He said that he asks in view of the fact that neither bank nor Neep will commit itself while latter still fails to furnish technical reports. He added that he will see Caffé in effort to obtain reports and again promised me geological report. I recalled to the President substance of your confidential telegram 7, February 19, 1 p. m. He regretted lack of reports stating that he does not want deposits to remain undeveloped if negotiations fail.

WHARTON

¹⁴ *Foreign Relations*, 1937, vol. II, p. 834.

882.635 Neep/60 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, April 12, 1938—noon.

13. Your 23, April 5, noon. In reply to President Barclay's questions, you may state that any arrangements made by Amsterdamsche Bank for American participation in the Neep concession would appear to be a matter for negotiation between the parties concerned. The President will, it is felt, understand that the Department can take no position in respect to this matter other than to assist in putting interested American concerns in touch with representatives of the bank.

With respect to possible exploitation of the deposits by an American company, it does not seem feasible to advance any further comment than that contained in confidential telegram 7, February 19, 1 p. m., until detailed geological or mineralogical reports and ore samples are available. It is obvious that the obtaining of these technical reports and samples is of paramount importance to the progress of discussions.

(2) In view of the persistent failure and delay of the Neep representatives to furnish such reports, President Barclay may wish to consider the possibility of employing an expert independent geologist to make a survey of the Bomi area. It is thought this should not take more than 2 or 3 weeks after the expert's arrival at Monrovia. The Liberian Government would thus not only obtain an impartial expert appraisal of its iron ore resources but, if the Neep discussions prove in the end unsatisfactory, would be in a position to negotiate directly with such American or other concerns as might be interested. Should the President inquire as to the cost of such a survey, you could say that a rough estimate would be some \$5000 or \$6000. The Department would be glad to obtain a list of available American experts of this kind should the Liberian Government so desire. It is also possible that the loan of an expert might be obtained from the British Geological Survey Service in West Africa.

(3) With further reference to paragraph 3 of your 17, March 3, 10 a. m.,^{14a} the suggestion has been made that an equitable royalty for iron ore deposits might be based on a flat figure per ton produced, rather than on value. It might be provided that in no year should the total royalty fall below a specified minimum sum, but if through diminished production in any given year the royalty payable should be less than the specified minimum, the difference could be credited against the royalty payable in succeeding years, when through increased production the specified minimum was exceeded.

^{14a} See footnote 13, p. 782.

However, no conclusion can be reached as to what an equitable royalty might be until data is on hand showing (a) the exact quality of the ore, including the percentage of iron, as determined by a typical analysis, and (b) the method and probable cost of extraction. You may inform President Barclay that as soon as this information is available we shall be glad to proceed further in our study of this matter.

(4) The preliminary report enclosed with your air mail letter of February 26, 1938,¹⁵ is undated. Is it your understanding that this constitutes the report of the German mineralogist mentioned in the Legation's despatch 88 of March 9, 1937?¹⁵

HULL

882.635 Neep/63

The Minister in the Netherlands (Gordon) to the Secretary of State

No. 279

THE HAGUE, April 13, 1938.

[Received April 25.]

Subject: Potential Liberian Iron Ore Concession

SIR: With reference to my telegram No. 17 of February 14, the Department's answering telegraphic instruction No. 12 of February 16, and my despatch No. 207 of March 7, in the above entitled matter, I have the honor to report that a few days ago Mr. van Nierop called me on the telephone and said that while he had not yet received the awaited report from the engineers in Liberia, all developments seemed to be progressing favorably. He stated that he had given full consideration to the matters discussed in our recent conversation (see my despatch No. 207), and that he would be glad to have the United States Steel Corporation "either as associates or customers" in this projected iron ore exploitation; he felt, however, that the only logical way for him to get in touch with the Corporation would be by approaching Morgan & Company, which he proposed to do, if and when he receives a favorable report from Liberia.

I am enclosing herewith a transcript of the pertinent parts of a letter¹⁵ written by Mr. van Nierop confirming the foregoing telephone conversation.

Respectfully yours,

GEORGE A. GORDON

882.635 Neep/62: Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, April 21, 1938—7 a. m.

[Received 8:20 a. m.]

27. I have informed President Barclay orally of contents of first 3 paragraphs your telegram No. 13, April 12, noon. He is consider-

¹⁵ Not printed.

ing the suggestion in paragraph 2 and I am awaiting his decision; he states that he much prefers line suggested in paragraph 3.

I inquired about preliminary report referred to in paragraph 4 which I am now informed is dated March 6, 1935, and signed by H. Terpstra and V. D. Hoff.

WHARTON

810.20/76

Memorandum by Mr. Henry S. Villard of the Division of Near Eastern Affairs

[WASHINGTON,] April 22, 1938.

Mr. Lester A. Walton, our Minister to Liberia, told me today that in a conversation at the White House, President Roosevelt had displayed great interest in the progress of Liberia and had indicated it might be possible to send American Government experts to Liberia for the purpose of assisting that country in various internal matters. Mr. Walton said that the Liberians were particularly interested in obtaining experts on agriculture, public health, and geological affairs. American officials experienced in these subjects would be warmly welcomed in Liberia and could doubtless do a great deal in an advisory capacity.

I told Mr. Walton that we would look into the subject and that if it were found possible to obtain the services of such Government experts, we would let him know. He would then informally indicate to President Barclay our position in the matter, after which, if the possibilities were favorable, we could expect a formal request from the Liberian Government for the assistance of such experts.

882.635 Neep/67

The Minister in the Netherlands (Gordon) to the Secretary of State

No. 298

THE HAGUE, April 28, 1938.

[Received May 9.]

SIR: With reference to my despatch No. 279 of April 13, 1938 and previous communications in the above-entitled matter, I have the honor to inform the Department that Mr. van Nierop called upon me a few days ago and said that he had not yet received the report in question; that as the report was not reaching him quite as soon as he had expected he rather anticipated that the news that the Liberian Government had granted a concession to Neep might reach him concurrently with, if not before, the report itself. If the concession did go through, he would then be in a position to approach Morgan & Company, and through it, the United States Steel.

I observed that this seemed to change the situation somewhat from what it was at the time of our previous conversation, when I understood his attitude to be that the primary condition precedent to going further with the matter was the receipt of a report which would seem to him convincingly good. Mr. van Nierop was slightly vague in his reply to this, saying in effect that of course he would need a good report before he took any substantial steps forward, but that if in the meantime the concession were granted he might be in a position to approach Morgan & Company tentatively—i. e. upon the contingency of a satisfactory report being received.

In this connection I asked him if there were any independent engineers collaborating in the report, or if they were all on Neep's payroll. He replied that as far as he knew the latter was the case, though he thought that there were some Swedish engineers connected therewith, who certainly might be expected to have an impartial point of view.

Expounding somewhat further his ideas of approach to Morgan and the United States Steel, Mr. van Nierop said that he felt that if United States Steel eventually should become interested to a substantial extent, either as associate or customer, its bankers, Morgan & Company, might feel somewhat annoyed if they had been ignored in the premises. In any event, he felt that a project of this kind—involving the building of port works, a railway, roads, etc.—would have to be “nursed along” for some time before it became a going concern; during that period it would have to be carried by the joint capital contributions of his bank, the Neep people, and such American capital as might be interested; only when the project ripened into a going concern could there be any question of an issue of securities, at which time the parties who had contributed the capital could take the whole amount thereof out of the securities issued, or could sell as much thereof to the public as they might see fit.

During the conversation van Nierop mentioned rather casually that the controlling interest in the project would have to remain in Dutch hands; but in reply to my query as to why that must necessarily be so—as it would not appear that the Liberian Government was insisting upon this as a condition precedent to the granting of the concession—he did not further elucidate.

This afternoon M. Bouillant-Linet, the director of Müller & Company (see my despatch No. 207 of March 7), asked to call upon me, and came accompanied by the engineer whom W. H. Müller & Company had sent to Liberia to investigate the proposition in 1935 (see page 2 of Mr. Patton's letter of December 16 to Mr. Cumming¹⁷). They said that they understood from Mr. Patton's conversation with Mr. van Deventer on December 15 that the United States was inter-

¹⁷ Not printed.

ested in seeing that only neutral capital should participate in the exploitation of this iron ore concession. I said that I felt sure that Mr. Patton had not made any such statement and that there must have been some misunderstanding; that although I myself had instructions in the premises, all I knew was that our Government necessarily was interested in the future course of a concession that was being sought by a group which obviously had nowhere near sufficient capital to exploit the concession if granted. In this connection I asked M. Linet what his connotation was of the words "neutral capital"; he replied that it seemed quite comprehensible to him that from an American point of view it might be objectionable to have this concession exploited by capital from countries such as Germany, France or England, who might be contemplating too active a part in the development of Liberian resources, whereas capital from a country like the Netherlands would present no such difficulty—accordingly, in that sense he would consider Dutch capital "neutral".

I mention the foregoing not only on account of its intrinsic interest but also as showing that the nature of American interest in this matter has perhaps inevitably been the subject of a certain amount of comment and speculation.

Bouillant-Linet then confirmed—as reported in despatch No. 207—that, although in the hard times of 1935 his company had not felt able to maintain its interest in this iron ore concession, it was now again definitely interested, if it could participate on satisfactory terms. After considerable beating about the bush M. Linet was disinclined to state what these satisfactory terms would consist of, beyond saying that if the concession had not yet been granted the chances of Müller & Company finding participation attractive would be considerably greater than if the concession already had been granted—though even in the latter contingency the company might still be interested. In reply to my query whether Müller & Company's interest in participation was predicated upon their putting up—directly or in conjunction with associates—the majority of the capital and having a controlling interest in the venture, Linet replied that this would be so unless his company were given sufficiently attractive rights as selling agents, or for the transportation of the ore, to compensate them for not having a controlling interest in the exploitation of the mines.

During this part of the conversation I inquired what Müller & Company's rough estimate was as to the amount which would have to be invested in the enterprise. The engineer replied that while any estimate at this stage must necessarily be very tentative, from his investigations on the spot he had concluded that the very lowest amount that could possibly be required would be 15 million florins—which coincides interestingly with van Nierop's estimate as reported in my telegram No. 17 of February 14.

M. Linet finally stated clearly that what his company was most interested in was knowing whether or not the concession had in fact been granted. His associates in Germany had told him that they had been informed by the German Consul in Monrovia that it had been granted; Linet said, however, that perhaps the German Consul had only said that he understood or thought it had been granted and that he would be very glad if I could give him definite information on the point. I told him frankly that I did not know; that according to my most recent information the concession had not been granted, though of course that did not mean that it had not been by now. (The last official information I have had in the premises was the Department's telegraphic instruction No. 22 of March 3.)¹⁸ Linet said that if I did receive official information as to whether or not the concession had been granted, he would be very grateful if I would let him know.

It occurs to me that if the Department will let me know whether or not the concession has been granted, it will do no harm if I pass this purely factual information on to Linet, as it may result in some further information from that source as to future developments respecting the capitalization of the project. On the other hand, as the Department is perhaps aware, the Dutch Müller & Company is closely associated with the German company of similar name, so that the possible implications of an investment of its capital—even if it is nominally purely Dutch—in the enterprise are obvious. In fact, during the course of the conversation Linet at one time referred to the non-Aryanism of the four Neep directors as making it difficult for them to do business with Germany, although of course the presumptive principal market for the ores to be extracted from Liberia would be Germany. It is also to be noted that at no point of the conversation did Linet even remotely suggest the participation of any American capital.

All in all, the present attitude of Müller & Company with respect to eventual participation in the Liberian project would seem to be definitely less satisfactory from our point of view than the possibilities of van Nierop's position.

I shall welcome an expression of the Department's views in the premises as well as information as to any concrete developments since the first of March.

Respectfully yours,

GEORGE A. GORDON

810.20/76

The Under Secretary of State (Welles) to President Roosevelt

WASHINGTON, April 30, 1938.

MY DEAR MR. PRESIDENT: During a recent detail to the Department, Mr. Lester A. Walton, our Minister to Liberia, mentioned the

¹⁸ Not printed.

interest which you had displayed in the progress made by the Liberian Government in improving its economic position and in planning for the future welfare of the country. In discussing this general subject, Mr. Walton mentioned a conversation in which you had touched on the possibility of temporarily making available to the Liberian Government the services of United States Government experts who might be able to assist Liberia in its efforts at further internal development. Among the matters which particularly concern the Government of Liberia at this time are problems related to agriculture, public health and geology.

Although experts have from time to time been engaged in the United States to assist in the furtherance of Liberia's progressive aims, the resources of the Government of Liberia for such purposes are extremely limited. The total budget, for example, is only a little more than one million dollars. The agricultural, mining and industrial exploitation of the country has scarcely begun, and no comprehensive survey has ever been made of its potential opportunities. Obviously, without expert advice, it is difficult to initiate any plan for economic betterment or productive enterprise.

Existing legislation in the United States contains no provision for the loan of American Government civilian employees to foreign governments, but a bill now pending in the House of Representatives has this specific object as concerns the American Republics and the Philippine Islands. H. R. 10193, a copy of which is attached for your convenient reference, was introduced by Congressman May on April 7, 1938, duly referred to the Committee on Military Affairs, and reported to the Committee of the Whole House on April 20. It extends and amplifies the legislation which was passed in 1926¹⁹ to enable the President to detail Army, Navy and Marine Corps personnel to render assistance in military and naval matters to governments of the American Republics. Under the new bill, any person in the employ of the Government of the United States having special scientific or other technical or professional qualifications may be detailed for temporary service to the government of any other American Republic or the government of the Commonwealth of the Philippine Islands.

In view of the special relations which have always existed between the United States and Liberia, as well as the special needs of the latter country, I believe that the pending bill might appropriately be amended to include the Government of Liberia among those which may benefit by the assistance of civilian experts in the employ of this Government. If you approve of this proposal, I shall be glad to

¹⁹ Approved May 19, 1926; 44 Stat. 565.

take up the matter in the proper quarters with a view to having such an amendment introduced at the first feasible opportunity.

Faithfully yours,

SUMNER WELLES

882.635 Neep/66 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, May 4, 1938—5 p. m.

18. Your 27, April 21, 7 a. m. Department has been informally advised that experts who have examined preliminary geological report of March 6, 1935²⁰ consider that document without value for practical purposes. You may in your discretion point out to President Barclay that if intelligently selected samples of the Gneiss formation at Bomi Hills could be made available for study, some idea might be obtained of the quality of the iron ore reported to occur in that area. For this purpose samples weighing from 5 to 10 pounds each of the itabyrite, hematite and laterite deposits would be required.

It is believed, however, that the foregoing suggestion as to samples should not displace the President's consideration of the possibility of employing an impartial expert as reported in your 27, April 21, 7 a. m.

HULL

810.20/81

Memorandum by the Assistant Secretary of State (Messersmith)

[WASHINGTON,] May 18, 1938.

I called this morning on Senator Pittman and called to his attention the approval by the President of the letter which Mr. Welles, the Under Secretary, addressed to him on April 30, 1938, recommending that Liberia be added to the areas to which civilian officers of our Government can be assigned under certain circumstances. I told the Senator that the bill permitting the detail of civilian officers to Latin America and the Philippines had already passed the House and, as he knew, had been reported by the Senate Committee on Foreign Relations to the Senate favorably in the same form that it had passed the House. We knew he and the Committee had been giving careful thought to this bill and so many changes had already been made in it that we hesitated to ask him to do more. I gave him, however, the reasons why the President and the Department would favor the inclusion of Liberia.

²⁰ Not printed.

The Senator said that he quite understood and that he thought the bill would come up in the Senate today and be passed without difficulty. He said he would try to have it amended on the floor of the Senate to include Liberia, but if he saw that the amendment would prejudice the passage of the bill he would withdraw it. I told him this would be quite satisfactory and that we appreciated what he planned to do and had already done.

I have since heard from the Senator later this afternoon that the bill has passed the Senate and that the amendment to include Liberia was offered on the floor and the bill as passed includes this amendment.

As the Senate bill as passed now differs from the House bill as passed, in that the House bill does not include Liberia, the bill will have to go to conference. I am making the necessary arrangements with Mr. May, the chairman of the House Committee on Military Affairs, and I do not anticipate any difficulties in securing a final conference report and the approval of this report by both houses.

G. S. MESSERSMITH

882.635 Neep/70 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, May 18, 1938—8 p. m.

22. Your 32, May 12, 4 p. m.²¹

(1) In the light of confidential information which has reached the Department from The Hague, the continued unexplained and protracted delay of the Neep representatives in furnishing geological reports and ore samples again raises the question as to whether Neep is not more interested in the signing of a concession for speculative purposes than in submitting a bona fide study of the Bomi Hills deposits. To our surprise, managing director of Amsterdamsche Bank now states that geological report might not be expected to reach him until after concession has been granted; moreover he appears to be under the impression that the concession has been or is about to be signed. He has also made the statement that controlling interest in the project would have to remain in Netherlands hands, which doubtless refers to Neep in association with the Bank.

(2) Additional developments reported from The Hague indicate that from the standpoint of Liberia it would be desirable to give very careful consideration to the character and nationality of any interests seeking mineral concessions in that country. Müller and Company, a Netherlands organization with close German connections, has let it be known that it is definitely interested if not in acquiring a controlling share of the proposed concession then at least in substantial rights

²¹ Not printed.

as selling agent or for transportation of ore. The representative of this company asserts he has heard from his associates in Germany that according to the German Consul in Monrovia the concession has already been signed. He left no doubt that the principal presumptive market for the ore would in any case be Germany.

(3) These developments suggest the possible unreliability of the promised report if and when produced by Neep, in view of which you may desire to bring the points mentioned in paragraphs (1) and (2) in strict confidence to President Barclay's attention. In doing so you could take the opportunity to reiterate that our sole purpose in pointing out these facts is to facilitate the President's efforts to come to a decision regarding the development of Liberia's iron ore resources and to assure himself that interested foreign concerns have no ulterior designs which might prove unfriendly or dangerous to Liberian sovereignty. To this end we have mentioned the possibility of employing an independent expert to make an impartial appraisal of the Bomi area. Neither Neep nor any other prospective concessionaire, it is felt, should or could have any objection to the Liberian Government's desire to have a reliable expert survey of any of its natural resources made before granting a concession in respect thereto. President Barclay will appreciate that in making this suggestion we have the welfare of Liberia uppermost in mind, but that it is difficult for us to proceed much further in the matter in the absence of any evidence that progress is being made in obtaining technical reports and samples.

(4) Please inform the Department by telegraph whether you can find any substantiation for the report that concession has been granted to Neep. At the same time we should be glad to be informed (a) as to the findings, if any, disclosed by ore samples which your telegram of February 21 stated were then being assayed, and (b) whether the geological report described in your telegram of February 4 was the same as that enclosed with your air mail letter of February 26, 1938.²²

HULL

882.635 Neep/74

Memorandum of Conversation, by Mr. Henry S. Villard of the Division of Near Eastern Affairs

[WASHINGTON,] May 20, 1938.

I called today on Dr. Alexander V. Dye, Director of the Bureau of Foreign and Domestic Commerce, in order to describe to him informally the proposed Neep iron ore concession in Liberia. After describing briefly the history of the project I said that information had come to us which indicated that German interests might be behind

²² Not printed.

the proposed concession, and that we had passed this information along to the Liberian Government in order that it might be aware of the possible political complications in a concession of this kind. In return, I said, the President of Liberia had inquired as to the possibility of American participation in the project and we were, consequently, interested in the matter from this angle.

Through a combination of circumstances, this possible opportunity for American participation had been suggested to the United States Steel Corporation but not, as yet, to other American interests, and apparently it was taken for granted by the Neep representatives and other interests concerned in the Netherlands that any negotiations for an American share in the project would take place with United States Steel. Furthermore, I said, there seemed to be an impression that the United States Government was interested in the proposal to such an extent that it was endeavoring to dictate the amount of American capital which should be included in the venture. I said that, of course, we had no desire to allow such erroneous ideas to grow, and I asked Dr. Dye whether it would not be possible to make our information in regard to the proposed iron ore concession available in some confidential manner to other American interests that might be attracted by the undertaking.

Dr. Dye replied that he thoroughly understood our views on the subject and said that he thought the best plan would be for him to discuss the matter informally with Mr. Walter Tower, Secretary of the Iron and Steel Institute in New York. Mr. Tower, who had been in the Foreign Service of the Department of Commerce, would know how to bring the subject confidentially to the attention of American iron interests through the Iron and Steel Institute, which included in its membership practically all iron and steel organizations in this country. There would be no need to make a formal approach to the matter at this time, yet all concerns that might be interested would have in their possession identical information on the subject.

As Dr. Dye was leaving for New York tomorrow, he at once put in a long distance call and made an appointment with Mr. Tower for Monday, May 23, at 9 a. m. He said that he would telephone me on his return in order to let me know the results of his conversation.

882.635 Neep/71 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, May 22, 1938—4 p. m.

[Received May 23—11:20 a. m.]

35. I have informed President Barclay in strict confidence as suggested in first three paragraphs your telegram No. 22, May 18, 8 p. m. He states that his impressions with respect to unexplained and pro-

tracted delay of Neep in furnishing reports and samples is similar to that of Department. He commented that some time ago Müller and Company tried to get iron concession but was refused by Liberian Government.

I have not found any substantiation for report that concession has been granted. President informs me that the concession has not been signed and no likelihood of its being signed unless Neep meets Government's conditions.

In addition to failure to furnish technical information President says that he is still not assured that Neep has sufficient capital to undertake development, that he must be definitely satisfied as to nationality of capital and that he desires a clear understanding on harbor project.

He adds that he is strongly inclined to employ independent engineer preferably an American, that he has not pushed matter because of lack of appropriation but is seeking funds to meet costs.

Referring to your clause (a) paragraph 4 he has given me copy of undated and unsigned analysis of 13 drilling cores from 1 drilling hole which he received on 9th instant and which I am forwarding by air mail. This briefly states 8 meter layer of excellent ore struck at 31.65 meters depth but with high percentage phosphor; then about 10 meter layer low iron percentage; no iron from 48 to 109 meters gneiss; then fair percentage iron to 151 but on low side with far too high phosphor; 151 to 158 a 7¼ layer of excellent ore with right [eight?] percent phosphor; gneiss entered at 169 meters drilling stopped.

Your clause (b), no. I have requested again copy of the report promised referred to in my 8, February 4, 2 p. m. and my letter of March 25.²³ President once more says report not yet translated. Buchanan²⁴ returned to Monrovia several weeks ago.

WHARTON

882.635 Neep/72: Telegram

The Secretary of State to the Chargé in the Netherlands (Benton)

WASHINGTON, May 24, 1938—2 p. m.

35. For the Minister's attention upon his return. Your despatch 298, April 28.

(1) With reference to the share of so-called neutral capital in the proposed concession, the Department is somewhat disturbed at the statements made by van Nierop and Bouillant-Linet in their recent conversations with you and their apparent misconception of this Government's position with regard to the Neep proposals. We, of

²³ Latter not found in Department files.

²⁴ Thomas Eric Buchanan, Liberian Diplomatic Agent.

course, are sure that you appreciate that the interest of the United States Government is strictly limited to the use of its good offices in bringing together responsible American and foreign concerns who may desire to participate in the enterprise. The sole purpose of such assistance, undertaken at the express request of President Barclay, is to facilitate the efforts of the Liberian Government to come to its own decision regarding the development of its iron ore resources to the best possible advantage. While this Government is naturally interested in extending any assistance which may contribute to the progress and welfare of Liberia, it cannot and does not assume to influence the proportion of American or foreign capital to be invested in any such venture.

(2) As to van Nierop's intended approach to American capital, the United States Steel Corporation is obviously not the only American concern which might be interested in an opportunity to participate in an iron ore concession in Liberia. Should such an opportunity ultimately develop, the Department would not of course confine its information on the subject to a single concern, but in accordance with its usual policy would make the information available to whatever interests seemed likely to be attracted to the undertaking.

(3) We feel that the interest of our Government in this matter, limited solely to the use of good offices in bringing together responsible American and foreign concerns who might be interested in the enterprise, undertaken at the request of the Liberian Government, has now been adequately accomplished for the time being. In view of our present position as outlined above, it is therefore believed that it would perhaps be well not to pursue this matter further at this time at The Hague. If you are approached again in any way you may take the occasion to acquaint any inquirer with the contents of paragraphs 1 and 2 in this instruction.

HULL

882.635 Neep/76

*The Chief of the Division of Near Eastern Affairs (Murray) to the
Minister of Liberia (Walton)*

WASHINGTON, May 27, 1938.

DEAR MR. WALTON: We have been interested in the contents of the Legation's despatch No. 181 and its enclosures,²⁵ in which it is shown that the combined participation of the Neep interests and the Amsterdamsche Bank in the proposed iron ore concession in Liberia is expected by the Bank to amount to at least 51 percent of the total capital employed in the projected undertaking. The Legation's other

²⁵ Not printed.

despatches and telegrams have kept us well informed on the same general subject and we appreciate the work which Mr. Wharton has done in this connection during your absence.

There is, however, one small matter which troubles us somewhat and which I venture to bring to your attention. In President Barclay's letter of March 31, 1938²⁶ to Mr. Wharton, he refers to a question put to the Amsterdamsche Bank regarding the opportunity which might be made for American investors to acquire a share in the enterprise. The President then states that he would appreciate being informed if the Bank's answer to this question "is satisfactory to the American State Department". You will, I am sure, readily perceive that the wording of this request might prove objectionable from our point of view.

I know you appreciate that our interest in the Neep proposals is strictly limited to the use of our good offices in bringing together responsible American and foreign concerns who may desire to participate in the enterprise. The sole purpose of such assistance, undertaken at the express request of President Barclay, is of course to facilitate the efforts of the Liberian Government to come to its own decision regarding the development of its iron ore resources to the best advantage. Naturally the Department cannot and does not assume to influence the proportion of American or foreign capital to be invested in any such venture, and any question, therefore, as to the extent of the opportunity for American participation in the concession could not be a subject to be passed upon by this Government.

When you have an opportunity to do so, I should appreciate your bringing the matter informally to the attention of President Barclay and making clear our position with regard to the Neep proposals as set forth above.

Sincerely yours,

WALLACE MURRAY

882.635 Neep/75 : Telegram

The Secretary of State to the Chargé in Liberia (Wharton)

WASHINGTON, May 28, 1938—1 p. m.

24. Your 35, May 22, 4 p. m. The President on May 25 signed a bill²⁷ which provides that any person in the employ of the Government of the United States having special scientific or other technical or professional qualifications may, on certain conditions, be detailed for temporary duty with the Government of Liberia, at the expense of the United States.

²⁶ Not printed.

²⁷ 52 Stat. 442.

You should take an early opportunity to call on President Barclay and state that the Department is glad to inform him in the foregoing sense. At the same time you should say to the President, with respect to negotiations for the Neep concession, that we have now obtained and forwarded to him, in accordance with his request, all the information and suggestions which appear to be available. Unless the Government of Liberia specifically requests the further use of our good offices in this matter, we shall for the present take no additional steps in the premises.

HULL

882.635 Neep/81

Memorandum of Conversation, by Mr. Henry S. Villard of the Division of Near Eastern Affairs

[WASHINGTON,] June 1, 1938.

Participants: Mr. Robert Ridgway, Mr. E. W. Pehrson and Mr. Joseph H. Hedges, of the Bureau of Mines; Mr. Villard.

I called today on Mr. Robert Ridgway of the Economics and Statistics Branch of the Bureau of Mines in order further to discuss with him the proposed Neep iron ore concession in Liberia. I said that in addition to the information which I had given him informally and confidentially on April 1, 1938, I now wished to bring to the attention of the Bureau of Mines the possibility that the Government of Liberia might seek to employ an American geologist to make a survey of the iron ore deposits in the Bomi area in Liberia. Mr. Ridgway thereupon arranged for me to meet Mr. E. W. Pehrson, Acting Chief of the Metal Economics Division, and Mr. Joseph H. Hedges, Assistant Director of the Bureau, and a conference followed in Mr. Hedges' office. I referred to the bill which was signed by the President on May 25 authorizing the detail of any civilian employee of the United States Government who possessed special professional qualifications to the Governments of the American Republics, Philippine Islands and the Republic of Liberia, and said that, in view of the provisions thereof, we might expect to receive in the near future a request from the President of Liberia for the assistance of a geological expert. In this connection, I outlined the status of the Neep negotiations, the protracted delay and failure of the Neep representatives to furnish geological reports, and the possibility that the President of Liberia might wish to obtain the services of an independent expert to make an impartial survey of the Bomi iron ore deposits in order that a decision in regard to the concession might be intelligently arrived at. While no request

had as yet been received from Liberia, I said I thought it might be well to be prepared, and that for this reason I was inquiring informally what the attitude of the Bureau of Mines might be toward a proposal of this nature.

Mr. Hedges said that he was familiar with the recent Civilian Employee Bill and that, in view of the limited personnel and appropriations of the Bureau of Mines, he would look with extreme reluctance on any request that a member of that Bureau be detailed for service in Liberia. He pointed out that there would be many expenses connected with a trip to Liberia, which the Bureau of Mines could not afford and that, even if the expert's salary was continued out of existing appropriations, the Bureau would obtain no return for this money while the expert was out of the country. Mr. Hedges estimated that it would take between three and six months to conduct a survey, including travel time, and that the total expenses might run as high as ten thousand dollars.

Mr. Pehrson observed that the matter of expense depended entirely on the amount of data already available in connection with the proposed survey. He said that if it were necessary to conduct drilling operations in order to obtain samples, as well as to make a thorough estimate of the possibilities, an outlay of as much as half a million dollars might be required. However, if it was a matter of checking existing data and making a brief surface survey, without the necessity of importing drills and other technical equipment, the expense would, of course, be relatively small. I raised the question as to whether the Neep interests would be willing to turn over to an independent geologist whatever geological data they had already obtained, to which Mr. Pehrson replied that this was a usual and customary practice among mining companies. He seemed to be confident that if the Neep engineers had made a bona fide study of the area, they would raise no objection to making available their findings to any other geologist who was employed to check the situation.

Mr. Ridgway said that he could think of one expert in the Bureau of Mines who was qualified to undertake a survey of this nature but that he was extremely busy and that his services could probably not be readily spared. He mentioned another geologist from the Bureau who is now in Europe and might be available for work in Liberia, but Mr. Hedges said that, in view of the general European situation, he did not think that this expert could be sent to Liberia at present.

Mr. Hedges also raised the point as to whether an engineer or a geologist would be the most suitable type of expert to employ for the Bomi deposits. He said that if a geologist were required, the Coast and Geodetic Survey should be approached in the matter. I asked Mr. Hedges whether the qualifications of both an engineer and a

geologist could not be found in some Bureau of Mines expert. Mr. Hedges admitted that this might be possible.

At the end of the interview I gathered that it would probably be possible to obtain the detail to Liberia of a geological or a mining expert from the Bureau of Mines, provided the Bureau were directed in that sense by the President, but that the matter of an appropriation to defray the necessary expenses would have to be obtained outside of the Bureau. In any case, it appeared, there would be little enthusiasm about complying with such a request. It was suggested by Mr. Hedges that if the Liberian Government could raise the funds, it might also be preferable from a political standpoint to employ a private mining expert rather than a United States Government official. He said that if an American company like Bethlehem Steel, which was interested in foreign ores, should be attracted to Liberia, it might send out an expert at its own expense to make the necessary survey.

882.635 Neep/81

*Memorandum of Conversation, by Mr. Henry S. Villard of the
Division of Near Eastern Affairs*

[WASHINGTON,] June 1, 1938.

I telephoned today to Dr. Dye, Director of the Bureau of Foreign and Domestic Commerce, in regard to the conversation which he intended to have on May 23 with the Secretary of the Iron and Steel Institute in New York about the possibility of American participation in the proposed Neep iron ore concession in Liberia. Dr. Dye said that he had discussed this matter unofficially and confidentially with Mr. Walter Tower, Secretary of the Institute, on the date mentioned and that Mr. Tower had promised to bring it informally to the attention of any interested American concerns.

According to Mr. Tower, the American concern most likely to be attracted by the possibility of iron ore deposits in Liberia was the Bethlehem Steel Corporation, which had a number of plants on the Atlantic seaboard using ore from foreign sources. The United States Steel Corporation was perhaps too far removed from the coast to be able to avail itself, under present costs, of ore imported from abroad. Dr. Dye added that the Iron and Steel Institute was very much interested in this possible new source of iron ore and that there was no doubt all American firms which might be in a position to participate would learn through the Secretary of the Institute of the present opportunity in Liberia.

I agreed with Dr. Dye that there was nothing more which this Government need do in the matter for the moment. I thanked him for his action in bringing the subject to the attention of the Institute and

promised to let him know if there were any further developments as to American participation in the concession.

882.635 Neep/77 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, June 1, 1938—7 p. m.

[Received June 2—8:26 a. m.]

36. I have complied with Department's telegram 24, May 28, 1 p. m. President Barclay states that he highly appreciates the information and suggestions from the Department which have greatly aided him in proceeding in the matter of Neep concession with much more certainty and definiteness of policy and that if he wishes further assistance he will take advantage of our very generous offices to make a specific request.

WHARTON

882.635 Neep/80 : Telegram

The Chargé in Liberia (Wharton) to the Secretary of State

MONROVIA, June 3, 1938—6 a. m.

[Received 9:05 a. m.]

37. Dunaway²⁸ informs me in confidence that at the weekly conference of the President, Secretary of the Treasury and fiscal officers (held immediately after my conference with the President reported in my telegram 36, June 1, 7 p. m.) the President told them of bill signed by President Roosevelt on May 25 and said that Caffé is not dealing frankly with him and that he is going to request from United States Government the services of a mining engineer and that while we all have been in a haze on the Neep question the situation is now clarified.

Caffé several days ago made arrangements to leave here on the 26th instant to confer with his principals in Holland.

WHARTON

882.635 Neep/85

Memorandum of Conversation, by Mr. Henry S. Villard of the Division of Near Eastern Affairs

[WASHINGTON,] June 27, 1938.

Mr. Ridgway of the Bureau of Mines telephoned today in regard to the sample analysis of iron ore drillings in the Bomi area of Liberia, a copy of which I had transmitted to him informally. Mr. Ridgway

²⁸ John A. Dunaway, Acting Financial Adviser in Liberia.

said that after examining this analysis he was under the impression that the iron deposits constituted a rather interesting body of ore and that the iron content of the deposits was probably quite high—higher, in fact, than our Lake Superior iron ore ranges.

Mr. Ridgway qualified his remarks by stating that an analysis of a single boring could not be taken to represent the entire Bomi area, and that the analysis in question moreover did not show certain elements which were usually present in iron ore, such as sulphur. Nevertheless, he said, despite the rather high phosphorus content of the ore, it was well within the limits for steel-making iron. He added that the iron deposits apparently lay rather deep, and that they would probably have to be worked by underground rather than open-pit mining methods.

882.635 Neep/81

The Secretary of State to the Executive Secretary of the American Iron and Steel Institute (Tower)

WASHINGTON, June 30, 1938.

MY DEAR MR. TOWER: It is my understanding that Dr. Alexander V. Dye, Director of the Bureau of Foreign and Domestic Commerce, informally brought to your attention a short time ago a projected concession for the exploitation of iron ore deposits in the Republic of Liberia, and the opportunity which it might offer for American participation in the development of those resources.

The Department has now received, from sources which for the present must be regarded as strictly confidential, a copy of what purports to be an analysis of drilling cores from one drilling hole in the area where the deposits occur. It would be appreciated if you would bring this fact to the attention of the concerns which are members of your organization, advising them at the same time that the Department will, upon the request of any such concern, be glad to make the information available on the same confidential basis. You will of course understand that the Department can assume no responsibility for the accuracy or reliability of the data in question.

The reason why the Department is treating the subject in the above manner is that a considerable amount of background pertinent to the proposed concession would have to be furnished by it in confidence to any American concern that might be interested in the Liberian iron ore deposits.

Sincerely yours,

For the Secretary of State:
 WALLACE MURRAY
Chief, Division of Near Eastern Affairs

882.635 Neep/88

*The Executive Secretary of the American Iron and Steel Institute
(Tower) to the Chief of the Division of Near Eastern Affairs
(Murray)*

NEW YORK, July 1, 1938.

[Received July 6.]

DEAR MR. MURRAY: This will acknowledge receipt of your letter of June 30, relative to the possibility of obtaining a concession for exploitation of iron ore deposits in the Republic of Liberia.

I note your desire to have this information brought to the attention of members of the iron and steel industry which might be interested in the possibility of participating in the development of those iron ore deposits.

Accordingly, I am passing the information along to United States Steel Corporation, Bethlehem Steel Corporation and Republic Steel Corporation, which are, I think, about the only members of the industry which would be in a position to take any active interest in such an opportunity. However, if in your opinion it is advisable to give wider distribution to the information, I shall be very glad to do so.

Very truly yours,

WALTER S. TOWER

882.635 Neep/90

*Memorandum of Conversation, by Mr. Henry S. Villard of the
Division of Near Eastern Affairs*

WASHINGTON, July 2, 1938.

Mr. John M. Sias, a Vice President of the United States Steel Corporation, accompanied by Mr. Charles Muller, one of the corporation's geologists, called today to inquire about the analysis of a boring which had been made of the Bomi Hills iron ore deposits in Liberia. Mr. Sias asked whether he could see the boring analysis and I gave him a copy for his strictly confidential information.

After a preliminary inspection of the boring report, Mr. Muller stated that it contained insufficient data to determine the content or quality of the deposits in question. He said that it might be a selected sample analysis, with certain factors undisclosed, or it might be a composite analysis of several holes which might have been drilled. There was no way of determining whether the iron ore deposits were sufficiently interesting to the United States Steel Corporation, according to Mr. Muller, unless further data was obtained. In particular, he said, it would be desirable to have samples of the ore and an analysis of deposits taken from different sections of the area.

I said that we had done all we could to obtain samples and a copy of the geological report which it is understood has already been prepared by the Neep interests, but that so far it had been impossible to obtain them. Mr. Sias expressed the opinion that the only way of determining accurately the extent and quality of the iron ore deposits would be to send an expert to Liberia from this country, who would render an impartial and independent report. I gave him a copy of the bill which was recently passed providing for the loan of civilian employees to the Government of Liberia and said that President Barclay had been informed of the contents thereof.

Mr. Sias said that he would like to discuss with his principals the question of sending a geologist from the United States Steel Corporation to make a reconnaissance of the iron ore deposits in Liberia. He asked for suggestions as to the best method for obtaining the consent of the Liberian Government, if it were decided to do this. I said that if a decision were reached by the corporation to the effect that it wished to send one or more geologists to Liberia, it might be well to inform the Department of that fact and request the Department's advice in the matter. I said it might be possible, in such an event, to instruct the Legation at Monrovia to request permission from the Liberian Government for the entry of the geologists and their equipment. We would, of course, have to consider carefully just how far we could go in seeking the consent of the Liberian Government to the proposed operations of an American geological expedition in an area concerning which a concession had already been negotiated with foreign interests.

Mr. Sias thanked me for the information which we had made available to him and said that the Department would hear further from the United States Steel Corporation as soon as he had discussed the matter of sending geologists to Liberia.

882.635 Neep/107

*Memorandum of Conversation, by Mr. Henry S. Villard of the
Division of Near Eastern Affairs*

WASHINGTON, July 13, 1938.

Participants: Mr. John M. Sias, Assistant Vice President of the
United States Steel Corporation
Mr. Murray
Mr. Alling
Mr. Villard

Mr. John M. Sias, Assistant Vice President of the United States Steel Corporation, called by appointment today to discuss the question of the iron ore deposits in Liberia. Mr. Sias said that at a conference

in New York the night before, attended by Mr. Edward Stettinius, Chairman of the Board of Directors, and Mr. Ferris, President of the Steel Corporation, it had been decided to send two engineers to Liberia to make a reconnaissance of the area where the deposits were reported to have occurred, provided permission could be obtained from the Liberian Government. This survey, Mr. Sias stated, would be made without any commitment on the part of the Steel Corporation in respect to a possible contract or concession for extraction of the ore.

Mr. Sias asked to be advised as to the proper procedure in seeking permission from the Liberian Government for the two engineers to make this reconnaissance.

After some general discussion as to the present status of the concession, Mr. Sias observed that in his opinion the failure of the Neep interests to make available to President Barclay the requisite geological reports might be due to either of the following circumstances: (1) They had found the deposits to be much richer than anticipated and were unwilling to disclose that fact; or (2) they had stumbled upon important mineral deposits of another nature, which might explain the sudden departure for The Hague of their representative in Monrovia. It may be mentioned in this connection that, although President Barclay has been authorized by the Liberian Congress to sign the concession if, in his judgment, it is in the best interest of Liberia to do so, he has thus far refrained from such action because of the persistent evasion of the Neep representative in furnishing the Liberian Government with necessary information regarding the financial backing of his firm or with bona fide geological reports and samples.

Mr. Sias commented on the sample of iron ore which, Mr. Villard had told him, the Department had received from Liberia, but without any indication as to the locality from which it had been taken. He said that the fact that this was magnetite introduced an entirely new angle in the situation. Replying to a question from Mr. Alling, Mr. Sias said that one could tell very little from one sample, but that magnetite might be used for certain purposes as well as hematite.

Mr. Murray then said to Mr. Sias that, as he knew, the Department had made the information regarding the Liberian iron ore deposits available to other members of the industry besides United States Steel, which might result in interest being displayed in the matter by one or more additional concerns. Mr. Murray pointed out that there were apt to be complications when competing American interests entered the foreign field. He went on to describe what had occurred in Persia when two American companies had endeavored to obtain an oil concession from the Persian Government several years ago.²⁹

²⁹ See *Foreign Relations*, 1923, vol. II, pp. 711 ff.

Owing to the fact that the Department could not support one American concern to the exclusion of another, it had not been able to enter the lists and afford appropriate diplomatic support as it would have been in a position to do if there had been a single representative American interest at stake. One of the competing concerns, moreover, had effected a tieup with British interests which had brought with it British diplomatic assistance, whereas the Department was compelled to remain neutral and impartial throughout the negotiations. The result was that the Persians had played off one American concern against the other, the companies had fought each other to a standstill, and neither one obtained the concession.

Mr. Murray next related what had taken place in Iraq when oil reserves had been opened up in that territory after the War. Under British mandate, there had been a disposition at first to restrict the exploitation of petroleum to those nations who had ratified the Treaty of Versailles or were members of the League of Nations, but we had insisted on the principle of the open door and had obtained equality of opportunity for American concerns. Instead of competing one against the other, six interested American companies had formed a group known as the Near East Development Corporation, the members of which had entered the fields successfully and worked in harmony together to everyone's satisfaction. More recently, Mr. Murray went on, two American companies had become attracted by new oil reserves near Basrah and had been advised by the American Minister Resident in Baghdad to pool their interests and thus avoid the dangers and uncertainties of competitive negotiations.

Mr. Murray then asked Mr. Sias what the attitude of his company might be if other steel interests in this country also deemed it desirable to investigate the possibilities in Liberia, especially if they wished to send out a party of engineers to make a survey.

Mr. Sias replied that in his personal opinion, the United States Steel Corporation would not be the least interested in joining forces with any other American steel concerns in any undertaking in Liberia. He said that the examples which Mr. Murray had cited were not relevant to the present instance, since they had to do with well-known, valuable deposits, whereas the information as to just what existed in Liberia was scanty and to a great extent still unconfirmed. Mr. Sias made it clear that he would recommend to the United States Steel Corporation a completely independent approach to the Liberian Government in this matter. He was confident that Mr. Stettinius would concur in this and said he would be very much surprised indeed if any other American steel company would be willing to entertain a suggestion of joint action either in making a reconnaissance or in exploiting the Liberian iron ore deposits.

Mr. Sias also stated that his company would request of the Liberian Government the exclusive right to explore for iron ore and related minerals, in the territory defined in the Neep concession. The manner in which he made this statement, however, indicated that if such an exclusive right could not be obtained, the Steel Corporation might be satisfied with something less.

In this connection Mr. Sias asked whether President Barclay could grant the right to an American company to make a reconnaissance when the area in question was covered by a concession that only lacked his signature to put it into effect. Mr. Sias was informed that this would, of course, be a matter for President Barclay to determine but that no legal obstacles seemed to be presented by the terms of the concession.

In respect to the procedure in approaching the Liberian Government, Mr. Murray suggested that the Steel Corporation might properly address a cablegram to President Barclay direct, phrased in courteous language, and setting forth exactly what was desired. Mr. Sias said he appreciated this suggestion and was grateful for the Department's information and advice, since this was his company's first venture in dealing with a foreign government. He added that he fully understood that the Department could take no other position in the matter of competing American concerns, but repeated that he would recommend to his principals that the United States Steel Corporation proceed quite independently of any other firms in an endeavor to obtain the exclusive exploratory rights. He indicated that he would have a cablegram drafted and that he would read it to Mr. Villard over the telephone in the hope of avoiding any diplomatic error in the context.

882.635 Neep/106

*Memorandum of Conversation, by Mr. Henry S. Villard of the
Division of Near Eastern Affairs*

[WASHINGTON,] July 14, 1938.

Mr. G. L. Adair, a geologist of the Bethlehem Steel Company, called by appointment to discuss the iron ore deposits in Liberia. He said that his company had been interested in the boring analysis which the Department had forwarded, and that while the analysis appeared to be incomplete it nevertheless showed that a good grade of ore existed in the locality in which the boring had been made. I told Mr. Adair that since writing to his company, the Department had received a sample of iron ore from Liberia, which had been pronounced a very good grade of magnetite by the Bureau of Mines, but

that we had no information as to the area from which the sample had been taken. Mr. Adair thought this information was also of interest.

I outlined to Mr. Adair in considerable detail, and in strict confidence, the background and present status of the Neep concession. Mr. Adair followed the story attentively and observed that, in his opinion, the persistent failure of the Neep interests to furnish geological reports or samples might be based on one of two possibilities: (1) that the ore deposits were much more valuable than at first appeared; or (2) that the backers of Neep had no serious intention of developing the deposits and were concerned primarily with selling the concession, after it had been obtained, to the highest bidder. In the latter case, they would probably not wish exact geological data to be in the hands of the Liberian Government. Mr. Adair added that the firm of Müller and Company, which has expressed a revived interest in the concession, was very well known and that it undoubtedly could obtain a subsidy from the German Government to develop, in any part of the world, the iron ore supplies which Germany lacks so badly in its current program.

I then said that, as Mr. Adair knew, the Department was making the information regarding the Liberian iron ore deposits available to other American steel interests, and that it was reasonable to suppose that one or more companies in addition to his own might be interested in the possibilities. We had telephoned him, I said, because developments were taking place rather swiftly in this matter, and we are anxious that all companies which might be in a position to investigate the subject should have an equal opportunity to obtain the pertinent information. Mr. Adair said he fully appreciated the Department's attitude in this connection.

I then brought up the question of possible competition between two or more American steel firms, either for exploratory rights or for an outright concession in Liberia. I described to Mr. Adair our experiences in the case of petroleum concessions in the Near East, discussing the subject along the lines mentioned in this Division's memorandum of July 13 regarding the visit of Mr. John M. Sias to the Department. I asked Mr. Adair if he knew what the attitude of his company might be toward a possible joint undertaking in Liberia.

Mr. Adair replied that he personally saw no insurmountable obstacle to forming an alliance with another American steel firm for such purpose. He pointed out that very few of the iron ore deposits in this country were owned or exploited exclusively by one concern, that most of them represented a joint interest, and that it was quite customary in the trade to effect an exploitation agreement with another concern. He added, however, that owing to its experience in other foreign countries, particularly Venezuela, Chile and Cuba, as well

as the fact that it possessed tidewater plants on the Atlantic seaboard, Bethlehem was in a better position than any other American concern to enter the Liberian field.

At the conclusion of our discussion, Mr. Adair stated that he would transmit the information we had given him to Mr. Buck, Vice President in charge of raw materials, with whom the decision would rest as to whether the company should pursue the matter further. He said that if it were decided that the deposits were sufficiently interesting, the company would probably wish to send an engineer to Liberia to make a survey, and that the company would first approach the Department for advice as to the proper procedure. Mr. Adair said he would, in any case, let us know one way or another as soon as decision was reached.

882.635 Neep/110 : Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, July 19, 1938—5 p. m.

31. Within the last week the Department has been approached separately by three prominent American steel companies³⁰ for information in respect to the iron ore deposits which are reported to exist in Liberia. In view of the interest displayed in the subject, it seems possible that one or more of these companies may decide to apply to President Barclay for permission to undertake a geological survey in the area embraced by the proposed Neep concession.

The Department considers it desirable that you bring this possibility in confidence to the attention of President Barclay at an early opportunity. It is assumed that the President will advise you in the event that he receives such an application or applications, but if you perceive no objection you could ask him informally to keep you closely informed of any developments in this matter.

HULL

882.6351 U.S. Steel Corporation/2 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, July 21, 1938—4 p. m.

[Received July 21—3 : 38 p. m.]

54. Your cable No. 31. President Barclay has, upon application by telegraph from the United States Steel Corporation, granted corporation privilege to make at its own expense preliminary examination of iron ore occurrences in central and western provinces of Liberia

³⁰ United States Steel, Bethlehem Steel, and Republic Steel.

for 6 months from date of arrival of engineers in Liberia. This period may be extended upon agreement by the Liberian Government and corporation. Liberian Government will accord engineers all "reasonable assistance" in their work and give full police protection. Liberian Government stipulates that corporation agrees to furnish it authentic copies of engineers report which will be treated as confidential.

The Liberian Government, from information received, has reason to believe that Krupp has been interested in getting the Neep concession through.

President Barclay informs me that owing to Neep's failure to answer pertinent important questions, all ideas of Government granting Neep concession have been abandoned.

WALTON

882.6351 U.S. Steel Corporation/3 : Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, July 23, 1938—11 a. m.

32. Your 54, July 21, 4 p. m.

(1) Please inform the Department by telegraph whether the United States Steel Corporation has been granted the exclusive right to conduct surveys during the period indicated, or whether similar privileges if requested might be accorded other interested firms.

(2) Although the Department has noted President Barclay's statement to the effect that the Neep concession has now been abandoned, it would be interesting to learn whether a copy of Neep's promised geological report has ever been made available, either in translation or in the original Dutch. Any information which you may be able to obtain discreetly as to the status of this report, or as to the origin and authenticity of the boring analysis mentioned in the Legation's telegram No. 35, May 22, 4 p. m., would be appreciated.

HULL

882.6351 U.S. Steel Corporation/4 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, July 26, 1938—noon.

[Received 2 p. m.]

55. Your 32, July 23, 11 a. m. President Barclay informs me the Liberian Government has granted the United States Steel Corporation exclusive rights to conduct surveys for 6 months or more. He has

served notice on Neep, through company's legal representative at Monrovia, that Neep immediately halt all operations as company has failed to furnish Liberian Government with desired information. It is estimated that Neep has spent \$100,000 in making borings since January, which was done at company's risk. Liberian Minister at Paris has been instructed to discontinue all negotiations with Neep and Amsterdamsche Bank. Officials of bank reported to have become suspicious over Neep's refusal to answer questions relative to capitalization, stock ownership and statistics on boring findings.

No satisfactory geological report has ever been turned over to the Liberian Government.

Liberian Government does not regard boring analysis report submitted in May as authentic. Same was transmitted to the President by Caffé after repeated requests from the Liberian Government for data on the subject. Report is typed on piece of paper minus name or anything that would offer or insure a source of creditability. Liberian officials inclined to think report should have been more comprehensive and informing.

I have been permitted to see a letter from a German national who confides that Monte-Cantino of Italy has been interested in exploiting Liberian iron ore deposits, but he frowns on the advisability of the Liberian Government forming such an alliance. Writing from his homeland he declares that Germany would not deal with Neep promoters for obvious reasons, but would be willing to deal through Muller which he points out has the confidence of German capitalists and industrialists.

There is every indication that Liberia prefers to become associated in the devolvement [*development?*] of its iron ore resources with American interests.

WALTON

882.00/1070 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, July 29, 1938—4 p. m.

[Received July 29—12:40 p. m.]

56. For McBride. Political leaders heretofore *persona non grata* with present administration were included in list of invited guests to Independence Day celebration at Executive Palace July 26. President Barclay took advantage of situation by asking them to participate in a private conference which was from 3 to 4 hours duration. He explained and defended his policies and called for frank criticism. Gave reasons for denying Neep a concession, announced that Liberian Government had begun negotiations with the United States Steel

Corporation and declared he was convinced the economic progress of Liberia would best be served by close cooperation with the United States and American business interests. President made a plea for a united Liberia. All conferees pledged him loyal support. A more detailed report will be transmitted by pouch.

WALTON

882.6351 U.S. Steel Corporation/20 : Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, August 22, 1938—6 p. m.

35. Your 55, July 26, noon.

1. Please keep the Department closely informed by telegraph of any developments that may follow the Liberian Government's discontinuance of negotiations with Neep, particularly should any conflict arise which might affect adversely the proposed operations of the United States Steel Corporation.

2. For your confidential information, the Steel Corporation has been requested by the Amsterdamsche Bank to receive a delegation which Neep proposes to send to the United States with a view to inviting American participation in its "initialed" iron ore concession in Liberia. The Department understands that this proposal is not meeting with a favorable reception by the Corporation.

HULL

882.6351 U.S. Steel Corporation/23 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, August 25, 1938—5 p. m.

[Received August 25—2 p. m.]

61. Your 35, August 22, 6 p. m. No "initialed" iron ore concession has been granted Neep. The initialed memorandum giving company the right to exploit iron ore was submitted to the Legislature which disapproved some of the terms, thereby modifying the memorandum in a substantial degree. The Legislature passed an act authorizing the Liberian Government to grant a concession in accordance with modifications. These modifications were not acceptable to Neep which proposed certain amendments as a basis of acceptance. These amendments will be referred back to the Legislature for approval or disapproval. In my talk with the President he avowed he would not use his influence to bring about the Legislature's acceptance. I think it can be taken for granted, that in view of the distinctly hostile attitude of the President the prospect of Neep and the Legislature coming

to favorable terms is very remote. In the opinion of the Liberian Government the initialed memorandum merely indicates the authenticity of the tentative arrangement with the executive department and Neep and that such initialing is of no binding effect except when final approval is given by the Legislature.

President Barclay has shown me communications purporting to prove that Neep has no effective agreement with the Liberian Government and for that reason company stopped boring in July. The Swedish engineers and other technicians returned to Monrovia 3 weeks ago. It is pointed out that Caffé in a letter under date of July 19, received by the President July 26, announced that until a definite agreement was reached preliminary work at Bomi Hills would be in vain. In a letter under date of June 9 the Liberian Government reminded Neep that the company had undertaken the borings at its own initiative and insistence, for which the Government would not assume responsibility.

According to the Liberian Government, up to now Amsterdamsche Bank has never been asked by the Government to secure capital but to act as trustee to see that the majority of shares would get into the hands of desirable nationals. It is thought here that the bank's latest overtures to the United States Steel Corporation have been prompted by favorable confidential reports of borings which reports have been kept from the Liberian Government. Complaint is made here that the only boring report submitted to the Government was by Caffé in May which was most unsatisfactory because of its lack of technical confirmation and vagueness. I am informed that on several occasions the bank has intimated to the Liberian Government it would not be averse to raising necessary capital to exploit iron ore provided operations were not conducted under the name of Neep.

Under the circumstances President Barclay does not see how a serious conflict should arise which might affect adversely the contemplated operations of the United States Steel Corporation.

WALTON

882.6351 Bethlehem Steel Company/4 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, September 2, 1938—4 p. m.

[Received 1:30 p. m.]

63. Bethlehem Steel asks Liberian Government for geological survey and expresses interest in future exploitation of the country's iron ore. President will inform corporation that arrangements have already been effected to make a survey.

WALTON

882.6351 Bethlehem Steel Company/5

Memorandum by Mr. J. Rives Childs of the Division of Near Eastern Affairs

[WASHINGTON,] September 3, 1938.

The following brief background is noted in connection with the attached telegram:²¹

As soon as the Department was made aware of the possibility of the exploitation of Liberian iron ore deposits by American companies it communicated with the American Iron and Steel Institute and asked that that fact be made known to its members. The Department at the same time offered to furnish alike to those members as might be interested all pertinent information available to the Department on the subject.

Following the dissemination of that information by the Institute three of its members communicated on the subject with the Department, namely, the Republic Steel Corporation, the Bethlehem Steel Company and the United States Steel Corporation. The Republic Steel Corporation expressed its lack of interest in the matter, the Bethlehem Steel Company was slow in its evidence of interest, while the United States Steel Corporation manifested at once an active concern.

In a telegram dated July 21, 1938, the Department was informed by our Minister in Liberia that President Barclay had, upon application by telegraph from the United States Steel Corporation, granted it the privilege of making a survey of the iron ore deposits. In a further telegram dated July 26, 1938, the Minister reported that President Barclay had informed him the Liberian Government had granted the Corporation exclusive rights to conduct surveys for six months or more.

Our last information from the Bethlehem Steel Company which, incidentally had to be disabused of the impression that the Department was recommending that it enter the Liberian field, was that it intended to address by mail an inquiry of the Liberian Government for further information as to the iron ore deposits.

Our only concern in the matter from the beginning has been to make equally available to all possibly interested American companies information at the Department's disposal concerning the opportunity for the exploitation of the iron ore deposits in Liberia. Now that that purpose has been achieved we have no further direct interest in the question inasmuch as the matter is now one for negotiation direct between the companies concerned and the Liberian Government.

²¹ *Supra.*

882.635 Neep/132 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, December 9, 1938—3 p. m.

[Received December 9—1:25 p. m.]

95. The Liberian Legislature has disapproved suggested modifications which were to have been a basis of acceptance for granting of Neep concession. The initialed memorandum, while the Legislature gave favorable consideration at last session, has been repealed.

This action was taken upon President Barclay's recommendation in a special message with a view to removing all doubts as to the right of any other company to make a geological survey of the country's iron deposits.

WALTON

882.635 Neep/134

The Minister in Liberia (Walton) to the Secretary of State

No. 243

MONROVIA, December 12, 1938.

[Received January 12, 1939.]

SIR: I have the honor to refer to my telegram No. 95, December 9, 3 p. m., and to report that there appeared in the *Weekly Mirror* of November 25, 1938 the following article:

"Arriving by the S. S. *Maaskerk* on the 19th instant was Mr. D. Caffé, who represents the financial group seeking to exploit the iron resources of the Republic. Iron has played such an important part in the progress of nations and the history of civilization, that Mr. Caffé's mission in Liberia has seemed somewhat providentially timed. The new program of advancement needs the strength and endurance of the "Iron Horse." Liberia has waited long for this day, and the opportunity that it offers may not come again soon. Seized now it will lead inevitably to progressive development, omitted Liberia may flounder another century in the toils of a poor and unbalanced economy. We welcome Mr. Caffé back to Liberia and wish for his mission the success it seems to deserve."

Publication of the foregoing occasioned no little comment among Liberians and other nationals at this capital and was particularly disturbing to Mr. W. W. J. Croze, the representative of the United States Steel Corporation, who is heading a party of geologists and engineers in making a survey of the iron deposits in this country.

Mr. Croze had previously called at the American Legation and made reference to the presence of Mr. Caffé in Monrovia. In all probability Mr. Croze had heard some comment on Mr. Caffé's intention to reopen conversations with the Liberian Government relative to granting Neep

an iron concession. Mr. Caffé had been absent from the capital since June.

In the late afternoon of December [*November?*] 26, Secretary of State Simpson paid me a social call. I showed him a copy of the *Weekly Mirror* containing the article concerning Mr. Caffé, which he had not seen. Both of us were of the opinion that the article had been subtly written to give the members of the Legislature and the public in general a wrong impression as to the real status of the Neep application and why President Barclay no longer favored granting the company a concession.

As the *Weekly Mirror* is subsidized by the Liberian Government, Secretary Simpson and I surmised, and correctly so, that the article had been inserted without the editor having given serious consideration as to the probable unfavorable reactions it might provoke. Assurance was given me by Secretary Simpson that he would see both the President and the publisher about the article.

That evening I attended a social affair in Monrovia at which Mr. Croze was present. So was Mr. Caffé. For fully half an hour they were engaged in earnest conversation. After Mr. Caffé had left, Mr. Croze obviously perturbed, approached me and related conversation he had had with Mr. Caffé. Mr. Caffé is quoted as having said that the Liberian Government had given him "a dirty deal." Mr. Croze informed me that he was transmitting via air mail a copy of the *Weekly Mirror* to the United States Steel Corporation officials in the United States. He thought something should be done to clear up what he considered a delicate situation, and expressed the hope that the United States Steel Corporation would not encounter a similar experience with the Liberian Government.

Earlier in the week I had sought to assure Mr. Croze that the status of the United States Steel Corporation was not analogous to that of Neep; and that the Liberian Government had taken the position that Neep was seeking to secure the concession to peddle, while United States Steel Corporation had sufficient capital to exploit the Liberian iron deposits, if the survey measured up to their expectations. In a similar vein I talked with Mr. Croze on the evening in question.

On November 30, I conferred with President Barclay, who had discussed the article in the *Weekly Mirror* with Secretary Simpson. The latter had also reported a conversation he had held with Mr. Caffé, who had called at the foreign office to register a protest against the position taken by the Government toward Neep and had complained that President Barclay had not seen fit to give him an audience. In the course of his talk Mr. Caffé is supposed to have said: "Neep cannot successfully cope with the United States Government nor the United States Steel Corporation, but we can voice our dissatisfaction through diplomatic channels."

Secretary Simpson is reported to have told Mr. Caffé that as the Liberian Government had not granted Neep a concession, he did not see how it would be possible for Neep to precipitate a diplomatic incident between the Liberian Government and the Netherlands.

President Barclay informed me on the evening of November 30, he had invited the members of the Legislature, Cabinet and other prominent members of the True Whig Party to an informal social gathering at the Executive Mansion, which he was giving for the express purpose of creating an opportunity to discuss fully and frankly every stage of the negotiations between the Liberian Government and Neep. This he did, confidentially reading important communications and records bearing on the subject. I am advised that when the gathering broke up the Legislators assured the President they had a clearer picture of the situation and that the course he had pursued was the proper one.

Subsequently, President Barclay sent a special message to the Legislature recommending the disapproval of suggested modifications which were to have been a basis of acceptance for granting of Neep concession, and the repeal of the initialed memorandum. These recommendations have been favorably acted upon by the Legislature.

Respectfully yours,

LESTER A. WALTON

COURTESY VISIT OF THE U. S. S. "BOISE" TO LIBERIA, OCTOBER 29
TO NOVEMBER 3, 1938

811.3382/9a

The Secretary of State to the Secretary of the Navy (Swanson)

WASHINGTON, January 28, 1937.

MY DEAR MR. SECRETARY: On June 11, 1935, following a period of nearly five years during which normal diplomatic relations between the United States and Liberia were suspended, this Government accorded recognition to the administration of President Edwin Barclay.³² Since that date relations between the two countries have been consistently amicable and Liberia has shown remarkable progress which has been publicly commented upon by President Roosevelt and the Department of State.

I am of the opinion that the present friendship between this country and Liberia, the outcome of a century of peculiarly intimate association, would be furthered by the friendly visit to Monrovia of a vessel of the United [States] Navy, and I have no reason to believe that such a visit would be other than welcome to the Liberian Government.

³² See *Foreign Relations*, 1935, vol. I, pp. 920 ff.

It would be appreciated, therefore, if consideration could be given to the practicability of having one of our Naval vessels visit Monrovia during the late summer or early fall of this year, and, if possible, the prolongation of the cruise of the same vessel to include a visit to Capetown, Union of South Africa. The Department's records show that the last visit of an American warship to Monrovia was that of the U. S. S. *Raleigh* in January, 1929, and the last visit to Capetown that of the U. S. S. *Trenton* in June, 1924.

If the Navy Department should determine that favorable consideration can be given to the foregoing suggestion I shall be glad to make the necessary arrangements with the Governments concerned.

Sincerely yours,

CORDELL HULL

811.3382/19

The Chief of the Division of Near Eastern Affairs (Murray) to the Secretary of State

[WASHINGTON,] June 14, 1938.

MR. SECRETARY: You will recall that about a year ago consideration was given to a plan to further our friendly relations with the Republic of Liberia by sending a naval vessel on a visit to Monrovia, and to extend the cruise of such a vessel so as to include also a visit to Capetown. At the time, the plan proved impracticable, for the Navy informed us that the reduced amount of fuel available for shakedown cruises made it necessary to restrict movements of this kind. Moreover, no vessel appeared to be immediately available for such a purpose and the matter was dropped.

In view of our special interest in Liberia, however, the Navy has from time to time been reminded of our continued hope that a naval visit might be arranged whenever conditions permitted. We have now been informed that in all likelihood the new 10,000 ton cruiser *Boise* will make its shakedown cruise from September 6 to November 5 and that the commanding officer has been requested to prepare a tentative itinerary to include both Monrovia and Capetown. As the cruiser would first have to engage in aircraft maneuvers at Guantanamo after it leaves the United States in September, it might be expected to arrive at Monrovia about the first of October.

There are a number of reasons why the visit of a U. S. naval vessel to Liberia would be of particular interest and importance at this time. Aside from the fact that the two countries have been in intimate association for more than a century and are bound by close and traditional ties of friendship, the remarkable progress made by Liberia under President Edwin Barclay has attracted the attention and com-

ment of President Roosevelt. As you know, the Liberians look to us for moral support in their endeavor to maintain the independence of their country, and in view of the colonial designs of various Powers in Africa our friendly interest in their welfare may become a vital factor in the future.

Plans have been completed to construct a new Legation in Monrovia and the work is scheduled to start as soon as a final decision is made in regard to a site. Mr. Lester A. Walton, our Minister, is just now returning to his post from home leave of absence, and will probably send us word on this subject shortly. We have concluded a treaty of commerce and navigation with Liberia,³³ as well as a treaty of extradition³⁴ and a consular convention,³⁵ all of which await signature in Monrovia. It is interesting to note in this connection that our old treaty of commerce and navigation with Liberia, which was signed in 1862,³⁶ was ratified and proclaimed in 1863, so that this occasion would mark the seventy-fifth anniversary of the initiation of treaty relationships between Liberia and the United States.

It would be readily feasible to have the customary ceremonies in connection with the dedication of the new Legation building take place so as to coincide with the projected naval visit, for which purpose the ship's band would probably be available. At the same time, the airplanes carried by the *Boise* could perhaps be used to give flights to Liberian officials, including President Barclay, who is a keen aviation enthusiast. Signature of the treaties could doubtless be postponed so as to take place also during the ship's visit. In addition, I understand that Canon Anson Phelps Stokes of the Washington Cathedral, who is closely identified with missionary and colonizing activities in Liberia, is prepared to send to Monrovia the historic first flag of that Republic, for presentation in a suitable manner to the Liberian Government.

It is evident, therefore, that the proposed visit of the *Boise* offers an unusual opportunity for making a friendly gesture to Liberia, the significance of which will not be lost on Powers which have been casting covetous eyes in the direction of that small country—the last wholly independent state in Africa. As you will recall, officers of this Government have from time to time in the past made visits to Liberia, the effect of which has been to bring the Liberians to a realization of the value of American cooperation and advice in their struggle to maintain themselves in a predatory world. Moreover, there are at present various problems which inexperienced Liberia has to face

³³ Department of State Treaty Series No. 956, or 54 Stat. 1739.

³⁴ Department of State Treaty Series No. 955, or 54 Stat. 1733.

³⁵ Department of State Treaty Series No. 957, or 54 Stat. 1751.

³⁶ Signed at London, October 21, 1862, Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 8, p. 859.

in connection with such complicated matters as a foreign iron ore concession.³⁷ The presence of American naval officials at this time would, I am confident, carry an assurance of our continued interest which would be very welcome to the Liberian Government.

WALLACE MURRAY

811.3382/20

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

WASHINGTON, June 28, 1938.

SIR: Reference is made to your confidential letter of 28 January, 1937, file WE, in which you state that it is your opinion that the present friendship between this country and Liberia would be furthered by the friendly visit to Monrovia of a vessel of the United States Navy.

In accordance with the suggestion contained in the above letter, the Navy Department has tentatively scheduled the U. S. S. *Boise* to visit Monrovia about 18-22 October, 1938, and Capetown, Union of South Africa, about 2-10 November, 1938.

As the U. S. S. *Boise* is a new cruiser and has not yet been commissioned, the dates are tentative and may readily have to be altered. The Navy Department will submit further correspondence at a later date requesting that diplomatic arrangements be made, when a definite schedule can be determined.

Respectfully,

WILLIAM D. LEAHY

811.3382/30

The Acting Secretary of the Navy (Furlong) to the Secretary of State

WASHINGTON, September 3, 1938.

SIR: The Navy Department has approved visits of the U. S. S. *Boise* to foreign ports in accordance with the following schedule:

| <i>Port</i> | <i>Arrive</i> | <i>Depart</i> |
|------------------------|------------------|-------------------|
| Monrovia, Liberia | October 24, 1938 | October 27, 1938 |
| Capetown, South Africa | November 6, 1938 | November 14, 1938 |

The U. S. S. *Boise* is a saluting ship and will be under the command of Captain B. V. McCandlish, U. S. Navy.

It is requested that the usual diplomatic arrangements be made for these informal visits.

Respectfully,

W. R. FURLONG

³⁷ See pp. 770 ff.

811.3382/30 : Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, September 8, 1938—6 p. m.

39. If no objection is perceived, please inquire confidentially of Foreign Office if visit of new 10,000 ton cruiser U. S. S. *Boise* to Monrovia from October 24 to 27 would be agreeable, requesting that the usual courtesies and facilities be accorded the vessel.

Please telegraph reply, upon receipt of which additional details will be furnished you.

HULL

811.3382/31 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, September 10, 1938—1 p. m.

[Received September 10—11:15 a. m.]

64. Your 39, September 8, 6 p. m. It will be agreeable to the Liberian Government for the United States ship *Boise* to visit Monrovia October 24th to 27th and the usual courtesies and facilities gladly will be accorded.

WALTON

811.3382/31a : Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, September 15, 1938—1 p. m.

40. 1. The Department believes that the visit of the U. S. S. *Boise* to Monrovia from October 24 to 29 [27] would afford an unusually appropriate opportunity to dedicate the site for the new Legation building. While the time is, of course, too short in which to inaugurate actual construction work, there seems to be no reason why a simple ceremony should not be held, such as the raising of a flag or the symbolic laying of a cornerstone. You might also wish on that occasion to deliver a brief address referring to the new chapter in American-Liberian friendship opened by the construction of a permanent Legation building.

2. In order to proceed with the plans for the cruiser's visit, it is essential that the Department obtain at the earliest moment at least a substantial portion of the information outlined in its telegram No. 37, August 31, 8 p. m.³⁸ Please make every effort to transmit by tele-

³⁸ Not printed.

graph within the next few days a report as to the data desired. However, should it prove impossible to reach an early understanding as to the availability of the Camp Johnson property, the Department considers that the dedicatory exercises could as a last resort be held at Mamba Point, even if that site is later exchanged for the one at Camp Johnson.

3. In addition to the building ceremonies, the Department desires to take advantage of the occasion to present the Liberian Government with the surviving portions of the material from which the first flag of Liberia was made. This historic relic has for many years been in the possession of the Phelps-Stokes Fund, which has agreed to donate the bunting as a special gesture of good-will to Liberia at this time. Further details in connection with the proposed presentation will be sent you in due course.

4. You will recall that our first Treaty of Commerce and Navigation with Liberia, signed in 1862, was ratified and proclaimed in 1863, so that the recent signing of our new treaty of Friendship, Commerce and Navigation coincides with the seventy-fifth anniversary of the initiation of treaty relationships between Liberia and the United States. In view of this fact, as well as the long period which has elapsed since the last courtesy visit of an American naval vessel to Monrovia, and considering the great progress made by Liberia during the interval, it is hoped that the visit of the *Boise* will be a landmark in the history of the relations between the two countries. With this in mind, the Department contemplates issuing a press release as soon as arrangements for the visit and attendant ceremonies are further advanced.

5. You may communicate any of the foregoing to President Barclay in your discretion, but for the present no publicity should be given in Liberia to the forthcoming events.

HULL

811.3382/32a : Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, September 22, 1938—7 p. m.

43. Department's 40, September 15, 1 p. m. Following statement will be issued to the press on Friday, September 23: ³⁹

"The Navy Department has announced that the shakedown cruise of the newly-commissioned 10,000-ton cruiser *Boise* will begin on October 12 and will include informal courtesy calls at two ports in Africa. The *Boise* is scheduled to visit Monrovia, the seaport capital of Liberia, from October 24 to October 27, and Capetown, Union of South Africa, for the week beginning November 6.

³⁹ See Department of State, *Press Releases*, September 24, 1938, p. 212.

There are a number of reasons why the visit of the *Boise* to Liberia is of interest at this time. The United States Government has completed plans for a modern Legation building at Monrovia, designed especially for tropical conditions, to take the place of the rented structure occupied at present, and construction is to start shortly. It is planned to dedicate the site of the new Legation building at the time of the visit of the *Boise*, with appropriate ceremonies commemorating the occasion.

For some time there has been in the possession of the Phelps-Stokes Fund, a philanthropic organization which for many years has contributed actively to the advancement of Liberia, the surviving portions of the bunting from which the first flag of the Republic of Liberia was made. As a special gesture of good will, the trustees of the Fund have decided to prepare this material in a form suitable for donation to the Liberian Government and the historic relic will be carried to Monrovia on the *Boise* for presentation following the arrival of the vessel in that port.

The Republic of Liberia has always been bound to the United States by close and traditional ties of friendship. In 1822 American freedmen established their first settlement near what is now Monrovia, and during the period preceding the Civil War many emigrants left this country under the auspices of the American Colonization Society and similar organizations to join the colonists on the West Coast of Africa. Henry Clay, as well as Madison, Monroe and numerous other distinguished Americans, became an active supporter of this movement. In 1847 a group of the West African settlements united to adopt a constitution modeled on that of the United States and a Declaration of Independence was issued on July 26 of that year. American citizens have since maintained their early interest and sympathy for the young republic.

The first treaty between the United States and Liberia was signed in 1862, after the outbreak of our Civil War, and was ratified and proclaimed in 1863. This treaty was recently replaced by the signing on August 8, 1938 of a new Treaty of Friendship, Commerce and Navigation. The visit of the *Boise* to Monrovia therefore coincides with the seventy-fifth anniversary of the initiation of treaty relationships between the two governments. In view of this fact, and considering the remarkable progress made by Liberia in the last few years under President Edwin Barclay, the occasion is expected to be something of a landmark in the history of the relations between the two countries.

The last visit of a United States naval vessel to Liberia took place in 1928 [1929]."

HULL

811.3382/39b : Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, October 12, 1938—6 p. m.

50. Department's No. 39, September 8, 6 p. m. Owing to an unforeseen delay in the sailing date the U. S. S. *Boise* will not be able

to reach Monrovia on October 24 as planned. The vessel is now tentatively scheduled to visit Monrovia from October 29 to November 3, confirmation of which will be sent you before the end of this week.

Please inform the Liberian Government that Mr. Henry S. Villard, a Foreign Service Officer of the United States at present assigned to the Division of Near Eastern Affairs, has been designated to attend the ceremonies connected with the forthcoming visit of the *Boise* as a special representative of the Department. Mr. Villard will proceed to Monrovia as a passenger on the *Boise* and depart on the same vessel.

HULL

811.3382/54

Mr. Henry S. Villard to the Secretary of State

[Extracts]

ON BOARD U. S. S. "BOISE," November 6, 1938.
[Received December 6.]

SIR: With reference to the Department's instruction of October 13 1938,⁴⁰ directing me to proceed to Monrovia, Liberia, and to Capetown, Union of South Africa, for purposes of consultation, I have the honor to report as follows in regard to my visit to Monrovia:

The U. S. S. *Boise* arrived at Monrovia at 8 a. m. on Saturday, October 29. After the customary salute of 21 guns and the corresponding reply from Fort Norris, Captain McCandlish sent me ashore in one of the ship's launches with Lt. D. C. Beard, the Communications Officer, and fired at my departure the consular salute of seven guns. We were met at the landing by Liberian port officials and the Acting Financial Adviser, Mr. Dunaway, and I proceeded immediately to call at the Legation. From that moment until the *Boise* sailed at 1:30 p. m. on November 3, I was busy with official or informal entertainments, inspection of the two possible Legation sites, a trip into the interior, and a series of conferences with the Honorable Lester A. Walton, the American Minister, as well as with as many Liberian, American and foreign officials and residents as time permitted.

It is my understanding that Mr. Walton will report in detail the various activities which made up the official program while the *Boise* was in port, and will furnish the Department with the texts of various addresses which were made in the course of the ceremonies. In order to keep the Department currently informed of what was taking

⁴⁰ Not printed.

place, I availed myself, with the approval of Captain McCandlish and Minister Walton, of the *Boise's* radio facilities to send a brief summary of the events as they transpired. Radiograms were sent to Washington on October 31, November 1 and November 4,⁴¹ and for confirmation purposes are duplicated as enclosures to this despatch. I shall not attempt to describe these activities further, but shall confine myself to reporting certain information which I obtained during the course of my stay in Monrovia and to general observations as to the results of the visit. The subject of the Legation site is being treated in a separate report to the Foreign Buildings Office.

REACTION TO THE "BOISE'S" PRESENCE

Although the arrival of the *Boise* at Monrovia such a short time after the war crisis in Europe and the subsequent four-power conference at Munich was a pure coincidence, there is no doubt that the Liberians were pleased to place an entirely different interpretation upon the vessel's call. The ruling fear in Liberia at present is that Germany has designs on the country, if not from a political or military point of view then at least from the standpoint of economic enslavement.⁴² German expansion in Europe and German assertion of colonial claims are viewed with the greatest apprehension and there is a strong feeling that as the world stands today the United States is the only disinterested friend of Liberia. The arrival of the *Boise* was deliberately interpreted as a notice to Herr Hitler to keep hands off in Liberia and as a step to reassure Liberians of the continued interest and friendship of the United States. This attitude found confirmation in a radio broadcast which I was informed took place a few days before the vessel's arrival under the auspices of the *Christian Science Monitor*, and which gave strong support to such a view.

Liberians in general did not attempt to conceal their gratification at the arrival of the cruiser. The presence for nearly a week in Monrovia Roads of this modern, powerful naval vessel of the United States,—said to be the largest warship ever to visit Liberia—undoubtedly raised the morale of the nation to the highest pitch in years and evoked constant expressions of appreciation and approval. The recent call of a British sloop and the projected visit this month of a British cruiser were regarded with something approaching indifference, but the welcome accorded the *Boise* was unmistakably cordial in both official and unofficial quarters.

However, the applause of the Liberians was not unmixed with a characteristic sensitiveness as to the class of vessel sent and the rank of its commanding officer. It was observed in some quarters that the

⁴¹ None printed.

⁴² For further details on fears of Germany, see pp. 836 ff.

last United States naval vessel to visit Liberia—the *Raleigh*, in January 1929—had been a flagship and had carried Admiral Dayton as the representative of the United States Navy. There was a feeling, therefore, that Liberia incurred some loss of prestige in the present instance. One of those who spoke to me bluntly on this subject was Secretary of State Simpson, who made the invidious comparison when I was seated next to him at the President's luncheon for the Captain and officers of the ship. I pointed out in reply that the *Boise* was one of the newest and finest creations of the United States Navy and that Monrovia was the first foreign port it had ever visited. The attitude of Secretary Simpson however was not widespread and the popular acclaim which greeted the vessel overshadowed any criticism as to class or rank.

Among American residents, the reaction was uniformly enthusiastic. I was told by many that the visit of the *Boise* had been of inestimable value to the colony and that the beneficial effects would continue for a long time to come. From this standpoint alone, the visit of the cruiser seems to have been amply worth while, and I feel sure the Legation will fully corroborate this statement. The only doubt expressed by Americans was to the effect that it might lead Liberians to expect too much of the friendship of the United States in case of a crisis affecting Liberia. It was pointed out that in any international conflict, it would now be natural for Liberians to take for granted American assistance—with tragically disappointing results. As mentioned below, however, President Barclay is under no illusions of this nature.

INTERVIEW WITH PRESIDENT BARCLAY

Minister Walton presented me by appointment to President Barclay, obviously the outstanding personality in Liberia. The President welcomed me cordially and accepted with evident pleasure a personal gift which I had brought from the United States, a four volume set of the *Life of William Lloyd Garrison*. After reading letters from the Secretary and from Mr. McBride, he launched immediately into a discussion of Liberian fears regarding Germany, a subject which was plainly of the greatest concern to him. He said that he had just brought up the matter in the Cabinet, which had gone into the question at considerable length, and that it constituted the leading problem which Liberia had to face today.

Referring to Germany's avowed colonial ambitions and the example set by Italy in the case of Ethiopia, the President said that he could not view with equanimity the position of Liberia in a predatory world. He said that he was uneasy as to the conversations which might have taken place at Munich in regard to colonial "appease-

ment"; that he viewed with apprehension the recent travels of von Ribbentrop between London and Berlin, and the apparent understanding which was being reached between Great Britain and Germany on world problems. He cited the Neep concession⁴³ as an example of the pitfalls which might lead Liberia into domination by Germany, and said that he was fully determined to keep his country's iron ore resources out of the hands of Europeans and to reserve them for American exploitation. He said that this applied to Liberia's other natural resources as well and that he would be glad to see the economic development of Liberia undertaken by American interests insofar as that was possible or practicable. One of the reasons why he mistrusted the Neep organization was that according to his information it had approached the powerful Montecatini group in Italy for backing, and that this fact had never been disclosed during Neep's negotiations with the government. This, together with the failure of Neep to give satisfactory assurances as to its financial integrity and political disinterestedness, had led him to consider the Neep interests as acting in bad faith.

President Barclay then dwelt on the military weakness of Liberia in case of a German attack. He admitted that, much as he appreciated the friendship and good will of the United States, he could not persuade himself that the United States would ever lend material aid to Liberia in the event of invasion. It was therefore up to Liberia to protect itself by the only means left in its power—alignment with one or more countries whose interests would more or less coincide with those of Liberia. He said that he was well aware of the ideological conflict now taking form throughout the world and that he had decided definitely that Liberia should be found on the side of the democracies. In practice, this meant an alliance with France and Great Britain.⁴⁴

The President said that to his mind there was a real danger of Liberia being used as a base by Germany to launch attacks on the adjoining colonies of Sierra Leone and the French Ivory Coast. Even if Germany did not wish to annex Liberia as a colony, Liberian territory would offer a strategic area from which to take aggressive measures against the colonial possessions of other European powers, particularly those nearby under British and French sovereignty. He mentioned reports of the presence of German submarines in West African waters during the recent European crisis (from other sources I heard persistent rumors that at least several such craft had been on station during that period between Monrovia and the Canary

⁴³ See pp. 770 ff.

⁴⁴ For further correspondence on this subject, see pp. 836 ff.

Islands). In view of Hitler's assertion that he was now satisfied in Europe, and the apparent inability of the Powers to decide on giving him any of their colonial or mandated territory, it stood to reason that Hitler's attention would inevitably be attracted to Liberia—the last independent state on the African continent.

To safeguard the future of his country, the President said, he had decided to propose a tripartite alliance with Great Britain and France. Considering the possibility that Liberia might be deemed a desirable base by the Germans for an attack on the adjoining, or even more distant, colonial territories, he felt that it would be to the advantage of those two Powers to join with Liberia in a defensive alliance. With this in mind, the President was sending Mr. Gabriel Dennis, the Secretary of the Treasury, on a confidential mission to London and Paris. The ostensible purpose of this journey was to visit India and to proceed to the United States in time for the New York World's Fair next May. As soon as the results of Mr. Dennis's conversations were known however, President Barclay intended to seek the advice and guidance of the Government of the United States. He said that while he could not hope for military or naval aid from the United States in the event of a crisis, he did feel that in political matters of this kind he was justified in expecting help for Liberia—a "lamb among wolves" today—from a nation which had always been its friend and confidant.

The President asked me to keep this matter in mind on my return to Washington. I replied that while I could give him no assurances as to the extent of any suggestions we might be in a position to offer, he could be sure that we always looked sympathetically upon the affairs of Liberia and that if any information came to us on the subject of colonies which might be of interest to the Republic, we would be glad to pass it on to him.

The Secretary of the Treasury was scheduled to start his journey on November 4, the day after the *Boise* left Monrovia.

RELATIONS WITH OTHER COUNTRIES

Whether or not Liberian fears as to Germany's intentions are justified, the greatest suspicion prevails as to all things German. During the European war crisis, the large German colony in Monrovia was practically ostracized, both Liberians and other foreigners avoiding contact with the Germans whenever possible.

Some officials went so far as to say that apprehension regarding Germany's plans was seriously retarding the progress of the country.

The lot of the German Consul General, Herr P. Eltester, is an unhappy one. Americans claim that he is not a Nazi sympathizer, and both he and Frau Eltester appear to be personally popular with

the American colony. In an atmosphere such as prevails at Monrovia, however, where even in normal times international relations are most delicately balanced, his position is particularly difficult. A report was circulated soon after the *Boise's* arrival that a German naval vessel was also expected to visit Monrovia, and both fear and resentment seemed to be aroused among Liberians by this rumor. Although the Government has arbitrarily declined to allow German physicians to take up residence in Liberia, officials are uneasily aware that it would be difficult to find a reason for refusing permission for such a visit if requested.

In the short time I was in Monrovia, I found it impossible to obtain any direct evidence that Germany has serious designs on Liberia. Dr. Fuszek, Hungarian physician and Health Adviser to the Government, openly scoffs at such rumors, as do a number of Americans. Commercially however, Germany is making the same efforts as in other parts of the world. The long established Woermann Line is the headquarters for a growing attempt to capture trade, but owing to the open preference of Liberians for American goods—despite the relatively high cost of the latter—there are definite obstacles to overcome. The distinctly anti-Nazi attitude of the Liberians appears, on the surface, to be thwarting successfully whatever efforts Germany may be making toward economic domination of the country.

Relations with the British seem to be reasonably good, although the policy of the Chamberlain government in the recent crisis is viewed with distrust. In this connection, Mr. Walter Croze, chief engineer and geologist of the U. S. Steel Corporation, who has just arrived in Liberia,⁴⁵ told me of an incident which has a bearing on the British attitude toward Liberia. In passing through London on his way to Monrovia, Mr. Croze endeavored to obtain certain information from a British engineer with whom he was acquainted in regard to the Sierra Leone iron ore deposits, which he believed might be useful in the reconnaissance he is about to undertake. This information was categorically declined on the ground that the potential Liberian iron ore supply would offer direct competition to the Sierra Leone deposits.

Relations between France and Liberia seem to be fair, the President having told me that these depend largely on the personality of the French representative at Monrovia. The present Chargé d'Affaires, Mr. E. Emanuelli, came to Monrovia without being able to speak English and thus got off to a bad start, but has since improved his position.

Italian influence is nil. An attempt made by Italy to negotiate a treaty with Liberia not long ago ended in complete failure when it

⁴⁵ For further correspondence regarding U. S. Steel Corporation survey in Liberia, see pp. 770 ff.

became apparent that the Italians were asking for large concessions and giving nothing in return. The President said that Italy had since left Liberia alone but that he would not in any case trust a country responsible for the conquest of Ethiopia.

The Scandinavian countries are known to Liberia through their shipping and are well regarded. Japan is beginning to make itself noticed commercially, but the Liberians seem to be under no illusions as to the quality of Japanese merchandise.

Prior to the departure of the *Boise* an incident occurred which illustrates the sensitivity of the diplomatic atmosphere in Monrovia. At a large reception on board the vessel by the Captain and officers, to which prominent Liberians, Americans, and members of the foreign colony had been invited, the absence of the German Consul General was noted and widely commented upon. He later sent a note stating in English that he would have been pleased to come if the invitation had not happened to reach him some hours after the reception. The French Chargé d'Affaires likewise failed to put in an appearance, without any explanation.

In order to make sure that there was no underlying resentment in the German note and that the French Chargé had not taken offense for some similar reason, Captain McCandlish and I decided to make p. p. c.⁴⁶ calls on all members of the diplomatic corps. Accompanied by Minister Walton, we made the rounds the morning of our departure and felt well repaid for our efforts. The German Consul General who lives some distance from the center of town seemed to be genuinely appreciative of our call and explained profusely that the invitation had not been delivered in time by the representative of the Woermann Line with whom it had been left. The Frenchman was so moved by our gesture that he sent a radio message to the ship after our departure, describing the failure of his secretary to transmit a note he had written, regretting the invitation owing to urgent business in the French cable station.

ECONOMIC DEVELOPMENT

The President expressed much concern with the economic development of Liberia and said that he intended to devote as much energy as possible to opening up the country to commerce and industry. He made it clear that he would welcome any bona fide American enterprise that would further this aim. From the economic standpoint he seemed reluctant to encourage even the French or British, although he envisaged political cooperation with those nationalities. The dic-

⁴⁶ "Pour prendre congé", a leave-taking call.

tator states, I gathered, would receive scant encouragement in Liberia, but special efforts would be made to provide opportunities for American capital.

Expounding his views of the commercial possibilities of the country, President Barclay said that he was particularly interested in the region known as Baffu Bay, located approximately half way between Monrovia and Cape Palmas at the mouth of the Sangwin River. He said that a suitable harbor for ocean going vessels could more readily be constructed at this point than at any other, and that in a recent exploratory tour it had taken him five hours to walk around the so-called bay. This site, the President asserted, formed a natural outlet not only for the products of the Liberian hinterland but for those of French Guinea and he asserted that the French authorities were anxious to find such access to the sea. A railway from the border of French Guinea to Baffu Bay would carry to the coast many tropical products, especially palm oil, kola nuts, various species of hardwoods et cetera. Conditions in Liberia were favorable to the growing of cacao, for instance, and regarded as ideal for cocoanuts. It is difficult to see however, how such a railway could benefit the Firestone plantations or any mineral development indicated at present.

The chief difficulty with the Baffu Bay region is that the shoreline appears to be low and swampy. Moreover, although the President spoke optimistically of deep water in the bay, U. S. Hydrographic Office charts do not show depths sufficient for ocean going vessels without the use of a very long pier or wharf. It is possible that such a pier could be constructed without too great expense, but a careful survey would first be necessary.

I also discussed with the President the possibilities of harbor construction at Monrovia. He was aware of the plans of Mr. Elias Williams of the Overseas Trading Corporation in New York, but I understand that no official consideration has yet been given to this scheme. The President still seemed to be favorably inclined to the rather elaborate harbor plans drawn up by the Neep organization, and despite a direct expression of hope on my part that the proposed railway, if constructed, would not run through the American Legation property at Mamba Point, he good-humoredly declined to commit himself on this subject in any way. It is my personal opinion however, that the difficulty and expense of building a railway around the rocky and precipitous side of Mamba Point would in the last analysis compel a different approach from that contemplated by Neep.

Mention was made of the experience of United States Army engineers in harbor construction, and the President recalled in this con-

nection the legislation recently enacted in the United States providing for the loan to Liberia of government specialists and experts.⁴⁷ I believe this may lead to a request from the Liberian Government for the services of engineers to make a survey of conditions at Monrovia, Baffu Bay and possibly other points. There was no doubt in the President's mind that American army engineers would be well qualified to undertake this task and would furnish an impartial report on the possibility of port construction as well as an unbiased estimate of the cost.

The harbor problem is becoming more and more the main obstacle to Liberia's development, and after the practical experience of going to and from the *Boise* several times a day through the surf, Captain McCandlish thoroughly agreed with this view. There would seem to be the more reason for urgent consideration of this matter because of the serious situation which is developing at Marshall, the export port of the Firestone plantations. The boat channel at that point appears to be closing up and the bar is shifting in such a way as to make the passage increasing[ly] dangerous and difficult. Between seven and twelve natives were drowned a short time ago when a lighter capsized, and another such accident, according to Firestone officials, may so intimidate the superstitious workers that it will be impossible to obtain lighterage crews. If the condition of the bar continues to deteriorate, it may be necessary to abandon this port entirely in the next twelve months.

Mr. George H. Seybold, General Manager of the Firestone interests in Liberia, told me in confidence that he had already obtained plans and estimates for a narrow gauge railway to run from Duside to Monrovia for the rubber shipments. He said that the material would be obtained from Germany, which could far underbid any other country, and that the railway could be constructed for about one dollar a meter.

Incidentally, it was impressed upon me by Dr. Fuszek that if any wharfage construction were undertaken in Liberia, a bubonic plague control would have to be established by the Government. The present system of lighterage to vessels that lie offshore makes such control unnecessary, but the danger of communicable disease by rats would at once arise when the vessels tie up at piers.

IRON ORE CONCESSION

I was surprised to find a considerable degree of resentment among foreigners at the appearance upon the scene of the U. S. Steel Corporation in place of the Neep group, in the matter of the proposed iron

⁴⁷ See telegram No. 24, May 28, 1 p. m., to the Chargé in Liberia, p. 797.

ore concession. Dr. Caffé, the Netherlands Jew, who is the Neep representative in Monrovia, is apparently very highly regarded as to personal integrity, widely travelled, well educated, and extremely popular. His displacement by the Steel Corporation engineers is regarded not as any failure of himself or his organization to satisfy the requirements of the Liberian Government, but as due directly to the "imperialistic" efforts of the American State Department.

This attitude was not apparent on the part of Liberian officials with whom I came in contact, and President Barclay assured me that he was satisfied the Neep proposals offered no safeguards or guarantees for the best interests of Liberia, but I was told that among members of the Liberian Legislature there was a definite undercurrent of disapproval at what had occurred. The strongest criticism came from the leading members of the American colony, including Mr. Dunaway, the Acting Financial Adviser; the Auditor of Liberia, Mr. Pilot; and Mr. George H. Seybold, General Manager of the Firestone plantations. I had an extended private conference on this and other subjects with Mr. Dunaway, who said it was the general impression that intervention by the American State Department had forced out the Neep group despite Dr. Caffé's earnest efforts to satisfy the Liberian Government on all points. Mr. Dunaway said that Neep could not be blamed for failure to exhibit iron ore samples before the concession was signed; that it had to protect itself and its findings until it had a contract on paper; and that in any case it was his understanding that reports and analyses of borings had in fact been furnished to the Government as requested.

Mr. Seybold was even more outspoken. He said that Dr. Caffé had told him the Neep group, through the Amsterdamsche Bank, had made full arrangements with the Chase National Bank of New York to deposit in that institution 52 per cent. of the stock shares in perpetual trust in the name of the Liberian Government, and that a large proportion of the remaining shares would be made available to any American interest that might be attracted. He was under the impression this information had been furnished to the State Department by the Chase Bank, to which I replied to the best of my knowledge the Chase Bank had never taken up the matter with the Department.

Mr. Seybold, who has spent many years in the Netherlands East Indies, thought that Dr. Caffé was a very high type of Netherlander and that he should be grouped with President Barclay and Dr. Fuszek as among the most keenly intelligent persons in Liberia. He deprecated the suggestion that German interests were behind Neep, and asserted that Germany had plenty of other methods of obtaining iron ore in Central Europe and elsewhere without bothering with an elaborately disguised project in Liberia. Mr. Seybold ill concealed his indignation at what he obviously regarded as "State Department

interference" with a legitimate business venture. He frankly did not believe that President Barclay had good grounds to hold off Neep, and thought that Caffé would undoubtedly request his Government to take up the matter with the United States Government, if he had not already done so.

To these views held among Americans and, I have no doubt, the foreign colony in Monrovia, there were added the following persistent queries: how did the United States Steel Corporation, in preference to any other concern, become interested in Liberia? Why should this American company, which has never been interested in the foreign field, suddenly appear in Africa to oust an experienced set of Netherlands prospectors and engineers who had already spent \$100,000 on borings in the Bomi Hills? What use would it have for Liberian ore, thousands of miles from the United States—or did it intend to sell it in Europe? I explained to Mr. Seybold and others that information on the Bomi Hill deposits had been made available through the usual commercial channels to interested companies in the United States and that we did not question the economic motives which led such concerns into foreign fields. Mr. Seybold preferred to believe that the Steel Corporation had been "tipped off" by the Chase National Bank and had successfully enlisted the aid of the American Government to drive a wedge in the Neep negotiations.

Coupled with their general sympathy for Dr. Caffé, and their curiosity as to the motives animating the United States Steel Corporation, these responsible Americans seem to feel that President Barclay may be pinning his hopes too high upon the intentions of the United States Steel even in the event that valuable deposits of iron ore are found. They point out that the Steel Corporation has no immediate need whatever of iron ore from Liberia, and suggest that the Company's sole objective is to stake out a concession, after the manner of the oil companies, for exploitation later on as circumstances warrant. In that case Liberia might not reap for many years the benefits which it desires, including the development of a port and harbor works, and resentment would be sure to increase in the Legislature. It would be most unfortunate, they maintain, if Liberia should have tied up or thrown away a concession, which was already in the first stages of development, for a year's exploratory rights by another company—perhaps to be followed by long drawn out negotiations which might only end in disagreement.

Mr. Croze, the Steel Corporation engineer, who arrived with his party on October 16, was non-committal as to the prospects in Liberia. He said that in the two weeks he had been in the country, he had found nothing of definite interest, but that his men were to start shortly for the interior. I understand that the Neep field party had left their

tents and equipment at the Bomi Hills but that they would not be in the least disposed to pass on their findings to United States Steel. Neep has one minor representative left in Monrovia, Dr. Caffé being in Europe at the time of my visit.

FIRESTONE PLANTATIONS

I spent a night at Duside at the home of the General Manager, Mr. Seybold, and was taken by him on a tour of the plantations. Mr. Seybold spent the better part of his career with the United States Rubber Company in the East Indies, and has been with Firestone in Liberia for about fifteen months. From what I saw and heard of his work, I believe he may have rescued the enterprise from grave mismanagement, costly mistakes and low morale to one that not only enjoys good relations with the Liberian Government but promises well for the future.

Due to his long experience in the rubber business, under practical working conditions in the field, Mr. Seybold, sees many reforms and improvements which are not only desirable but probably necessary to the success of the venture. He combines frankness and outspoken criticism with an ability to get along well with others, and his keenness of observation and extraordinary capacity for work make him the mainstay of the Firestone organization. His policy is to avoid calling on the American Legation for assistance unless absolutely necessary and to manage the affairs of his company in direct negotiation with the Liberian Government. So far, he seems to have succeeded admirably in his aims and to have established a firm and friendly basis for dealing with the Government.

CONDUCT OF THE "BOISE" PERSONNEL

I feel that a special word should be spoken as to the excellent behavior of the *Boise's* personnel while on shore leave at Monrovia. When the *Raleigh* visited Liberia ten years ago, the enlisted men were not granted liberty, but it was determined this time to give an opportunity to go ashore for a short time to anyone who desired and who was entitled to do so. To provide this opportunity for some 800 men at a port such as Monrovia presented many problems, but it was accomplished with complete success and without the slightest untoward incident. The conduct of the men was not only above reproach but occasioned many favorable comments, particularly as to their excellent appearance.

The officers without exception showed the fullest appreciation of their responsibility and made a uniformly favorable impression on

Liberians and foreigners alike. Their military appearance was contrasted with that of the officers of the British sloop which recently called at Monrovia, to the detriment of the latter.

The tact, courtesy and unstudied friendliness of Captain McCandlish and the officers who accompanied him at official entertainments did much to ensure the success of the visit. Their efforts made the presence of the *Boise* at Monrovia a good will mission in the highest sense of the term and fully accomplished the purpose for which the vessel was sent.

Respectfully yours,

HENRY S. VILLARD

INFORMAL PROPOSALS FOR GUARANTEEING THE POLITICAL AND TERRITORIAL INTEGRITY OF LIBERIA ⁴⁸

882.20/426

The Minister in Liberia (Walton), Temporarily in the United States, to the Assistant to the Secretary of State (McBride)

NEW YORK, February 22, 1938.

DEAR MR. McBRIDE: In an era when moral justification is given for condoning acts of aggression, and when principle is subordinated for expediency, my mind turns to Liberia which is making such a valiant effort to preserve its political and territorial integrity.

I am wondering if it is within the realm of possibility for Liberia to enter into a tripartite agreement with the United States, Great Britain and France, designed to insure her future status as a sovereign state.

[Here follows paragraph of a purely personal nature.]

Sincerely yours,

LESTER A. WALTON

882.20/426

Memorandum by Mr. H. S. Villard of the Division of Near Eastern Affairs

WASHINGTON, April 22, 1938.

I discussed with Mr. Walton the contents of his letter of February 22, 1938, regarding a possible tripartite agreement between the United States, Great Britain and France in regard to the status of Liberia as a sovereign State. Mr. Walton said that the suggestion had originally been made to him by Secretary of State Simpson of Liberia,

⁴⁸ For previous correspondence regarding Liberian independence, see *Foreign Relations*, 1910, pp. 694 ff.

who had broached the subject to him very informally. In mentioning the matter Mr. Simpson had indicated that some sort of a treaty between the three Powers named, designed to insure the territorial integrity of Liberia, would be welcomed by the latter Government at this time.

Mr. Walton said that it was his impression that the idea had probably originated in the mind of President Barclay, who had used his Secretary of State to sound out our attitude on such a proposal. President Barclay had not taken up the matter direct with Mr. Walton and until some indication was obtained of our position, would probably disavow any interest in the matter. However, Mr. Walton had agreed to make informal inquiries in the Department and to let Secretary Simpson know the results.

I asked Mr. Walton whether, in view of Great Britain's previous disfavor in Liberia, such a treaty would be welcomed in Monrovia. Mr. Walton replied that in view of the current discussions in regard to colonial areas in Africa, the Liberian Government was somewhat uneasy as to what the future might hold for it, especially since Germany had been reported as interested in the possibility of obtaining a foothold in Liberia. Mr. Walton felt that the Liberian Government's attitude was that Great Britain, if a signatory to a tripartite treaty of the kind mentioned, could be depended upon to keep her word and to entertain no ambitions of her own in regard to Liberian territory. In respect to the German interest in Liberia, Mr. Walton felt that the British and French governments would be interested in preserving the independent status of Liberia because the country was situated between the British possession of Sierra Leone on the one hand and the French Ivory Coast on the other.

Asked what kind of a treaty the Liberian Government might have in mind, Mr. Walton said any agreement designed to respect the existing boundaries of Liberia would be acceptable. It need carry no implications as to military assistance or other aid. Any tripartite declaration, he felt, would be very reassuring to the Liberians and would, in particular, serve a valuable purpose at a time when colonial ambitions in Africa are being openly discussed.

H. S. VILLARD

882.20/426

The Chief of the Division of Near Eastern Affairs (Murray) to the Minister in Liberia (Walton), Temporarily in the United States

WASHINGTON, May 14, 1938.

DEAR MR. WALTON: We have been giving some thought to the question raised in your letter of February 22, 1938, and in your subsequent discussion with Mr. Villard, as to the possibility of a tripartite agree-

ment between the United States, Great Britain and France in regard to the status of Liberia as a sovereign state. After careful consideration we have been unable to arrive at any definite conclusion as to what form such an agreement might take, or on what basis it might be negotiated.

However, it occurs to us that the purpose might be served if Liberia took some future occasion to enter into a boundary convention with Great Britain on the one hand, in respect to the Sierra Leone frontier, and with France on the other, in respect to the frontiers of French Guinea and the Ivory Coast. While such an agreement might be no more than an exchange of notes reaffirming existing boundaries, the Government of Liberia could with propriety transmit copies thereof to the United States Government for its information. This Government might then take cognizance of the matter in a formal statement, making use of the opportunity to mention once again the interest and sympathetic attention with which events in the sister Republic of Liberia are followed in the United States.

You will of course appreciate that the above does not represent any official suggestion on the part of this Government. It is merely an attempt to think of a formula which might have some semblance of practicability, in response to the question informally raised in your letter of February 22. I know that you will be guided accordingly, in any use you may make of the idea.

Sincerely yours,

WALLACE MURRAY

862.014/367: Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, July 5, 1938—10 a. m.

[Received 1:45 p. m.]

47. Germany does not wish to acquire Liberia but looks forward to getting back her colonies, I am confidentially informed by German Consul General. Chief contributory grounds for Liberia's undesirability: (a) country's geography, as it is situated between British and French possessions; (b) Germany's knowledge and appreciation of historic interest of United States in Liberia because of 15 million American Negroes.

Germany's strenuous efforts to place young physicians for training in Liberia and elsewhere on west coast are prompted by an eagerness to provide medical officers qualified to cope with tropical diseases when Germany comes in possession of colonies according to Consul General.

German representative called at American Legation, ostensibly to enlist my aid in winning President's approval for issuance of a permit to practice to a visiting German physician who hopes to take over office

of fellow national soon to go on leave of absence. Circumstances under which assurance was voluntarily and unequivocally given me vis-à-vis Germany's attitude toward Liberia created the impression that Consul General was acting under instructions.⁴⁹

WALTON

882.635 Neep/131

The Minister in Liberia (Walton) to the Chief of the Division of Near Eastern Affairs (Murray)

[Extract]

MONROVIA, September 17, 1938.

DEAR MR. MURRAY: . . .

I have taken up with the President the suggestion you were good enough to make in your communication of May 14. He received same with appreciation but thought as there were no disputes, and that all commitments were being kept, it would be inadvisable to enter into a formal discussion relative to same. In other words, any movement initiated by him at this time might provoke unnecessary agitation.

Sincerely yours,

LESTER A. WALTON

882.20/428 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, October 11, 1938—4 p. m.

[Received October 11—2:15 p. m.]

77. The Liberian Government is apprehensive about what may have been agreed upon between Chamberlain and Hitler⁵⁰ with respect to conflicting claims in the colonial sphere. The Liberian Government attaches importance to implications sensed in the joint declaration that other questions outstanding will be settled between them on the basis of peaceful negotiations. As Hitler obviously places great importance on the return of colonies, whether an understanding was reached or may be reached at the expense of and to the detriment of third parties is viewed here as a possibility.

Liberia's geographical position would appear to have strategic value. Because of this, the Liberian Government does not think

⁴⁹ For an account of Liberian fears of Germany, see Mr. Villard's report, November 6, p. 824.

⁵⁰ At Munich; see vol. I, pp. 657 ff.

that either Great Britain or France, or both would permit the establishment between their two possessions on the West African coast of a German colony. However, recent events have suggested to Liberians that they should indulge in no sense of security on account of this fact.

The Liberian Government would like to know whether its apprehension is justified and should appreciate any advice which it may be deemed proper to give it.

WALTON

882.20/428 : Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, October 15, 1938—3 p. m.

52. Your 77, October 11, 4 p. m. The Department has no specific information in respect to German colonial aspirations other than that this subject is reported to have been discussed at the recent four power conference in Munich. Should we learn of any developments in this connection we shall be glad to communicate such information to the Liberian Government.

HULL

882.20/429 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

[Extract]

MONROVIA, November 4, 1938—4 p. m.

[Received November 4—2: 05 p. m.]

83. Secretary Dennis⁵² sailed today for Europe. He has been instructed by his Government to confer with Liberian diplomatic representatives relative to opening conversations with the Foreign Offices at London and Paris with a view to negotiating a tripartite agreement designed to give Liberia assurance that in time of war Great Britain and France will furnish Liberia aerial, naval and other protection.

The Liberian Government is wishful that the United States Government looks with favor upon the proposed plan.

According to information from [apparent omission] received here by the French Chargé d'Affaires, during the Czechoslovak crisis German nationals were secretly transmitting radio messages from Liberia. The Liberian Government is conducting an investigation . . .

WALTON

⁵² Gabriel Dennis, Liberian Secretary of the Treasury.

882.20/429 : Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, November 11, 1938—3 p. m.

57. Your 83, November 4, 4 p. m. Although we fully appreciate the motives underlying Secretary Dennis' mission and although we are sympathetic toward any arrangement which would in fact give Liberia a greater degree of security, we are extremely doubtful whether the British and French Governments, in view of the existing situation in Europe, would consider the proposals which the Liberian Government has in mind.

Furthermore, we have been impressed by the opinions expressed by President Barclay as reported in the fourth paragraph of your letter to Mr. Murray of September 17 and, if for no other reason, question whether it would even be desirable to request the two Governments to reaffirm Liberia's existing frontiers, thus implying the existence of a cloud upon the validity of prior boundary agreements still in effect.

It should also be considered whether the negotiation of treaties of mutual assistance between Liberia, France and Great Britain might not lead to the inference in certain circles, including those potentially inimical to the maintenance of the fullest measure of Liberian independence, that such treaties were premised on a change, actual or contemplated, in the benevolent attitude which the United States has always maintained toward Liberia.

If your advice is sought you might, therefore, emphasize the obvious disadvantages in raising any questions respecting Liberian frontiers, the general situation having radically changed since Murray's letter to you of May 14.

HULL

882.20/430 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, November 14, 1938—4 p. m.

[Received November 14—3:25 p. m.]

86. At a conference November 12 I made known the views expressed in the Department's No. 57, November 11, 3 p. m., and have been requested by President Barclay to advise the Department of the Foreign Office's transmission of a telegram informing Secretary Dennis that instructions authorizing him to make proposals to British and French Governments had been withdrawn.

President Barclay has further requested me to assure the Department that the Liberian Government has the fullest confidence in the benevolent attitude of the United States. However, during these unsettled times of armed aggression and secret diplomacy Liberia is

constrained to give serious consideration to the realization that it is a defenseless nation whose only guarantee of security against force and invasion is the moral support accorded it by the United States; that despite its perilous position and the grave apprehensions entertained at this capital Liberia will continue to rely on the advice of the United States and on the assurance given in the Department's No. 52, October 15, 3 p. m. that any development in which Liberia is directly concerned will be communicated to the Liberian Government.

Secretary Dennis is en route to India to attend a religious congress and was not expressly sent to Europe to make proposals.

WALTON

TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN
THE UNITED STATES AND LIBERIA, SIGNED AUGUST 8, 1938⁵³

711.822/17 : Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, June 22, 1938—4 p. m.

[Received June 22—3 : 38 p. m.]

42. Vis-à-vis Treaty of Friendship, Commerce and Navigation⁵⁴ I am asked for clarification of the following points by the Liberian Government: Article I line 2, "travel", that Liberian nationals while traveling in any part of the United States or its territories in public conveyances, shall enjoy the same facilities accorded the nationals of the most-favored-nation, should be specifically stated; article IX paragraph 2, line 11 "or permitted to be imported or sold" phrase repetitious and might be deleted; article XIV, vessels should be qualified *id est* "merchant" or "private" et cetera; revision of article XXII making provision reciprocal thereby giving civil aircraft of Liberia same consideration in the United States.

The Liberian Government does not consider these points of sufficient importance to change text of treaty. A note for appendage to copies of treaty will be satisfactory.

WALTON

711.822/17 : Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, June 29, 1938—7 p. m.

25. Your 42, June 22, 4 p. m.

(1) Article I, Line 2 "travel". This provision was designed to assure liberty of movement throughout the territories of the contracting parties and has no reference to the kind of facilities provided

⁵³ For previous correspondence, see *Foreign Relations*, 1937, vol. II, pp. 785 ff.

⁵⁴ For draft articles of proposed treaty, see *ibid.*, p. 788.

by public carriers. Since the regulation of public conveyances within the States is primarily a matter for State or local action, you will of course understand that this Government is not in position to elaborate the present text in the sense proposed.

(2) Article IX, paragraph 2, line 11. This paragraph deals with two types of quotas: global quotas which restrict the total amount of goods which may be imported, and customs quotas which admit a specified quantity at a lower duty, after which, importation at ordinary rates of duty is unlimited. The phrase is therefore not repetitious. If it is helpful in clarifying the sense, you may insert a comma before "or permitted to be imported or sold".

(3) Article XIV. If Liberian authorities insist you may revise the opening phrase to read "merchant or private vessels" etc., but the Department does not consider that this changes the sense of the Article.

(4) The Civil Aeronautics Act,⁵⁵ approved June 22 [23], 1938, requires the Secretary of State to consult with the Civil Aeronautics Authority concerning the negotiation of any aeronautical agreements with foreign governments. The Authority under this Act has not yet been appointed and this Government, therefore, cannot now consider a new proposal. Since the Department of Commerce had approved the article as already agreed upon, this Government is prepared to proceed on that basis. However, if the Liberian Government declines to proceed on the basis agreed upon, you are authorized to introduce the present article by the phrase "pending the conclusion of a separate agreement relating to aviation".

(5) The Department would be pleased to be informed of any reasons which you may discreetly ascertain for the Liberian Government's change in position on aviation.

(6) The Department prefers to change the text of the treaty where absolutely necessary rather than to conclude an additional exchange of notes since the latter would also have to be submitted to the Senate of the United States for its advice and consent to ratification. Please expedite your reply to this telegram.

HULL

711.822/18: Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, July 2, 1938—10 a. m.

[Received 2:22 p. m.]

45. Clarification with respect to articles I, IX, and XIV of draft Treaty of Friendship, Commerce and Navigation acceptable to Li-

⁵⁵ 52 Stat. 973.

berian Government. However, request is made that article XXII be deleted on grounds that Liberia does not share reciprocal aviation benefits and that treaty be rewritten for signatures.

Reasons assigned for changed attitude are said to be that while Liberia has no aircraft, consideration should be given for the future and that authorities are confirmed in the belief treaty should contain specific provisions giving both countries equal consideration. Position seems untenable in view of Department's willingness to conclude separate aviation agreement.

Liberia has just concluded and signed a treaty of friendship with Czechoslovakia and is negotiating one with Germany. Some months ago I was told by a high Liberian official it was the intention of the Government to pattern all treaties with other foreign governments after treaty made with the United States.

It had been mutually hoped here that treaty would have been signed so that reference could be made to same in Fourth of July addresses. In view of latest developments there is no need of expeditious action.

WALTON

711.822/18: Telegram

The Secretary of State to the Minister in Liberia (Walton)

WASHINGTON, July 7, 1938—6 p. m.

27. Your No. 45, July 2, 10 a. m. Department will engross final text and endeavor to send it via London next week.

It understands that the changes to be made from the present engrossed text are (1) comma before "or permitted to be imported or sold" in Article IX, paragraph 2, line 11, (2) introducing Article XIV by the words "merchant or private vessels", and (3) omission of Article XXII and renumbering subsequent articles. Department would like to have agreement of Liberian Government to insert "other" before "private" in number (2) so that phrase will read "merchant or other private vessels".

Please confirm foregoing three points promptly by telegraph.

HULL

711.822/19: Telegram

The Minister in Liberia (Walton) to the Secretary of State

MONROVIA, July 9, 1938—10 a. m.

[Received July 9—9 a. m.]

48. Your 27, July 7, 10 a. m. [6 p. m.] Liberian Government agreeable to engrossing final text with all changes as referred to by the Department.

WALTON

[For text of treaty signed August 8, 1938, see Department of State Treaty Series No. 956, or 54 Stat. 1739.]

CONSULAR CONVENTION BETWEEN THE UNITED STATES AND
LIBERIA, SIGNED OCTOBER 7, 1938⁴⁸

[For text of convention, see Department of State Treaty Series No. 957, or 54 Stat. 1751.]

⁴⁸ For previous correspondence, see *Foreign Relations*, 1937, vol. II, pp. 804 ff.

MOROCCO

PROPOSED ABOLITION OF CAPITULATORY RIGHTS OF THE UNITED STATES IN THE FRENCH ZONE OF MOROCCO¹

781.003/65 : Telegram

*The Secretary of State to the Chargé in the United Kingdom
(Johnson)*

WASHINGTON, January 12, 1938—5 p. m.

14. Your 810, December 29, 8 p. m.² The Department is gratified to observe that the principles set forth in its confidential memorandum³ meet in general with the concurrence of the Foreign Office. The Department shares the opinion of the Foreign Office that it might be advantageous to inform the French Government of our views regarding economic equality in Morocco, but it is inclined to believe that mutual American and British interests might be best served if we communicated our views direct to the French Government through our Embassy at Paris.

It would be helpful to the Department in considering this matter if it could be informed whether the British views on economic equality and the establishment of quotas in relation to Moroccan trade conform substantially with our views and, if not, in what specific particulars they differ.

In this connection the Department is particularly desirous of ascertaining the views of the Foreign Office as to "whether the establishment of different representative periods for the quotas of different commodities entering into Moroccan trade might not better serve the interests of the countries most concerned than the establishment of a single representative period for all commodities in respect of which quotas may be contemplated."

Please seek an early opportunity to discuss in detail our confidential memorandum with the Foreign Office and report the result of your discussion by telegraph.

HULL

¹ Continued from *Foreign Relations, 1937*, vol. II, pp. 858-880.

² *Ibid.*, p. 879.

³ See telegram No. 485, December 11, 1937, 3 p. m., to the Chargé in the United Kingdom, *ibid.*, p. 874.

781.003/69 : Telegram

The Chargé in the United Kingdom (Johnson) to the Secretary of State

LONDON, January 15, 1938—2 p. m.

[Received 4:11 p. m.]

36. My 810, December 29, 8 p. m.

1. Through arrangements made by the Foreign Office, I have had a conference with Mr. J. J. Wills, principal Assistant Secretary of the Board of Trade, who was the British official in charge of the first phase of the negotiations with the French for a commercial agreement regarding Morocco. Mr. Stacy, one of the permanent officials of the Board of Trade, was present during the interview. Mr. Wills informed me that the meeting with the French in December had resulted in a draft treaty being drawn up together with a protocol, certain exchanges of notes and schedules and that the French had now consented to our being informed of the substance of the draft but declined to allow the British to give us or to show any text. The clauses in this draft as it now stands, he said, might be divided into three categories: (1) those on which the two delegations were in agreement; (2) those embodying principles on which the two delegations were in agreement but about which differences of opinion as to phraseology still existed; and (3) clauses proposed by both sides on which no agreement had been reached and which will be further considered. Mr. Wills pointed out that this draft treaty and its annexes deal exclusively with goods, as questions involving political and personal rights of individual citizens are considered to have been covered in the Anglo-French convention of last July.⁴ He also stated that the most-favored-nation principle is operative throughout the draft with certain exceptions regarding exports from Morocco to France. The French have not yet informed the British what these specific commodities are but have merely stated that there are certain items exported from Morocco which are needed in France and of which France takes practically the total output. The British have agreed to evoke at Paris the French proposals for these specific exceptions from the most-favored-nation principle in Moroccan exports. Mr. Wills stated that the French had endeavored to induce the British delegation to admit the insertion of a clause in the treaty which would recognize the ultimate right of France to preferential treatment for French goods in Morocco as opposed to those of other nations. The British delegates flatly refused their consent and Wills pointed out that in any case the admission of such a principle in the treaty would have to go

⁴ For text of convention signed July 29, 1937, see British Cmd. 5646 (1938) : *Convention for the Abolition of Capitulations in Morocco and Zanzibar.*

to higher authority than the negotiating agents; that it was a political matter with far-reaching implications. An official at the Foreign Office to whom I subsequently mentioned this specific question, confirmed the statement of Mr. Wills that the French had endeavored to secure the inclusion of such a clause in the treaty and said that, so far as he could say, there would be no change in the British position.

The French proposed alterations in the Act of Algeciras.⁵ The British have only agreed to the proposal as to method of valuing goods in the customs houses and to abrogation of chapter 5 of the Algeciras Act, provided the new regulations are along lines to be specified and appended to the exchange of notes. This amounts substantially to agreement that the system of evaluation to be established should be that now in France, which will fix the value of an imported commodity at its wholesale value at the time it is presented at the Moroccan customs, including its original purchase price in the country of origin increased by packing, transportation and handling expenses but not customs duties.

The treaty, Mr. Wills said, would not automatically apply to the colonies and their position is yet to be determined. Machinery will be provided for the accession of such Dominions as may desire. Until such accession is made, the old Anglo-Moroccan Treaty of 1856⁶ will apply to the Dominions.

The treaty contains the usual sort of most-favored-nation clause with respect to importation of prohibited articles, such as unlicensed arms, narcotics, et cetera. The French agreed in principle, with details not yet determined, regarding the most-favored-nation principle and national treatment with respect to internal taxation on commodities, octroi duties, et cetera. Mr. Wills stated that in the case of certain articles the British would require a schedule setting out a maximum amount which might be imposed in any system of internal taxation. He said that they must recognize however the necessity, from the French point of view, of raising revenues by internal taxation although they naturally would press for as favorable a position as they could. The French in general object to any restriction on their right of internal taxation.

The British have agreed that the final terms of this treaty may be applied to the protected zone of Tangier if the Tangier Council desires.

To summarize, economic equality in Morocco through operation of the most-favored-nation principle would seem to be secured in the Anglo-French drafts with the exception to be noted that a special

⁵ For text of Act, see telegram of June 22, 1906, from Minister Gummeré, *Foreign Relations*, 1906, pt. 2, p. 1495.

⁶ Signed at Tangier, December 9, 1856, *British and Foreign State Papers*, vol. XLVI, p. 188.

concession may be made on certain specific items of export from Morocco to France and tariff autonomy is in effect conceded to French Morocco subject to certain limitations.

2. The question of quotas is not dealt with in the treaty proper but through an exchange of notes with annexed schedules. The French authorities having been for some time desirous of introducing a quota system in Morocco, the British had expressed their willingness to accept this on terms with respect to certain specific commodities. Now, according to Mr. Wills, they propose to go further and to permit the French to introduce a complete quota system subject to special conditions (1) that the general system of quota restrictions to be set up shall provide for a global quota covering the imports of all nations, which is to be based on the total amount of foreign commodities and goods imported into Morocco during the last year for which definite statistics are available. If in any basic period the British should send less than 5 per cent of the total global quota, then the French will be asked to allow them to send up to 5 per cent of the global quota; (2) the share of each country in that global quota shall be the proportion of imports it had in some basic period. The French, it seems, are prepared to concede a long basic period. The British, from their point of view, have secured a most important corollary to the two general principles above cited. They will annex to the exchange of notes regarding quotas two schedules: A, a long list of articles in which the British have considerable but not primary interest, and B, a short schedule of primary importance, covering cotton and woollen goods and coal. As regards these three commodities in schedule B the British will require the basic period to be fixed in the schedule itself and thus made a part of the exchange of notes. The amount, of course, of these important commodities will be fixed by the British proportions within the global quota. With respect to both schedules A and B, which are commodities that the British will choose to schedule, the French must agree that the global quota may not be varied by more than 10 per cent either way without consulting the British. The Board of Trade, it was stated, will not make any effort to secure different representative periods for quotas of different commodities entering into Moroccan trade outside the commodities which will appear in their schedules A and B, which are the only ones in which they have any practical interest.

Department's 14 of January 12, 5 p. m. came to me just before my interview with Mr. Wills, and both the Board of Trade officials and the Foreign Office official with whom I spoke later, agreed with the Department's view that it would be more advantageous if the French Government should be informed of the American views directly through the American Embassy in Paris. The Foreign Office official

pointed out that the provisions regarding quotas which they embody in their draft treaty are based very largely on the Department's own definition, and there is no doubt that both the Foreign Office and the Board of Trade agree with the Department's view that the establishment of different representative periods for the quotas of different commodities entering into Moroccan trade would better serve the interests of the countries concerned than the establishment of a single representative period for all commodities in respect of which quotas are contemplated. They have secured this principle apparently with respect to the long list of commodities in which they are interested, although it seems that they will not press for the adoption of this principle to cover other commodities in which they have no trade interest.

The draft treaty and annexed documents are by no means in final form, although they cover now a document of 16 closely printed pages. This I was not allowed to see because of the French prohibition above mentioned and Mr. Wills' exposition was not very orderly. The meeting in Paris for further negotiations will take place at the end of this month, and the British officials are very hopeful that the American views may be communicated to the French through our Embassy in Paris before the meeting takes place. This would in any case seem to be desirable from our own point of view.

JOHNSON

781.003/69 : Telegram

*The Secretary of State to the Chargé in the United Kingdom
(Johnson)*

WASHINGTON, January 22, 1938—11 a. m.

27. Your 36, January 15, 2 p. m. The Embassy at Paris has been instructed to forward to you by air mail the text of a memorandum which is being presented to the French Foreign Office⁷ setting forth the views of this Government respecting the proposed introduction of a quota system in Morocco. Upon receipt of the memorandum you may make a copy available to the Foreign Office.

It is our understanding based upon your telegram that the draft commercial agreement between the United Kingdom and France relating to Morocco provides that quotas may be imposed upon importations of all articles entering into Morocco; that the total amount of the permitted importations of each article is to be equal to the imports in the latest year for which figures are available; that the

⁷ See *infra*.

allotment by countries is to be made upon the basis of a previous period not necessarily identical with the period on which the total amount of permitted imports is to be based, but in general a longer period which may vary as between the different articles; and that in no case shall the share allotted to the United Kingdom in respect of the quota on any particular article be less than 5 percent.

With respect to the articles listed in Schedule A appended to the exchange of notes on quotas, the Department infers that the base periods to be used in allotting shares of quotas on these articles are to be determined by discussions between the interested governments after signature of the exchange of notes, and presumes that the United States Government will have an opportunity to express its views concerning the base periods to be used for those articles in which we have an appreciable interest before such base periods are determined.

Please seek confirmation from the British authorities regarding the above points.

HULL

781.003/71a : Telegram

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

WASHINGTON, January 22, 1938—11 a. m.

32. Unless you perceive some objection please present the following memorandum to the Ministry of Foreign Affairs:

"The United States Government desires to express its appreciation to the French Government for its recent courtesy in authorizing the British Foreign Office to acquaint the American Embassy in London with the substance of a draft commercial treaty concerning Morocco now under negotiation. From the information communicated to this Government it appears that the French Government has under consideration the establishment of the quota principle in respect of Moroccan trade.

The French Government will recall that at the time the American Government expressed a willingness to enter into negotiations for a convention relating to capitulatory matters in Morocco, in a note handed to the French Chargé d'Affaires at Washington dated October 19, 1937,⁸ the desire was expressed for the simultaneous negotiation of a convention of commerce and navigation regarding Morocco. It is believed therefore that the French Government will not deem the present time inappropriate for the American Government to set forth certain considerations regarding the introduction of the quota principle in Morocco, with a view to the possible facilitation of subsequent negotiations between the two Governments.

⁸ *Foreign Relations, 1937*, vol. II, p. 868.

While the United States Government has not modified its view that the imposition of quotas and the introduction of similar restrictive systems are a hindrance to that normal and free development of international trade most conducive to the upbuilding of world economy, it is willing to take into account those circumstances where the establishment of quotas may be found of a compelling and exceptional nature. If, notwithstanding the position the United States has assumed generally in respect of quotas, the adoption of a quota system in Morocco on a limited list of articles to be agreed upon by the parties most concerned is looked upon with favor by other interested governments, the United States Government would not wish to appear unduly obstructive in the matter.

The United States is therefore prepared to acquiesce in the establishment of quotas on such a list of articles subject to the following conditions:

1. That no import or export prohibition, restriction, or license system, including import or customs quotas and other forms of quantitative regulations affecting the importation, sale or use of imported articles, shall be applied to articles originating in or destined for the United States of America which is other or more burdensome than that applied to the like articles originating in or destined for any other country, France included.

2. That any quota system which may be established in Morocco shall be limited to a specified list of articles.

3. That if a share of the total permitted importations of any article is allotted to any other country, France included, a share equivalent to the proportion of the total permitted importations of such article which was supplied by the United States of America during a previous representative period shall be allotted to the United States of America; and that such previous period shall be chosen separately for each of the articles included in the specified list and shall in each case be such as to assure that the United States will not be deprived of the share of the trade which it has enjoyed in the past or which it might reasonably be expected to enjoy in the future.

This Government would naturally be interested in and concerned with any arrangements relating to quotas which might be reached in the pending negotiations between the British and French Governments in respect of Morocco which might materially affect the trade interests of the United States in Morocco. Therefore, the United States would not unnaturally expect to be consulted in connection with the nature of any quota system the establishment of which may be contemplated in Morocco, with the selection of those articles to which quotas may be applied, and with the determination of the representative periods on which quota allocations to the various countries concerned will be based."

Please send text of this telegram by air mail to Embassy at London as No. 28.

HULL

781. 003/74

*The Chief of the Division of Near Eastern Affairs (Murray)
to the Ambassador in France (Bullitt)*

WASHINGTON, January 24, 1938.

MY DEAR MR. AMBASSADOR: I appreciate greatly your letter of January 10, 1938⁹ regarding our proposed treaties with France relating to Morocco. I am interested in learning that you share our views that it is desirable to delay the negotiation of the proposed capitulations treaty until we can gain some idea as to how the Anglo-French Capitulations Treaty works out in practice. I quite agree that it would be desirable to postpone likewise the negotiation of the proposed commercial convention until we see how the similar Anglo-French agreement works. However, we may find some difficulty in holding to such a course for we are always faced with the possibility that if we delay negotiations too long the French may denounce the American-Morocco Treaty of 1836,¹⁰ which as you know provides for termination by either Party on one year's notice. I doubt very much whether the French would under existing circumstances denounce that treaty, but it is of course an eventuality which we cannot ignore. If the treaty should be denounced we should not have a great deal to offer the French in the shape of a *quid pro quo* for a commercial treaty defining closely our economic and commercial rights in Morocco.

We have also had in mind that once we rid ourselves of the necessity of frequent protests to the authorities at Rabat regarding invasions of the rights of our protégés in Morocco, those authorities might be more willing to adjust problems which arise respecting legitimate American commercial interests. We may be unduly optimistic in this respect, but there is no doubt that our numerous complaints at Rabat concerning the treatment of these Moorish protégés have been a heavy draft upon whatever good will we may have had with the French authorities in Morocco.

In view of the above circumstances it seems to us that probably the best line of action is to resist any tendency which the French may show to press us for a hurried solution of the Moroccan question, but not to delay negotiations to such an extent that they are forced to take the extreme step of denouncing our Treaty of 1836 leaving us little scope for bargaining.

Sincerely yours,

WALLACE MURRAY

⁹ Not printed.

¹⁰ Signed at Meccanez, Morocco, September 16, 1836; William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. 1, p. 1212.

781.003/72 : Telegram

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

PARIS, January 25, 1938—noon.

[Received 5:44 p. m.]

132. Your 32, January 22, 11 a. m. Memorandum was presented to Coursier, Assistant Chief of Africa-Levant Section in charge of Moroccan affairs at the Foreign Office, yesterday afternoon. He said that as regards the adoption of a quota system in Morocco the French Government looked at the matter in the same spirit as that reflected in our memorandum. It was thoroughly understood between the British and the French that any agreement they might arrive at concerning quotas for Morocco would be subject to the approval of the other interested governments, particularly the United States. He said that it was the intention of the French Government as soon as agreement had been reached with the British on quotas to inform us and ask for our views. He said that the British delegation to negotiate a trade agreement between the two countries respecting Morocco is expected in Paris on January 31 and that in view of the progress already made he thought it should not take long to conclude the negotiations.

Coursier said that the French Government hoped that they could negotiate a convention with us regarding capitulations first and then following up with a commercial treaty as they were doing with the British. We replied that our main interest in the matter was the safeguarding of our economic rights in Morocco and that our Government was of the opinion that negotiations should be simultaneous as regards a convention relating to capitulations and a convention of commerce and navigation.

Copies to London and Tangier.

BULLITT

781.003/73 : Telegram

The Chargé in the United Kingdom (Johnson) to the Secretary of State

LONDON, January 27, 1938—6 p. m.

[Received January 27—4:03 p. m.]

65. Your 27, January 22, 11 a. m.

1. Discussion with the Foreign Office this afternoon clarified a misunderstanding with respect to schedule A to be appended to the exchange of notes on quotas, the exact position of which had not been made clear to me by Mr. Wills of the Board of Trade. This schedule A will be a list, and probably a long one, of commodities on which

the British definitely do not desire the imposition of a quota system and the French will be requested to agree that the quota system will not be applicable to any or all articles on that schedule without prior consultation and agreement with the British.

The schedules to be annexed to the exchange of notes on quotas will therefore in fact be three: A, as above described; B, the commodities of primary importance covering woolen and cotton textiles and coal. With respect to the commodities here scheduled, the basic period is to be fixed in the schedule itself and thus made a part of the exchange of notes; schedule C will refer to commodities in which the British have no interest and the French will be left free to impose quotas or not as they see fit, subject however to the general limitations of the agreement with respect to mathematical proportions within the global quota.

2. The Department's understanding as outlined in the second paragraph of 27, January 22, 11 a. m. is therefore correct in that the draft commercial agreement provides that quotas may be imposed upon importations of all articles entering into Morocco subject to the limitations imposed by schedules A and B, the difference between those schedules being that on the items in schedule B the British themselves are desirous of securing a quota in order to protect those commodities and are insisting that the basic periods must be fixed in the schedule itself; and schedule A will list commodities on which the British Government does not desire a quota and will accept quotas only after consultation and agreement. This schedule has not yet been drawn up.

3. The agreement may be made applicable to any crown colony by declaration to the French Government and its application to any crown colony, once effected, may be withdrawn by either party on giving a year's notice.

4. Beckett, legal advisor of the Foreign Office will head the British delegation to Paris, leaving Sunday night. I left with him a copy of the Department's memorandum to the French for which he expressed appreciation. (Department's 32, January 22, 11 a. m. to Paris.)

JOHNSON

781.003/72 : Telegram

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

WASHINGTON, January 28, 1938—2 p. m.

48. Your 132, January 25, noon. Any information that you may be able to furnish as to progress of negotiations will be of assistance to the Department in formulating plans for our eventual negotia-

tions with the French Government. In this connection it is pertinent to mention that the British Foreign Office has been most helpful in keeping our Embassy at London advised of developments and it is possible that the British Delegation in Paris may be willing to continue this cooperation.

HULL

781.003/77: Telegram

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

PARIS, February 3, 1938—5 p. m.

[Received 5:16 p. m.¹¹]

186. (Section 1) Most concise information has been furnished by a member of the British delegation negotiating with the French for a commercial agreement concerning Morocco. It should be read with reference to the telegraphic reports from the Embassy at London, particularly No. 36, January 15, 2 p. m., and No. 65, January 27, 6 p. m.

As regards quotas, there are at present two schedules.

1. Schedule A or the "prohibited" schedule, listing commodities on which the British do not desire quotas to be established and would accept quotas only after agreement relating to the basic periods; this list includes articles of importance in the British trade with Morocco but concerning which they do not fear Japanese competition.

2. Schedule B or the "compulsory" schedule, imposing quotas on woolen and cotton textiles and coal, the basic periods being fixed in the schedule itself.

The French will be free to impose quotas on all articles not included in schedules A and B. Incidentally automobiles and spare parts are not at present included in either schedule.

(Section 2) The principle that the total amount of permitted importations of each article under quota is to be equal to the imports of the latest year for which figures are available would apply to articles in schedule A (if the British agree to the imposition of quotas on any of these articles) and to articles in schedule B subject to the proviso that the global quota on any article in these schedules may not be varied either way more than 10 percent without the approval of the British. As regards articles not included in schedules A and B the French apparently would be free to fix the total amount of permitted importations of such articles as they see fit and the allotment by countries would be subject to most-favored-nation treatment and to the limitation that the British share of the quota on any particular article shall not be less than 5 percent.

¹¹ Telegram in three sections.

The British delegation feel that the only possibility of conflict which their agreement might cause in our subsequent negotiations with the French would be in case we insisted upon an article being subject to quota and this article happened to be included in their "prohibited" schedule. They do not however look for any difficulties on this score which could not easily be ironed out.

(Section 3) Moroccan import duties will be consolidated on articles listed in two schedules: (1) articles of British export, (2) articles exported by the colonies.

The question of drawing up a schedule of goods on which internal taxes would be bound at their present rate, or a limitation imposed as to future increase, is causing the greatest difficulty in the negotiations at the present time. The British are endeavoring to include in the internal tax schedule all goods covered by the two quota schedules, with the exception of articles manufactured locally or in France, concerning which they feel that for obvious reasons there would be little likelihood of prohibitive increase in internal taxation.

The British are taking a firm stand against the French request for preferential treatment for certain exports from Morocco to France. They say they do not expect to give way on this point, that they assume we feel the same way about it, and that they are relying upon us to maintain this act in our negotiations with France.

The negotiations in Paris which began last Monday have had to do entirely with filling in the lists of goods of the various schedules, since the actual text of the agreement, exchange of notes, et cetera, was approved in the earlier stage of the negotiations in London. There is a possibility that agreement on the schedule may be reached by the end of this week.

Copies to London and Tangier.

BULLITT

781.003/79: Telegram

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

PARIS, February 7, 1938—1 p. m.

[Received February 7—1 p. m.]

201. Reference Embassy's 196, February 5, noon,¹² the Foreign Office advised us Saturday night that they had been unable to wind up the negotiations which would go over until today.

A member of the British delegation informed us this morning that the situation (as reported in our 186, February 3, 5 p. m.) has now been changed in two respects: (1) As regards the allocation by coun-

¹² Not printed.

tries of import quotas upon the basis of previous periods. The British delegation had assumed that the calculation would be made on the basis of volume of imports; the French have insisted upon using the value of imports; the British delegation has agreed provisionally to the French request subject to confirmation from London. (2) The method of dealing with internal taxes through a schedule of goods on which such taxes would not be increased beyond a certain figure has been abandoned; instead the British have accepted a clause to the effect that the advantages obtained through the consolidation of import duties will not be nullified by increases in internal taxation although the principle is recognized that increases in internal taxes may be necessary for budgetary reasons. There will also be a provision in an exchange of notes that if there should be any dispute [apparent omission] this point in a particular case the case will be discussed with the British Consul General at Rabat. It is expected that the negotiations will be wound up tonight or tomorrow and the agreement signed in Paris as soon as texts can be printed and compared, probably in about 10 days time.

Copy to London and Tangier.

BULLITT

781.003/86

The Belgian Ambassador (Van der Straten-Ponthoz) to the Secretary of State

D. 7115
No. 411

WASHINGTON, February 7, 1938.

MR. SECRETARY OF STATE: Your Excellency is not unaware that a convention was concluded, on July 29, 1937, between France and Great Britain¹³ whereby the last mentioned Power renounces, particularly, the capitulations in the French zone of Morocco.

In letters annexed to the said Convention, the two Governments desirous of revising the Anglo-Moroccan Treaty of Commerce of December 9, 1856, declare that they are in agreement to open negotiations in order to establish the commercial relations between Morocco and Great Britain on new bases in conformity with the respective economic interests of the Contracting Parties.

As a consequence of this undertaking, negotiations were opened between the two States and, if I am correctly informed, they are being actively continued.

¹³ For text, see British Cmd. 5646 (1938): *Convention for the Abolition of Capitulations in Morocco and Zanzibar*, or British Cmd. 5538, Miscellaneous No. 7 (1937): *Convention for the Abolition of Capitulations in Morocco and Zanzibar*.

The Anglo-Moroccan Treaty of Commerce and Navigation of December 9, 1856 forms the basis of the customs statute of Morocco, as, with the Hispano-Moroccan Treaty of Friendship, Commerce and Navigation of March 1, 1799¹⁴ and November 20, 1861,¹⁵ and the German-Moroccan Treaty of June 1, 1890,¹⁶ it subjected imports to a uniform customs duty which cannot exceed 10 percent ad valorem. This régime has been extended to many other Powers by Conventions assuring to them the most-favored-nation treatment, (particularly the Belgian-Moroccan Treaty of Friendship, Commerce and Navigation, signed at Tangier, January 4, 1862¹⁷).

To this fixed duty of 10 percent, which has become of general application, Article 66 of the Act of Algeciras added a duty of 2½ percent ad valorem destined to form a special fund for public works.

The delegates of the Powers at Algeciras had at first rejected all the requests of the Maghzen¹⁸ seeking an increase of the 10 percent duty. The preparatory labors and the debates of the conference show clearly that the negotiators meant to consolidate the customs system of Morocco, that is, to include the same tariff in the system which they were instituting.

Up to recent years it was, therefore, universally admitted that the fixed 10 percent duty formed a part of the régime guaranteed by the Act of Algeciras and that it could not be changed except with the assent of all the Powers signatory to the said Act and which had retained the benefit thereof.

It was in 1934 that the French Government, desiring to change the Moroccan customs tariff,¹⁹ maintained that it could do so by negotiating with those Powers only which had with Morocco a commercial tariff treaty (that is, to say, Great Britain and Spain). To this end it entered into conversations with the British Government. At the same time it was negotiating with other Powers which were parties to the Act of Algeciras, and especially with Belgium, to obtain the right to fix quotas on goods to be imported into Morocco: it admitted, in fact, that this required the assent of all the Powers benefiting from the Act of Algeciras. At that time my Government made the observation that the reform of the customs tariff, as well as the establishment of quotas in Morocco, should be made subject to our assent. This double negotiation was not at that time brought to a successful conclusion. It is permissible to believe that this fact was due to the resistance which the French Government encountered on the part of several Powers, and particularly, Belgium and the United States.

¹⁴ Geo. Fréd. de Martens, *Recueil des principaux traités d'alliance, de paix, de trêve . . . depuis 1761 jusqu'à présent* (A. Gottingue, 1829), 2d ed., vol. VI, p. 580.

¹⁵ *British and Foreign State Papers*, vol. LIII, p. 1089.

¹⁶ *Ibid.*, vol. LXXXII, p. 968.

¹⁷ *Ibid.*, vol. C, p. 711.

¹⁸ An Arabic term signifying the Sherifian Government.

¹⁹ See *Foreign Relations*, 1934, vol. II, pp. 836 ff.

The Government of the Republic is, therefore, renewing its 1934 project in its present negotiations with Great Britain. According to my information, these are the main points of the program which it hopes to make prevail:

(1) Establishment of a new customs tariff in Morocco. This tariff would include duties which would vary with the goods; certain rates would noticeably exceed the present rate;

(2) Right to establish quotas for the entry of certain goods into Morocco;

(3) Exchanges between Morocco and foreign countries would be based on the principle of reciprocity.

Your Excellency will doubtless understand that the accomplishment of such a project would gravely affect the favorable international régime from which foreign Powers benefit in the Sheriffian empire. Accordingly, as the King's Government could not remain insensible to this danger, it pointed out to the French and British Governments that Belgium, even while desiring to facilitate the task of France in Morocco and permit her to adjust the economic régime of that country to the present situation, deems that Belgium is entitled to participate in the preparation of any new tariff.

I have been charged by my Government to bring the foregoing to Your Excellency's knowledge and to ask you what attitude the United States Government expects to take in the matter. I thank you in advance for any communication you may be good enough to make to me.

I will add that I have already previously had conversations with high officials of Your Excellency's Department, concerning the intention of France to establish, in accord with Great Britain, certain quotas and rate increases.

I asked them at that time what the point of view of the Washington Government was on the question. They answered that the United States would not consent to the establishment of quotas because such a measure was in opposition to the "open door" policy and to its economic policy. However, the United States would not oppose a reasonable increase of customs duties in so far as it has an exclusively fiscal purpose.

I avail myself [etc.]

R. v. STRATEN

781.003/80: Telegram

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

PARIS, February 9, 1938—6 p. m.
[Received February 9—3:50 p. m.]

219. A conversation at the Foreign Office today has confirmed the information which we have previously cabled regarding the Franco-

British commercial agreement concerning Morocco, and added the following (in confidence) :

The agreement consolidates duties on goods representing approximately 15 per cent of the value of Moroccan imports during the past year, excluding cotton goods; or, if duty consolidations on cotton goods are included, about 25 per cent of the total value of Moroccan imports.

The French went on the principle that they would consider binding duties on goods of which the British had furnished at least 50 per cent of total Moroccan imports. For this purpose import figures were not confined to the last year only, since British trade has been falling off in recent years with Morocco and it seemed equitable to strike an average over a number of years.

Among the articles on which Moroccan duties are bound are: cotton goods (a long schedule), coal, articles of iron and steel, preserved fruits and jellies, toys, tea, whiskies, gin. Also, duties are bound on certain articles of interest to the colonies such as dried codfish and fuel oil. In return articles of special interest to Moroccan production, such as phosphates, palm fiber (closely defined so as to apply only to fibers produced in Morocco), perfume, oils, etc., are admitted free of duty in Great Britain (and presumably in the colonies).

The Foreign Office states that when they negotiate with us they hope to proceed on the same lines; namely, to consolidate duties on articles of which we furnish an important share of Moroccan imports and in return to obtain admission duty free of goods of essentially Moroccan production. As regards quotas, the Foreign Office reiterates that they understand perfectly that whatever has been agreed to with the British stands subject to our approval as well as to the consent of other interested countries. They feel moreover that nothing in the agreement with the British is incompatible with our position regarding quotas as set out in the Department's 32, January 26 [22], 11 a. m.

The French state that they prevailed upon the British to drop the idea of scheduling goods on which internal taxes would be bound and to agree to treat this question in the form described in our 201, February 7, 1 p. m., because of the fact that taxes of this sort represent about 33% of Moroccan budgetary receipts. It is therefore essential for the Moroccan Government to have some freedom in fixing rates of internal taxes on imported goods, subject to the understanding that these taxes will not be levied in such a way as to nullify advantages obtained by duty consolidations.

According to the Foreign Office the agreement will be signed as soon as the French Government is advised by the Dominion Governments that they accept the application of the agreement to their trade

with Morocco. The agreement with exchanges of notes and schedules will then be published. No announcement will be made of the conclusion of the negotiations until February 12 when de Tessan²⁰ will make a speech in Morocco stating that France is now ready to negotiate commercial agreements concerting [*concerning?*] Morocco with other interested countries.

Copy to London and Tangier.

BULLITT

781.003/105

The Counselor of Embassy in France (Wilson) to the Chief of the Division of Near Eastern Affairs (Murray)

PARIS, February 12, 1938.

[Received March 8.]

DEAR WALLACE: I had a conversation the other day with Coursier, Assistant Chief of the Africa-Levant section at the Foreign Office, who is in charge of Moroccan affairs, which I should like to relate to you as follows:

Coursier said that the French Government hoped very much that the United States Government would not insist that the negotiation of a treaty for the abandonment of our capitulatory privileges in Morocco must go along simultaneously with the negotiation of a commercial agreement (*sic*) relating to Morocco. He said that the United States had agreed at Montreux to give up capitulations in Egypt without tying the matter up with the negotiation of a commercial convention. In negotiating with the British for the abolition of capitulations in Morocco, it had been agreed by an exchange of letters that the Commercial Treaty of 1856 would be replaced by a new commercial treaty, and while it was proposed that they would try to conclude the new commercial treaty before the entry into force of the treaty abolishing capitulations, the British had not insisted that the negotiation of the two instruments should be simultaneous,—on the contrary, the treaty regarding capitulations was concluded on July 29, 1937, and the negotiations for a commercial agreement did not take place until some months later.

Coursier said that if the United States should insist that the negotiation of the two agreements must be simultaneous, then the only explanation of such action would be, in the mind of the French, that the United States had no confidence that the French would deal fairly in the matter of a commercial convention and therefore desired to hang on to the capitulations convention as a weapon to exact fair treatment in commercial matters.

²⁰ François de Tessan, French Under Secretary of State for Foreign Affairs.

Coursier said that it was of capital importance to the French Government, for political reasons in Morocco, to be able to announce at an early date the conclusion of a treaty with us agreeing to end the capitulatory régime in Morocco. He said that the French Government would suggest that in connection therewith there could be an exchange of notes providing that negotiations for a commercial agreement would begin at an early date and, moreover, setting out and defining in whatever form we thought desirable the principles and bases which would be followed in negotiating a commercial agreement.

Regarding the procedure for the negotiation of the commercial agreement, Coursier said that they hoped that de Saint Quentin,²¹ with the French Commercial Attaché in Washington, could work out the major part of the agreement with the Department so that the visit of other experts from the Quai d'Orsay to Washington, if later found necessary, would be of brief duration. He said that he himself and two or three others from the Foreign Office here had gone to London for the commercial negotiations in December, that this had not been so bad since they could keep in touch with their work here by telephone, but that it would be very difficult for them to be absent in Washington for a long period.

Coursier said that de Saint Quentin, who sails on February 16, will take an early opportunity to discuss something along the foregoing lines with the Department. He asked if in the meanwhile I would inform the Department of what the French had in mind, in order that you might be thinking about it before de Saint Quentin takes it up with you.

A few points occur to me as follows:

(1) What you have in mind is the simultaneous negotiation of the convention terminating the capitulatory rights and of a convention of establishment, commerce and navigation, with the thought, presumably, that the negotiations for a commercial agreement could follow along in due course once the bases regarding the treatment which American nationals and American trade in Morocco would receive in the future had been laid down in the proposed treaty of establishment, commerce and navigation. If you could have your draft treaty of establishment, commerce and navigation ready to submit to the French at the same time that you submit the draft for wiping out capitulations, I should think that the French might be able to reach agreement on them both without any particular delay. It would then be possible, if you so desired, to adopt the procedure suggested by Coursier of an exchange of notes relating to the subsequent negotiation of a commercial convention. This exchange of notes

²¹ Appointed Ambassador to the United States.

might, by appropriate phrasing, protect us against any eventuality such as the denunciation of the 1836 Treaty.

(2) If you found it desirable not to submit to the Senate for ratification the treaty relating to capitulations and the treaty of establishment, commerce and navigation, before complete agreement had been reached on the commercial agreement, I am not sure that this would make much difference to the French. The essential thing, from their point of view, is to be able to announce at an early date the conclusion of negotiations abolishing the capitulations.

As of possible interest, I asked Coursier whether the French had tried to get the British to accept privileged treatment for French articles in the trade with Morocco. (We know from the British that the French had in fact done so.) Coursier said frankly that the French Government had tried to obtain a privileged position, but that the British had declined to recognize it. I asked Coursier whether they would try this out on us. He said that he did not think so, since they appreciated that we would not agree to it. He said, however, that the French Government did not intend to forget this matter, but would certainly try to bring it up sometime in the future when conditions might be more favorable for a recognition of their claim. Coursier then argued at some length along lines with which you are of course familiar, that it is only because of the expenditure of French blood and effort that Morocco is a profitable field of trade for other countries, that Morocco is a long way from being self-supporting and that if it were not for financial assistance given by the French Government, Morocco would not be able to buy anything like the value of goods taken from the United States to-day, etc., etc. You will probably hear this refrain, though somewhat muted, during the coming weeks.

Yours as ever,

EDWIN C. WILSON

781.003/94

*The Chief of the Division of Near Eastern Affairs (Murray) to the
Chargé in the United Kingdom (Johnson)*

WASHINGTON, February 19, 1938.

DEAR HERSCHEL: We are very much interested in obtaining as clear a picture as possible of the details of the new Anglo-French commercial convention regarding Morocco, and greatly appreciate your good work in reporting the developments in London.

There is one point in particular about which we should like to obtain some elucidation. In your telegram No. 36 of January 15, 2 p. m., you reported that the most-favored-nation principle was operative throughout the draft convention with certain exceptions regard-

ing exports from Morocco to France, and that the British had agreed to "evoke" at Paris the French proposals for these specific exceptions. ("Evoke" is the way the message was decoded but I presume the word should be read "consider".)

However, in telegram No. 186 from Paris, dated February 3, 5 p. m., the Embassy reported in the third paragraph of section three, that the British were taking a firm stand against the French request for preferential treatment for certain exports from Morocco to France, that they did not expect to give way on this point, and that they were relying upon us to maintain the same attitude in our negotiations with France. Nothing further has been heard on the subject, and we are wondering what the final provisions of the convention were in this respect.

As background, to explain in part our interest in this particular point, I may point out the following: In our Trade Agreement with France, signed on May 6, 1936,²² we agreed, in paragraph 4 to Article XV, not to object on favored-nation grounds to any preferential régime which France might accord in the future to Morocco. Some question arises concerning whether we, in view of this rather unusual concession on our part, may now support the British contention against the French request for preferential treatment for certain exports from Morocco to France. It seems to be the consensus of opinion in the Department that we can support the British contention as far as it opposes concessions to be granted in Morocco, by the Moroccan Government, to trade moving from Morocco to France, but that we are already bound not to object to any concessions which the French Government, acting in France, might make to that trade. In other words, we can oppose any scheme by which Morocco would place restrictions or an export duty on certain Moroccan produce going out of Morocco to any other country except France. Suppose, for instance, France felt that she needed, for defense purposes, to take all the oil or mineral ore which Morocco produced, and attempted to assure for herself all this Moroccan produce by enforcing in Morocco restrictions on the exportation of such produce to any other country except France. We could join the British in opposing such restrictions, because we have not bound ourselves in the Franco-American Trade Agreement to agree to preferential treatment accorded by Morocco to France.

If, however, France should attempt to assure for herself certain Moroccan produce by reducing the duty thereon upon importation into France, as compared with the duty charged on similar merchandise coming into France from other countries, we should be prevented from objecting thereto, by the provisions of the Trade Agreement.

²² Department of State Executive Agreement Series No. 146, or 53 Stat. 2236.

It is important, therefore, for us to know whether France has succeeded in obtaining any concessions from the British regarding imports from Morocco to France. If the British have successfully resisted the French effort in this respect, and desire us to take the same position, it is important for us to know whether the French effort to reserve for herself certain Moroccan produce envisaged favorable import privileges in France or restrictive measures in Morocco, or both.

Your assistance in obtaining information on this subject will be greatly appreciated. It will probably be preferable not to inform the British at this juncture just how far we can support them in their request. Presumably they should be aware of the provisions of paragraph 4 of Article XV of our Trade Agreement with France, but their not having mentioned it would seem to indicate that they may not have had their attention called to it. They will undoubtedly become aware of it sooner or later, but we are not entirely prepared to discuss the point at present, since there may be room for differences of interpretation of the provision cited.

Sincerely yours,

WALLACE MURRAY

781.003/93

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

No. 706

WASHINGTON, February 21, 1938.

SIR: Reference is made to your telegram No. 219 of February 9, 6 p. m., and to previous telegrams from the Embassy regarding negotiations between the French and British Governments concerning a commercial agreement covering the French Zone of Morocco.

In the Embassy's telegram No. 219, the statement is made that the agreement which has been initialed by French and British negotiators "consolidates duties on goods representing approximately fifteen percent of the value of Moroccan imports during the past year . . ." From the above statement, and from the references to consolidated duties in the Embassy's telegram No. 186 of February 3, 5 p. m. (section three), and its telegram No. 201 of February 7, 1 p. m., the Department presumes that the term "consolidated duties" refers to the consolidation of the present duty of ten percent provided for under the British Treaty of 1856 plus the two and one-half percent provided for under the Act of Algeciras, or a total of twelve and one-half percent ad valorem, and that British goods covered by the consolidated rates in the new commercial agreement will continue to pay twelve and one-half percent upon importation into Morocco during the life of the agreement. Is that assumption correct, or are new tariff rates established?

It would appear from the Embassy's telegram No. 219 that the British, as a *quid pro quo* for the French concession to bind certain rates to twelve and one-half percent, agreed that phosphates, palm fiber, and other articles of special interest to Moroccan production shall be admitted into Great Britain free of duty. The French hope to proceed on the same lines, you report, when they negotiate with us. As the Embassy is aware, we would probably not be able to grant, in a commercial treaty, reductions or bindings of any of our existing rates on Moroccan products but might grant such reductions or bindings in a trade agreement, negotiated in accordance with the terms of the Trade Agreements Act of June 12, 1934.²³

On the basis of information now available to the Department, it would appear that it may become desirable to negotiate simultaneously in Washington the following instruments: (1) a convention regarding the abolition of the capitulations, (2) a commercial convention, valid for a period of ten years, and (3) an exchange of notes in which we would obtain guarantees as to the duty and quota treatment in Morocco of articles in which this country has a principal interest. In the event the French should insist, in return for the latter, upon our granting reductions or bindings of our duties on certain Moroccan products, it would become necessary for the Department to consider whether it would be possible and desirable to undertake negotiations of a trade agreement between the United States and Morocco, possibly in substitution for (3) above.

The French will presumably press for the capitulatory convention as soon as possible, while our interests will lie in the direction of negotiating the commercial convention simultaneously with the capitulations convention. If it should develop that trade-agreement negotiations are also necessary, it is believed that it would be desirable to conduct all three negotiations simultaneously.

You will understand that the above are preliminary remarks suggestive of what the Department has in mind regarding Morocco, and are sent to you in the belief that they may be of assistance as background if you should be approached by the French authorities. The Department does not desire, however, that you should intimate to the French at this time that possible trade agreement negotiations with Morocco have been envisaged.

The apparently conciliatory attitude of the French regarding quotas, and their reiteration that whatever has been agreed to with the British stands subject to our approval, are sources of gratification.

The Embassy is requested to endeavor to obtain, as soon as possible, and forward to the Department a copy of the new Anglo-French agreement.

²³ 48 Stat. 943.

Comment regarding the question of internal taxes in Morocco is withheld pending further information from the Embassy regarding the exact contents of the Anglo-French agreement. It is apparent, however, that little will be gained by binding duties in Morocco if their effect may be nullified by internal taxation.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

781.003/102

*The Secretary of State to the Belgian Ambassador
(Van der Straten-Ponthoz)*

WASHINGTON, February 21, 1938.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note No. 411, of February 7, 1938, in which you were good enough to set forth the point of view of the Belgian Government regarding certain changes in the customs regime of the French Zone of Morocco believed to be envisaged by negotiations recently undertaken by representatives of the French and British Governments. You inquire what attitude the United States Government expects to take with regard to the problems at issue.

The American Government is naturally interested in preserving in Morocco the principle of economic liberty without any inequality which the United States has always regarded as the cornerstone of the General Act of Algeciras. Accordingly this Government, having learned of the Anglo-French negotiations referred to in Your Excellency's note, recently availed itself of an opportunity to express to the French and British Governments the interest of the United States in any changes that might be contemplated respecting the treaty status of the French Zone of Morocco which might affect American interests.

In making this communication this Government pointed out that, while it had not modified its views that the imposition of quotas and the introduction of similar restrictive systems are a hindrance to that normal and free development of international trade most conducive to the upbuilding of world economy, it was willing to take into account those circumstances where the establishment of quotas might be found of a compelling and exceptional nature. It was added that if, notwithstanding the position the United States had assumed generally in respect of quotas, the adoption of a quota system in the French Zone of Morocco on a limited list of articles, to be agreed upon by the parties most concerned, was looked upon with favor by other interested governments, the United States Government would not wish to appear unduly obstructive in the matter. Accordingly the French Government has been informed that the United States is prepared

to acquiesce in the establishment of quotas in the French Zone of Morocco on such a list of articles subject to the following conditions:

1. That no import or export prohibition, restriction or license system, including import or customs quotas and other forms of quantitative regulations affecting the importation, sale or use of imported articles, shall be applied to articles originating in or destined for the United States of America which is other or more burdensome than that applied to the like articles originating in or destined for any other country, France included.

2. That any quota system which may be established in the French Zone of Morocco shall be limited to a specified list of articles.

3. That if a share of the permitted importations of any article is allotted to any other country, France included, a share equivalent to the proportion of the total permitted importations of such article which was supplied by the United States of America during a previous representative period shall be allotted to the United States of America; and that such previous period shall be chosen separately for each of the articles included in the specified list and shall in each case be such as to assure that the United States will not be deprived of the share of the trade which it has enjoyed in the past or which it might reasonably be expected to enjoy in the future.

With respect to the possible alteration of customs duties in the French Zone of Morocco, this Government has not modified the views expressed to Your Excellency in January 1935,²⁴ at which time an official of the Department explained that the United States was inclined to admit that a reasonable increase of Moroccan customs duties, for fiscal purposes, might be justified, provided always that the principle of equality of treatment be maintained.

Your Excellency's courtesy in bringing to my attention the views of your Government in regard to this matter is appreciated, and any further expression which Your Excellency may care to make on the subject will be welcomed.

Accept [etc.]

CORDELL HULL

781.003/99

The Counselor of the Belgian Embassy (Gruben) to the Chief of the Division of Near Eastern Affairs (Murray)

D7115
No. 683

WASHINGTON, February 23, 1938.

DEAR MR. MURRAY: With reference to our recent conversation, I have the honor to send you herewith, for your personal information, a memorandum setting forth the legal argumentation by which the

²⁴ See memorandum by the Chief of the Division of Western European Affairs, January 24, 1935, *Foreign Relations*, 1935, vol. I, p. 961.

Belgian Government claims that the customs régime of Morocco cannot be modified without its approval.

This memorandum develops the considerations mentioned in paragraphs 2, 3 and 4 of page 2 of the letter addressed by the Belgian Ambassador to the Honorable the Secretary of State on the subject, under date of February 7th 1938.

I remain [etc.]

BARON DE GRUBEN

[Enclosure—Translation]

Belgian Memorandum Relative to the Moroccan Customs Tariff

The French thesis is that the rate of 10 percent was fixed by Article 7 of the Anglo-Moroccan Treaty of Commerce and Navigation of December 9, 1856, Article 50 of the Spanish-Moroccan Treaty of Commerce of November 20, 1861, and Article 2 of the German-Moroccan Treaty of Commerce of June 1, 1890. The other powers cannot claim the application of this rate except by virtue of the clause of the benefit of the most favored nation inserted in multilateral diplomatic instruments like the Convention of Madrid of 1880,²⁵ or of special agreements. Therefore, modification may take place by an arrangement concluded by Morocco with Great Britain and Spain, Germany having renounced her rights in Morocco by the Treaty of Versailles.²⁶

England appears to admit this thesis, which nevertheless does not appear to be well-founded.

If it is sound, as regards countries from which France has requested the recognition of her protectorate, while giving them in compensation the benefit of the most favored nation, it could not be applied to the signatories of the Act of Algeciras.

The Act of Algeciras stipulates in Article 123 that "All the treaties of the signatory powers with Morocco shall remain in force." It may be said that this article integrates into the Act all previous treaties; it gives to them a new life and aspect and from being bilateral, renders them multilateral, while calling upon the signatories of the Act to ratify them.

Thus the Maghzen has pledged itself toward all the powers which took part in the Conference to maintain the rate of 10 percent. In order to convince oneself of this, it is sufficient to reread the procès-verbaux of the meetings.

As is known, the Sultan sought especially to augment his resources. In this order of ideas, his principal care was to obtain an increase of

²⁵ Malloy, *Treaties*, 1776-1909, vol. I, p. 1220, or 22 Stat. 817.

²⁶ Articles 141-146, *Foreign Relations*, The Paris Peace Conference, 1919, vol. XIII, pp. 292-295.

the customs duties, as is proved by his letters addressed to the negotiators and the many interventions of the Shereefian delegates. From the beginning, the representatives of the powers showed that there could be no question of it. Furthermore, at the second Committee meeting²⁷ (January 25, 1906) the Minister of France, Mr. Revoil clearly indicated that in this domain foreign countries had a right of supervision:

“There is a second category of taxes, those which weigh more particularly on foreigners as, for example, customs duties; as regards this second category the mission of the Conference would be more precise: Leaving the domain of advice, it could enter into the domain of proposals.”

This recognition of the rights of all the powers to intervene in a modification of the rate of the customs duties, as well as the intention of the Conference to confirm the rate of 10 percent, is fully evident from the minutes of the meetings.

After the second meeting of the above-mentioned Committee, there was referred to all the delegates a “questionnaire for preparing the study of a better yield of Moroccan taxes and the creation of new revenues.”

Question 14 was thus framed: “Should we defer to the proposal many times expressed by the Sultan of increasing the customs duties? Should there be a global increase on importation?”

In the course of the third Committee meeting (January 27, 1906) there took place, regarding entry duties, a general discussion in which all the delegates took part, on a question of Baron Joostens²⁸ whether the possible increase of the customs duties would be global. Mr. Revoil stated definitely that “it would indeed be global but it would not be incorporated in the duty; that that duty would remain fixed at the present figures.” Is it possible to find a more formal confirmation by the Conference itself of the rate of 10 percent?

In opening the fourth Committee meeting (January 29, 1906) the President suggested the postponement of the discussion on the raising of the customs duties until the time when the delegates of the powers should have received instructions from their governments. This is indeed a recognition of the right of all to take part in the possible modification of the rate.

At the fifth Committee meeting there was read a Shereefian letter insisting on obtaining an important increase of the entry duties, a differential taxation according to products and the payment of the

²⁷ For reports of the proceedings of the Algeciras Conference, see Algeciras, International Conference on Moroccan Affairs, 1906, *Conférence internationale d'Algeciras* (Madrid, 1906?); or France, Ministère des Affaires Etrangères, *Documents Diplomatiques 1906, Affaires du Maroc: Protocoles et Comptes Rendus de la Conférence d'Algeciras* (Paris, 1906).

²⁸ Belgian delegate to the Algeciras Conference.

increase into the treasury. The minutes recorded that "the delegates of the powers are in agreement in recognizing that the idea of increasing the 10 percent ad valorem which now applies to the importation of merchandise into Morocco to 20 percent for the generality of products, to 40 percent for sugar, tea and coffee and to 100 percent for beverages other than mineral waters is not admissible."

And in the course of the discussion which followed, Mr. Revoil again stated that "Morocco could not increase the import duties without the consent of the powers."

At the fifth plenary session (February 7, 1906) he confirmed this point of view in the following language: "There is perhaps in the mind of the Moroccan delegates a certain confusion between the import duties and the export duties. On the subject of import duties, Morocco is under the obligation of coming to an understanding with the powers when there is a question of modifying the existing duties."

These texts need no comment. They clearly and formally imply:

1. That all the powers including France have recognized that no change can be made in the rate of 10 percent without the agreement of all the powers represented at Algeiras.
2. That the Conference, if it did not so state in the General Act, nevertheless confirmed that the rate of the import duties could not be raised.

It may be said that this second point is explicitly established by Article 66 of the Act of Algeiras. In consenting to the application of a supplementary duty of 2½ percent ad valorem on the importation of foreign goods, the Conference made three conditions: That it should be temporary; that it should be paid into a special fund and that its revenue should be assigned to certain works, the whole under the supervision of the Diplomatic Corps. Furthermore, the negotiators have taken care that no confusion could take place with the customs duties. The first designation given by the drafting committee to the supplementary duty was "customs surtax". In the 16th plenary meeting (January 31, 1906) the delegate of Austria-Hungary pointed out that it was not a question of a customs duty, and that the description employed might give rise to misunderstanding. He therefore proposed to replace the designation "customs surtax" by that of "special tax", which was unanimously adopted.

781.003/105

The Chief of the Division of Near Eastern Affairs (Murray) to the Chargé in France (Wilson)

WASHINGTON, March 10, 1938.

DEAR ED: Your letter of February 12, 1938, reported an interesting conversation with Coursier regarding Morocco.

Despite Coursier's feeling that we shall show lack of confidence if we insist on simultaneous negotiations of capitulatory and commercial conventions, I am inclined to believe that we should not sign a capitulatory agreement without having reached an agreement upon something very definite in the nature of a commercial convention.

Coursier apparently overlooks a number of factors which distinguish our position from that of the British and render them by no means comparable. Once we have terminated the Treaty of 1836 in our Capitulations Convention there only remain to us for the safeguarding of our commercial interests in Morocco the most-favored-nation provision of the Madrid Convention of 1880 and the economic equality provisions of the Act of Algeciras. On the other hand, until a new commercial treaty has been negotiated the British continue to enjoy all the benefits of their Commercial Treaty of 1856 which is not subject to unilateral termination. Most notable among the very considerable benefits of that treaty is the clause which binds Morocco to the maintenance of a ten per cent import tariff.

Moreover, it would not seem that M. Coursier is on very sound ground in arguing for separate negotiations on the basis of our treaty engagements with Egypt. At the time of the Montreux Convention^{28a} we already possessed a commercial agreement with that country which remained unaffected by the Convention in question. It is true, of course, that the agreement was provisional, that it was subject to termination upon three months' notice and that it merely extended us most-favored-nation treatment in tariff matters. However, we enjoyed the assurance in the case of Egypt generally of fair and equitable treatment of our trade and commerce over a long period of years. M. Coursier might argue that such treatment flowed from our capitulatory rights in Egypt to which we might properly reply that our extraterritorial rights in Morocco have not protected us against persistent discrimination in the latter country.

The inconsistency of Mr. Coursier's appeal to our action in the case of the Montreux Convention is brought into even more striking relief by the failure until now of the French Government to ratify that Convention. It appears a reasonable assumption that such ratification is being held up pending the conclusion of the Anglo-French commercial negotiations concerning Morocco. If the French Government is so far indisposed to trust its ally, Great Britain, in the deal of the Entente Cordiale with relation to Egypt and Morocco, France

^{28a} Signed May 8, 1937, Department of State Treaty Series No. 939, or 53 Stat. 1645. For correspondence on the Montreux Conference for the Abolition of the Capitulations in Egypt, April 12-May 8, 1937, see *Foreign Relations*, 1937, vol. II, pp. 615 ff.

is hardly in a position to charge us with lack of confidence in respect of the protection of our interests in Morocco.

You suggest, on page 4,²⁹ that if we could have a draft treaty of establishment, commerce and navigation ready to submit to the French at the same time we submit the draft for abolishing the capitulations, the French might be ready to reach an agreement on both without particular delay, and that an exchange of notes might then take place, providing for the subsequent negotiation of a "commercial convention."

I wonder if you have had in mind the Department's strictly confidential instruction to the Embassy, dated December 22, 1937 (No. 588)³⁰ forwarding to you a copy of an instruction sent to Tangier on December 17, 1937, with its enclosures, which were a draft convention for the abolition of the capitulations and a draft treaty of establishment, commerce, and navigation. We pointed out in that instruction that it was contemplated that both conventions would be negotiated simultaneously. We have had in mind that the treaty of establishment, commerce, and navigation, with notes attached thereto, would fulfill all the requirements of the "commercial convention" to which you refer. You will observe, for instance, that the draft treaty of establishment, commerce, and navigation which we sent you contains provision (Article IX) for the establishment of quotas. It is our idea that any necessary schedules of commodities, with figures showing quota allotments and representative periods, could be either included in the attached notes or made subject to subsequent negotiation on the basis of the general principles laid down in the treaty of establishment.

The only other type of instrument in the nature of a "commercial convention" that might be called for would be a trade agreement, which, as you well know, is a very specialized type of instrument. We have not contemplated negotiating a trade agreement with Morocco unless the French ask us, as a *quid pro quo*, to agree to bind or reduce certain of our duties on Moroccan products. The only way in which we may commit ourselves to maintain specified rates on any goods entering the United States is through a trade agreement, and the French might put proposals to us that we could meet only in that manner. However, we do not want to anticipate any such action, and if a trade agreement should become necessary, we want the responsibility to be squarely on the French for making demands that can only be met in that manner.

We seem to be in agreement, therefore, with the suggestion in your letter, that we shall submit to the French a draft Treaty of Establish-

²⁹ Paragraph numbered 1, p. 863.

³⁰ Not printed.

ment, Commerce, and Navigation at the same time we submit a draft convention for the abolition of the capitulations (the two drafts are practically ready as sent to you). If the French agree substantially to the two drafts, we hope no further "commercial convention" will be necessary. If it is, it will be a trade agreement. If the French make a trade agreement necessary, we shall hope to negotiate all three instruments simultaneously, although the trade agreement probably would not be a *sine qua non*.

We do not wish to appear unduly obstructive to the French, as we have frequently said, but on the other hand, they will appreciate that all (or practically all) of the other Powers which have given up their capitulations in Morocco have received very substantial concessions in return, either in Morocco or elsewhere. All we want of the French is "equal opportunity without any inequality" in Morocco, as provided for in the Act of Algeciras. If the French will give us that, there will be no controversy. But if they begin to ask for concessions to French trade, or ask us to bind our duties on Moroccan products entering the United States, they must assume the responsibilities for any delays in the negotiations. The British, it is true, appear to have agreed to retain certain Moroccan products on the free list, but the British received other concessions, in Zanzibar and Egypt, which are not concessions to us.

Please do not think the tenor of this letter indicates that I am unappreciative of your excellent help on the Moroccan situation. Far from it. I believe you agree with me that while we shall negotiate with the French in the friendliest spirit, we are not overly impressed by Coursier's arguments on page 5 of your letter.³¹ The Powers at Algeciras agreed to allow French military and political protection in Morocco on the condition that freedom of trade opportunities be continued to all. It was understood by all, the French included, that considerable French blood might be shed to enforce that military and political protection, but France was willing to assume the responsibility and at the same time promise an "open door". We have expressed willingness to recognize the existence of exceptional circumstances which France considers to require the institution of a quota system, but we maintain our insistence upon equal opportunity. If France is not willing to agree to that, when she asks for the abolition of the capitulations, she seems to me to be making her own difficulties.

Sincerely yours,

WALLACE MURRAY

³¹ Last paragraph of letter, p. 864.

781.003/111

*Memorandum of Conversation, by Mr. J. Rives Childs of the Division
of Near Eastern Affairs*

[WASHINGTON,] March 17, 1938.

Participants: The Netherlands Minister.
Mr. Murray.
Mr. Alling.
Mr. Childs.

The Netherlands Minister called for the purpose of obtaining information regarding our attitude toward the anticipated French proposals for the raising of the import tariff in Morocco and the introduction of quotas.

He was informed that our attitude had been conveyed recently to the French and British Governments, as well as to the Belgian Embassy at its request, and that we would be glad to let him have a copy of the outline of the Department's views as made in a note to the Belgian Ambassador.

Asked as to the attitude of the Netherlands Government in the matter the Minister stated that, so far as he knew, the position of his Government was in general more or less that of the Belgian Government as communicated in a recent note to the Department.

The Minister expressed his appreciation of the information given him and, at the request of Mr. Murray, promised to acquaint the latter with any information he might receive further concerning the position of his Government in respect of the Moroccan customs régime.

781.003/107: Telegram

The Acting Secretary of State to the Chargé in France (Wilson)

WASHINGTON, April 29, 1938—noon.

243. Your 433, March 18, 6 p. m.³² Please endeavor to obtain and telegraph to the Department the customs valuation provisions of the Anglo-French commercial treaty on Morocco. In the event the Foreign Office persists in declining to make any part of the treaty available before signature please inform the Department when the text is likely to be forthcoming.

WELLES

³² Not printed.

781.003/119 : Telegram

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

PARIS, May 2, 1938—4 p. m.

[Received 5 : 30 p. m.]

682. Department's 243, April 29, noon. The text of the customs valuation article has been supplied informally without numerical designation by the Foreign Office and reads in translation, made by the Embassy, as follows:

"The declared value for customs purposes shall be the cash wholesale value of the merchandise at the time when and the place where presented to the customs, that is to say the wholesale value of the merchandise or of similar merchandise in the markets of the place where importation is effected, less customs duties and warehouse charges as well as various expenses incurred subsequent to importation.

The value thus defined corresponds in a general way to the normal wholesale export value in the countries of shipment, increased by the necessary charges for importation up to the place of entry (transportation, freight, export taxes, insurance, commissions, packing costs not separately dutiable, lighterage, et cetera), excluding customs duties and warehouse charges."

The Embassy will continue efforts to obtain full text of treaty at earliest moment possible.

WILSON

781.003/127

Memorandum of Conversation, by Mr. J. Rives Childs of the Division of Near Eastern Affairs

[WASHINGTON,] May 6, 1938.

Participants: Mr. A. E. Overton, of the British Board of Trade,
Member of the British Trade Delegation to the
United States.

Mr. Murray.

Mr. Childs.

Mr. Alling.

Mr. John C. Ross.⁸³

Mr. Overton called at the Department on May 3, 1938, and stated that he had been instructed by the British Board of Trade to discuss the question of the Moroccan treaty negotiations.

He recalled that the British Government had been in close touch with the American Government through the American Embassies in London and Paris and had acquainted Mr. Johnson, of the Embassy in London, and Mr. Wilson, of the Embassy in Paris, with the progress of the negotiations and with the terms of the Anglo-French Com-

⁸³ Of the Division of Trade Agreements.

mercial Treaty on French Morocco which had been recently initialled but not as yet signed.

Mr. Overton was reminded by Mr. Murray that while we had been made acquainted with the general provisions of the treaty in question, and while the British had expressed a willingness to make the full text available to this Government, the French Government had declined to agree, for some unaccountable reason.

There followed some general discussion of the treaty, in which Mr. Overton explained that the term "consolidated duties" as used with reference to the Anglo-French Treaty was expressive of the binding of duties. He was unable to state the term of duration of the treaty or the reasons delaying its signature and publication. He inquired whether we were in actual negotiations with the French Government and added that he had been instructed by the Board of Trade to inquire also whether anything could be done to hasten our negotiations. He explained that British cotton interests in particular were pressing the British Government to obtain the effective introduction as soon as possible of the provisions of the treaty relating to the imposition of textile quotas as a protection against Japanese competition in Morocco.

Mr. Murray remarked that the American position vis-à-vis France in respect of the termination of the capitulatory régime was quite different from that of Great Britain. The latter, he said, was obligated under the Anglo-French Accord of 1904³⁴ to relinquish its capitulatory rights in Morocco upon the relinquishment of French capitulatory rights in Egypt. Moreover, in the Anglo-French Capitulatory Convention on Morocco France had relinquished its capitulatory rights in Zanzibar. Further, even after the relinquishment of British capitulatory rights in Morocco Great Britain could reasonably postpone the conclusion of a commercial treaty inasmuch as until such a treaty was concluded France was bound to the ten percent customs régime integrated in the British-Moroccan Commercial Treaty of 1856 which the new commercial treaty was designed to replace. On the other hand, we insisted upon the simultaneous negotiation with France of both a capitulations convention as well as a commercial treaty, as we were not disposed to give up the rights we were asked to relinquish in the capitulations convention, which afforded the basis for the safeguarding of our rights in Morocco, short of the negotiation of both a capitulations convention and a commercial treaty.

³⁴ Signed at London, April 8, 1904, *British and Foreign State Papers*, vol. CI, p. 1053.

Mr. Overton stated that, of course, the operation of the Anglo-French Commercial Treaty was independent of the customs and quota provisions annexed to it in the form of exchange of notes. Such provisions, he said, naturally, would not enter into force until the other signatories of the Act of Algeciras had accepted the proposed autonomous customs régime for Morocco. He had been asked to inquire, therefore, what the United States position was likely to be in the event the French Government proposed to us and to the other signatories of the Act of Algeciras the present introduction of the quotas on cotton piece goods as embodied in the new Anglo-French Commercial Treaty.

Mr. Murray replied that this question was one, of course, which the executive officers of the Department would have to decide if it were placed before them. He desired to emphasize, however, a number of considerations in that regard which mitigated [*militated*] in his opinion against the favorable entertainment of such a proposal. First of all, we were in the dark as to the precise terms of the Anglo-French Treaty; secondly, the British have a binding agreement with safeguards, and it would accordingly be very difficult, if not impossible, to justify our agreement to the imposition of quotas on certain articles of no interest to us in advance of the negotiation of our treaty instruments on Morocco embodying the general safeguards in respect of quotas which were understood to have been written into the British instrument. To put it in another form, Mr. Murray added, what position might the British reasonably be expected to take if the situation were reversed and we asked the British Government to accede to the imposition of quotas on automotive products in the absence of any safeguards preliminary to the negotiation of a commercial treaty with France? Mr. Overton confessed that it was difficult to answer that question.

Mr. Ross made the observation that we had originally acceded with great reluctance to the acceptance of the principle of quotas. In his opinion it would be highly difficult to defend acceptance now of the introduction of quotas even on articles not of any primary interest to us because of the resultant inevitable prejudice to our own negotiations with the French.

The most practical means of getting on with the introduction of quotas, it was suggested to Mr. Overton, was the obtaining of French consent to making available to this Government the text of the Anglo-French Commercial Treaty and the expression of the French Government's readiness to get on with the negotiations for a capitulations convention and a commercial treaty with which the Department had expressed its willingness to proceed as long ago as October 17, 1937.

It was emphasized that we were ready to proceed with such negotiations and that any ensuing delay had been wholly occasioned by the French failure to date to reply to that note.

781.003/129

Memorandum of Conversation, by the Assistant Chief of the Division of Near Eastern Affairs (Alling)

[WASHINGTON,] June 1, 1938.

Participants: Mr. Giuseppe Cosmelli, Counselor of Italian Embassy
 Mr. Tittman—Eu ³⁵
 Mr. Murray—NE ³⁶
 Mr. Alling—NE

Mr. Cosmelli stated that the Italian Embassy had had an inquiry from Rome requesting information as to the position of the American Government with respect to the capitulations in Morocco and its views regarding the right of the French Government to increase import customs duties in the French Zone. Mr. Cosmelli explained that his own Government held the view that the French Government was barred by the terms of the Act of Algeciras from raising import customs duties in the French Zone without the consent of the signatories of the Act of Algeciras.

Mr. Murray explained that the French Government had approached us some months ago with a request to terminate our capitulatory rights and that we had replied that we would consider such an arrangement, but at the same time we should want a commercial convention, which we now lacked, to cover our trade rights in the French Zone. We had not yet had a reply to this proposal, but one was expected at any time. In so far as the question of increased customs duties was concerned, we had informed the French Government in 1935 [1934] ³⁷ that we should have no objection to limited increases in duties, for revenue purposes only, on a limited list of goods. We had not, however, ever expressed our views on the legal question whether the French Government could make such increases without the consent of the signatories of the Act of Algeciras.

Mr. Murray inquired whether the Italian-French negotiations which had recently been taking place in Rome covered the Moroccan question. Mr. Cosmelli said that he was not fully informed on this point but that it was his impression that the negotiations did not cover

³⁵ Division of European Affairs.

³⁶ Division of Near Eastern Affairs.

³⁷ See despatch No. 669, December 18, 1934, to the Ambassador in France, *Foreign Relations, 1934*, vol. II, p. 876.

Morocco since they were in general on a more restricted scale than the Anglo-Italian arrangements. Mr. Murray said that we should be interested in receiving any information that the Embassy might obtain as to the legal basis for the Italian position that the French Government was barred by the provisions of the Act of Algeiras from increasing import customs duties in the French Zone of Morocco.

481.11/1293

The Secretary of State to the Diplomatic Agent at Tangier (Blake)

No. 996

WASHINGTON, June 24, 1938.

SIR: The Department is of the opinion that in view of the delay which has ensued in the negotiations of the French Government for the termination of American capitulatory rights in the French Zone of the Shereefian Empire, renewed consideration might be appropriately given to the initiation by this Government of action looking to the blanket settlement of American claims in that Zone.

Accordingly, unless some objection is perceived, you should communicate upon the receipt of this instruction with the French Protectorate authorities at Rabat on this subject. You should inform those authorities that, on the assumption they have been informed of the exchange of correspondence between this Government and the French Embassy in Washington relating to the termination of American capitulatory rights in the French Zone of the Shereefian Empire and to the settlement of American claims in that Zone, you have been authorized to approach them to arrange the details of such a settlement. Copies of the correspondence referred to were enclosed in the Department's instructions to you, No. 966 of September 28, 1937,³⁸ and No. 970 of October 26, 1937.³⁹

As you were informed in the Department's telegram of November 19, 1937,⁴⁰ it is considered that a simple procedure involving agreement on the part of the French authorities at Rabat to make assessment and payment of the damages in each case and the restoration of any property concerned would meet adequately the forms of the settlement in question.

As soon as the Protectorate authorities have indicated their readiness to proceed with the negotiations for an adjustment of these claims, you should inform the Department by telegraph. At the same time you should indicate the special allotment which may be necessary for your travel and subsistence expenses and those of Translator

³⁸ Not printed.

³⁹ *Foreign Relations*, 1937, vol. II, p. 870.

⁴⁰ *Ibid.*, p. 871.

Dempster and Interpreter El Khazen in connection with your sojourn at Rabat for the purpose of the negotiations.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

481.11/130½

The Diplomatic Agent at Tangier (Blake) to the Secretary of State

No. 1370

TANGIER, July 15, 1938.
[Received July 30.]

SIR: I have the honor to acknowledge the receipt of Instruction No. 996 of June 24, 1938, and I beg to enclose copy of a Note which, in pursuance thereof, I have addressed to the Resident General of France at Rabat.

I shall not fail to advise the Department by cable, as soon as General Noguès, in response to my communication, shall have indicated his readiness to proceed with negotiations for the settlement of existing American claims in French Morocco.

Respectfully yours,

MAXWELL BLAKE

[Enclosure]

The Diplomatic Agent at Tangier (Blake) to the French Resident General in Morocco (Noguès)

TANGIER, July 15, 1938.

MR. RESIDENT GENERAL: I have the honor to recall to Your Excellency's attention the matter of the settlement of American claims in the French Zone of Morocco, which have been the subject of discussion between the Diplomatic Cabinet at Rabat and the American Consulate at Casablanca, and also between your Residency General and the American Legation at Tangier, over a period of several years.

I presume that Your Excellency has been informed of certain correspondence exchanged between the French Embassy and the Department of State in Washington, particularly, of a Note dated October 19, 1937⁴¹ from the latter responding to a communication of August 26, 1937,⁴² by which the French Government requested the American Government to consider the conclusion of an agreement between the United States and France, similar to that concluded between France and Great Britain, in relation to a surrender of capitulatory rights in Morocco.

In that correspondence, it may be noted, the Department of State expressed a desire for a settlement of the American claims above re-

⁴¹ *Foreign Relations*, 1937, vol. II, p. 868.

⁴² *Ibid.*, p. 862.

ferred to, in order that all outstanding questions affecting the interests of the French Zone might be solved to the mutual satisfaction of the two governments.

Consequently, under the authority of the Department of State, I now have the honor to approach Your Excellency with a view to the arrangement between us of details for such a settlement. I therefore trust that Your Excellency will be good enough to favor me, at a conveniently early date, with proposals as to a conference for the examination of a mutually satisfactory solution of the matters herein referred to.

Please accept [etc.]

MAXWELL BLAKE

781.003/141

*Memorandum by the Chief of the Division of Near Eastern Affairs
(Murray)*

[WASHINGTON,] July 23, 1938.

The French Ambassador called on me by appointment on July 23rd to inform me of the signature on July 18th of the new Anglo-French Treaty of Commerce and Navigation relating to the French Zone of Morocco.⁴³ He said he presumed that a copy of the new treaty had already been furnished the American Embassy in Paris for transmission to the Department⁴⁴ and that he also would be receiving shortly a copy of that instrument.

The Ambassador offered no explanation of the long delay in the signature of the above treaty which was initialed in Paris last February. In this connection it will be recalled that we have several times endeavored, but without avail, to obtain a copy of the treaty as finally agreed upon and initialed. The British were apparently willing to our receiving a copy of the treaty in advance of signature. The French, however, objected.

In referring to our earlier request that the proposed American-French treaties relating to the termination of American capitulatory rights in Morocco be negotiated in Washington, the Ambassador remarked that, while it would be inconvenient for the French Foreign Office to spare the necessary experts for the time necessary to negotiate the treaties in Washington, he was nevertheless in correspondence with his Government suggesting various legal and other experts to be sent

⁴³ British Cmd. 5823, Morocco No. 1 (1938); *Treaty between His Majesty in respect of the United Kingdom and the President of the French Republic acting on behalf of His Majesty the Sultan of Morocco regarding Commercial Relations between the United Kingdom and the French and Tangier Zones of the Shereefian Empire.*

⁴⁴ A copy of the treaty was transmitted to the Department by the Embassy in despatch No. 2679, July 26; received August 2.

here for that purpose. He mentioned in that connection Mr. Basdevant, one of the Legal Advisers of the Foreign Office, and said there would be perhaps two other experts, one coming from Morocco.

With regard to the time of the negotiations, the Ambassador stated that he is expecting to depart some time in August for a vacation in France, and that he would presumably be returning some time late in October, when he could discuss the most appropriate and convenient time to start negotiations. I told the Ambassador that we would want ample time to study the new Anglo-French Commercial Treaty in view of our expressed desire to negotiate a new treaty of commerce and navigation with France respecting French Morocco at the same time we negotiated the basic treaty terminating our capitulatory rights in that country. Since the French Government will by next October have kept us waiting a whole year to initiate negotiations for these two new treaties, there would appear to be no compelling reason why we should not take ample time, after studying the new Anglo-French Commercial Convention, to prepare the draft treaties which we propose to present to the French as a basis for negotiations.

781.003/147

The French Chargé (Truelle) to the Secretary of State

[Translation]

WASHINGTON, August 5, 1938.

MR. SECRETARY OF STATE: I have the honor to transmit herewith to Your Excellency a copy of the text of the treaty which was signed at Paris on July 18, 1938, between the French Government and the British Government concerning commercial relations between the French and Tangier zones of the Sherifian Empire and the United Kingdom of Great Britain and Northern Ireland.

On April 26, 1927 [*August 26, 1937*],⁴⁵ the Chargé d'Affaires of France, Mr. Jules Henry, had the honor to advise Your Excellency that the French Government and the British Government had signed at London a convention concerning the abolition of the rights and privileges of a capitulatory nature enjoyed by Great Britain in Morocco and expressed to you the desire to conclude a similar agreement with the American Government.

Under these circumstances, the French Government has instructed me to confirm to Your Excellency the interest which it would attach to concluding with the Government of the United States two agreements similar to those which it has signed with the British Govern-

⁴⁵ *Foreign Relations, 1937, vol. II, p. 862.*

ment: the former contemplating the abolition of the rights and privileges of a capitulatory nature enjoyed by the United States in Morocco, and the second concerning commercial relations between the French and Tangier zones of the Sherifian Empire and the Government of the United States. I am at Your Excellency's disposition as to supplying any supplementary explanations that you may desire to obtain regarding these texts.

Please accept [etc.]

JACQUES TRUELLE

781.003/147

The Secretary of State to the French Chargé (Truelle)

WASHINGTON, August 23, 1938.

SIR: I have received your note of August 5, 1938, transmitting a copy of the text of the Anglo-French treaty signed at Paris on July 18, 1938, concerning commercial relations between the French and Tangier Zones of the Shereefian Empire and the United Kingdom of Great Britain and Northern Ireland. In your note you confirm the interest of your Government in concluding two agreements similar to those concluded with Great Britain regarding French Morocco, namely, one having to do with the relinquishment of American extraterritorial rights in French Morocco and the other concerning commercial relations between the United States and the French and Tangier Zones of the Shereefian Empire.

As the Embassy was informed in a note of October 19, 1937,^{45a} this Government is prepared to consider the surrender of its extraterritorial rights in the French Zone of Morocco along the lines of the Anglo-French Convention of July 19 [29], 1937 and to negotiate concurrently a treaty of establishment, commerce and navigation relating to the same Zone. It is expected that drafts of these two instruments will be ready for submittal to your Government the latter part of this year in order to permit their early negotiation in Washington.

In accordance with the intimation contained in my note of October 19, 1937, I have instructed the American Diplomatic Agent at Tangier to concert with the French Protectorate authorities at Rabat with reference to the settlement of certain minor claims of American nationals and protégés in French Morocco. It is hoped that the French Government has already found it possible to give the necessary instructions to the French Protectorate authorities in this regard in order that one of the outstanding problems affecting American interests in the French Zone may be solved to the mutual satisfaction of the two

^{45a} *Foreign Relations*, 1937, vol. II, p. 868.

Governments preliminary to the settlement of the larger problems in the contemplated treaty arrangements.

Accept [etc.]

For the Secretary of State:
R. WALTON MOORE

781.003/161

The Chargé at Tangier (Doolittle) to the Secretary of State

No. 1388

TANGIER, September 16, 1938.
[Received October 3.]

SIR: I have the honor to refer to the Department's instruction No. 1003 of August 29, 1938⁴⁶ (File No. 781.003/147) enclosing a note dated August 5, 1938⁴⁷ from the French Embassy at Washington and a copy of the Department's reply thereto.⁴⁸ I also refer to Mr. Blake's despatch No. 1370 of July 15, 1938 transmitting copy of a note to the French Resident General regarding the matter of the settlement of American claims in the French Zone.

As the enclosures to these two documents refer again to the matter of the settlement of these claims, it is believed of interest to the Department to state that a note dated September 8, 1938, No. 331 D., was received on September 9 from the Residency General, reading in translation as follows:

"Mr. Chargé d'Affaires,

"By a letter dated July 15, last, referring to the correspondence exchanged between the Department of State and the French Embassy at Washington, concerning the conclusion of an agreement relating to the abandonment by the United States of its capitulatory rights in Morocco, Mr. Maxwell Blake had suggested that previously to the discussion of this accord, a conference should be brought about for the purpose of seeking a solution of the affairs which are actually pending between the Diplomatic Agency and the Residency General.

"I have the honor to acknowledge receipt of this communication which the Residency General, by reason of the recent opening at Washington of negotiations relating to American capitulations, has transmitted to the Ministry of Foreign Affairs at Paris.

"Please accept, Mr. Chargé d'Affaires the assurances of my distinguished consideration . . ."

As Mr. Blake is expected to return to Morocco within less than three weeks, no reply is being made to this communication from the Residency, pending his return, as I understand that the idea was for him to proceed to Rabat for direct conference with General Noguès.

Respectfully yours,

H. A. DOOLITTLE

⁴⁶ Not printed.

⁴⁷ *Ante*, p. 884.

⁴⁸ *Supra*.

781.003/171

*The Belgian Ambassador (Van der Straten-Ponthoz) to the Secretary of State*D. 7115
No. 4368

WASHINGTON, December 6, 1938.

MR. SECRETARY OF STATE: With reference to the letter which I addressed Your Excellency on February 7, 1938, the number of which was 411, I have the honor to advise you, in accordance with instructions from my Government, that the latter has charged the King's Ambassador at London and at Paris to advise the British and the French Governments that after mature examination of the question, the Belgian Government is obliged to make every reservation on the legitimacy of a modification of the Moroccan customs tariff without the assent of the powers beneficiaries of the Act of Algeiras. This action is based on the reasons set forth in my above-cited letter and in the memorandum which this Embassy sent to the Chief of the Division of Near Eastern Affairs, by letter of February 23, 1936 [1938], no. 683.

The Ambassadors of Belgium at Paris and at London have likewise been charged to recall that the establishment of quotas has always been considered as noncompatible with the régime of "economic liberty without any inequality" stipulated in the Act of Algeiras. This, furthermore, is the opinion of the British and French Governments themselves, as is proved by the conditional consent of the British Government to such measures.

Lastly, the abrogation of the regulations on the Customs of the Empire and the adoption of new regulations (particularly concerning customs values) contemplated by the annexes of the Anglo-Moroccan Treaty of July 18, 1938 has likewise been made the subject of the same action on the part of the Ambassadors, who have pointed out that those modifications cannot come into force except by the assent of all the powers beneficiaries of the Act of Algeiras.

I avail myself [etc.]

For the absent Ambassador:
The Counsellor of the Embassy
BARON DE GRUBEN

781.003/174

The Chargé in the United Kingdom (Johnson) to the Secretary of State

No. 1724

LONDON, December 19, 1938.
[Received January 3, 1939.]

SIR: In its telegram No. 748 of December 3, 5 p. m.,⁴⁹ the Department states that in drafting treaty instruments for negotiation with

⁴⁹ Not printed.

the French Government concerning Morocco it has found the provisions relating to customs valuation embodied in Note 5 and the Annex thereto accompanying the Anglo-French Treaty of July 18, 1938, concerning the French and Tangier Zones of the Shereefian Empire unsatisfactory as a model. It accordingly requests this Mission to obtain from the appropriate British authorities as much information as may be available concerning (1) the background of the negotiation of Note 5 and the Annex thereto of the Treaty in question; (2) whether the provisions in questions are deemed to be satisfactory; and (3), if not, whether the British Government has under consideration any modification of those provisions before the exchange of ratifications of the Treaty.

In reply, I have the honor to report that this question was to-day discussed with the competent official of the British Foreign Office, Mr. A. F. Orchard, who stated with regard to point (1) above, that the background of Note 5 and the Annex thereto was very simple. Their provisions, he said, had been designed to provide an agreed method of customs valuation which was more specific than the vague method provided in Chapter V of the Act of Algeiras, and they had been drafted by the Board of Trade itself, largely along the lines of the customs valuation procedure followed here.

With regard to point (2), Mr. Orchard said that the British Government had, of course, had no opportunity to test out in practice whether the provisions of Note 5 and the Annex thereto were satisfactory since the Treaty was not yet in effect, but that the Government had no reservations on this score.

With regard to point (3), Mr. Orchard indicated that there had been no thought of modifying the provisions of Note 5 and the Annex thereto before the exchange of ratifications of the Treaty. He went on to say that the Foreign Office was in process of obtaining the agreement of the British Dominions and Dependencies to the Treaty; that some of them had already signified their agreement; and that the reply of others was being awaited. He could not, however, forecast when the exchange of ratifications was likely to take place.

Respectfully yours,

HERSCHEL V. JOHNSON

PALESTINE

ARAB REVOLT IN PALESTINE; BRITISH ABANDONMENT OF PARTITION PROPOSALS; INTEREST OF THE UNITED STATES IN A SETTLEMENT OF THE PALESTINE QUESTION¹

867N.01/991

The Secretary of State to the Minister in Czechoslovakia (Carr)

No. 17

WASHINGTON, January 3, 1938.

SIR: The Department transmits a copy of despatch No. 3682 of December 16, 1937,² from the American Chargé d'Affaires ad interim at London enclosing an invitation which has been extended by the New Zionist Organization looking to attendance of a representative of this Government at the opening session of a World Conference of that Organization to be held in Prague on January 31, 1938. There is likewise transmitted a copy of the Department's instruction² in acknowledgment of the Embassy's despatch, together with a copy of a letter addressed by the Presidency of the New Zionist Organization to the Chief of the Division of Near Eastern Affairs and a copy of the latter's acknowledgment.³

It will be observed from the enclosed instruction to the Embassy in London that it is not the practice of this Government to be represented at gatherings such as that scheduled by the New Zionist Organization. It is desired, however, that you submit a brief account of any of its proceedings which Dr. Akzin⁴ may bring to your notice, particularly so far as they may relate to Palestine.

Very truly yours,

For the Secretary of State:
HUGH R. WILSON

867N.01/1016

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

No. 503

JERUSALEM, January 8, 1938.

[Received February 4.]

SIR: The outstanding event of the last fortnight's developments in this country, I have the honor to report, was the publication on Jan-

¹ For previous correspondence, see *Foreign Relations*, 1937, vol. II, pp. 881 ff.

² Not printed.

³ Neither printed.

⁴ Benjamin Akzin, of the New Zionist Organization.

uary 4, simultaneously in London and Jerusalem, of an elaboration of the Statement of Policy issued by the British Government on July 7, last,⁵ when making public the Report of the Palestine Royal Commission⁶ (despatch No. 265 of July 23 [9], 1937⁷). The new statement takes the somewhat unusual form of an official communiqué citing the text of a despatch dated December 23, 1937, from the Colonial Secretary to the High Commissioner.⁸ Copies are enclosed.

On December 22, as reported in my last political despatch (No. 401 of December 26, 1937)⁷ the Colonial Secretary had stated in Parliament⁹ that there would be no avoidable delay in sending to Palestine the commission proposed to and approved by the League Council last September (see pages 7-8 of annex¹⁰ to enclosure herewith). This projected commission was to negotiate with Jews and Arabs and to submit to the British Government a detailed scheme of tripartite partition. The Colonial Secretary added that he expected shortly to announce its terms of reference. This the new statement does. Stated briefly, they are: To recommend boundaries and solutions of the economic and financial questions involved in partition. Studied in detail, they reflect the serious complexity of the various problems involved in any comprehensive plan of settlement.

In Palestine, between publication of the Colonial Secretary's statement of December 22 and of the communiqué of January 4, keenly interested speculation as to the nature of the new statement of policy was the order of the day. There was high hope in Arab circles and considerable apprehension in those of the Yishuv¹¹ that the whole policy of partition would be scrapped or at least soft-pedaled in favor of one which would more nearly meet Arab demands for an undivided Palestine in which the Jews, with extensive guarantees, would be required to accept minority status. Telegraphic reports of London press comment, featured by the local press, lent some color to this view: e. g., the *Evening Standard* of December 28 was quoted as reporting a strong anti-partitionist sentiment in Foreign Office circles based on growing "alarm at the reactions of the Moslem world"; the *Daily Telegraph* of December 29 as prognosticating for the new commission "wider latitude than was originally intended"; and the *Daily Herald* of December 30 as reporting "a serious cleavage within the

⁵ British Cmd. 5513: *Palestine, Statement of Policy, July 1937.*

⁶ British Cmd. 5479: *Palestine, Royal Commission Report, July 1937.*

⁷ Not printed.

⁸ British Cmd. 5634: *Policy in Palestine: Despatch dated 23rd December, 1937, from the Secretary of State for the Colonies to the High Commissioner for Palestine.*

⁹ United Kingdom, *Parliamentary Debates, House of Commons, 5th ser., vol. 330, p. 1956.*

¹⁰ British Cmd. 5634, pp. 10-11.

¹¹ Jewish Community in Palestine.

Cabinet", certain of its members pressing for "overthrow of the Jewish National Home idea."

From higher British officials here, however, I learned that no such departure from declared policy was anticipated, i. e., that a scheme of partition on the general lines recommended by the Royal Commission was still held to offer "the best and most hopeful solution". The British undertaking to the League Council to pursue its study of the problem "while concentrating on a solution involving partition" was emphasized. Since publication of the new white paper, the Palestine Treasurer and Attorney General (two of three members of the Executive Council now in the country) have again confirmed to me their view that, in spite of Arab and anti-partitionist Jewish opposition, the home Government will not be deflected from endeavoring to prepare and implement, in the words of the January 4 communiqué, an "equitable and practicable" scheme of partition. To my queries among such officials as to the tempo which might reasonably be anticipated in the pursuance of such course of action—a subject of burning import to this economically stagnant and disorder-ridden land but which was passed over in the despatch with the observation that the new investigations "will undoubtedly occupy many months"—I have received varying replies. All agree that very considerable progress has already been made, both here and in London, in preparing the necessary data for effective consideration of the complex technical problems involved. Most concur that, with this spade-work largely completed, the new Technical Commission (to give it the name now generally adopted) need not pursue its studies *in situ* more than two to three months. Thus, a number (including the Attorney General) argue that, if, as seems probable, the commission comes to Palestine in February, we may, barring unforeseen circumstances, envisage a progression of developments not dissimilar to those of the last year, i. e., completion of the report by end June, Parliamentary discussion in July, consideration by representative Jewish bodies and by the Mandates Commission in August, and presentation to the League Council in September. Others, however, are sceptical. Events, they observe, rarely transpire in Palestine as per schedule, even if, as in this instance does not appear to be the case, there be a schedule. The foregoing paragraphs deal largely with "the course of action which His Majesty's Government have in view", one of the two matters treated in the new statement of policy. The second is stated to be the emphasizing of "certain implications of the acceptance in principle" of the Royal Commission's recommendations regarding partition. As I read them, the points emphasized are: 1) H. M. G. is "in no sense committed to approval" of the suggested tentative plan of

partition; 2) the "proposal for the compulsory transfer in the last resort of Arabs from the Jewish to the Arab area" has not been accepted; 3) the new commission possesses "full liberty to suggest modifications of that plan", including variations of area but with the proviso that such boundaries as it recommends shall necessitate the inclusion of the fewest possible Arabs and Arab enterprises in the Jewish area and vice versa.

This implied repudiation of compulsory transfer—the possibility of voluntary exchanges of land and population is envisaged—and the wording of the last-quoted phrase are here generally read as connoting disapproval of the Royal Commission's inclusion of the predominantly Arab region of northern Palestine within its suggested Jewish State. In his explanations last August to the Mandates Commission the Colonial Secretary had stated only that the latter half of the proposition, i. e., that "the basic principle of any partition scheme would be to leave as few Jews as possible in the Arab State"; and he had added: "But, however you draw that frontier, it is inevitable that there will be a large Arab minority in the Jewish State" (page 3 of annex ¹³ to enclosure herewith). In Arab circles, however, such saps [*sops*] to Arab feelings are brushed aside. Their *non possumus* to partition, both in principle and in practice, is maintained. No such scheme, they hold, can possibly be evolved which would be "equitable" to the Arabs. Secretary Moghanam of the relatively moderate National Defence (Nashashibi) Party characterizes the whole statement as "vague and indefinite, another attempt to bluff both Jews and Arabs". There follow pertinent extracts from editorial comment in *Falastin* and *Ad-Difa'a* (respectively Nashashibi and Istiqlalist dailies) of January 6:

[Here follow excerpts from the Palestine press.]

On this subject of the reestablishment of the country's traditional immigration policy of economic absorptive capacity we shall, I feel certain, hear much from Jewish organizations during the coming weeks. Much pressure to that end will be brought in London and elsewhere. Commenting in this sense last evening the Attorney General added that he had just completed a special memorandum on the subject, that its conclusion was unfavorable. I gathered that, so long as the door was not definitely closed to Arab-Jewish negotiation for settlement along lines other than partition—and the new statement of policy does not close that door—he believed it would be manifestly unwise to reestablish an element of policy which, more than any other, has engendered bitter Arab hostility and would but strengthen Arab distrust of both British and Jews.

¹³ British Cmd. 5634, p. 7.

Again, in this particular connection, as in almost any one of the various problems involved in Palestine settlement, there is to be seen the peculiarly difficult position in which the Mandatory finds itself.

Respectfully yours,

GEORGE WADSWORTH

867N.01/1005 : Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, January 14, 1938—1 p. m.

[Received January 14—11 a. m.]

Initial local reaction to last week's White Paper on Palestine was generally that while it purported to dispel uncertainty the only certainty which emerged was that uncertainty would continue, both Jews and Arabs reading into it confirmation of their respective apprehensions and emphasizing adverse effect on already depressed economic situation.

Arab leaders continue to reject partition arguing any form thereof is both inequitable and impracticable. Majority of Palestine Jews would welcome decision definitely adopting tripartite partition; all want immigration reestablished on economic absorptive capacity basis. Polish Consul General informs me confidentially Weizmann¹⁴ in long conversation last Monday expressed firm conviction both will be forthcoming "before the end of the year".

2. Highest British officials, Treasurer and Attorney General, discount rumors of British Cabinet dissension and see in projected course of action reaffirmation of partition policy which they approve in principle and believe practicable. General opinion in British local circles while differing widely as to practicability of partition continues to view it as only way out except in unlikely event Jews and Arabs agree on alternative solution.

Although public security has not been materially affected and authorities express confidence countermeasures will continue to confine Arab violence to isolated acts, I am disturbed by killing British archaeologist Starkey last Monday and informally advised Americans against travel during late afternoon and night.

WADSWORTH

¹⁴ Chaim Weizmann, President of the World Zionist Organization.

867N.01/1021

The Minister Resident in Iraq (Knabenshue) to the Secretary of State

No. 939

BAGHDAD, January 22, 1938.

[Received February 18.]

SIR: I have the honor to report that on January 14th the local press of Baghdad published a German Wireless news telegram to the effect that Nuri Pasha as-Said,¹⁵ then in Egypt, was about to proceed to London to negotiate with the British authorities a proposal for the amalgamation of Palestine and Trans-Jordan with Iraq.

In my telegram No. 3 of January 14, 1 p. m.,¹⁶ I communicated the opinion of the British Adviser to the Ministry of the Interior, Major C. J. Edmonds, one of the best politically informed persons in Iraq, that the reaction in Iraq to this proposal might be received favorably, but would, on maturer thought, become unfavorable. This same authority believed that the King and Prime Minister had been informed by Nuri of his intentions, but that in their anxiety to have him leave the country did not discourage him.

It has since been found that the news was received in Iraq with mingled feelings. Most editors appeared unwilling to commit themselves until after the Iraqi Government or prominent Iraqi personages should make public statements. The general tenor of the articles appearing in the press, however, lead one to believe that the proposed amalgamation would be generally acceptable were it not for the provision suggested in the original news item that under the scheme two million additional Jews would be permitted to enter Palestine. This feature of the proposal is definitely ruled out in all of the local articles on the subject.

It is common knowledge that the scheme was originally proposed by King Faisal¹⁷ during the latter years of the Great War, and probably in the early stages immediately after the War. I am informed by the British Adviser of the Ministry of the Interior that Nuri Pasha flirted with the idea just a few years ago, and that even more recently, last year, Hikmet Suleiman, the Iraqi Prime Minister, unearthed the scheme and asked him to suggest it to the British Ambassador as a solution of the present Palestine problem. Major Edmonds told me that when Hikmet Suleiman mentioned it to him he immediately expressed the opinion that the world would not look with much favor upon Iraq's assuming another minority problem, reminding him of world opinion in respect to Iraq's treatment of the Assyrians. Major Edmonds mentioned the matter to the British

¹⁵ Formerly Iraqi Minister for Foreign Affairs.

¹⁶ Not printed.

¹⁷ Emir Faisal ibn Hussein, first King of Iraq.

Ambassador who immediately turned it down without first having asked his Government's opinion.

Having waited a few days to observe local public opinion with regard to the proposal, I saw the Minister for Foreign Affairs¹⁸ on Wednesday, January 19th, in order to ascertain his reaction in the matter. The Minister was very frank and spoke to me at some length on the subject. He prefaced his remarks by saying that Nuri Pasha has denied having issued the proposal and that the Iraqi Government had no knowledge of it aside from what appeared in the press. In reply to my inquiry as to who, in his opinion, did send up the trial balloon, he, in this instance, appeared evasive. However, he said that the Iraqi Government was at the present moment formulating a scheme for the solution of the Palestine problem which they proposed to suggest to the British Government and to the League of Nations and which would be ready in time for consideration by the new British Royal Commission to be sent to Palestine in February. He outlined their proposed scheme something as follows:

Palestine to be divided into 21 cantonments [*cantons?*], 14 Arab and 7 Jewish; these cantonments to be formed into a federal state in the legislature of which would be representatives from each of the cantonments; that each cantonment would be permitted local autonomy in respect to its purely local affairs; that in the financial arrangements, the cantonments would be permitted to levy, collect and administer certain taxes, while the federal government would levy, collect and administer certain other taxes, including customs; that in respect to immigration, each cantonment would be permitted to fix its own quotas. In this latter connection, the Minister said that the Jewish cantonments would be permitted to allow Jewish immigration without limit; and that the Arab cantonments would be permitted to allow Jewish immigration or entirely restrict it. This, the Minister thought, would solve the problem, for obviously, the actual residents of the Jewish cantonments would themselves not wish to be flooded out by the immigration of an excessive number of new Jews.

The Minister for Foreign Affairs stated very emphatically that if the British Government or the League of Nations refused to accept their proposal or to otherwise solve the problem satisfactorily to the Arabs, the Iraqi Government would continually persist in lodging protests and in exerting its efforts to protect the interests of the Arabs in the matter.

In my conversations with Nuri Pasha before he left for Egypt, he likewise spoke freely to me on the subject of Palestine and made it

¹⁸ Toufik Suwaidi.

clear that he was also in favor of the cantonment proposals, and that he was definitely opposed to the partition scheme as also is the Minister for Foreign Affairs. Consequently, I can but conclude that Nuri's mission to London is, in fact, for the purpose of advocating the cantonment plan and not the amalgamation plan as alleged in the German Wireless news bulletin.

Respectfully yours,

P. KNABENSHUE

867N.01/1026

The Minister in Czechoslovakia (Carr) to the Secretary of State

No. 83

PRAGUE, February 7, 1938.

[Received February 23.]

Sir: Referring to the Department's instruction No. 17 of January 3, 1938, I have the honor to report that Dr. Benjamin Akzin of the New Zionist Organization called upon me this morning and reported that the First National Convention of the Organization which began in Prague on the 31st of January ended this morning at 6:00 o'clock. As the Department is doubtless aware the New Zionist Organization is composed of former revisionist Zionists who left the World Zionist Organization where they constituted the extreme right and were declared adversaries of Dr. Weissmann [*Weizmann*]. The object of the Organization, according to the declarations made at the Conference, is to solve the Jewish question by:

1. convoking an international conference;
2. establishing a ten-year plan of building of Palestine; and
3. reforming the Jewish agency.

The New Zionists believe that the Jewish problem will not be solved by establishing Jewish immigrants on divers territories in the world and that there is only one country that can become the real Jewish home and that is Palestine. Vladimir Jabotinsky, who founded the Jewish Legion which fought in Palestine during the World War, is reported to have said at the Convention that the plan for the partition of Palestine proposed by England was buried. He is said to have stated that in any case he was against the proposed creation of a small independent Jewish State, because it would be incapable of accommodating the mass of new Jewish immigrants. The only solution, in his opinion, is the creation of a Jewish majority in Palestine on the two sides of the Jordan between the Mediterranean and the desert; because it is only on such an extended scale that sufficient territory can be provided for the new Jewish immigrants and the Arabs who already live there. The first step toward the realization of this Jewish

State is said to be the application of a ten-year plan which envisages the installation in Palestine during that period of a million and a half Jews. In his conversation with me, Dr. Akzin confirmed the statements in regard to the purpose of the Organization and its intention to concentrate upon making Palestine the future outlet for Jews of other lands rather than to seek an outlet for them in newer countries such as Brazil and other states of South America. Indeed, Dr. Akzin said that the New Zionist Organization is of the opinion that the Jews should not again be encouraged to emigrate to new countries and aid in their economic and cultural development only to be driven out when the inevitable clash between the Jews and the other portions of the population of those countries occurs as has been the case in the countries of Europe. In his opinion, it would be better for the Jews to find a home in Palestine, the population of which is already 30% Jewish. Dr. Akzin stated that one of the problems which gave considerable difficulty was that of getting the British Government to look at the Jewish question in a proper light. He said that Great Britain had been considering the Jewish-Palestine question as a local Palestine question, whereas the New Zionist Organization considers it to be a general European problem on the ground that if the ideas of the Organization could be carried out and a million and a half of Jews emigrate from Europe to Palestine, it would not only provide a home for people who are now engaged in a serious struggle for existence but it would reduce the pressure in Central Europe and improve the situation there. He said that the British on the other hand are believed to be bent on maintaining the *status quo* in Palestine and more inclined to do so since the Hitler-Halifax conversations.¹⁹ He claimed to have learned on good authority that in his conversation with Lord Halifax, Hitler had found fault with England for temporizing too much with the Jews in Palestine, that Lord Halifax had repeated this conversation to Sir John Simon and Sir Samuel Hoare and their associates in England with the result that the British have since been inclined to take a course less favorable to the Jews. Parenthetically, Dr. Akzin remarked that the German attitude toward the Jews was incomprehensible, since Germany pursued a policy of persecuting Jews in Germany and also, through contributions of money, incited the Arabs to persecute them in Palestine to which country many of the German Jews had emigrated.

Dr. Akzin had little else to say about the work of the Conference. His very definite purpose in calling at the Legation seemed to be to express the hope that I would find occasion to discuss the subject with

¹⁹ For summary of conversations during November 1937, see telegram No. 751, December 3, 1937, 8 p. m., from the Chargé in the United Kingdom, and note from the British Embassy, *Foreign Relations*, 1937, vol. I, pp. 183 and 196.

my British colleague along the line of the aims of the New Zionist Organization. Naturally I gave him no encouragement to expect any such step on my part although making it clear that I was deeply interested in general in the improvement of the condition in which large groups of Jews find themselves.

I inquired Dr. Akzin's opinion of the situation in Rumania, and he said that he happened to be in Bucharest about the time of the protests of the British and French Ministers against the proposed treatment of the Jews by the Goga Government.²⁰ He added that the American Minister had been of more assistance to the Jews than is generally known. He said that Goga had modified his position very considerably from that which was first announced, although later he was informed that the Government had become more intensely anti-Semitic. He did find Goga, however, sympathetic with the plans of the New Zionist Organization to increase Jewish emigration to Palestine.

He stated that the treatment of the Jews in Poland was extremely bad but that their condition under a new Government would probably be worse than under the present one. Poland was represented as being genuinely interested in trying to find some solution of the Jewish problem through emigration and was giving sympathetic attention to the subject.

Dr. Akzin has a very high opinion of Czechoslovakia as the most democratic country in Europe and as pursuing a satisfactory attitude toward the Jews. He reported having a conversation with Foreign Minister Krofta in the course of which Dr. Krofta had told him that despite the present favorable situation in Czechoslovakia, there would in time probably develop the same difficulties here with the Jews as had developed in certain other countries. The young people upon completing their educational work would increasingly seek places in the professions or in industry and, failing to obtain employment and finding many such positions filled with Jews, they would very likely proceed upon the natural course of agitating the subject of Jewish competition and monopoly of the professions. This, according to Dr. Krofta, would bring about much the same antagonism as had developed in Germany and other European countries so that there was little encouragement that Czechoslovakia could offer in the way of being a field for Jewish immigration.

In regard to the Jewish situation in the United States, I was greatly interested in hearing Dr. Akzin say that he thought the point of saturation had been reached in the United States for Jewish immigration and that it was probable that the present Immigration Law with its restrictive quotas had prevented the outbreak of an anti-Jewish movement in the United States. He was inclined to think that there is a

²⁰ See pp. 672 ff.

latent antipathy to Jews in many parts of the United States and that it would not take a great deal of agitation to convert that into an active force.

Respectfully yours,

WILBUR J. CARR

867N.01/1086

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

No. 529

JERUSALEM, February 19, 1938.

[Received March 21.]

SIR: Political discussion in Palestine during the last fortnight, I have the honor to report, has centered around British Government intentions in the matter of Palestine settlement. That the *mot d'ordre* in London is postponement of any positive action is the general consensus of opinion. Some clarification in the European situation must first, it is held, render possible general settlement of the Mediterranean problem of which the Palestine question, like that of Spain, is but one of several component elements.

That, in sum, is the conclusion now reached by most well-informed local observers in the light of the discussion which has followed the publication six weeks ago of the British White Paper of January 4 (despatch No. 503 of January 8). Positive action to render effective the Royal Commission's recommendation of tripartite Partition, it is argued, would have been readily possible in the event of assent thereto by both Arabs and Jews. In the absence of such assent the Partition policy could be carried out only by the use of force, i. e., by imposing it. To such a course of action, every local British official assures me, His British Majesty's Government is not prepared to resort even if, as appears highly unlikely, the approval of Geneva could be obtained.

As a matter of fact Arab assent has not been forthcoming. On the contrary the Partition policy has met with increasing opposition by a preponderance of Arab opinion not only in Palestine but also in neighboring Arab countries. An imposed Partition would go far towards alienating the already undermined and wavering traditional friendship of the Arab World. Avoidance of any such development, especially during the current period of European tension, is an obvious dictum of Empire strategy.

Further, the Jewish camp is divided within itself. A considerable body of Zionist Jews under the outstanding leadership of Dr. Chaim Weizmann—notably a preponderant proportion of Palestine Jewry—has come to accept Partition as the less unpalatable of two generally recognized alternatives—a Jewish State in part of Palestine or mi-

nority status in an Arab State embracing the whole (minus, presumably, an area embracing the Holy Places under permanent mandate). At the same time, according to report in local Jewish circles, there is marked and growing opposition to this view in important circles of British and American Jewry.

As phrased by Dr. Maurice Hexter, able American non-Zionist member of the Jewish Agency Executive recently returned from a visit to the United States, Western Jewry envisages with no little foreboding the setting-up of a Jewish State in which the preponderant majority must necessarily bear the stamp of long-persecuted, less-culturally-developed Eastern European Jewry. One should not forget, he emphasizes, that part of the Balfour Declaration²¹ which provides that in facilitating establishment of a National Home for the Jewish people "nothing shall be done which may prejudice . . . the rights and political status enjoyed by Jews in any other country."

These various considerations are, of course, largely but a recapitulation of views reported in my earlier despatches as having been expressed by various competent observers in Palestine. My point is that they are today more generally accepted—and this in the face of the following-quoted statement reported by Reuter as having been made in Parliament on February 9, last, by the British Colonial Secretary, Mr. Ormsby-Gore:²²

The Government regards the policy of Partition as the best means in existing circumstances for implementing the promise regarding the establishment of the Jewish National Home in Palestine.

The continuation of acts of terrorism will not deter the Government from the further inquiries necessary to prepare a definite scheme.

In answering further questions the Colonial Secretary was reported to have added that no one more than he regretted the delay in the departure of the projected Technical Commission and to have replied with a curt "Certainly" to a query as to whether it is true that "the Government are anxious to get on as rapidly as possible with Partition."

These apparently categorical assurances are discounted in local discussion. The White Paper itself envisages that the Commission's investigations will "occupy many months", and the possibility of eventual adoption of some solution other than Partition is not debarred. That the Government wishes to have in hand at a reasonably early date a carefully-prepared detailed scheme of Partition is not

²¹ See *Foreign Relations, 1917*, supp. 2, vol. 1, p. 317, footnote 1.

²² United Kingdom, *Parliamentary Debates*, House of Commons, 5th ser., vol. 331, p. 1074.

questioned, but that the field of activity of the new High Commissioner who is to assume office next month is to be limited to preparing the ground for the putting into effect of such a scheme is termed absurd. The Chief Secretary in after-dinner conversation last week, in begging a question as to what plan of settlement was being advocated by Nuri Pasha as-Said (please see my current Press Review ²³), observed that politically the situation could perhaps best be described by parodying the negro spiritual "I've got wings, they've all got wings, etc.", by substituting "plans" for "wings".

A further point of considerable interest was made on another occasion last week by Dr. Hexter (see above) and the Honorable Edwin Samuel (son of Lord Samuel, former High Commissioner). Dr. Hexter, in reiterating his conviction that Mr. Ormsby-Gore stands almost alone in the British Cabinet in his staunch advocacy of Partition, recounted as an unquestionable fact that the famous Cabinet meeting of July 1, last, at which the British Statement of Policy adopting the Royal Commission's Report was approved, had lasted but one hour and 18 minutes and had had on its agenda, besides the Palestine problem, questions of major British policy with respect to the Far Eastern and Spanish questions.

It should be obvious, therefore, Dr. Hexter argued, that the Partition policy was railroaded through the Cabinet and that there existed serious ground for considering as true the subsequent reports of ensuing Cabinet dissension as to the propriety of that policy. Mr. Ormsby-Gore, he believed, had assured his colleagues that Partition could be made palatable to a majority of both Arabs and Jews. Subsequent developments had proven him wrong. Today, Dr. Hexter concluded, there could be no doubt that the Colonial Secretary's further tenure of office was dependent on his making good that assurance. With this final comment Mr. Samuel, who had but shortly before discussed the same question with his father in Egypt, was in full accord.

I have since noted in a BOWP report of February 15 that Mr. Ormsby-Gore has "indicated . . . that he proposed to retire from the House of Commons at the end of the present term of Parliament in 1940." The local Arabic daily *Falastin* of February 16 in welcoming this news suggested that the date of retirement would be advanced unless the exercise of Jewish influence should result in his retaining office. *Ad-Difa'a* of the same date commented: "It is not so much the imminent resignation of the Colonial Secretary as the withdrawal of the Partition policy which is important."

Respectfully yours,

GEORGE WADSWORTH

²³ Not printed.

867N.01/1034

*The Chargé in the United Kingdom (Johnson) to the
Secretary of State*

No. 3979

LONDON, March 1, 1938.

[Received March 8.]

SIR: I have the honor to refer to the Embassy's despatch No. 3752 of January 6, 1938,²⁴ enclosing copies of a White Paper containing the terms of reference of the technical commission which is to visit Palestine and study the question of partition.

Yesterday in the House of Commons the Colonial Secretary gave the names of three of the four members of commission, which, he said, would start work in England about the middle of March and would leave for Palestine about one month later. The questions and Mr. Ormsby-Gore's answers are transcribed below:

"Sir Percy Harris asked the Secretary of State for the Colonies whether he is now in a position to give the names of the new Palestine special commissioners; what are their terms of reference; and when they are likely to leave England?"

The Secretary of State for the Colonies (Mr. Ormsby-Gore): Yes, Sir. The personnel of the Palestine Commission will be as follows:

Sir John Woodhead, K. C. S. I., C. I. E. (Chairman)

Sir Alison Russell, K. C.

Mr. A. P. Waterfield, C. B.

The appointment of a fourth member is still under consideration.²⁵ The secretary will be Mr. S. E. V. Luke, of the Colonial Office.

Sir John Woodhead entered the Indian Civil Service in 1904; he was appointed Secretary of the Commerce Department of the Government of India in 1929, and was Finance Member of the Government of Bengal from 1932 to 1937. After service as Attorney-General in Cyprus, Sir Alison Russell was appointed Chief Justice of the Tanganyika Territory in 1924. He retired in 1929, and was subsequently appointed Legal Adviser to the Government of Malta, and he was Chairman of the Committee of Inquiry into the disturbances in the copper-belt of Northern Rhodesia. Mr. Waterfield is a Principal Assistant Secretary in His Majesty's Treasury, which he entered in 1911.

The terms of reference of the Commission were announced in the White Paper on Policy in Palestine (Cmd. 5634). The Commission will start work in England about the middle of March, and it is probable that they will leave for Palestine about a month later, in order to arrive in Palestine as soon as possible after the close of the Easter ceremonies in Jerusalem.

²⁴ Not printed.

²⁵ The fourth member appointed was Thomas Reid, formerly of the Ceylon Civil Service, and Chairman of the League of Nations Commission for the supervision of elections in the Sanjak of Alexandretta.

Sir P. Harris: Can the right hon. Gentleman say how long it is likely to take the Commission to carry out its task? Does he anticipate any particular period of time for their work?

Mr. Ormsby-Gore: Certainly not; it is entirely a matter for them. There is a lot of complicated and detailed work to be done." (Hansard, cols. 739-740.)²⁶

Respectfully yours,

HERSCHEL V. JOHNSON

867N.01/1055

The Minister Resident in Iraq (Knabenshue) to the Chief of the Division of Near Eastern Affairs (Murray)

BAGHDAD, March 3, 1938.

[Received April 19.]

DEAR WALLACE: In my letter of February 26th,²⁷ I gave you an inkling of the negotiations which have been taking place between Dr. Magnus²⁸ and the Mufti as related to me by Nuri Pasha when he came to see me recently. I mentioned that I had reported it fully in a despatch which would go off by next pouch. However, since then I have decided, for various reasons, not to report it in a formal official despatch, but to give it to you in this personal letter for the informal strictly confidential information of the Department, for it contains dynamite and should be carefully guarded.

Nuri left Baghdad on December 15, 1937, for Syria, Egypt and London. He returned to Baghdad on February 8th, 1938, and on February 22nd came to see us to pay a personal friendly visit. After a time, my wife tactfully withdrew. I soon found an opportunity of asking him about his alleged proposal for the unification of Palestine, Transjordan and Iraq. He thereupon related to me an account of his conversations with various parties engaged in efforts to bring about a settlement of the Arab-Jewish problem in Palestine.

With regard to his alleged proposal of the amalgamation of Iraq, Palestine and Transjordan, Nuri said that upon his arrival at Damascus he received a letter from Ibn Saud²⁹ saying that it had been reported to him that he (Nuri) had made such a proposal. It was evident from Ibn Saud's letter, Nuri said, that he was not at all pleased with such an arrangement. Nuri replied that he had never made such a concrete proposal; that he had merely talked about an ultimate confederation of independent Arab states in respect to close

²⁶ United Kingdom, *Parliamentary Debates*, House of Commons, 5th ser., vol. 332, pp. 739-740.

²⁷ Not printed.

²⁸ Judah Leon Magnes, president of the Hebrew University in Jerusalem.

²⁹ King of Saudi Arabia.

economic, social and cultural relations and not the establishment of a central federal government of Arab states. Nuri explained to me that he had entertained the idea of endeavoring to bring about such confederation beginning first with Iraq, Palestine and Transjordan before attacking the Jewish problem in Palestine, for he believed that thereby the Arabs could be made to feel that with a large area comprised of independent, sovereign Arab states in close relations with each other, with a preponderant Arab majority, they could with impunity and without fear absorb a larger number of Jews and thus satisfy in some measure Jewish ambitions in respect to immigration and perhaps also make other concessions to meet their more reasonable demands. This scheme was predicated upon the assumption that Palestine and Transjordan (or the two latter amalgamated as one) should be independent Arab states. His proposal in effect was to open up Palestine, Transjordan and Iraq to Jewish immigration under appropriate rules and regulations and limitations, and to accord such Jews certain liberal electoral, parliamentary and other political and economic rights.

However, Nuri said that he afterwards decided that the better method of approach would be first to bring about a settlement of the Arab-Jewish problem in Palestine, if possible, mutually satisfactory to the British, Jews and Arabs.

From Damascus Nuri went to Beirut. Upon his arrival there he learned from the Mufti that Dr. Magnus (President of the Hebrew University in Jerusalem) had recently been in Beirut in consultation with him, with a view to arriving at a solution of the Palestine problem mutually satisfactory to Jews and Arabs. A few days later, Dr. Magnus returned to Beirut when he learned that Nuri was there, and held conversations with Nuri and the Mufti. Dr. Magnus claimed that he represented the Jews and was authorized to enter into conversations with Arab leaders in an effort to bring about a mutually satisfactory settlement. He offered a plan based on nine primary considerations, which, in effect, constituted a Jewish acceptance of a minority position in an Arab state of Palestine.

Dr. Magnus explained that the British, American and German Jews were fearful of the consequences which they believed would arise out of any partition scheme such as proposed by the Royal Commission. What they desired primarily was the right to establish a spiritual and cultural home for the Jews in Palestine under suitable guarantees and the enjoyment of minority political rights in the government and administration of the country without a desire to dominate it politically.

The Mufti told Dr. Magnus that before the Supreme Moslem Council (most of whom are now in Syria and the Lebanon) could

enter into negotiations with him, it would be essential for him to present to them credentials showing that he was in fact authorized to represent the Jews. Dr. Magnus said that he would return at once to Jerusalem and secure the necessary credentials.

Nuri said that after a few days he received from Jerusalem a copy of an official communiqué issued by the Jewish Executive Committee which was to the effect that the Jews would not accept a minority position in an Arab state.

Nuri then went to London where he held conversations with a number of Jews interested in the Palestine problem, notably Dr. Weizmann, Norman Bentwich³⁰ and Hyamson,³¹ and with numerous British personalities also interested in the problem, particularly Ormsby-Gore. The Jews with whom Nuri talked confirmed what Dr. Magnus had said in respect to the attitudes of British, American and German Jews. Ormsby-Gore, however, told him that the British Government is committed to the partition scheme, unless the technical commission which is about to proceed to Palestine should report that it is not practicable of operation. Nuri discussed the situation fully and frankly with him, including his talks with Dr. Magnus.

Nuri said that he had told Ormsby-Gore that the time had come when the British Government should make an open and frank declaration of policy with regard to Palestine. First, that if they intend to establish partition by force, the only way it could be established, they should so declare it and proceed to enforce it, but I gather from what he said that he had warned him that if this policy were followed, it would create a new picture, as he expressed it, in the Near East, which would be bound to have repercussions throughout the various Arab territories and would undoubtedly result in more harmful consequences to the large number of Jews already established in those territories than could be counteracted by the good (if any) it would bring to the few Jews who could be settled in Palestine. On the other hand, he told Ormsby-Gore that if the British Government were to support the proposal of an Arab state with a Jewish minority protected under adequate guarantees, enjoying proportionate representation, etc., peace would be restored and maintained and the way would be opened to better and happier relations between Arabs and Jews and room made for a further expansion of Jews throughout the Arab territories. Ormsby-Gore replied that the Central and Eastern European Jews, who formed the majority of the Jewish diaspora, were opposed to this. Nuri's response was that in his opinion, the British Government should more properly be influenced by the wishes of the

³⁰ Formerly Attorney General for the Government of Palestine.

³¹ Albert Hyamson, formerly Director, Department of Immigration, for the Government of Palestine.

British, American and German Jews than by Central and Eastern European Jews.

Nuri said that Ormsby-Gore expressed realization of the impracticability of creating a Jewish state in which there would be an Arab majority. For instance, said he, if Haifa and Jerusalem were left out of the proposed Jewish state, the majority of the population left in the areas which the Royal Commission suggested, would, with the exception of a few centers like Tel Aviv, be composed of Arabs. Ormsby-Gore seemed to appreciate that in spite of the large number of Jews in Jerusalem, it would be impracticable to include that city in the Jewish state. As for Haifa, Ormsby-Gore made it plain to him that Great Britain's position in the Mediterranean made it essential that that port must become a British naval base outside the area of either a Jewish or Arab state or at least in accordance with the terms of a treaty of alliance.

I may insert here that the Mufti had told Nuri that, in the event of an Arab state being created with a Jewish minority, the Arabs would be quite willing to have the various holy places in Jerusalem, and elsewhere in the country, under the guardianship of a foreign commission.

On Nuri's return to Beirut, he received a telephone message from Dr. Magnus asking him to wait there for a few days until he (Magnus) could go to Beirut to see him. Upon his arrival, Dr. Magnus was accompanied by the Bishop in Jerusalem, The Right Rev. Graham Browne, and Dr. Izzat Tannous.³² These three held conversations with Nuri and the Mufti. Dr. Magnus offered some slight amendments to his original draft proposal, which Nuri believes will be acceptable to the Arabs. Nuri also made suggestions. Dr. Magnus said that he would return to Jerusalem and endeavor to persuade the Jewish Executive Committee to accept these proposals in principle and to appoint a committee to go to Syria to hold conversations with an Arab committee in some secluded spot. He told Nuri that "if you do not hear from me within two weeks, you will know that I have failed with the Jewish Executive Committee." This was on February 7th. Up to February 22nd, when Nuri came to see me, he had received no communication from Dr. Magnus. Nuri said that Magnus had told him that in the event of the Jewish Executive Committee's refusing to negotiate on these terms, a split would be brought about in the Jewish world as between the American, British and German Jews on the one hand and the Central and Eastern European Jews on the other.

Reverting to the question of partition, Nuri said that if such a scheme were attempted, the area given over to a Jewish state would of necessity have to be smaller than that visualized by the Royal Commission for otherwise the population would embrace an Arab majority,

³² Leading Christian member of the Mufti's party.

an obviously impossible situation if peace is to be an important consideration. Even an Arab minority in a Jewish state would, said Nuri, be unsatisfactory, for, he explained, the Arabs fear that, in such an arrangement, the Arabs would, in a relatively short space of time be forced or squeezed out through various kinds of persecutions on the part of the police and other Jewish government agencies. He said that whenever an Arab would be convicted in a Jewish court it would be claimed by the Arabs a consequence of false charges, and the action would be interpreted and given publicity by the Arabs as persecution. Nuri mentioned these things simply as examples of the discord which would arise and cause bad relations between Arabs and Jews in consequence of any partition scheme.

Reverting to the confederation proposal, Nuri said that the Arab states are already being brought closer and closer in cultural, social and economic relations as exemplified by the recent Arab medical congress held in Baghdad attended by Arab doctors from Syria, Lebanon, Palestine, Transjordan, Egypt and Saudi Arabia, and also by the numerous delegates from other Arab states who attended the recent memorial services for the late Yasin Pasha al-Hashimi.³³ More particularly, he pointed out that they have adopted a more or less common foreign policy. For instance, said he, Iraq has a treaty of alliance with Great Britain as has also Egypt. If a new Arab state is created in Palestine, there will also be a treaty of alliance with Great Britain. Iraq has a nonaggression pact with Saudi Arabia and with the Yemen. It is obvious, he said, that in view of these circumstances and in the event of a world war the Arab states will take common action and the treaties of alliance now with Great Britain would throw the Arabs on the side of the British. Syria will also have a treaty of alliance with France and thus with the French and British as allies, Syria would follow on parallel lines with the other Arab states.

Another point mentioned by Nuri was that he hoped the British, American and German Jews would be able to prevail upon the others and thus permit negotiations to be commenced with the Arabs as soon as possible, in the hope that a solution of the problem, mutually satisfactory, might be reached before the new British Commission to Palestine could present its conclusions in the matter. He explained that this would create a much better atmosphere and put Arab-Jewish relations on a much more friendly and sounder basis than if such an arrangement would come in consequence of a report of the Commission. Obviously, he said, it would be easier to implement a solution which had been mutually agreed upon between the two parties than a solution which had been forced upon them.

³³ Former Prime Minister of Iraq, overthrown by the *coup d'état* in 1936.

On March 2nd, I received a strictly confidential letter from Wadsworth, enclosing a letter from Dr. Magnus for me to deliver to Nuri in my discretion. I gave the matter considerable thought and decided that I would give Nuri the letter. I telephoned to him and he came to see me that evening. It is entirely possible that Wadsworth took copies of Dr. Magnus' letter and its enclosures and sent them to you, but on the off chance that he has not done so, I am enclosing them herewith. You will note that Dr. Magnus complains to Nuri that word had come from London that Nuri had reported that he, Dr. Magnus, favored a permanent minority status for Jews in Palestine, while Magnus insists that he had only favored a provisional minority status based upon a term of years. Nuri pointed out to me that in the original Hyamson-Newcombe³⁴ draft it was provided that the maximum Jewish population should not exceed an agreed figure which would be less than 50% of the total population, while the Hyamson-Newcombe draft as amended by the Mufti in Beirut insisted upon the Jewish population remaining at the present ratio. On the other hand, in the third draft "as amended by a prominent non-Palestine Arab" (who was, in fact, Nuri) provided for a maximum Jewish population of "X%". Nuri said that this was understood to be a percentage afterwards to be arrived at, but less than 50%. He said the Jews would demand not less than 40% and the Arabs would offer 30% and it would probably end in a compromise figure of 35%.

Nuri was at a loss to know how the report came from London to Magnus, and he said that he had only discussed the matter in Baghdad with the Prime Minister, the Minister for Foreign Affairs, the British Chargé d'Affaires, myself, and, on that same day (March 2nd) with the King. It is obvious that during his conversations when in London he undoubtedly gave the impression of which Magnus complains, and it was in consequence of his discussions there that the word got back to Magnus in Jerusalem.

It seems to me that Magnus is hedging, because he fears to have the Jewish opposition believe that he is in favor of a permanent Jewish minority status. My own impression is that he negotiated along these lines with Nuri and the Mufti, but probably with a mental reservation that ultimately there might be a Jewish majority. Nuri said that the Arabs certainly would not agree, at this time, to any clause which might indicate a future Jewish majority. He said that if they could arrive at an agreement on the basis of 35% now, it is possible that after a term of ten years or more, if relations between the Jews and Arabs become cordial, the Jewish proportion might then be increased somewhat, but certainly never beyond 50%. But he also said if they come to an amicable settlement now, it would open the way

³⁴ Col. S. S. Newcombe, Treasurer of the Arab Information Bureau in London.

for the Jews to bring in a larger number of immigrants in the Near East, spread over Transjordan and Iraq and possibly even Syria and Saudi Arabia, especially if a closer confederation of these states should materialize.

I have offered to send Nuri's reply to Wadsworth for delivery to Magnus. I have agreed to do this because otherwise I would not be able to see it. I will send it by sealed pouch by airmail.

The propriety of my acting as intermediary in the transmission of these letters is probably questionable, but after considering the matter carefully, I decided that it was justifiable. In the first place, Nuri is undoubtedly the most important personality in Iraq, and I suspect that he will be the next Prime Minister or at least Foreign Minister. (Perhaps both.)³⁵ Secondly, I am merely acting as a friendly intermediary in negotiations which have peace as their object, in a very vexed international problem. And thirdly, in so doing, we are able to be accurately informed of what is actually taking place.

I am expecting Nuri to bring his reply to me either today or tomorrow, and I will therefore leave this letter open until the last moment before the pouch closes the day after tomorrow.

It is my intention to send only one copy of this letter to you and one copy to Wadsworth and retain one copy for my strictly confidential file.

SUNDAY, March 6, 1938.

Nuri has not yet come to me with his reply to Dr. Magnus. The past week has been a rather hectic one in political circles, about which I am writing you separately, and I assume that Nuri has been too busy to attend to the other matter. As the pouch goes out within a few hours, I will therefore have to send this letter without a copy of Nuri's reply.

Sincerely yours,

PAUL KNABENSHUE

[Enclosure]

Copy of Letter From the President of the Hebrew University at Jerusalem (Magnes) to Nuri Pasha as-Said of Baghdad

[JERUSALEM, February 23, 1938.]

DEAR NOURI PASHA: It is said here that you sent a statement to the Foreign Office in London about our conversation in Beyrouth on February 6th, 1938, together with Dr. Graham-Browne and Dr. Izzat Tannous.

Your statement is said to have declared that:

(a) I favour a settlement of the Palestine difficulties upon the basis of a permanent minority status for the Jews here, and

³⁵ Gen. Nuri es-Said became Prime Minister and Minister for Foreign Affairs in the Iraqi Cabinet on December 26, 1938.

(b) I would try to isolate the Zionists from such Jews in America, England and other places, as also favoured such a permanent minority status.

I am sure that you could have sent in no such statement.

In our long and interesting talk, the chief topic of argument was that very question of permanent or provisional minority status.

I tried to make it very clear that the only practical solution that I saw was one based upon a term of years.

I proposed 10 years.

This is more than many Jews want, and is less than many Arabs want.

I also proposed that at the end of 10 years the Jewish population be no more than 40 per cent. of the total population.

I am enclosing a table giving figures on that basis which, I hope, will be of interest to you.

You were good enough to make what seemed to me valuable suggestions for the proposed basis of discussion.

I am enclosing a statement of the three formulations thus far made of this proposed basis of discussion.

Although in our argument you thought that a permanent solution was required, you nevertheless proposed a formula for paragraph 6 that envisaged a first period of agreement, and then a second, between the two peoples.

I do not think this formula good enough yet, but I think it decidedly a step in the right direction.

What we need is an armistice of long duration that may, with hard work and good will, lead to peace.

As to the Jews of America, etc., I stated that, if a proposal for an armistice based upon ten years and 40 per cent. could be made, there was a fighting chance of overcoming Jewish opposition through the aid of such American, English, Palestinian and other Jews as were opposed to Partition.

I expressed the opinion also that such a proposal would carry among the Arabs as well.

I am writing to you in order that my attitude may be made perfectly clear.

Could you perhaps throw some light on how such a statement as above was attributed to you?

Thanking you and in hope of being able to collaborate with you, in bringing about the armistice we all so deeply desire, I am,

Sincerely yours,

J. L. MAGNES

Address me c/o Hebrew University, Jerusalem, and mark the envelope "Personal".

[Subenclosure 1]

Proposed Arab-Jewish Population Figures for Ten-Year Period

The Arab population in 1948 will be about 1,240,000 (see graph on page 281 of Royal Commission Report).

If the Jewish population is then 40% of the total population, it will be 2/3rds (i. e. $\frac{40}{60}$) of the Arab population, or about 825,000.

That requires an average annual immigration from 1938 of about 29,000 a year. At that rate of immigration and with the existing rates of natural increase of Jews and Arabs, the populations will be as follows approximately after 1940:—

| <i>Year</i> | <i>Total Arabs</i> | <i>Total Jews</i> | <i>Total Population</i> |
|----------------|--------------------|-------------------|-------------------------|
| 1940 | 1, 040, 000 | 480, 000 | 1, 520, 000 |
| 1941 | 1, 065, 000 | 520, 000 | 1, 585, 000 |
| 1942 | 1, 090, 000 | 560, 000 | 1, 650, 000 |
| 1943 | 1, 115, 000 | 600, 000 | 1, 715, 000 |
| 1944 | 1, 140, 000 | 650, 000 | 1, 790, 000 |
| 1945 | 1, 165, 000 | 690, 000 | 1, 855, 000 |
| 1946 | 1, 190, 000 | 735, 000 | 1, 925, 000 |
| 1947 | 1, 215, 000 | 780, 000 | 1, 995, 000 |
| 1948 | 1, 240, 000 | 825, 000 | 2, 065, 000 |

[Subenclosure 2]

Suggested Basis for Discussion Between Jewish and Arab Representatives

I. THE ORIGINAL HYAMSON-NEWCOMBE DRAFT

1. A sovereign independent Palestinian State to be created on 1st January provided that the League of Nations certifies that the population of Palestine is then fit for self-Government.

2. Every Palestinian independent of race, religion and nationality shall have equal and complete political and civil rights.

3. In the meanwhile Gt. Britain shall continue to be responsible for the Government of the Country, the Palestine Government giving members of the population, Arabs and Jews, an ever-increasing share in the administration.

4. Complete autonomy shall be granted to all communities in communal matters in the widest sense as soon as possible, provided that no community has jurisdiction over members of another community in those matters. A Jewish National Home but not a Jewish State would thereby be provided.

5. Complete municipal autonomy should be granted as soon as possible to all-Jewish and all-Arab towns, villages and districts.

6. The maximum Jewish population of Palestine and later of Transjordan shall not exceed an agreed figure which shall be less than 50% of the total population.

7. The interests of the different communities of Palestine after the creation of the independent State shall be watched over by the British Government.

8. Great Britain shall retain special rights at Haifa.

9. This agreement shall hold for a term of years from and shall be renewable.

OCTOBER 9, 1937.

II. HYAMSON-NEWCOMBE DRAFT AS AMENDED BY BEYROUTH

1. A sovereign independent Palestinian State to be created on 1st January

2. Every Palestinian independent of race and religion shall have equal and complete political and civil rights.

3. In the meanwhile Gt. Britain shall continue to be responsible for the Government of the Country, the Palestine Government giving members of the population, Arabs and Jews, an ever-increasing share in the administration.

4. Complete autonomy shall be granted to all communities in communal matters in the widest sense as soon as possible, provided that no community has jurisdiction over members of another community in those matters.

5. Complete municipal autonomy should be granted as soon as possible to all-Jewish and all-Arab towns and villages.

6. The maximum Jewish population of Palestine should be the present population. All Jews in Palestine on 1st shall be entitled to apply for and receive Palestinian citizenship. During the interim period envisaged, the Arab leaders have not been authorized by Congress or by the Arab Kings to agree either to further Jewish immigration or to further land sales.

7. The interests of the different communities of Palestine after the creation of the independent State shall be guaranteed by the British Government.

8. The legitimate interests of Gt. Britain shall be safeguarded.

JANUARY 12, 1938.

III. HYAMSON-NEWCOMBE DRAFT AS AMENDED BY PROMINENT NON-PALESTINE ARAB

1. A sovereign independent Palestinian State to be created on 1st January in accordance with the procedure adopted by the League for other Mandated Territories such as Iraq and Syria.

2. Every Palestinian independent of race, religion and nationality shall have equal and complete political and civil rights.

3. In the meanwhile Gt. Britain shall continue to be responsible for the Government of the Country, the Pal. Government giving members of the population, Arab and Jews, an ever-increasing share in the administration.

4. Complete autonomy shall be granted to all communities in communal matters in the widest sense as soon as possible, provided that no community has jurisdiction over members of another community in those matters.

5. Complete municipal autonomy should be granted as soon as possible to all-Jewish and all-Arab towns, villages and districts.

6. The maximum Jewish population of Palestine shall be X% until there be a further agreement between the two peoples.

7. The interests of the different communities of Palestine after the creation of the independent State shall be watched over and guaranteed by the British Government.

8. The legitimate interests of Gt. Britain shall be safeguarded.

FEBRUARY 6, 1938.

867N.01/1078

The Minister Resident in Iraq (Knabenshue) to the Chief of the Division of Near Eastern Affairs (Murray)

BAGHDAD, March 17, 1938.

DEAR WALLACE: Nuri Pasha has not yet brought me his reply to Dr. Magnus. However, I saw him a few days ago when he apologized for not having as yet brought me the letter. He said that he was discussing it with the Prime Minister and when they had formulated the reply, he would bring it to me. The interesting point of this is that Nuri is not acting entirely upon his own, and that whatever statements he may make in the letter, and I gather that whatever proposals he has made or will make are in accord with the views of the Iraqi Government. This, of course, attaches far more importance to Nuri's negotiations than would have been the case if he were acting entirely independently, as many people erroneously believe is the case.

Sincerely yours,

PAUL KNABENSHUE

867N.55/118

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

No. 556

JERUSALEM, March 19, 1938.

[Received April 15.]

SIR: I have the honor to enclose an extraordinary number of the *Palestine Gazette* dated March 15, 1938, issued to give legal effect to

regulations drawn up by the Colonial Office³⁶ governing immigration into Palestine for the period April 1 to September 30, 1938. It is anticipated that, under the new regime, the monthly average of 1,000 in force since last August, will be slightly increased.

The Department is referred to my despatches 344 and 353, November 10 and 17, 1937,³⁷ reporting the adoption of a "political high level" policy for immigration into Palestine in place of the traditional principle of economic absorptive capacity. It was emphasized in those despatches that the political high level policy, under which 8,000 immigrants of all categories were to be admitted to Palestine for the eight month period ending March 31, 1938, was considered a temporary expedient and did not contemplate the abandonment of the economic absorptive capacity principle. The new policy, it was observed, was based on a recommendation of the Palestine Royal Commission that immigration into Palestine should be restricted during the next five years to a total of 12,000 a year.

The new regulations contain three points meriting special consideration. First, the power granted the High Commissioner under Section 5 (a) of the old regulations to prescribe the maximum number of immigrants to be admitted up to March 31, 1938, has been extended to March 31, 1939. Thus, the policy of political high level continues in force for another year, although the numerical restrictions given in the new regulations cover only the first six months of that period. Second, it is restated that the replacement of the policy of economic absorptive capacity by that of political high level is a temporary measure. Third, the numerical restrictions on immigration have been made slightly more liberal.

The new regulations are a partial concession to Jewish opinion, which has bitterly denounced the political high level policy and demanded liberalization of the regulations, particularly with regard to the admission of capitalists and near dependents of legally admitted residents. The intention of the Government in putting these new regulations into force, as stated in Paragraph 9, was to diminish the element of arbitrariness involved in the existing ones, at the same time avoiding any considerable change in the total rate of immigration. Only the following persons will be admitted into Palestine for the entire six month period from April 1 to September 30, 1938:

a) *Persons of independent means.* The number to be admitted under this category is fixed at 2,000, to include 10 pensioners and 20 agricultural settlers with capital of LP 500.

³⁶ In the form of an instruction to the High Commissioner for Palestine from the Secretary of State for Colonies, March 10, 1938. For text, see *United Kingdom, Parliamentary Debates*, House of Commons, 5th ser., vol. 333, p. 40.

³⁷ *Foreign Relations*, 1937, vol. II, pp. 914 and 918.

b) *Students*. No numerical restriction is put on the number of students whose maintenance is assured until they can become self supporting.

c) *Labor Immigrants*. A quota of 1,000 is approved for laborers, to be used in the discretion of the High Commissioner if he decides that the economic condition of the country warrants the admission of workers.

d) *Dependents*. Near dependents (wives and children only) of legally admitted aliens residing in Palestine and of new immigrants will be admitted without numerical restriction subject to proper inquiry and investigation. In addition, 200 parents will be admitted in special cases.

Confidential Section: The following information up to the paragraph *Jewish Press Reaction* was furnished by the Honorable Edwin H. Samuel, Deputy Commissioner for Migration, with the understanding that it be kept strictly confidential, since his Department does not wish to make public its estimate of the number of immigrants who are likely to be admitted under the new regulations. In reply to a question as to whether immigration would not be considerably increased since unrestricted entry is permitted in certain categories, he replied that there would be no appreciable increase. He was good enough to give his estimates under the various categories for the six month period as follows:

a) *Persons of independent means*. Based on the present volume of applications he estimated that only about 1,200 capitalists will enter the country, since many persons of this class who would like to enter Palestine are unable to get their money out of European countries. The dependents of these persons will number about 1,600. This number, slightly more than one per capitalistic immigrant, is based on statistics covering actual entries in recent years.

b) *Students*. Mr. Samuel estimates that about 1,500 students will be admitted. When asked whether unscrupulous persons could not enter fraudulently as students, he replied that that was hardly possible, since his Department gives consideration to the *bona fides* of the schools and their ability to take care of a given number of students rather than to the merits of the individual student.

c) *Labor Immigrants*. This is the only category for which Mr. Samuel was unable to make any estimate. He explained that, in view of existing unemployment, it is hardly likely that ordinary laborers will be admitted. However, quite a large number of cases are pending and will be approved for the admission of technicians, skilled workers, specialists, and perhaps skilled agriculturalists. He appeared to be certain that the entire six months' quota will not be used.

d) *Dependents*. He believes that only approximately 600 dependents of residents of Palestine will be admitted. This small number is explained by the fact that immigrants into Palestine nearly always bring their wives and children with them, most of them being Jews escaping persecution in Europe.

The maximum number which in all probability will be admitted during the six month period is fixed by the Deputy Commissioner at 7,300, an increase of 22 per cent. over the 1,000 a month now being admitted. In reaching this figure, Mr. Samuel has used the estimates given above for capitalists, students, and dependents and the total quota for laborers. The estimate of the number of laborers and their dependents is admittedly too high but it serves to compensate for other categories which may be fixed too low. Stated more briefly in tabulated form his estimates are as follows:

| | |
|---|--------|
| a) Capitalists | 1, 200 |
| Dependents of capitalists | 1, 600 |
| Pensioners and agriculturalists and their dependents | 50 |
| b) Students | 1, 500 |
| c) Labor immigrants | 1, 000 |
| Dependents of laborers | 1, 150 |
| d) Dependents of residents | 600 |
| Dependent parents | 200 |
| | 7, 300 |

[Final paragraphs dealing with Jewish and Arab press reactions not printed.]

Respectfully yours,

GEORGE WADSWORTH

867N.01/1079

The Minister Resident in Iraq (Knabenshue) to the Chief of the Division of Near Eastern Affairs (Murray)

BAGHDAD, March 31, 1938.

DEAR WALLACE: Nuri Pasha left Baghdad suddenly last week for Syria, and I assume that he will himself carry his reply to Dr. Magnus. Consequently, I fear that we may never see it. However, in itself, it can't be of any particular importance, for the reply asked for was intended primarily to clear up whether he had or had not misquoted Dr. Magnus in London. As you will recall, Magnus was accused by the opposition Jews of having agreed to a permanent minority status, while Magnus maintains that he only agreed to a minority status during an "armistice" of ten years.

The Anglican Bishop in Jerusalem, the Right Reverend Graham Browne, is in Baghdad and he dined with us on Monday night. I had a long talk with him about the Palestine situation, but nothing particularly new was brought out. He feels strongly that there is a basis for agreement between the Arabs and Jews and that the chief stumbling block is more with the Jews than the Arabs. He repeated what I already knew that the difficulty lies chiefly with the Central

and Eastern European Jews, who are stubbornly holding out against any partition scheme and against acceptance of a minority position even for a limited time. They are definitely holding out to make Palestine eventually a sovereign Jewish state. On the other hand, the better educated and the more important British and American Jews in Palestine seem more reconciled to the acceptance of a minority status. The Bishop feels that, inasmuch as American Jewry is really financing the whole project, the matter could be brought to a successful conclusion if a few of the most prominent Jews in America would subscribe publicly to a definite policy of cooperation with the Arabs, including the acceptance of a minority status.

Another conversation of interest which I had in connection with Palestine was with my Egyptian colleague a few days ago. He gave it as his opinion that the Arabs of Palestine have become so determined that, with the moral support of the other Arab countries, it is inevitable that Palestine will become an Arab state with the Jews enjoying a minority status under adequate protection. He stated further that his Government, holding the same view, has strongly pressed the British Government to hasten a solution of the problem to this end, pointing out that in the event of a world war it would be extremely disadvantageous to Egypt, an ally of Great Britain, to have the Arabs in neighboring countries entertaining a strong antagonistic feeling against the British. This antagonistic feeling already exists and will grow stronger as the settlement of the Palestine problem is prolonged.

Sincerely yours,

PAUL KNABENSHUE

867N.55/125

*The Consul General at Jerusalem (Wadsworth) to the Secretary
of State*

[Extract]

No. 577

JERUSALEM, April 16, 1938.

[Received May 14.]

Subject: Effect of Jewish Immigration on the Population of Palestine.

SIR: I have the honor to refer to the Department's "informal comment" of March 10, 1938,³⁸ on my despatch No. 503 of January 8, 1938, discussing local reaction to the British White Paper on Palestine of January 4, 1938. Inquiry is made as to whether the consequent delay in proceeding to settlement of the Palestine problem tends to favor the Jews or the Arabs as regards population and, specifically, whether, at the present rate of immigration, the proportion of Jews and Arabs in the total population is changing to any appreciable extent.

³⁸ Not found in Department files.

Delay, it is believed, definitely favors the Arabs in the matter of population, since postponement of decision is almost certain to be accompanied by some arbitrary restriction of immigration. As reported in despatch No. 353 of November 17, 1937,^{38a} Jewish immigration was arbitrarily reduced to an average of 1,000 a month for the eight months' period ended March 31, 1938; and, as reported in despatch No. 556 of March 19, 1938, this restrictive policy was continued, although in slightly more liberal form, for an additional period of six months. By the term "favorable to the Arabs" is meant favorable as compared with the immigration of previous years under the principle of absorptive capacity. The very cornerstone of Arab demands, it cannot be too often emphasized, is complete cessation of Jewish immigration.

The Consulate General's further study of available statistical information on which to base a reply to the Department's inquiry as to the future percentages of Arabs and Jews in the population of Palestine at the present rate of immigration has revealed some interesting facts. First, let it be said that it is impossible to arrive at an exact or completely reliable figure of the number of Jewish immigrants who must enter Palestine annually to maintain the present percentage of Jews to Arabs, because the vital statistics of Palestine are admittedly not wholly to be relied upon and because of complications of computation arising from the unknown factors of emigration and possible changes in the natural increase in population. The most authentic estimates thus far published were those set forth in the Annual Report for 1936 of the Palestine Department of Migration—please see the Consulate General's voluntary report of May 5, 1937, entitled "History of Post-War Jewish Immigration into Palestine."³⁹ The following table quoted from page 10 of that report effectively summarized these estimates:

| <i>Assumed annual rate of Jewish immigration.</i> | <i>Year in which Jewish population will equal the Arab population.</i> | <i>Size each of Arab and Jewish populations at the time when both are equal.</i> |
|---|--|--|
| 10, 000 | Never | — |
| 20, 000 | Very remote | — |
| 30, 000 | Mid-1960 | 1, 560, 000 |
| 40, 000 | Early 1954 | 1, 390, 000 |
| 50, 000 | Early 1950 | 1, 280, 000 |
| 60, 000 | Mid-1947 | 1, 210, 000 |

Respectfully yours,

G. WADSWORTH

^{38a} *Foreign Relations*, 1937, vol. II, p. 918.

³⁹ Not printed.

867N.55/128

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

No. 602

JERUSALEM, May 12, 1938.

[Received June 10.]

SIR: I have the honor to refer to my despatch No. 556 of March 19, 1938, on the new regulations governing the entry of foreigners into Palestine for the period April 1 to September 30, 1938, particularly to the estimates given on page 4 as to the number of immigrants who would probably be admitted under those regulations.

An immigration ordinance was published in *Palestine Gazette* No. 779 of May 5, 1938, setting forth the number of aliens to be admitted as immigrants in the restricted categories for the period April 1 to September 30, 1938. Students and near dependents (wives and children) of immigrants and legally admitted aliens will continue to be admitted without numerical restriction.

That the maximum numbers which may be admitted in the various categories are only slightly more liberal than those established by the regulations of March 15, 1938, will be seen from the following comparative tabulation.

| <i>Category</i> | <i>Maximum which may be admitted under new regulations.</i> | <i>Under regulations of March 15, 1938.</i> |
|--|---|---|
| A (1) Capitalists with LP 1000 | 2020 | 2000 |
| A (4) Pensioners with LP 4 monthly | 20 | *10 |
| A (5) Agriculturists with LP 500 | 20 | *20 |
| B (1) Orphans under 16 years | 10 | — |
| B (2) Persons of religious professions | 200 | — |
| C Laborers. | 1150 | 1000 |
| D Dependents other than wives and children | 250 | 200 |
| Totals | 3670 | 3200 |

*Specifically included in the 2000 maximum of category A (1). [Footnote in the original.]

This increase of 470 in the maximum number which may be admitted effects little change in the general picture and I see no reason to change the estimate given in my despatch of March 19, that approximately 7,300 immigrants will enter the country during the current six month period. It may be that the need to give refuge to Jews from Germany will cause the Palestine authorities to give more sympathetic consideration to individual applications. However, even if the restricted categories be filled, which, as stated in my previous

despatch, is considered as unlikely by a high official of the Department of Migration, it is thought that not more than 9,770 persons could be admitted under the existing regulations during the six month period. This figure is reached as follows:

| | |
|---|------|
| Total of restricted categories | 3670 |
| Dependents of immigrants† | 4000 |
| Dependents of residents of Palestine† | 600 |
| Students† | 1500 |
| | 9770 |
| Total | 9770 |

†The number of dependents generally brought to Palestine by immigrants is calculated by the Department of Migration to be slightly more than one per immigrant. [Footnote in the original.]

‡These two classes were estimated by the Honorable Edwin Samuel, Deputy Commissioner for Migration. [Footnote in the original.]

Respectfully yours,

G. WADSWORTH

867N.01/1079

The Chief of the Division of Near Eastern Affairs (Murray) to the Minister Resident in Iraq (Knabenshue)

WASHINGTON, May 13, 1938.

DEAR PAUL: Acknowledgment is made of your letters of March 17 and March 31, 1938, concerning the Nuri-Magnus negotiations which you had previously reported at such informative length.

While we have heard nothing officially as yet of the continued activities of Nuri he would appear clearly indicated as the inspirer of the proposal voiced by the Emir of Trans-Jordan and reported in the *New York Times* of May 8, 1938. A copy of the report⁴¹ in question is enclosed as of possible interest to you.

It is expected, of course, that we shall be kept informed of the progress of any negotiations Nuri Pasha may have in Syria or Palestine by one or the other of our Consulates General there. Any information, however, which you may obtain on the subject in Baghdad will be welcomed as always.

Sincerely yours,

WALLACE MURRAY

867N.01/1079

The Chief of the Division of Near Eastern Affairs (Murray) to the Consul General at Jerusalem (Wadsworth)

WASHINGTON, May 13, 1938.

DEAR GEORGE: I am enclosing a copy of a letter, with enclosure, which has been addressed to Paul Knabenshue⁴² concerning the ac-

⁴¹ Not reprinted.

⁴² *Supra.*

tivities of Nuri Pasha looking to the effecting of a compromise settlement between the Jews and Arabs of the Palestine question.

I need hardly repeat that we shall be most interested in your pursuit of this subject.

Sincerely yours,

WALLACE MURRAY

867N.01/1113

The Consul General at Jerusalem (Wadsworth) to the Chief of the Division of Near Eastern Affairs (Murray)

JERUSALEM, June 9, 1938.

DEAR WALLACE: Further to the mention made in my letter of May 31⁴³ to the so-called Magnes-Nuri conversation of February 6, last, I am now able to report fully to you personally the substance of a two hours' conversation I had this morning with Dr. Magnes. He spoke freely but in strict confidence.

The genesis of the matter is to be found in the discussions and final resolution of the Jewish Agency Council meeting held in Switzerland last August following the World Zionist Congress. At this meeting, you will recall, the non-Zionist members, notably the so-called Warburg group, insisted that an effort be made to bring Jews and Arabs together on a solution other than Partition (please see my despatches Nos. 286 and 297 of August 20 and September 3, last⁴⁴). The final resolution, while empowering the Executive to ascertain the precise terms for the establishment of a Jewish State, approved the convening of a conference to explore the possibilities of settlement "in an undivided Palestine".

There followed informal Jewish (non-Zionist) efforts, both here and in the United States and in London, to explore the field opened by this resolution. The most successful were those made in London by Mr. Albert Hyamson, formerly Palestine Commissioner for Migration. Speaking for the group of English non-Zionists headed by Lords Samuel and Bearsted, he discussed the problem at length with Colonel S. S. Newcombe, Treasurer of the Arab Information Bureau in London and British representative of the then still-recognized Arab Higher Committee.

The result was the so-called Hyamson-Newcombe draft of a "suggested basis for discussion between Jewish and Arab representatives" dated October 9, 1937. Its text is the first of the three drafts annexed to Dr. Magnes's letter of February 23, 1938, to Nuri Pasha (sent you as an enclosure to Knabenshue's letter of March 3).

⁴³ Not printed.

⁴⁴ Neither printed; despatch No. 286 is missing from Department files.

This draft was sent from London to Dr. Magnes here. He discussed it at length with the Jewish Agency Executive which, while objecting to certain of its terms, eventually, on December 6, formally authorized him in writing to discuss it with Arab leaders.

On December 15 Dr. Magnes consulted with Bishop Graham-Browne and Dr. Izzat Tannous (leading Christian member of the Mufti's party), with both of whom earlier conversations had been had, as to the most efficacious method of approaching the Mufti who had meanwhile established himself in Lebanon. It was decided that the Bishop should lay the matter before the Palestine Government. This he did, and the latter, by implication at least, gave the endeavor its blessing by authorizing Dr. Tannous to act as a go-between in arranging that the proposed discussions be held with the Arab (Mufti group) leaders in Beirut.

On December 22, Dr. Tannous having made the necessary arrangements, the Bishop went with him to Beirut. Nothing, however, came of this visit, for on the same day the Palestine press carried the Jewish Agency public denial of Arab-Jewish parleys and statement that the Arab assumption that the Jews would accept permanent minority status "*ab initio* voids the possibility of negotiations" (please see my Press Review of January 10, 1938⁴⁵). The Mufti, according to Dr. Magnes, "waved these reports in the Bishop's face" and was "vigorously forthright" in declining to discuss the proposal until assured anew as to the Agency's *bona fides*.

This Dr. Tannous was able to do and a meeting was finally set for January 12. It had first been arranged for January 4 but was postponed because of announcement that the British White Paper would be published on that date.

Here I should interpolate that Dr. Magnes assured me he at no time has personally seen or discussed the compromise proposals with the Mufti or with any of the fugitive members of the Arab Higher Committee. The Bishop was his willing intermediary.

Thus, on January 12 the Hyamson-Newcombe draft was for the first time seriously discussed with the Mufti by the Bishop and Dr. Tannous. The result was the Beirut counter-draft of that date, i. e., the second draft enclosed with Knabenshue's above-mentioned letter to you.

This Arab draft, as you will have noted, differs fundamentally from the London draft in that, by omitting Art. 9, it provides for a definite rather than a temporary and renewable agreement. Specifically:

Art. 1 omits reference to the League.

Art. 2 by omitting "nationality" permits only those Jews who possess or acquire Palestinian citizenship to enjoy "complete political and civil rights."

⁴⁵ Not printed.

Art. 3 is unchanged.

Art. 4 omits reference to the Jewish National Home.

Art. 5 omits "districts".

Art. 6 fixes the Jewish population at "the present population", omits reference to Trans-Jordan, and brings in new references to the Arab Kings and to further land sales to Jews.

Art. 7 changes "watched over" to "guaranteed".

Art. 8 apparently declines specifically to recognize "special British rights at Haifa."

For your ready reference I enclose copies of the three drafts (covered by Dr. Magnes's letter of February 23 to Nuri Pasha) although you have already received them from Knabenshue. I am afraid you will have to lay these three drafts out before you to appreciate the significance of my brief comments.

Dr. Magnes communicated this Arab counter-draft immediately to the Jewish Agency Executive which, he says, "turned it down flat". And under date of January 25 it wrote him a letter "calling off the entire scheme" and adding a "scathing criticism" of his efforts as a negotiator. Particular exception was taken to the redraft of Art. 6, and he was taken to task for having apparently given the Mufti to believe that the Jews would accept permanent minority status.

In the circumstances Dr. Magnes undertook to submit in writing a full report of his activity. This was not done until February 21, and in the meantime his relations with the Agency Executive lapsed. It has, he believes, since endeavored to discredit him by fair means and foul both here and abroad, notably in London and in the United States. His greatest difficulty in dealing with its members, he says, was to get them to appreciate the difference between "a basis for discussion" and "formal negotiations." But he is convinced, as am I from other sources as well, that Dr. Weizmann and the majority of its Zionist members had by this time definitely decided to orient their policy along strictly pro-Partitionist lines.

It was during this interim that the four-hour conversation took place in Beirut with Nuri Pasha. On February 4 the Bishop suggested it. It was had two days later, the four "private negotiators" being, as you know, Nuri Pasha, Dr. Magnes, the Bishop and Dr. Tannous. The result was the third of the three drafts herewith. It was not at the time submitted for Nuri's initialing but its amendments were read to and approved orally by him. As drafted, they are based on verbatim notes made at the time by both Dr. Magnes and the Bishop. Specifically:

Art. 1 reintroduces reference to the League.

Art. 2 reintroduces "nationality".

Art. 3 remains unchanged.

Art. 4 is as in the first draft except for the omission of reference to the Jewish National Home. Such reference, Nuri Pasha held, was unnecessary and gratuitous.

Art. 5 reintroduces "districts".

Art. 6 continues to omit reference to Trans-Jordan but leaves the percentage of Jewish population open to both current discussion and possible future amendment.

Art. 7 uses both "watched over" and "guaranteed".

Art. 8 is unchanged it being understood that legitimate British interests included special interests at Haifa.

Art. 9 is again omitted, but, in view of the amendment to Art. 6, the effect of such omission is somewhat cushioned.

At this point let me refer to and enclose a copy of a letter written by Dr. Magnes to the High Commissioner (Sir Arthur Wauchope) one week before the latter's final departure on March 1. In the second enclosure to my last letter ⁴⁶ to you reference was made to Sir Arthur's request therefor. It recounts briefly much of what I have reported above and then (middle of page 2) sets forth Nuri Pasha's view that the Jews should accept permanent minority status both to attain peace here and to obtain "the open door for the settlement of many Jews in other Arab lands," this latter being in line with what Dr. Magnes described as Nuri Pasha's strongly Pan-Arab views.

After returning from the Nuri conversation and just prior to writing this letter Dr. Magnes had on February 21 submitted to the Agency Executive his promised full written report. It included a detailed account of the "private" conversation with Nuri Pasha. It was 18 pages in length with another 18 pages of documentation. It was approved by Dr. Hexter and other non-Zionist members. Its recommendation was that mentioned also in the Wauchope letter, i. e., that "the neighboring Arab States or Kings be influenced to propose to the Palestine Arab leadership an armistice between themselves and the Jews on the basis of a 10 year agreement at the end of which the Jews could not be more than 40 per cent of the population."

Following the submission of this report an Agency Executive meeting was held. Chairman Ben-Gurion and other pro-Partitionists found in it only grounds to confirm their conviction that negotiation with the Arabs could serve no useful purpose; and it was decided to hold a second meeting at which Nuri Pasha's views would be discussed and Dr. Magnes asked "to answer the charge" that he had given Nuri Pasha to understand that the Jews could be led to accept permanent minority status. This meeting has never taken place.

In conclusion, Dr. Magnes said there had been "no suite" of a private nature to the Beirut conversation, because Nuri Pasha had failed to answer his letter of February 23. His position, he added,

⁴⁶ Not printed.

was seriously prejudiced by this failure, even though he had been personally reassured as to Nuri Pasha's correct understanding of his position by a specific assurance to that effect conveyed to the Bishop in a letter written by Dr. Tannous after talking with Nuri Pasha following the latter's return to Lebanon at the end of March.

I trust I have not reported this matter in too great detail. It is, of course, interesting per se, but, on top of that it goes far towards confirming an impression I have gathered lately in a number of conversations with colleagues and British officials that any Zionist talk of having vainly extended or readiness to extend the hand of friendship to the Arabs is pure and simple "eye-wash". Zionist leaders here, as I indicated above, have pretty clearly determined to press by every means in their power for a Jewish State in a part—the largest obtainable part—of Palestine as against the only obvious alternative, minority status in the whole. No one with whom I have talked doubts it is to endeavor to convince American Jewry of the soundness of that view that Dr. Weizmann left Palestine at this time with the avowed intention of visiting the United States.

A final point: In my last letter I mentioned a military intelligence report that Dr. Weizmann hopes to induce American Jewry to subscribe \$10,000,000 for Palestine (Jewish) defense. In a subsequent conversation with Mrs. Rose Jacobs (American non-Zionist member of the Agency Executive) I obtained partial confirmation of this report. Her understanding, she said, was that Dr. Weizmann wanted some such figure subscribed but in the form of an underwriting of a Jewish State establishment loan for defense and other purposes.

Mrs. Jacobs is, of course, a convinced anti-Partitionist. She also left Palestine on June 2, on the same ship which bore Dr. Weizmann. She will spend her summer preaching her views in the United States, to strengthen what she described as a growing anti-Partitionist sentiment among a majority of American Jewry. Do, please, mention in your next letter whether you believe this last observation to be accurate.

Sincerely yours,

G. WADSWORTH

[Enclosure]

*The President of the Hebrew University at Jerusalem (Magnes) to
the British High Commissioner for Palestine (Wauchope)*

JERUSALEM, February 25, 1938.

DEAR SIR ARTHUR WAUCHOPE: I have given much consideration to your suggestion to send you a statement on the present status of the conversations I have been having, as you are aware, on Jewish-Arab relations.

I would prefer that this statement, which I am glad herewith to give, be for you personally, and not, as you were good enough to suggest, for transmission to the Secretary of State or to the incoming High Commissioner.

From our talks you know my attitude, and I know yours, and I am sure that your great desire for the peace of the Holy Land will continue to influence the course of affairs.

The Jewish Agency authorized me on December 6, 1937, to try to bring about a secret, unofficial, preliminary meeting with representative Arabs. The purpose of this meeting was to be, to find out if formal negotiations between Jewish representatives and Arab representatives could be entered into. It had been proposed by me to the Agency that the basis of discussion at this first preliminary meeting be a text that had been drawn up in London by Colonel Newcombe and Mr. Hyamson.

The Jewish Agency did not agree with all the points in this text. But they were ready to meet with it as the basis for discussion, provided the Arab representatives were also ready to do this.

You will find the text in the attached Appendix: Text No. 1.

As you are aware, Dr. Graham-Browne, Dr. I. Tannous and I had a number of meetings. Dr. Graham-Browne and Dr. Tannous also visited Beyrouth.

The upshot of this was the preparation of another text (Text No. 2 in the appendix) which gives the views of the Palestine Arabs in Beyrouth. These Arabs were ready to meet with the Jewish Agency, but only with this amended text as the basis of discussion.

The Jewish Agency refused to meet with this amended text as the basis of discussion, because the amendments had radically changed many important points, as a comparison of the two texts will show.

The Jewish Agency declared that in view of the attitude of the Arabs in Beyrouth, this document could no longer be considered by the Jewish Agency in any form.

Nevertheless, in my personal capacity I met with Dr. Graham-Browne, Dr. Tannous and Nouri Pasha Said in Beyrouth on February 6, 1938.

As a result of this long conversation, Nouri Pasha declared his willingness to be of every possible service.

He thought the original Hyamson-Newcombe text suitable as a basis for discussion. He proposed text No. 3 in the attached appendix.

I told Nouri Pasha that his suggestions in his paragraph No. 6 were an advance in the right direction, but that they were not yet good enough.

The chief difference of opinion between Nouri Pasha and myself was as follows:

Nouri Pasha thought any agreement between Jews and Arabs must be permanent. He was opposed to a provisional agreement, which I called an Armistice. In his opinion the Jews should accept permanent minority status in Palestine. That would not only give them peace here, but also the open door for the settlement of many Jews in other Arab lands.

My contention was that the Jews would not accept permanent minority status. If a proposal could be made whereby at the end of 10 years the Jews could form 40% of the whole population, there was a chance of putting that through with the aid of those Jews in America, England, Palestine and elsewhere who were opposed to Partition.

I expressed the opinion also that this would carry among the Arabs as well.

You will notice that the Arabs in Beyrouth seem to be looking for some kind of outside "authorization" before they can bidge [*sic*] on immigration figures or land sales.

The question therefore is: How can that authorization be secured; and if secured, how can it be made of such a nature that the Jews also will fall in with it?

In my opinion this means: How can the neighbouring Arab States or Kings be influenced to propose to the Palestine Arab leadership an armistice between themselves and the Jews upon the basis of a 10 year agreement at the end of which the Jews could be no more than 40% of the population?

With my very best wishes for the complete restoration of your health, I am,

Sincerely yours,

[File copy not signed]

867N.01/1088

*Memorandum by the Chief of the Division of Near Eastern Affairs
(Murray) to the Secretary of State*

[WASHINGTON,] June 17, 1938.

MR. SECRETARY: I understand that a committee of the Pro-Palestine Federation of America, including Mr. William Green, President of the American Federation of Labor, and Dr. A. Ben Elias, Executive Secretary, proposes to call on you this morning.

The Pro-Palestine Federation, which you received on June 15th of last year, is made up of prominent laymen and members of the clergy of the Christian faith in this country, such as Charles Edward

Russell, John Haynes Holmes, George Gordon Battle, Dr. S. Parkes Cadman, and William Green, to name only a few.

During the past year it has been active in appealing both to the White House and the State Department in favor of the intervention of this Government with the British Government against the partition of Palestine. More recently, it has advocated public action to induce Great Britain to lift the restrictions on Jewish immigration into Palestine. In general it favors the development of Palestine in the interest of the Jews and contends that the American-British Mandate Convention of 1924⁴⁷ places a responsibility upon this Government for insuring the fulfillment of the Balfour Declaration.

The committee, which you will presumably desire to receive by reason of the prominence of its members, will no doubt appeal to you to support officially with the British Government its program.

It was to be anticipated that pressure groups in this country would seize the occasion of the appointment of the International Committee on Political Refugees⁴⁸ to urge the bringing before that body of the question of increased Jewish immigration into Palestine.

The committee of the Pro-Palestine Federation may well bring the subject forward this morning, in which case I would suggest that the committee be informed that the International Committee will of course give consideration to all practical phases of questions affecting political refugees so far as they may come within the scope of the International Committee's activities, and that the Department is giving consideration at all times to all phases of the situation as it affects Palestine.

WALLACE MURRAY

867N.01/1096

Memorandum of the Press Conference, June 17, 1938

At the press conference this afternoon, a correspondent said that a delegation of the Pro-Palestine Federation of America who came to see the Secretary this morning had stated that he had given them hearty endorsement of their program for removing the restrictions on the immigration of Jews into Palestine. Asked whether he could confirm this, the Secretary replied that he had not read the material which the delegation had left with him. He said that these people had come in as had several other delegations on one phase or another of foreign affairs and without knowing exactly what the delegation

⁴⁷ Signed at London December 3, 1924, *Foreign Relations*, 1924, vol. II, p. 212.

⁴⁸ See vol. I, pp. 740 ff.

had told the correspondents he could not undertake to make any comment. He said that of course the correspondents were familiar with the habit of delegations, not unnaturally, to give out releases when they came to the Department on official business. Asked whether he had given hearty endorsement of their program, the Secretary repeated that he had not read their statement but added that the Government tries to give every attention to every phase of our foreign affairs, including this one.

867N.01/1101a : Telegram

*The Secretary of State to the Consul General at Jerusalem
(Wadsworth)*

WASHINGTON, July 8, 1938—5 p. m.

Please submit brief report regarding present situation, indicate whether any American citizens have been injured and what steps you have taken to obtain protection for American nationals.

HULL

867N.01/1102 : Telegram

*The Consul General at Jerusalem (Wadsworth) to the Secretary
of State*

JERUSALEM, July 9, 1938—10 a. m.

[Received 12:06 p. m.]

Department's July 8, 5 p. m. Last fortnight's developments occasion grave apprehension increasingly disturbed situation of recent months may further deteriorate into widespread civil strife characterized by serious interracial conflict.

While I write leaders are making every effort to hold community to policy of restraint, nonretaliation and full cooperation with Government; dangerous undertone of bitter discontent is increasingly evident. Feelings harrowed by 2 years Arab terror were brought to high emotional pitch by execution June 29th under deprecation regulations of Revisionist youth Ben Yossef for attempted act of reprisal against Arab autobus.

That Revisionist and other Jewish youth thereupon determined upon campaign of direct action based upon principle [that] counter-attack is best defense and involving extensive reprisals seems certain. Jews of all political color feel "let down by the British" and generally sympathetic with motives prompting if not actual relief of such acts [*sic*].

On eve and day of execution spontaneous popular demonstrations occurred Jerusalem, Tel Aviv and Haifa necessitating extensive police dispersal action and imposition 2 days curfew Jerusalem, Jaffa, Tel Aviv boundary where Jewish precipitated incidents during preceding week had resulted in 8 Arab casualties, 2 fatal, and 10 Jewish casualties, 3 fatal.

After 3 days quiet four synchronized separated acts of Jewish retaliation occurred at Jerusalem July 4th killing four Arabs, wounding nine; and further Jewish precipitated trouble occurred on Jaffa-Tel Aviv boundary one Arab being killed and eight Arabs and three Jews wounded.

July 5th saw two Jews killed in old city Jerusalem, an act of Arab terrorism answered 2 days later by Jewish bomb throwing at same spot killing two Arabs, wounding five.

On evening of July 6 Haifa was scene most serious incident last 2 years two powerful Jewish bombs being thrown into central Arab vegetable market fierce riot following 21 Arabs killed from bombings and 6 Jews being killed 92 Arabs and 11 Jews wounded.

Wounded further Jewish bombing reprisal Jerusalem killed 4 Arabs, wounded 24 bringing total urban casualties reported this telegram and not including numerous others in provinces to 219; that is 34 Arabs and 11 Jews killed, 153 Arabs and 21 Jews wounded.

Authorities recognize gravity of the situation, curfews again imposed Jerusalem and Jaffa-Tel Aviv boundary July 4th and Haifa 6th will be continued indefinitely. British cruiser arrived Haifa 7th and troop reinforcements two rifle battalions ordered proceed from Egypt. From reliable British sources I gather rumors declaration martial law unfounded official position being would serve no useful purpose. Partition Commission is actively pursuing its inquiry.

Arab insurgent activity in provinces has also intensified during fortnight one large armed band having shifted operations to Ramallah District just north of Jerusalem. Early extensive counteraction to Jewish reprisals is anticipated.

To me one of the most disturbing elements of the situation is that as in 1936 Arabs finally lost all confidence in British *bona fides* so today after year of vacillating policy following Royal Commission report similar feeling is strongly crystalizing in Jewish community.

No American citizens reported injured. I am in close touch with the authorities. But Consulate General has neither made nor received any request for special protection except from Safed where special arrangements made last year are still effective.

WADSWORTH

867N.01/1114

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

No. 655

JERUSALEM, July 10, 1938.

[Received July 25.]

Subject: Tension and Terror in Palestine, July 1938.

SIR: I have the honor to confirm the text of my telegram of July 9, 1938, 10 a. m., in reply to the Department's telegraphic enquiry of July 8, 5 p. m., regarding the recent disturbing happenings in this country, as follows:

[Here follows text of telegram printed *supra*.]

Since the despatch of this telegram, it has been officially announced that a third additional battalion of British troops is to proceed from Egypt for special service in this country, thus bringing total army strength to three brigades. And the cruiser, H.M.S. *Emerald*, whose arrival at Haifa on July 7 was reported in my telegram was yesterday replaced by the 32,000 ton battleship H.M.S. *Repulse*. The crew of the latter has taken over the patrolling of the town.

Since the incidents reported in my telegram, also, there have been several instances of Arab counter-reprisal at Haifa. As I write—and my fortnightly pouch closes tomorrow morning—no official record is available but from press and other sources I gather that yesterday one terrorist bombing and three stabbing or bludgeoning attacks resulted in four minor casualties and that three or four similar incidents—including the bombing of a Jewish autobus with eight casualties, none fatal—occurred today.

In Jerusalem there have been no serious incidents since the bomb-throwing of July 8. This was directed at an Arab autobus about to leave for Hebron from the Jaffa Gate of the Old City. The reaction in Hebron, always a fanatical Moslem center and where no Jews have ventured to live since the outbreak of the 1936 disturbances, was bitter; and the Jerusalem Chief of Police, Major W. F. Wainright, tells me it was seriously feared that rioters who had destroyed trees in the Jewish cemetery would proceed during the night to the desecration of Jewish graves.

This evening shortly before seven o'clock curfew, while sitting with a member of the Partition Commission on the garden terrace of the King David Hotel, I saw a shooting incident apparently directed at a group of young Jews a few hundred yards distant. There was no casualty, but the speed with which police units arrived on the scene and rounded-up all persons in the vicinity was effective testimony to the extraordinary precautionary security measures in force.

Another instance of the urgent need for such measures was told me yesterday by Major Wainright when recounting the circumstances of the Jaffa Gate bomb-throwing. A police informer had brought in a rumor that trouble was brewing. Major Wainright sent immediately for a detachment of troops, stationing them in the nearby Citadel of David. They were there, he said, on the scene within two minutes of the explosion, threw a cordon around the district and, in his opinion, prevented a serious mass attack on the nearby Jewish Commercial Center, incidentally saving the lives of three Jews who had been attacked in the crowd.

In the provinces—to elaborate briefly the reference in my telegram—there have been further instances of Arab sabotage, sniping at Jewish settlements and minor brushes with security forces similar to those detailed in Consul Pinkerton's current fortnightly report on "The Status of Public Security" (despatch No. 651 of July 7).⁴⁹ If the casualties of these provincial incidents be added to those reported in my telegram as having occurred in the country's three urban centers, totals for the last week are some 50 killed and 200 wounded.

On the important question as to whether the Jewish leaders will be able to reestablish among their followings confidence in their leadership and policy of restraint, nonretaliation and cooperation with the British authorities both here and in London (the so-called Weizmann policy) I have had numerous conversations during the last week. Apprehension on this score is, I find, general among British officials and influential Jews. Especially significant, I thought, was a story brought me by a leading Jewish-American journalist that "the comment among the people, when learning that Dr. Weizmann's brother-in-law had been killed in the Haifa rioting, was that it would have been better had the Professor (Dr. Weizmann) stood at the time in his brother-in-law's shoes". And of this feeling the Consulate General's Hebrew interpreter brings me clear confirmation. "Many Jews", he reports, "when discussing this most serious incident of the week say that, had Dr. Weizmann been in Haifa at the time, he would have been shot, and not by an Arab bullet".

That saner counsel may, however, prevail is the hope and expectation—with one reservation—of most leading Jews with whom I have talked. It would, they realize only too well, be, as one put it, "the virtual suicide of Zionism were the Yishuv (Jewish community) so to lose sight of its larger interests as to engage in general inter-racial strife with the Arabs." The latter, I learn on British authority, would welcome such a development "if only so that the world might be convinced that its sympathy for the Jews is misplaced." Today a large

⁴⁹ Not printed.

and representative conference of communal leaders is being held in Jerusalem under the auspices of the Jewish Agency and Vaad Leumi (National Council of Palestine Jews) to discuss and determine ways and means for reestablishing order and restraint.

The one reservation to this expectant hope that saner counsel may be made to prevail is with respect to the Revisionists. That they have determined on direct action is unquestioned. My same Jewish-American journalist informant, who is in touch with this movement, assures me he had it directly that the man who threw the bomb in the Old City on July 7 was one of their number, an Eastern Jew who could pass as an Arab, and that he had been spirited out of the city within 15 minutes after the incident. They were, my informant asserted, proud of their action and of the courage of their successful assassin. Major Wainright tells me: "We know the Revisionists are chiefly responsible, but to pin it on them is quite another matter."

Some 40 suspects have been arrested, including Dr. E. Washitz, Chairman of the Jerusalem Revisionist Committee, an able and agreeable lawyer who has on occasion discussed with me and others, always in moderate vein, his party's aspirations (see despatches Nos. 617 and 641 of May 27 and June 21, last⁵⁰). That the rank and file of the party, however, is far from moderate in its present attitude will be seen from the enclosed translations of mimeographed circulars⁵¹ which were distributed clandestinely in Jerusalem, the first on the eve of Ben Yossef's hanging (despatch No. 650 of July 7⁵¹), the second on the following day and the third on July 7, i. e. after the first of the acts of Jewish reprisal of the last week.

These circulars bear careful reading, for they clearly reflect the warped ratiocination and tense emotionalism of their authors. They are anti-Arab, anti-British, anti-Agency, anti-restraint. They call for war "by thousands of armed bands, by barricades and fire", for revenge for the hanging of their martyred colleague. I am impressed with their almost anarchistic character and would be interested to learn whether the Department's Russian experts find in them a red which is more than blood; for the third ends: "Iron and Iron will Ring, and Blood will Forgive Blood."

I have written thus fully in an endeavor to portray, without exaggeration if with some concession to the dramatic, the vivid impression of a situation tense to the point of major explosion which the untoward but not unfeared events of the last fortnight have precipitated. There are also enclosed, as a matter of record and to

⁵⁰ Neither printed.

⁵¹ Not printed.

illustrate the radically divergent attitudes of the local Arab and Jewish press, two typical editorials,⁵³ respectively from the strongly-nationalistic, pro-Mufti weekly *Palestine and Trans-Jordan* of July 9 and the Jewish-Agency-controlled daily *Palestine Post* of this morning.

Respectfully yours,

GEORGE WADSWORTH

867N.01/1102 : Telegram

*The Secretary of State to the Consul General at Jerusalem
(Wadsworth)*

WASHINGTON, July 12, 1938—6 p. m.

Your telegram July 9, 10 a. m. The Department wishes to be kept fully informed by telegraph of all outstanding developments touching the unsettled state of public security, and to be promptly advised of any steps you may consider it desirable to take for the protection of American lives and property in the light of the changing situation.

It is, however, generally unnecessary to report in detail by telegraph specific acts of terrorism unless they involve American citizens or American property interests or unless they possess some special significance to which attention is not being adequately drawn by American press correspondents in Palestine. In this last connection it is suggested you might appropriately invite the Department's attention to any American press telegrams of special importance coming to your notice, indicating at the same time your observations as to their accuracy.

Briefer and more frequent telegrams would be welcomed from you in the sense of this and the Department's telegram of July 8, 5 p. m., so long as the situation continues serious.

HULL

867N.01/1111 : Telegram

*The Consul General at Jerusalem (Wadsworth) to the Secretary
of State*

JERUSALEM, July 15, 1938—noon.

[Received July 15—10:26 a. m.]

Department's July 12, 6 p. m. Jewish telegraphic agency cabled yesterday from Haifa "hundreds of outraged Jewish-American citizens" had appealed to me for protection and intercession with authorities for increased guard for Jewish busses traveling Arab quarters between residential and business sections of city.

⁵³ Not reprinted.

This telegram is based on letter written me by leading Haifa Jewish-American in which he stated appeal was supported by "a number of American citizens" of which he listed nine. I have forwarded appeal to the Government with suggestion that should such citizens arrange to travel by special conveyance, armed guards be made available for their protection.

I have also received and forwarded with full endorsement appeal by Hadassah that extensive property of school with 120 children maintained by Junior Hadassah Meiersheffeyah near Haifa in exposed situation and with only three armed guards be afforded further special protection.

Tension in Haifa area is reliably reported materially lessened and since dispatch my telegram July 9, 10 a. m., extensive campaign Jewish leaders has been largely successful in reestablishing observance of policy of restraint. There is however still fear of Arab counter action and further Revisionist reprisals.

WADSWORTH

867N.01/1123

*The Consul General at Jerusalem (Wadsworth) to the
Secretary of State*

No. 665

JERUSALEM, July 24, 1938.

[Received August 10.]

Subject : Tension and Terror in Palestine, Continued.

SIR: That at no time since the outbreak of the 1936 disturbances⁶⁴ had interracial tension run so high in Palestine was the leading theme of my preceding despatch on the above subject, No. 655 of July 10, last. The ensuing fortnight, I have the honor to report, has seen a welcome lessening of that tension. The curfews imposed on Jerusalem and Haifa have been lifted. There has, however, been no let-up in the tempo of terrorism, and signs are not wanting that even the current storm may not have fully passed. The dominant emotion today is still serious apprehension as to the future. Let me elaborate under three heads: the state of feeling in the Jewish and Arab communities, threatened trouble in Trans-Jordan, and the danger inherent in the present situation.

Among the Jews the question of the hour has been that touched on in my last despatch, i. e. whether the leaders would be able to re-establish confidence in their consistently-held policy of self-restraint. Sympathy had grown rapidly throughout the Yishuv (Palestine Jewry) for what was generally recognized as being the Revisionist

⁶⁴ See *Foreign Relations*, 1936, vol. III, pp. 434 ff.

policy of direct action based on the principle that counter-attack in the form of reprisals was the best defence. As Dr. Judah Magnes, President of the Hebrew University, put it to me yesterday: "Wherever Jews have met during the last trying weeks this question has been uppermost in discussion. There were many waverers."

For the time being responsible leadership has weathered the storm. Waverers have been held in line by an extensive press and propaganda campaign. But the basic bitterness remains. Further incidents may cause it to flare into action. Several threatening incidents have already occurred, raised tension but happily passed without serious repercussion.

The first and most serious was a wide clandestine distribution on July 12 by the Bnei Hakenaim ("Sons of the Zealots", see footnote to second enclosure⁵⁵ of my last despatch) of an exaggerated Hebrew version of an extraordinary letter⁵⁶ written under date of May 30, last by Colonel Josiah Wedgwood, strongly pro-Zionist Member of Parliament, to the Jewish Former Officers Association, Tel Aviv. In it he advocates passive resistance. "You cannot," he urges, "dine and denounce . . . You curse them (the British officials) behind their backs; try cursing them to their faces . . . an Englishman's hands would not remain tied . . . consider what action British colonists would take under the circumstances; and if you do about half as much you will never need to do it again". As circularized by the Bnei Hakenaim the letter was headed: "Colonel Wedgwood Calls the Jewish Youth to Revolution". The circular concluded: "Jewish Youth: Will this letter at last awaken you from your dream; will you learn from it the pathway to revolt which will lead you to attainment of freedom."

A copy of the letter, kindly given me by Mr. Justice Greene and checked against the copy telegraphed to London by the local *Times* correspondent, is enclosed. It bears, I believe, full reading. Reaction in British official circles was one of spluttering high-blood-pressure offence. "Treason", said one; another, "He should be impeached"; a third, "The proper place for him is a mad-house". I am convinced that even members of the Executive Council were unaware of the letter's contents until it was first published in the Hebrew version. On July 19 its publication in any language was banned under the Palestine Emergency Regulations.

Other threatening moments were those following the arrest of a considerable number of Revisionists (in addition to the 40 mentioned in my last despatch) and the wave of indignation which swept over the Yishuv when it learned of the barbarous attack by a large armed Arab

⁵⁵ Not printed.

⁵⁶ Printed in the *London Times*, July 16, 1938, p. 11d.

band on the small Jewish settlement of Kiryath Haroshet on the Haifa-Nazareth road, July 20. Here, the band, before driven off by the defenders' rifle-fire, entered two outlying huts, killed their occupants (in one case, a woman and her child, and in the other, a family of husband, wife and baby) and then set the huts on fire.

As to the Revisionist arrests my Polish colleague, who is unquestionably in matters touching the Jewish community the best-informed neutral observer in Jerusalem today, assures me that the danger of this situation lies primarily in the fact that among those arrested there are only political and not terrorist leaders. He fears, therefore, further reprisals by the latter. Dr. Magnes, I may add, shares this view.

Among the Arabs, also, feeling has run high, and incidents of what they now refer to as counter-reprisals are of daily occurrence. Details are given in Consul Pinkerton's fortnightly reports on "The Status of Public Security in Palestine".⁵⁷ Most critical moments were those following the Jewish bombings in Haifa and Jerusalem July 6 and 10 mentioned in my last despatch and a further serious bomb explosion at the David Street vegetable market in Jerusalem's Old City on July 15. In this latter, 10 Arabs, including six women and one child, were killed and 29 wounded, many seriously.

That the last of this recent series of serious bombings was a Jewish reprisal is denied by the Jewish press on the grounds, primarily, that no Jew would have dared to penetrate so fanatically Arab a milieu and that the bomb might more logically be supposed to have been in the custody of an Arab endeavoring to evade Police searches for arms then being actively pursued in the Old City. A typical editorial on the subject from the Jewish Agency-controlled *Palestine Post* of July 17 is enclosed⁵⁸ as a matter of record, for it presents the type of argument which leads the average local British official to the exasperated conclusion that: "When the Jew has a good case he invariably overplays it, when a bad one he seems constitutionally unable to keep quiet about it."

From two high officials I have it as unquestionable that this type of bomb has never been used in any of the scores of Arab bombings of the last two years and, if not identical with, at least closely resembles that used in the more serious bombings generally recognized as Jewish reprisals. Arab feeling on the subject is well summed up in the following extracts from an "Arab News Agency" editorial of yesterday's date. This "leader", I should add, was clearly drafted for publication in the pro-Mufti weekly *Palestine and Trans-Jordan* which was sus-

⁵⁷ Not printed.

⁵⁸ Not reprinted.

ended during the week, presumably for the similarly contentious editorial enclosed with my last despatch.

Jewish organized attacks on Arabs, which continued for three successive weeks, have satanically made use of Friday . . . to execute their devilish conspiracies . . . Mourning and grief immediately struck the Holy City; and in less than one hour, the whole city closed down and a wave of dumbness prevailed . . .

The Arabic press, always fearing the mighty power of the censor, refrained from commenting upon the incident . . . Desperate, struck with horror and heart-bleeding, the Arabs of Palestine have since then been impatiently awaiting to see whether the Government shall succeed in discovering the perpetrators . . . fresh tragedies are awaiting the Arabs ahead unless the Government heart and soul concentrates and courageously ventures to reveal the secrets of the crime-infested Jewish quarters.

If Government's inactiveness . . . has had any effect, it was giving the Jews sufficient courage to relieve themselves of every responsibility and to charge the Arabs themselves with throwing the referred to bomb at their own kinsmen and brethren . . . The following shameless words appeared in the *Palestine Post's* editorial of Sunday, July 17th. (Note: a quotation from Enclosure 2 herewith) . . .

Can there be anything more infructuous than the above words? To describe them as shameless would not be enough . . . In our humble opinion law is the foundation of order, and justice the foundation of both; but apparently "National Home Building" needs other foundations than these.

A significant further indication of the state of Arab feeling is to be found in the following telegram sent by Emir Abdullah to the High Commissioner after the first two of these serious bombings (Note: translation is from the nationalist Arabic daily *Ad-Difaa* of July 11):

The tragic Haifa incident has caused in the Trans-Jordanian public opinion an effect of deep sorrow and indignation. So also with the Jerusalem incident. I myself am sad also.

Even though I am aware that Your Excellency and the Government in Palestine are doing their duty regarding peace by every means and with all wisdom, it is nevertheless my duty to call the attention of Your Excellency to the fact that these attacks by Jews have removed every hope in the efforts of the Government to create the suitable atmosphere to solve the Palestinian problem.

I hope that those who direct the Zionist policy among the Jews will realize that by such activities they can arrive at but one result, namely, utter impossibility (Note: literally—real impotence) of the life of quiet and peace they hope to have with the Arabs.

And in regard to the attacks on my Arab compatriots and in the most holy spot of a country dear to me and to my nation, I address to you the strongest protest against the aggressive behaviour on their part; and I expect soon (to learn of) what severe punishment has been prepared for those who have so brazenly committed those atrocities.

The special significance of this protest is that it points the first occasion since the outbreak of the 1936 disturbances when a pro-Palestine-Arab demonstration has occurred in Amman. On the Friday following the Haifa outrage—the Arabic press reports and my Yugoslav colleague, who on that day visited the Emir, confirms—a crowd of “some thousands” (Note: probably less than 2,000) visited the Emir’s palace and the British Residency before noonday prayers. Speeches were delivered expressing “deep resentment and calling on both the Emir and Sir Charles Cox, the British Resident, “to do all possible to alleviate tension over Palestine and to put a stop to innocent sacrifices.” The Emir replied “with damp eyes”, Sir Charles [said,?] that “Their sentiments would be properly conveyed with a special recommendation.”

Among British officials here I find some apprehension as to the potential danger of these developments. “Tegart’s Wall”, they recognize, will, when completed, force Syrian arms-smuggling to endeavor to divert its present routes to one through Trans-Jordan. They have been counting on full assistance from the Arab Legion and Frontier Force of that area to block such attempts. Palestine experience of the last two years gives good ground for believing this cannot be accomplished effectively if the population show active sympathy for the Palestine insurgents. Therefore, in this connection also, they see a new potential factor, resulting from the Jewish reprisals, capable of militating against their efforts to reestablish and maintain a passing degree of public security in Palestine.

This brings me to my final point, the danger inherent in the present situation. In despatch No. 511 of January 23,⁵⁹ last, I reported an interesting conversation with Sir Charles Tegart, Special Police Advisor, in which he argued ably that a normal state of public security could not be reestablished until a definite policy and plan of Palestine settlement had been adopted. “From the policeman’s point of view,” I recall him saying on a later occasion, “it makes little difference what such plan may be. Without a positive objective police efforts must of necessity be restricted largely to counter-action. Their intelligence service, morale and general effectiveness must progressively deteriorate.”

This thought I hear of late voiced with increasing frequency in British and Jewish circles. There is, too, increasing recognition that the situation has already so deteriorated that little short of a full division of infantry reinforcements could today give body to the high words as to restoration of order voiced by the High Commissioner on his arrival here last March (despatch No. 541 of March 6⁵⁹).

⁵⁹ Not printed.

A leading Arab and a leading Jew called separately on me in my office one morning last week. To each I put eventually the much overworked question: "What do you think of the situation?" Each replied in almost identical words and with equal conviction that Great Britain is to blame: "There is in the country no government worthy of the name. The situation is going from bad to worse. The insurgents have the provinces in the palm of their hand, except in the few places actually occupied by British troops. And even there, as well as in the cities, the insurgent leaders operate with impunity in the collection of funds for their cause and recruiting of young men. Every week sees them better organized. Every week shows the Government's efforts to regain control more futile." Both viewed with apprehension the troublesome months which must pass before the Palestine Partition Commission's report can be published, considered and implemented.

There are few in Palestine today who do not share that apprehension.

Respectfully yours,

GEORGE WADSWORTH

867N.01/1120: Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, August 8, 1938—noon.

[Received 1:15 p. m.]

Regarding dramatic weekend Palestine visit British Secretary of State for Foreign Colonies⁶¹ details of which and of communiqué issued yesterday afternoon have [apparent omission] cabled by news agencies, I perceive no reason for not accepting at their face value reasons for visit as given in communiqué.

Basing my opinion largely on long conversation last Thursday with General Haining⁶² I believe inquiry of Partition Commission which left Palestine August 3 led both to clearer understanding of facts of the Palestine problem and to crystallization in the minds of the High Commissioner and the General of the elements of the policy which Great Britain should follow both to meet immediate problem of re-establishing public security and to solve the larger problem of the country's future status.

On the question of public security I shall probably telegraph tomorrow after hearing High Commissioner's broadcast scheduled for this evening.

⁶¹ Malcolm MacDonald.

⁶² Lt. Gen. Robert Hadden Haining, general officer commanding British forces in Palestine and Trans-Jordan.

As to the larger problem I gathered fairly clear impression that the General favors a scheme combining partition and cantonization, i. e.

1st. Retention of three areas under direct British control; first, an enlarged Jerusalem corridor to include to the north of the area suggested by the Royal Commission a zone circling Ramallah and the Lydda aerodrome and to the south thereof a zone paralleling the Jerusalem-Lydda Railroad and including a considerable part of the detached portion of the suggested Jewish State south of Jaffa but leaving a coastal strip which would connect the Arab area with that part; second, all Galilee north of a line from Tiber to [*Tiberias?*] and including Haifa and its immediate Carmel hinterland as far as first pass from Esdraelon to Sharon; and third, the Negev.

2d. Setting up an autonomous Jewish area to include Sharon and the foothills north of the corridor as far as the Carmel promontory, then cutting through the Carmel hinterland between first and second passes to Esdraelon and continuing through that plain probably as far as the Jordan.

3d. Setting up an autonomous Arab area in the rest of the country.

4th. Centralized British direction of the whole at least temporarily on a cantonization basis.

A scheme based on these elements would give strategic security to the Jerusalem corridor; afford Arab area free access to its natural seaport of Jaffa; avoid incongruity of a divided Jewish area; relieve the latter of the well nigh impossible task of administering disproportionately large Arab minority notably the greater part thereof which forms preponderant majority in Galilee; secure recognizedly important British strategic interests in Haifa and assure them British controlled hinterland; reserve decision as to disposition of the Negev pending determination of the water resources and settlement possibilities securing at the same time British strategic interests in that region notably at Akaba; and finally while paving the way towards partition which reported declared British policy leave open the door to possible Arab Jewish compromise.

WADSWORTH

867N.01/1121 : Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, August 9, 1938—11 a. m.

[Received August 9—7:22 a. m.]

Supplementing my August 8, noon. Department will have noted from press cables that High Commissioner's yesterday evening broadcast was simple reiteration good counsel and appeal for moderation. No new policy for dealings with terrorism is announced or implied.

Coming as it did on morrow of Secretary of State's dramatic secret visit more positive announcement was expected. Jewish circles especially voice disappointment.

Acting Chief Secretary explains confidentially there is no connection between broadcast and visit and that speech had been prepared prior to visit primarily to cap departure of Partition Commission and reaffirm publicly need for patience pending publication its report. He anticipates publication shortly before reassembly British Parliament scheduled for October 1st.

WADSWORTH

867N.01/1125

*Memorandum by the Chief of the Division of Near Eastern Affairs
(Murray)*

[WASHINGTON,] August 12, 1938.

Dr. Aaron Ben. Elias, who is associated with the Pro-Palestine Federation of America, called me by long distance telephone from New York on August 9th in connection with the case of Mordecai Schwartz, of non-American nationality, who, so Dr. Elias said, has been sentenced to be hanged in Palestine on August 16th.

Dr. Elias stated that the above-mentioned organization proposes to send a telegram to the British authorities in Palestine urging clemency for the condemned man, and he wanted to know whether the Department could take any action and, if not, whether he could quote the Department as approving the proposed action of his organization. In that connection he said that he had been in telegraphic contact with Bishop Freeman,⁶³ who is associated with the organization, and who is now on vacation some place in New England. Bishop Freeman had apparently withheld his approval of the contemplated action pending an assurance from Dr. Elias that the Department of State approved thereof.

I informed Dr. Elias that in view of the fact that Mordecai Schwartz is not an American citizen this Government could obviously not intervene in his behalf with the authorities in Palestine; that the Department, furthermore, could not undertake to comment on the proposed action of the Pro-Palestine Federation of America and that, finally, it would not be appropriate for us to reply through a third party to any inquiry which Bishop Freeman might have made in the matter. I added that if the Bishop desired to consult the Department direct with regard to any phase of the question his inquiry would of course receive due attention.

⁶³ Rt. Rev. James E. Freeman, Protestant Episcopal Bishop of Washington.

Dr. Elias seemed satisfied with the explanation given him, and I got the impression that the telegram of his organization would probably go forward.

WALLACE MURRAY

867N.01/1147

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

[Extract]

No. 711

JERUSALEM, September 6, 1938.

[Received September 20.]

Subject: Revolt in Palestine, "Dictatorship of the Bands"; Brief Speculation on Possibility of Compromise by Consent.

SIR: That the last month has witnessed a further serious deterioration in the public security situation in this country is frankly admitted, I have the honor to report, by all leading British officials in the capital. The public speaks openly of "the dictatorship of the bands", the Arabs with a newly awakened pride in "national" accomplishment, the Jews with gravest apprehension for the immediate security of life and property and with insistence on the urgent need for extensive protective measures, notably the arming of further self-defense units.

Reference, I venture to believe, may appropriately be made in this connection to my despatches Nos. 655 and 665 of July 10 and 24, last, entitled "Tension and Terror in Palestine". The leading theme of the former was that "at no time since the outbreak of the 1936 disturbances had interracial tension run so high"; of the latter that, while the immediate tension then existing had eased somewhat because Jewish leadership had weathered the storm of Revisionist challenge to its policy of self-restraint, there had been no let-up in the tempo of Arab terrorism. My subsequent fortnightly despatches on the "Status of Public Security"⁶⁴ have borne out this thought.

Let me be more specific. Day before yesterday the Jerusalem District Superintendent of Police, Major W. F. Wainright, commented to me: "There is no doubt that the bands are progressively larger, better armed and better led, that their organization reaches into every village and town of the hill-country from Galilee to Beersheba and that they have the almost universal support of the (Arab) people". The Secretariat official, Mr. C. M. Pire-Gordon, with whom the Consulate General deals directly in matters involving requests by American citizens for special protection, similarly observed: "It must be admitted that the position of the rebels has become much stronger

⁶⁴ Not printed.

these last few weeks and that large areas of the country must now be regarded as rebel territory", and the Jerusalem District Commissioner, Mr. E. Keith-Roach, who returned last week from three months leave of absence, tells me he is "astounded" at the change. "My Assistant Commissioner and District Officers, as well as the Police", he said, "tell me my writ no longer runs four miles from the capital. None question that we have a serious national revolt on our hands".

Arab friends assure me that the earlier terrorist methods of suppressing opposition within the Arab camp are, except in rare instances, no longer necessary, that "the (Arab) people as a whole are behind the movement". They report with little-veiled satisfaction tales of rough justice rendered by the insurgent leaders. The bands, they say, are now directed by a single, obviously able commander-in-chief under the Mufti's guidance, with four regional commanders as his chief lieutenants, one each for Galilee, northern and southern Samaria, and the Beersheba-Bethlehem area.

Respective headquarters for these four major commands are said to be in the hills near Safad, Nablus, Tulkarm and Hebron; there plans are laid for the increasingly daring and effective daily acts of sabotage and attack. Each major band is said to comprise some 500 men continually under arms; and in each region there is hardly a village in which "reservists" have not been organized. The latter are varyingly estimated at from ten to twenty thousand. They are called on, I am told, "in shifts" to guard the approaches to the bands' headquarters and to participate in the nightly "direct" actions.

The moral, if one there be, to be drawn from the subject matter of the foregoing paragraphs is perhaps that stressed in the famous Durham Report (1839) on Canada:⁶⁵ "No large community of free and independent men will long feel contented with a political system which places them, because it places their country, in a position of inferiority to their neighbors". In Palestine we have seen an erstwhile subject and suppressed but nonetheless homogeneous Arab people vitalized into action—and that, as I understand it, is the essence of nationalism—by gradually growing fear of Jewish domination, succeeded in 1936 by strongly crystallizing apprehension as to the aims of what their leaders decried as British imperialism. Today, I believe, one may fairly see in the progress of the current revolt both a growing realization among the people of its "position of inferiority" and a natural resultant aspiration towards independence.

⁶⁵ Great Britain, House of Commons, *Sessional Papers*, 1839, vol. xvii, pp. 5-119, "Report on the Affairs of British North America from the Earl of Durham".

I fear I have phrased this thought far less effectively than was done a year ago in the now well-known Report of the Palestine Royal Commission. From its analysis that body reached the logical conclusion that Partition offered the best and most hopeful solution of the Palestine problem. At the time I concurred in that finding. Today, on practical grounds—grounds studied *in extenso* by the subsequent Partition Commission and reported briefly in my despatch No. 675 of August 8, last⁶⁶—I find myself, with many other attemptedly objective observers here, tending to add to that finding the words “in principle”. The situation, we feel, has so deteriorated as to render the principle of Partition impracticable of application at the present time.

The alternative, I find many who hope, may be found in a *modus vivendi* which will permit of the setting-up—with at least a modicum of consent by Arab and Jew—of a temporary regime under drastically modified Mandate providing for continued British administration of the country within the framework of a plan embodying the major elements of that outlined in my telegram of August 8, 12 Noon, last, i. e. the retention of the Jerusalem Corridor, Galilee and the Negev under direct British administration and the fostering of autonomous Jewish and Arab Areas in the rest of the country—the whole to be administered, with varying objectives and limitations (notably as to immigration) in its various areas, by a British High Commissioner.

Possible ground for hopeful speculation that some such solution is under consideration, I may add in conclusion, is to be found in the fact that Dr. Izzat Tannous, Palestine-Arab propaganda agent in London, arrived in the Lebanon on August 25, last. According to information received by my French colleague, he has since held lengthy converse with the exiled Mufti who today, more than ever before, is the one outstanding leader of the Palestine-Arab cause. And only the strong can compromise.

Dr. Tannous, it will be recalled, had had an interview of an hour or more with the British Colonial Secretary, Mr. Malcolm MacDonald, following the latter's return to London from his recent dramatic visit to Jerusalem (despatch No. 690 of August 19, last⁶⁷). In an interview given to the editor of the leading local Arabic daily *Falastin* Dr. Tannous is reported to have said:

Mr. MacDonald's trip to Palestine convinced him that our movement is national, the movement of a whole people . . . solution will

⁶⁶ Not printed.

⁶⁷ Not printed; but see telegrams of August 8, noon, and August 9, 11 a. m., from the Consul General at Jerusalem, pp. 940 and 941.

be developed in London in collaboration with several prominent and representative Arabs . . . among them Emir Saud (Crown Prince of Saudi-Arabia), Teufic Suweidi (Iraqi Foreign Minister), Muhammad Mahmoud Pasha (Egyptian Prime Minister) and Jamil Mardam Bey (Syrian Premier).

I plan to develop in an early report this interesting subject of the nature of what in the title of the present despatch I have called current speculation on the possibility of compromise by consent.

Respectfully yours,

GEORGE WADSWORTH

867N.01/1155

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

No. 727

JERUSALEM, September 20, 1938.

[Received October 4.]

Subject: **Revolt in Palestine, Continued; Strengthening of British Military and Jewish Defense Forces.**

SIR: A further serious deterioration of public security, I have the honor to report, has been witnessed in this country since the submission of my despatch No. 711 of September 6, last, on the above subject. The "dictatorship of the bands" discussed therein has strengthened. Striking rebel successes have been recorded, notably in the increasingly effective sabotaging of government communications and in the "occupation" of such important Arab centers as Jaffa, Bethlehem, Ramallah and Jericho. Details are given in the Consulate General's fortnightly despatches on the "Status of Public Security."⁶⁹

The national character of the Arab revolt is now recognized by all fair-minded British officials and foreign observers. It is obvious to all that Government is on the defensive and progressively losing ground, that it does not possess sufficient strength to suppress the insurgents. That, however, such strength—or at least a considerable contribution thereto—is shortly to be made available and that Government proposes to use it with despatch now seems probable.

The providing of this additional strength, it is now currently accepted in British official circles, was determined upon at the time of the dramatic secret visit paid to Jerusalem early last month by the British Colonial Secretary, Mr. MacDonald (despatch No. 690 of August 19, 1938⁶⁹). Its nature, I gather in extensive discussion with high British officials and others, is to be two-fold, i. e. reinforcement of British troops and police and the building-up of strong, armed

⁶⁹ Not printed.

Jewish defense units. Notably as concerns the latter considerable progress may already be reported.

In my Press Review of August 20, last,⁷⁰ Item No. V-2 [V-1], I reported the details of the composition of the 7,400 men of all ranks which made up the British military strength then maintained in the country. An additional infantry brigade of some 1,800 men, I added, was in training in England for Palestine service. The headquarters unit and one battalion of this brigade arrived at Haifa on September 13. Its two other battalions are to arrive next week. Further, it was officially announced in London on September 15 that the equivalent of two additional brigades are to be sent shortly, i. e. from England two cavalry regiments and one infantry battalion and, from India, three (British) infantry battalions. The latter, I learn reliably, have already embarked for Suez. The effect of these various reinforcements will be to raise total military strength in Palestine to some 13,000 all ranks.

In the matter of British police reinforcements the figures are less impressive. On January 1, last, the Palestine Police rolls included some 60 British officers, half as many inspectors and 1100 other ranks out of a total force of 3,600 (which included some 1650 Arabs and 750 Jews). These totals were only slightly increased during early months of the year. Following Mr. MacDonald's return to London, however, it was announced that 350 additional British police would be recruited in England. Of these, 120 arrived at Haifa September 5. The remainder are expected early in October.

Following the renewed outbreak of disorder last fall, I should add, this regular police force was supplemented, as during the 1936 disorders, by supernumerary police. On January 1 these numbered some 4,100 of whom 3,900 were Jews (1,000 on active service and 2,900 reservists) enrolled and hurriedly trained for the protection of Jewish settlements. The remaining 200—of late largely dismissed as untrustworthy during the current revolt—were Arabs enrolled "for other police dispositions".

This brings me to the interesting question of the strengthening of the Jewish defense units—a question of pertinent concern to our own Government, for it is on the effectiveness of these units that in very considerable measure depends the security of the lives and property of the Jewish inhabitants and, hence, of the 8-9,000 American Jews resident in the country. This question is one which, as already reported, has been stressed for many months by Jewish leaders and publicists. As late as September 7, Dr. Chaim Weizmann, President of the World Zionist Organization, key-noted at an important meeting

⁷⁰ Not printed.

of the Jewish Foundation Fund: "Our immediate demands are . . . adequate protection of our men and women, and especially a fair share in the maintenance of public security."

The following detailed exposition of Jewish desiderata in the matter is from careful notes which I took during the course of an hour's discussion of the subject had with Political Director M. Shertok of the Jewish Agency on September 16. He had had tea with me alone and spoke with clarity and frankness. His comment on the political aspects of the situation will be reported in a subsequent despatch.

"On April 1, opening of the current fiscal year", Mr. Shertok began, "the Palestine Government for reasons of economy reduced to 635, i. e. by approximately one-third, the Jewish supernumeraries on active service, i. e. the number paid regularly by it. We had, however, increased to roughly 4,500 the number of reservists, i. e. those authorized to carry arms; and for their use Government had issued to us a total of 3,700 rifles. This meant that if we wished to use these reservists for guard duty at the colonies and outskirts of urban settlements we had to pay them ourselves. Their monthly salaries are fixed at six, seven and eight pounds respectively for privates, corporals and sergeants".

"In compensation for this reduction in numbers", he then explained, "we obtained, in so far as concerned the 635 Jewish paid men, an improvement in their organization: First, creation of these non-commissioned ranks; second, permission to use them for regional as well as simple local defense; third, the creation of ten mobile guard units of ten men each who, in motor transport supplied by us, were not attached to any one settlement but have since been continually employed on regional patrol duty; and, fourth, the assignment of four British police officers to supervise their activity in four major regional areas and act as liaison with the central authorities".

"As the situation went from bad to worse", Mr. Shertok continued, "we prepared a most careful project for increased defense, the essence of which was that this number of 635 Government-paid supernumeraries should be increased by roughly 2,000 of whom 500 were to be formed into 50 additional motorized mobile guard units and the remaining 1500 to be distributed among some 250 local garrisons (each under a corporal) organized into 50 groups (each under a sergeant). The total cost to Government for the 3,600, each of whom would be supplied with one of the Government rifles already issued, would thus have been some £P. 16,000 (\$80,000) a month."

"In addition", he added, "we urged that rifles be issued to each of the remaining 1,400 enrolled reservists whom, together with the cost of all necessary motor transport, we were willing to pay. Further, we wished to retain our individually licensed shot-guns and pistols, some 2,000 in number, and the 1,000 Greener guns (a sort of "sawed-off" shot-gun) issued in 1936 for use by the colonists themselves in case of attack and since retained in sealed arsenals under the charge of village mukhtars (head-men)."

"Considerable progress has already been made towards realizing this program", Mr. Shertok assured me, "and I am most hopeful that, as the result of a survey recently completed by a General Staff officer

and already approved by the General Officer Commanding, it will be put fully into effect in the near future. It will, to recapitulate, give us a Jewish defense force of 5,000 supernumeraries armed with Government rifles, and some 3,000 other arms".

"We consider at the Jewish Agency", he concluded, "that with these defense units available to supplement the increased British military and police forces we shall be in a position effectively to protect ourselves against Arab attack during such period as may elapse before the present chaotic situation is cleared-up by what must and what, I believe, will be a military reconquest of the Arab parts of the country. We shall, of course, continue to lose men and be unable fully to prevent arson and sabotage, but we shall feel ourselves relatively secure as to life and property and find renewed courage and confidence to carry-on until political settlement is reached".

I am—and for the first time in many weeks—considerably reassured, by this interesting exposition, as to the future security of Jewish-American lives and property in this sorely troubled land. Discussing the question today with Mr. Julius Simon, President of the Palestine Economic Corporation of New York and to my mind the soundest-thinking conservative among our American Jews in Palestine, I was happy to find he shared this view. "We should", he added, "as a general proposition take our chances along with the other settlers", this in commenting on my suggested corollary that, in any such picture as Mr. Shertok had painted, my own intercession on behalf of Jewish-American interests could most effectively be limited to individual cases where a particular American interest appeared threatened.

That the Consulate General is always prepared to extend such intercession unstintingly need, I venture to believe, hardly be added.

Respectfully yours,

GEORGE WADSWORTH

367N.1113 Cottin, Max/1 : Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, October 5, 1938—2 p. m.

[Received October 5—11 a. m.]

I have today obtained from police authorities information that the Mendel Kotin officially reported killed in Tiberias massacre of October 2 by Arab insurgent was Max Cottin, see application for registration August 4, 1938. His wife also killed to whom he was recently married here does not appear to have been an American. He is first American victim of last 21½ years Palestine disturbances.

Political director of Jewish Agency emphasizing "unspeakable horror" of such outrages and "unpardonable procrastination" of

authorities stresses urgent need for more effectively implementing Jewish proposals for additional arming, see despatch 787 [727], September 20.

WADSWORTH

367N.11/103a : Telegram

*The Acting Secretary of State to the Consul General at Jerusalem
(Wadsworth)*

WASHINGTON, October 6, 1938—7 p. m.

Your October 5, 2 p. m. Please telegraph whether the protection which is being accorded American citizens and property interests is in your opinion satisfactory, taking into consideration the means at the disposal of the Palestine authorities. The Department has in view in this connection both the protection of such interests in general as well as in answer to the specific requests you have made of those authorities.

WELLES

367N.11/104 : Telegram

*The Consul General at Jerusalem (Wadsworth) to the Secretary
of State*

JERUSALEM, October 7, 1938—6 p. m.

[Received October 7—2:45 p. m.]

Department's October 6, 7 p. m. Affected American interests as Department is aware are primarily Jewish.

Our missionary and cultural interests are for the most part and our few Arab Americans wholly sympathetic with Arab aspirations and not apprehensive as to their security.

Socony Vacuum installations are special problem which together with similar installations other companies are receiving special Government consideration.

With particular reference to Jewish American lives and property interests there can be no doubt that they are receiving same measure of protection afforded by authorities within the means at their disposal to all other Jewish interests both local and foreign. Special and helpful consideration is accorded all specific requests made by this office.

I gather clear impression in informal discussion with British officials that with current arrivals of troop reinforcements strong suppressive action will be taken against insurgent bands and extensively

augmented measures instituted for the protection of Jewish and mixed areas and reestablishment security on main highways.

WADSWORTH

867N.01/1160a : Telegram

The Acting Secretary of State to the Ambassador in the United Kingdom (Kennedy)

WASHINGTON, October 10, 1938—6 p. m.

614. Are we correct in understanding that no final decision respecting the future of Palestine is to be made until the report of the Partition Commission is in the hands of the Government toward the end of October? Any additional information that may be obtained regarding the Palestine situation and possible future developments there would be helpful.

In this general connection we assume that the assurances given in the Foreign Office note of July 7, 1937,¹ that we would be kept informed of any proposal made to the Council of the League for modification of the mandate still hold good.

WELLES

867N.01/1161 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, October 11, 1938—7 p. m.

[Received October 11—4 p. m.]

1161. Your 614, October 10, 6 p. m. The Foreign Office confirms your understanding that no final decision respecting the future of Palestine is to be made before the report of the Woodhead Commission is in the hands of the Government. The report has not yet been signed and the Foreign Office states that it is not expected to be completed until the latter part of October.

Mr. MacDonald was very explicit in the House of Commons on October 6 last regarding the Government's intentions in this respect. He referred to the fact that the Woodhead Commission's report would not be in his hands until towards the end of October and that he did not anticipate that the Government would be able to reach conclusions before the House of Commons reassembled on November 1st. In reply to a further question he confirmed that the House of Commons

¹ See telegram No. 448, July 7, 1937, 9 p. m., from the Ambassador in the United Kingdom, *Foreign Relations*, 1937, vol. II, p. 891.

would not be put in a position of having to confirm or reject a decision already taken and put into operation, but would have an opportunity of considering the policy before it was adopted and put into operation by the Government.

The press attributes to the Iraqi Foreign Minister who has recently visited London a plan whereby Palestine would be converted from a mandatory to an independent state allied by treaty to Great Britain and governed under a constitution which would embody guarantees of full civil and religious rights to all communities and which would permit no further Jewish immigration.

An official of the Foreign Office states that the Iraqi Foreign Minister's visit was arranged as long ago as last July. He added that the Palestine situation was discussed with him but that there were "no negotiations".

The *Daily Telegraph* and *Morning Post* of October 5 stated that it is expected that an extraordinary meeting of the League Council will be summoned toward the end of the year to approve the British Government's eventual policy with regard to Palestine.

I shall revert to the last paragraph of your telegram at an early date.
Copy by mail Jerusalem.

KENNEDY

867N.01/1167a : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, October 12, 1938—5 p. m.

621. Personal for the Ambassador. Unless you perceive serious objection I should like to have you see Lord Halifax⁷² at your early convenience and, entirely personally and unofficially, inform him that during the past few days the White House and the Department have received thousands of telegrams and letters from all over the United States protesting against the alleged intention of the British Government to alter the terms of the Palestine Mandate in such a way as to curtail or eliminate Jewish immigration and thus jeopardize the policy established by the Balfour Declaration. In speaking to Lord Halifax please make your approach along the lines indicated in my telegram 285 of July 27, 1936,⁷³ to Ambassador Bingham, stressing the fact that you do not presume to interfere in any way with the policy which Great Britain may adopt regarding Palestine and

⁷² British Secretary of State for Foreign Affairs.

⁷³ *Foreign Relations*, 1936, vol. III, p. 444.

explaining that in your personal capacity you are bringing these developments to his attention as matters about which he would wish to be informed and for such consideration as they may merit.

Please address your reply as personal to me.

HULL

867N.01/1168 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, October 13, 1938—8 p. m.
[Received October 13—4:45 p. m.]

1180. Personal for the Secretary. Your 621, October 12, 5 p. m. Lord Halifax being out of London until the first of next week the message was conveyed orally this afternoon to Cadogan⁷⁴ in the sense outlined in your telegram. He will inform the Foreign Secretary as soon as he returns.

Cadogan confirmed previous information sent to you that there will be no statement of any kind regarding Government policy until after the completion and submission of the Woodhead report. Shortly thereafter some statement or indication of the Government's policy and intentions will be made.

Referring to any possible recommendation for changes in terms of the mandate he said that they naturally would feel themselves bound to communicate to us any proposed changes.

I saw Malcolm MacDonald today. He told me not to be unduly concerned about this as yet; that they had not come to any decision as to policy. I expect to keep in touch with him and will advise you from time to time.

KENNEDY

867N.01/1178

Press Release Issued by the Department of State, October 14, 1938

Within the past few days this Government has received a large number of telegrams and letters from individuals and organizations in the United States concerning the Palestine situation, with particular reference to the reported possibility of the application by the British Government of a new policy with respect to that country. It is ob-

⁷⁴ Sir Alexander M. G. Cadogan, Permanent Under Secretary of State for Foreign Affairs.

viously impracticable to reply separately to the many communications which have been received and this statement is therefore being issued in lieu of individual answers.

As is well known the American people have for many years taken a close interest in the development of the Jewish National Home in Palestine. Beginning with President Wilson each succeeding President has on one or more occasions expressed his own interest in the idea of a National Home and his pleasure at the progress made in its establishment. American sympathy in a Jewish Homeland in Palestine was further manifested by the Joint Resolution of Congress signed by the President on September 21, 1922,⁷⁵ recording the favorable attitude of the United States toward such a Homeland. In submitting the resolution the House Committee on Foreign Affairs reported that it:

“expresses our moral interest in and our favorable attitude toward the establishment in Palestine of a National Home for the Jewish people. It commits us to no foreign obligation or entanglement.”

It is in the light of this interest that the American Government and people have watched with the keenest sympathy the development in Palestine of the National Home, a project in which American intellect and capital have played a leading role.

On several occasions this Government has brought its views regarding the rights of the United States and its nationals in Palestine to the attention of the British Government. As recently as 1937 a formal exchange of correspondence took place and the following self-explanatory paragraph is quoted from the concluding note dated August 4, 1937, communicated by the American Ambassador in London to the British Foreign Office:⁷⁶

“In expressing satisfaction and appreciation for the assurances furnished that His Majesty’s Government intends to keep the United States Government fully informed of any proposals which may be made to the Council of the League of Nations for the modification of the Palestine Mandate, I am instructed to request that these proposals may be communicated to my Government in ample time to enable it to determine what, if any, observations it may desire to make with a view to the preservation of American rights in Palestine.”

It is expected, therefore, that this Government will have an opportunity to submit its views to the British Government with respect to any changes affecting American rights which may be proposed

⁷⁵ House Report No. 1038, 67th Cong., 2d sess., *Congressional Record*, vol. 62, pt. 10, p. 9799.

⁷⁶ *Foreign Relations*, 1937, vol. II, p. 901.

in the Palestine Mandate. These rights, which are defined by the American-British Mandate Convention or Treaty of December 3, 1924, comprise non-discriminatory treatment in matters of commerce, non-impairment of vested American property rights, permission for American nationals to establish and maintain educational, philanthropic and religious institutions in Palestine, safeguards with respect to the judiciary, and, in general, equality of treatment with all other foreign nationals.

The rights of the United States in connection with any changes in the terms of the Palestine Mandate are set forth in Article 7 of the above-mentioned Treaty, which reads as follows:

“Nothing contained in the present Convention shall be affected by any modification which may be made in the terms of the mandate, as recited above, unless such modification shall have been assented to by the United States.”

This article is substantially identical with corresponding articles included in eight other existing agreements concluded by this Government with respect to the mandated territories of Syria and the Lebanon, former German islands in the North Pacific, French Cameroons, French Togoland, Belgian East Africa, British Cameroons, British East Africa and British Togoland. None of these articles empower the Government of the United States to prevent the modification of the terms of any of the mandates. Under their provisions, however, this Government can decline to recognize the validity of the application to American interests of any modification of the mandates unless such modification has been assented to by the Government of the United States.

It is the Department's understanding that the Palestine Partition Commission, which was appointed some months ago to make recommendations with respect to partition, will make its report to the British Government at the end of this month and that no decision will be reached by that Government on the subject until after an opportunity has been had to give consideration to that report. In reply to a question in the House of Commons on October 6, 1938, Mr. MacDonald, British Colonial Secretary, is reported to have stated that the House of Commons would not be in the position of having to confirm or reject a decision already taken and put into operation but would have an opportunity of considering the policy before it was adopted and put into operation by the British Government.

The Department will, of course, continue to follow the situation closely and will take all necessary measures for the protection of American rights and interests in Palestine.

867N.01/1179

*Memorandum Submitted to the Secretary of State by American
Jewish Delegation*⁷⁷

OCTOBER 14, 1938.

SIR: This delegation, representative of every section of organized Jewish life in the United States, is grateful for the courtesy you have extended to it to acquaint you, and through you the President of the United States, with the deep anxiety pervading public opinion in this country regarding Palestine.

We respectfully appeal to the Department of State to exercise the right of the Government of the United States to intercede with the British Government, as Mandatory for Palestine, in a situation which threatens to result in a radical departure from, if not a complete reversal of, the policy of the Palestine Mandate which has been governing during the past twenty years the administration of the Holy Land and the establishment therein of a National Home for the Jewish people.

This anxiety has been caused by well authenticated reports that the British Government is contemplating such changes in the status of the mandated territory as would have the effect of nullification of the Balfour Declaration, issued by the British Government on November 2, 1917, and approved by both Houses of Congress in their Joint Resolution of September 21, 1922,⁷⁸ and abrogation of the Palestine Mandate, the terms of which are incorporated in a treaty between the United Kingdom and the United States of America, signed on December 3, 1924.

⁷⁷ Made up of the following members :

Carl Austrian, New York, representing the American Jewish Committee;
 Dr. Stephen S. Wise, New York, President of the American Jewish Congress;
 George Backer, Vice-President of the American Joint Distribution Committee;
 Henry Monsky, Omaha, Nebraska, President of B'nai B'rith;
 Joseph Schlossberg, New York, representing the American Jewish Labor Committee;
 Judge Morris Rothenberg, New York, Co-Chairman of the Council of the Jewish Agency for Palestine;
 Mrs. Judith Epstein, New York, President of Hadassah;
 Samuel A. Goldsmith, Chicago, Chairman of the Illinois Emergency Committee;
 Dr. Israel Goldstein, New York, President of the Jewish National Fund;
 Isidor Worth, New Jersey, National Commander of the Jewish War Veterans;
 Leon Gellman, New York, President of the Mizrahi Organization of America;
 Louis Lipsky, New York, Chairman of the Palestine Foundation Fund;
 Chaim Greenberg, New York, representing the Poale Zion;
 Rabbi B. L. Levinthal, Philadelphia, dean of Orthodox Rabbis of the United States;
 Edmund I. Kaufmann, Chairman of the Washington, D. C., Emergency Committee;
 Dr. Solomon Goldman, Chicago, President of the Zionist Organization of America.

⁷⁸ 42 Stat. 1012.

Our plea for your intercession is based on the clear need which seems to have arisen for safeguarding the maintenance of a policy, in the shaping and development of which the United States has had a decisive part and a deep interest; as well as on the ground of humanitarian action which, if promptly taken, would tend to avert widespread suffering in the Holy Land and overwhelming despair among large numbers of actual and prospective Jewish refugees. To escape the fate which is intended for them in lands of oppression, these victims must look to the national home for the Jewish people in Palestine as the primary avenue of hope and salvation.

Our plea is based further on the necessity of preventing injury to vital interests of United States nationals whose status will have undergone a radical and perilous change if any of the proposals now said to be under consideration by the British Government, as a substitute for the Balfour Declaration and the Jewish National Home policy of the Palestine Mandate, go into effect.

The requirement of American consent to any alteration in the present international status and political structure of Palestine, provided for in the treaty of December 3, 1924, equals the necessity, then universally recognized, for American consent to the establishment of the present regime in Palestine. This right was asserted by Secretaries of State Colby and Hughes and was conceded by the Principal Allied Powers and by the Council of the League of Nations, as well as by the British Government in their note of April 29, 1922.⁷⁹

Since the consent of the United States to the administration of Palestine by the British Government, given in Article 1 of the treaty of December 3, 1924, was a consent to transfer of rights of jurisdiction in Palestine, limited in duration and scope, any modification of that disposition of Palestine involves *pro tanto* a modification of Article 1 of the treaty such as, under the terms of Article 7 of the treaty itself, cannot be validly made without the consent of the United States. The British Royal Commission, in its report of July, 1937, relating the part played by the United States in the international arrangements for the administration of the Mandated territory, took cognizance of this point. Invocation of Article 7 of the American-British Convention of December 3, 1924, is respectfully requested.

In reliance upon the good faith of the British Government and on the international arrangements concurred in and supported by the Government of the United States for the progressive establishment of the Jewish National Home, American Jews joined in extending their moral and material support to the reconstruction program

⁷⁹ See telegram No. 199, May 1, 1922, 3 p. m., from the Ambassador in Great Britain, *Foreign Relations*, 1922, vol. II, p. 275.

which transformed wasteland into flourishing settlements and cities and increased the Jewish population in the Holy Land from 55,000 souls in the immediate post-War era to the present Jewish population of 450,000 souls. Jews take pride in the fact that, in addition to the advance made in the upbuilding of the Jewish National Home, the Arab population, far from suffering any setback from this influx of capital and men, actually benefited materially in every phase of its life from the resources and the example of their Jewish neighbors.

Your intercession to avert a reversal of the policies hitherto pursued would be an action of the greatest humanitarian significance, since the most striking result of a reversal of policy would be the stoppage of Jewish immigration into the Holy Land and closing the doors of Israel's ancient homeland to the refugees.

Such a situation would constitute not only a cruel blow that would further aggravate the indescribable plight of the refugees from lands of oppression but a strange and inexplicable anti-climax to the historic humanitarian act of the President of the United States and yourself, when the Evian conference⁸⁰ was called and special machinery of an international nature was created to explore and provide settlement opportunities for victims of unprecedented persecution. Are they to be barred, in the hour of their most desperate need, from asylum in their ancient homeland, the historic connection with which is hallowed by a continuous tradition of thousands of years and which was made the keystone of the mandate for Palestine?

Since the Jewish National Home policy was announced, Jews in the United States and elsewhere poured their resources and energies into the upbuilding of Palestine in the form of public and private contributions and investments.

Nearly ten thousand United States nationals are residents of Palestine, actively engaged in the pioneering tasks that are connected with the upbuilding of the Jewish National Home.

These investments of life and treasure have been made in reliance on the permanence of the international obligations underlying the Palestine Mandate. They derived impetus from the knowledge that our own Government had a share in the formulation of the terms of the Mandate, consented to its implementation and is to be consulted on any alteration in the terms of the charter governing the administration of the Holy Land. A reversal of this policy must bring incalculable damage to these vital interests.

Active American support for implementation of the Jewish National Home in Palestine has been part of public policy for many years, dating from the time that President Wilson shared in the drafting of the Balfour Declaration. Every President of the United States

⁸⁰ See vol. I, pp. 740 ff.

since Woodrow Wilson, including President Harding, President Coolidge, President Hoover and President Roosevelt, has, on numerous occasions, given public expression to his views in support of the Jewish resettlement program in Palestine.

Our right as American Jews to make representations affecting Palestine has been affirmed by the British Government. On February 13, 1931, Prime Minister MacDonald wrote an official letter to Dr. Chaim Weizmann,⁸¹ President of the Jewish Agency for Palestine, in which he said that His Majesty's Government "recognizes that the undertaking of the mandate is an undertaking to the Jewish people and not only to the Jewish population of Palestine."

The policy with which your administration of the Department of State has been identified has emphasized that international peace is grounded in the sanctity of international covenants. Seeking positive ways to promote amity between nations you have consistently urged that world law and order can be preserved only through the fulfillment of obligations undertaken by nations.

In view of the indisputable right of the American Government to intercede in the present situation affecting Palestine; in view of the humanitarian policy you have enunciated looking to the easement of the plight of refugees; and in view of the increasing pressure exerted upon Jews to expel them from lands in which they have lived for centuries, it is our earnest plea that the Government of the United States will take suitable action to urge upon the British Government a reaffirmation and a fulfillment of its pledge to facilitate the establishment of the Jewish National Home and to assist and encourage immigration of Jews into Palestine.

The action you will take at this hour of crisis in the history of a people's heroic effort to salvage its bereaved and homeless remnants will add immeasurably to the debt of gratitude that has already accumulated in our hearts and keep burning the light of hope and comfort which dispels the shadows of darkness hovering over millions of the Jewish people

867N.01/1170 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, October 14, 1938—5 p. m.
[Received October 14—2: 14 p. m.]

1184. A member of my staff in conversation with the acting chief of the Eastern Department of the Foreign Office queried the accuracy

⁸¹ For text of letter, see the *New York Times*, February 14, 1931, p. 8.

of a report in a recent issue of the *Daily Telegraph* to the effect that a special session of the Council of the League would probably be called in December to consider a change in the terms of the Palestine Mandate. The official said that he had not seen the report but that there could scarcely be a proposal so soon; that it was in fact improbable that a proposal would be made at either the regular meeting of the Council in January or even the one in May. It was more likely that there would be no definite proposal until the Permanent Mandates Commission meets next summer.

KENNEDY

867N.01/1180

Memorandum by the Acting Chief of the Division of Near Eastern Affairs (Alling)

[WASHINGTON,] October 15, 1938.

Mr. Salmon⁸² tells me this morning that he has been informed by the Western Union that it has had about 34,000 telegrams on the Palestine situation. Only on one previous occasion has the Western Union handled a larger number on one subject—between 75,000 and 100,000 at the time the Supreme Court question was up. The latter telegrams were, however, addressed to the several hundred members of Congress and not confined, as in the Palestine case, to the White House and State Department.

The Postal Telegraph Company has handled to date 30,522 telegrams on Palestine—a number considerably in excess of that handled at the time of the Supreme Court question or the Government reorganization bill.

The total number of telegrams to date on Palestine is therefore about 65,000 and they are still coming in.

PAUL H. ALLING

867N.55/118: Telegram

*The Secretary of State to the Consul General at Jerusalem
(Wadsworth)*

WASHINGTON, October 17, 1938—6 p. m.

According to paragraph 7 of the enclosure to your despatch No. 556 of March 19, 1938, there was left open for later consideration by the British Government the procedure to be adopted after September 30, 1938, concerning the power of prescription to be exercised by the

⁸² David A. Salmon, Chief of the Division of Communications and Records.

High Commissioner under Section 5a of the Palestine Immigration Ordinance.

The Department would appreciate receiving by telegraph any information you may be able discreetly to obtain, together with your comments, concerning the action if any which may have been taken or may be under consideration in this matter.

HULL

867N.55/143 : Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, October 18, 1938—noon.
[Received October 18—9:10 a. m.]

Department's October 17, 6 p. m. Commissioner for Migration regrets that answer to Department's query cannot properly be given in Jerusalem and suggests that our Embassy at London inquire directly of British Foreign Office.

Commissioner's rights of prescription has not been exercised and no immigration schedules for semester begun October 1st have been issued. I gathered impression in recent conversations with British officials that whole question is being held in abeyance pending publication of the Commission's report and declaration of British policy.

WADSWORTH

867N.01/1176 : Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, October 18, 1938—3 p. m.
[Received 4:20 p. m.]

Associated Press and other news agency cables effectively portray state of intense tension following rebel control Old City Jerusalem except Jaffa Gate area and Armenian and Jewish quarters.

Persistent long range sniping between military surrounding disaffected area and rebel occupants continues but thus far I am informed by Government press officer no deaths either side are known.

As yet no decision taken by military as to how to regain control. To send troops into maze narrow bazaars would entail heavy casualties but this appears to be only course open. There is no question bombardment similar Damascus 1925.⁸³

WADSWORTH

⁸³ See section entitled "Precautions by the United States for the Safety of Americans During the Syrian Insurrection," *Foreign Relations*, 1925, vol. II, pp. 105 ff.

867N.01/1190 : Telegram (part air)

The Minister Resident in Iraq (Knabenshue) to the Secretary of State

BAGHDAD, October 19, 1938—11 a. m.

[Received October 24—6:10 a. m.]

42. Public and press of Iraq are being increasingly agitated by the Palestine situation. Press reports concerning the efforts of the Jews in the United States to have the United States Government intervene with the British Government on their behalf have been given special prominence as have telegrams from New York and Damascus urging Iraqis to intervene with the American Legation and the President of the United States on behalf of the Arab cause. One group has called at the Legation and the Palestine Defense Committee has telegraphed the President appealing to American justice and fairness and calling upon him to safeguard the high prestige of the United States in the Near East.

In an interview with Wallace Murray and myself the Prime Minister asserted that the Arabs of Palestine have the moral support of his Government; that partition will not be acceptable; and in substance that the Arabs will be satisfied with nothing less than an Arab State in which the Jewish minority will have ample guarantees.

In the event of new British policy unacceptable to Arabs of Palestine reaction in Iraq would probably be as follows:

1. Iraqi Government would remain faithful to Anglo-Iraq treaty of alliance but would continue to exert diplomatic pressure in support of Palestine Arabs.

2. It is conceivable that in the event of killing of large numbers of Palestine Arabs by British troops implementing new policy, demonstrations and possible violence against Iraqi Jews might take place.

KNABENSHUE

867N.01/1201

Memorandum by the Acting Chief of the Division of Near Eastern Affairs (Alling) to the Secretary of State

[WASHINGTON,] October 20, 1938.

MR. SECRETARY: This morning you raised the question whether there had taken place at the time the American-British Palestine Mandate Convention was approved by the Senate any debate or discussion which would throw light on whether the Senate considered that we were undertaking any particular obligations with respect to Palestine. The attached memorandum,⁸⁴ prepared by Mr. Hunter Miller nearly two

⁸⁴ Not printed.

years ago, shows clearly that neither in the Senate itself nor in the Foreign Relations Committee was there any discussion of the kind you had in mind. I think the reason for the lack of discussion is clear. The Senate undoubtedly felt that the American-British Convention relating to Palestine differed in no material way from the eight other practically identical conventions which we had concluded respecting mandated territories. It was probably the view of the Senate, just as it certainly was the view of the Department, that the sole purpose of all these conventions was to gain for American nationals in the mandated territories the same rights and privileges which nationals of states members of the League of Nations enjoyed.

PAUL H. ALLING

867N.01/1185a : Telegram

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

WASHINGTON, October 20, 1938—1 p. m.

638. We realize that you have not yet had time to obtain information as to any decisions which the Cabinet may have taken regarding Palestine. In view of the intense interest in this country in the Palestine question any information you can obtain as to future British policy there would be most helpful. We are particularly desirous of learning whether the Government's future policy will be announced at the time of publication of the Woodhead Report, presumably some time next week, or whether there will be an interval between the publication of the report and the announcement of policy.

HULL

867N.01/1251

The Chargé in Egypt (Merriam) to the Secretary of State

No. 1427

CAIRO, October 21, 1938.
[Received November 4.]

SIR: I have the honor to refer to the Legation's despatch No. 1426 of October 21, 1938,⁸⁵ reporting the proceedings of the Inter-parliamentary Congress for the Defence of Palestine which was held at Cairo from October 7 to 11, 1938, and to state that four gentlemen representing the Congress called at the Legation by appointment on October 21, 1938, for the purpose of requesting me to transmit to my

⁸⁵ Not printed.

Government the conclusions and resolutions adopted by the Congress, which I agreed to do. These gentlemen were: Mohamed Aly Alluba Pasha, President of the Executive Committee of the Congress, an Egyptian Senator; Tewfik Doss Pasha, an Egyptian Deputy; Hamad Pasha El Bassel, an Egyptian Deputy, and Fares Bey El Khuri, President of the Syrian Chamber. A copy of their letter of transmittal and of the document embodying the conclusions and resolutions are enclosed herewith.⁸⁷

During their call, the delegates made an eloquent plea for an attitude on the part of the Government of the United States toward the Palestine question based on President Wilson's principle of the self-determination of peoples of which, they stated, the Jewish National Home in Palestine is in effect a gross violation. They entered their plea, they said, on the grounds of justice to the Arabs, notwithstanding their full appreciation of the weight of Jewish influence in the United States and of the extent of American Jewish investment in Palestine.

Respectfully yours,

GORDON P. MERRIAM

867N.01/1191 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, October 24, 1938—2 p. m.

[Received October 24—10: 25 a. m.]

1236. My 1223, October 21, 1 p. m.⁸⁷ I had a talk with MacDonald. He has received the report on Palestine and is taking it up with his colleagues this afternoon. He has agreed with the Foreign Office that just as soon as he and his colleagues have discussed it it will be given to me for your attention, so you won't read about it some morning in the newspapers.

He told me they expect to have the report together with the Government's recommendations some time immediately after the opening of Parliament.

I asked him if he could give me his general impressions even though he had not discussed it as yet and he told me he was going to definitely recommend that immigration to Palestine for the Jews not be stopped and that he thought on the whole the recommendations would be looked upon rather favorably by the Jewish people. Beyond that he did not feel able to go at this time.

⁸⁷ Not printed.

He realizes the great interest in this subject in America and will keep me advised.

He thinks the tension is easing up a bit and hopes that conditions will improve reasonably soon.

KENNEDY

867N.01/1205 : Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, October 25, 1938—10 a. m.

[Received 4 p. m.]

From Murray. During a conversation yesterday with the High Commissioner⁸⁸ (and earlier with others as indicated below) the following views were expressed on the present situation in Palestine:

Sir Harold described the situation here as being now one of national revolt enveloping the entire country. While force must and will be used to restore order, he said, the announcement of a new British policy respecting Palestine is not likely, as desired by the Jews, to be withheld pending complete restoration of law and order which, according to General Haining, would take 2 to 3 years to accomplish.

Sir Harold intimated that it was useless to go on sacrificing lives on all sides when a solution might be offered that would render bloodshed unnecessary. He stated at the same time that he was utterly opposed to any negotiations with the Mufti although he was conscious of the fact that the Mufti is at the moment controlling the revolt and that there is no one else here with authority to speak for the Arabs of Palestine.

General Haining on the other hand was of the opinion that the British would in the end negotiate with the Mufti. Others—*id est* leading British officials, Arabs and Jews, with whom I have discussed the question—put it this way:

The British Government can, as it appears to be doing, negotiate with the Arab princes and political leaders of the Near East, including the Mufti, thus "diluting" but at the same time availing itself of his influence.

Sir Harold intimated that partition was no longer a practicable solution but he was at the same time emphatic in condemning the form of the present Palestine Mandate which he said was based on gross ignorance of conditions prevailing in Palestine at the time it was drafted and had since been shown to be wholly unworkable. In this connection he said it was a mistake ever to have separated

⁸⁸ Sir Harold MacMichael.

Palestine from Syria which had always been united in the Ottoman Empire.

This latter remark may have been an indirect reference to the proposed union of Syria, Lebanon, Palestine and possibly Iraq which is being much discussed here and which, if realized, would in the opinion of both Jews and Arabs eventually offer an enlarged outlet for Jewish immigration in this region. It seems clear, however, that the neighboring Arab States are not prepared, in advance of such federation, to obligate themselves to accept Jewish immigrants and that the Jews will not agree to stake their future here or in the Near East as a whole on such a hypothetical eventuality.

The High Commissioner was rather guarded in his remarks on this all-important subject of immigration but his observations on the general subject led me to believe that he considers a drastic limitation of immigration into Palestine proper to be essential to any lasting settlement. British official circles generally tend to the view that the Arabs can not be brought even to discuss the bases of permanent settlement unless such limitation be enforced at least as an interim measure. [Murray.]

WADSWORTH

867N.01/1204: Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, October 25, 1938—6 p. m.
[Received October 25—2: 29 p. m.]

At request of 300 delegates representative of American Jews in Palestine who met especially in Tel Aviv October 18, I am telegraphing tonight in clear, at their expense, full text of resolution voted.

President Simon of Palestine Economic Corporation, delegated to make request, emphasizes (1) American Jews came here relying on mandate and Anglo-American convention, (2) a controlling motive was to prepare way for further settlers, (3) they urge their Government use its influence keep door open.

I have given him full text Department's October 14 statement carried in Radio Bulletin 241.

Arab circles, I should add, voice increasing apprehension at extent of the reported Jewish propaganda in the United States. Dr. Totah, Arab Director American Friends School, comments: "We Arabs wish we could be reassured that the American Government will not be unduly influenced by this extensive propaganda but rather live up to its traditional standard of impartial helpfulness in any posi-

tion it may feel obligated to take with reference to the forthcoming British declaration of policy." Dr. Canaan, leading Arab surgeon and Christian Arab Nationalist of long time pro-American sympathies adds: "I am seriously distressed at the magnitude of the current wave of intense bitterness now sweeping local Arabs of all classes. We have always looked to America to view our problem with impartiality. We have become increasingly convinced that British policy has been fundamentally influenced of late years by Jewish pressure in London. Now to see America, even its President and its Christian churches, apparently similarly influenced, we are shocked and disillusioned."

WADSWORTH

867N.01/1215 : Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, October 25, 1938—6 p. m.

[Received October 27—7 a. m.]

Following is text of resolution referred to in my telegram of October 22, 2 p. m. [*October 25, 6 p. m.*]:⁸⁹

"Resolved, that this conference of American Jewish citizens in Palestine assembled from urban and rural communities, and of American corporations, all having substantial interests in Palestine, respectfully submit to the American Consul at Jerusalem for transmission to the Government of the United States of America, the following representations:

1. Pursuant to and encouraged by the American-British Mandate Convention on December 3, 1924, which Convention, after reciting that the principal Allied Powers had agreed to entrust the mandate of Palestine to His Britannic Majesty, incorporating the terms of the said mandate, the American Jews contributed and invested sums estimated at over 80 million dollars; and furthermore, thousands of American Jewish citizens, on the strength of their faith in the terms of the said Convention of December 3, 1924, have established their domiciles and have invested all or large shares of their resources in Palestine.

2. Furthermore, these American Jewish citizens, resident in Palestine, were actuated in their course not only by virtue of their self-interest but to no less an extent by their desire to create conditions favorable to the absorption of large numbers of Jews into Palestine.

3. Apprehensive of reports as to contemplated changes or modifications in the mandatory status as assured by the terms of the aforesaid Convention of December 3, 1924, this Conference respectfully and dutifully prays that the Government of the United States of America exercise their good offices that nothing should be done to prejudice

⁸⁹ *Supra.*

the rights as established by three [*these?*] terms of the mandate, as embodied in the said Convention of December 3, 1924, and that the present arbitrary restrictions on immigration be removed, so that the hope of the Jewish people may not be destroyed."

WADSWORTH

867N.01/1208 : Telegram

The Minister Resident in Iraq (Knabenshue) to the Secretary of State

BAGHDAD, October 25, 1938—7 p. m.
[Received October 25—6:51 p. m.]

43. My October 19, 11 a. m. I am continuing to receive from representative Iraqi groups protesting what they believe to be President Roosevelt's support of the further development of the Jewish National Home in Palestine leading to a Jewish State with a Jewish majority and consequent subjugation of the Palestine Arabs and the loss of their country.

In an interview today with Towfik Suwaidi, Iraqi Minister for Foreign Affairs 2 hours after his arrival from London he gave me a fulsome [*sic*] account of his negotiations in London in connection with the Palestine situation the outstanding points of which were as follows:

The report of the Palestine Partition Commission will be presented to Parliament on November 2nd. He was led to believe that the report will pronounce the partition scheme impracticable and that the British Government is favorably disposed toward a new policy having as its basis a minority position for the Jews in Palestine with stringent guarantees for their protection and civil rights and limited immigration to maintain a specified ratio of population. He said that this would provide a National Home for the Jews in Palestine in the sense indicated in the wording of the Balfour Declaration.

He called my attention to the solidarity of the Arab world in support of Palestine Arabs and their increasing concern. He also said that the signatories of the Saadabad Pact⁹⁰ are now supporting the cause.

He intimated that the Arab kings would not a second time advise the Palestine Arabs to cease action and trust to British justice unless something concrete were first offered—the minimum being (1) abandonment of partition and (2) minority position for Jews. He said that if these conditions were met he would guarantee that Palestine

⁹⁰ Treaty of Nonaggression, signed at Saadabad Palace, Teheran, July 8, 1937, by Afghanistan, Iran, Iraq, and Turkey, League of Nations Treaty Series, vol. cxc, p. 21.

rebels would agree to an armistice. Otherwise he added rebellion in Palestine will continue with increasing intensity.

The Minister for Foreign Affairs begged me to bring the foregoing to the attention of my Government.

I respectfully submit that my 27 years experience in Arab countries including Palestine convinces me that Palestine Arabs will never willingly and permanently accept settlement of problem providing possibility of Jewish majority and that they will have increasing moral and probably material support of their Arab neighbors.

KNABENSHUE

867N.01/1295

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

No. 752

JERUSALEM, October 26, 1938.

[Received November 19.]

SIR: I have the honor to enclose a copy of an open letter addressed to the London *Times* (published in the paper's issue of September 22, 1938),⁸¹ signed by the Bishop in Jerusalem for the Anglican Church, George Francis Graham-Browne; W. H. Stewart, Anglican Archdeacon in Jerusalem; C. T. Bridgeman, American Chaplain and Canon, St. George's Cathedral, Jerusalem; and Miss Mabel C. Warburton, Christian educator in Palestine. Canon Bridgeman, in addition to his religious duties, acts as Palestine correspondent for the London *Times* and is the author of a number of interesting despatches which have received considerable attention (e. g. that reported in despatch No. 654 of July 8, 1938⁸²).

It will be observed that the communication is an appeal to the British authorities and public to consider the Christian interests in Palestine, and is at the same time a denial that the country is capable of solving the European Jewish problem. I believe it merits careful reading by the Department. To recapitulate the letter, it has as its major premises:

1) Palestine is incapable of absorbing enough immigrants to solve the European Jewish problem, and this problem, moreover, should be solved by the Christian powers at their expense and not at the expense of the Arabs of Palestine.

2) The Jewish claim to Palestine on the basis of prophecy is declared in the New Testament to have been abrogated.

3) The Balfour declaration was inconsistent with itself and with the theory of Mandates, and, originally vague in its form of expression, has never been given an interpretation that was final.

4) Palestine is the Holy Land of three faiths, not two.

⁸¹ Not reprinted.

⁸² Not printed.

Its principal conclusions are :

1) Partition can only be a temporary settlement of the Palestine problem, whose permanent solution should be based upon the development of cooperation between the races.

2) If partition, even temporary partition, is decided upon as an administrative necessity at this time, it must be a partition which recognizes the inalienable rights of the people who inhabited the land at the beginning of the Mandate, follows present ethnic groupings, provides a Mandatory Area large enough to accommodate those who do not wish to remain either in the Arab or Jewish state, and affords opportunity to the Christian churches to preserve their respective inheritances and to continue their activities in the Holy Land in the interests of 500 million Christians.

For some time, the Christian point of view toward the Palestine problem has been engaging my attention as an aspect of the subject which appears to have been neglected by most commentators, who confine their discussions largely to the Arab and Jewish sides of the question. Local representatives of Christian bodies and institutions have often expressed to me their opinion that more attention should be given to the important interests in Palestine of the world's large Christian population and to the manner in which these interests may be affected by partition or other proposed measures. Many of these Christian leaders are opposed to partition because they fear that the scheme will result in a decline in the importance of Christian influence and institutions in the Holy Land and will diminish opportunities for Christian missionary work and other activities.

While a few of the Christian leaders gave evidence, for the most part in camera, before the Palestine Royal Commission, they have made little or no effort to give general public expression to their views. Nor, to my knowledge, has there been any formal consultation on the subject between Christian leaders of different denominations. The publication of the letter signed by the Anglican Bishop and his colleagues is, therefore, a significant first attempt to arouse public opinion to the importance of Christian interests in Palestine, and has given these interests a prominence which they have not had before.

In December 1937, I discussed this subject at considerable length with Bishop Graham-Browne, who gave me a copy of a memorandum which he has prepared "regarding the universal religious significance of Palestine". He told me that the memorandum embodied views on local Christian interests given in his testimony before the Royal Commission and later before the Partition Commission. A copy of the memorandum and a copy of a personal letter⁹³ on the subject written me by the Bishop on January 28, 1938, are being forwarded herewith for comparison with the letter recently published in the London

⁹³ Neither printed.

Times. The memorandum, as will be noted, is chiefly concerned with expressing objections to partition, holding that guarantees (as referred to in the Mandate and in the Royal Commission's report) as to "the protection and rights of the Christian Holy places" will not satisfy the Christian's conscience "regarding the treatment of the Holy Land and the preservation of its unique position in the world", and implying that the whole of the country, in view of its importance as the Holy Land of three faiths, should continue to be administered "by a Government at the request of an acknowledged international body and subject to its ultimate authority".

By and large, the Christian clergy in Palestine, of all denominations, tends to sympathize with the Arab cause, at least in so far as the Arab grievances concerning Jewish immigration and fears of Jewish domination are concerned. The reason for this sympathy is partly that nearly all members of the Christian religious communities are Arabs, whose views naturally influence the clergy and missionary workers. Most important, however, is the general view that if Jewish ambitions are realized, it will be at the expense of Christian privileges and influence in the Holy Land. Thus, sympathy of the Christian clergy with the Arab cause is founded on the common ground which they have with the Arabs, namely, fear of Jewish encroachment in the country. It does not go so far, however, as to support Arab ambitions for independence. On the contrary, Arab rule of the entire country is regarded, from the Christian point of view, as being almost as much to be avoided as Jewish rule.

The partition scheme is disapproved by the Christian clergy and by the Christian community on the grounds that the scheme does not provide sufficient safeguards for the Christian inhabitants of the country, particularly those who would be left residing in either the Jewish or the Arab state as proposed by the Royal Commission. Further, it is felt that Christian rights and privileges, now extending to the whole country, will be much reduced by restriction to the proposed Jerusalem corridor area and certain isolated localities to remain under British Mandate. On the whole, it may be said that the Christians in the country, clergy as well as laity, are hoping that the British Mandate over all of the country will be continued.

Although the majority of Christian Arabs are making a common cause with the Moslem Nationalists agitating for independence, it is generally recognized that their attitude is due in large measure to the fear of the consequences if they should do otherwise. It is well known that most Christian Arabs, while professing to espouse the Arab independence movement, are apprehensive of the treatment they might receive in a Moslem state and would prefer that the Mandate be continued for the whole of the country.

As of possible interest in this connection, there is enclosed a copy from the *Palestine Post*, October 14, of a summary of an article⁹⁴ entitled "Distortion of History—Plea for Arabic Speaking Christians", originally published in the *Church Times*, London, of September 30, and written by that journal's Jerusalem correspondent. After a complaint that the history and interests of "110,000 Arabic speaking Christians" in Palestine were given insufficient attention in the Royal Commission's report, the correspondent asserts "it is a mistake to assume that the political interests of the native Christians necessarily coincide with those of the Moslem Arabs merely because they are at present afraid not to make common cause with them". Continuing, figures are given showing the proportion of the Christian population which "will be given over to non-Christian rule" in the Jewish and Arab states proposed by the Royal Commission; and, in conclusion, a reminder is given "that international Christian interest has done much for Palestine and that the country's first modern schools and hospitals owed their existence to Christian charity".

Among the Christian groups in Palestine, the Roman Catholics, ("Latins" in local usage) are recognized to be the most important from the point of view of political influence. Although the Greek Orthodox church has the largest number of adherents among the native Christians, the Roman Catholic Church has been more active in educational work and in the operation of hospitals and other charitable endeavor. Members of the Christian clergy in Palestine (priests, monks, nuns, missionaries, and others) number about 3,500 persons, of whom nearly one-half are Roman Catholic. It is estimated that the Christian population of the country is divided approximately as follows:

| | Number | Percent- age of total |
|--|---------|-----------------------------|
| Roman Catholic (including Uniats) . . . | 43,000 | 39 |
| Greek Orthodox | 48,000 | 49 |
| Anglican and other Protestants | 9,000 | 8 |
| Armenian and minor Eastern churches . . | 5,000 | 5 |
| Others | 5,000 | 5 |
| | 110,000 | 100 |

Of the approximately 22,000 students attending the Christian schools in the country (compared with 43,000 students at Government schools for Arabs), nearly 20 per cent are Moslems and about 5 per cent are Jews. At secondary Christian schools, the attendance is almost three times as large as in Government schools, i. e., 1400 against 500. There

⁹⁴ Not reprinted.

is almost no non-Jewish attendance at Jewish schools, which have approximately 58,000 students. The importance of Christian hospitals is even more outstanding, as shown by the following statistics from the Palestine Government's *Blue Book* for 1936 (the large number of Moslems and Jews admitted to Christian hospitals will be noted):

| | No. of Beds | Admissions | | | | Total |
|---------------------------|----------------|------------|------------|---------|--------|---------|
| | | Moslems | Christians | Jews | Others | |
| Christian Hos- pitals | 1, 126 | 7, 872 | 4, 373 | 2, 091 | 1, 729 | 16, 068 |
| Jewish Hospitals | 769 | 22 | 12 | 13, 377 | — | 13, 411 |
| Government Hos- pitals | 844 | 7, 724 | 2, 409 | 8, 552 | 129 | 18, 814 |
| | 2, 739 | 15, 618 | 6, 794 | 24, 020 | 1, 858 | 48, 293 |

As explained previously, local Christian leaders have been reluctant to express publicly their views on the country's political situation, or to recommend political measures which they believe should be taken to protect Christian interests. This reluctance is apparently due in part to a feeling that it is inappropriate that Christian clergy should intervene in politics. There are, however, other reasons, applicable especially to the more influential groups, the Latins and the Greek Orthodox.

With respect to the Greek Orthodox, the clergy is under the influence of the laity which is composed largely of Arabs who sympathize with the Moslem Nationalists. I am reliably informed that the members of the Greek Orthodox community have made it known to their religious leaders that pronouncements on their behalf as Christians would be prejudicial to them because of the possible effect upon their future relations with Moslems. The Greek Orthodox clergy is also apprehensive, for its own sake, of taking any steps which might be harmful to the future relations of the Church with Moslems in the event an Arab independent state should be established.

As to the Roman Catholics, the local clergy takes the stand that any intervention in the country's political problem should come from the Vatican. In my Press Review No. 644 of June 27, 1938,⁹⁵ mention was made of my conversation with Cardinal Dougherty, Archbishop of Pennsylvania, during his brief visit to Jerusalem. From this conversation, I gathered that the Vatican is concerned particularly with the preservation of its rights in connection with the Christian holy sites, but is postponing any formal intervention until a more

⁹⁵ Not printed.

definite line of political settlement is proposed by the British Government.

To return to the letter recently published in the London *Times*, its general tenor is, I believe, approved by most of the local Christian leaders (not only by Anglicans and other Protestants but also by Roman Catholics, Greek Orthodox, Armenians, and others), especially with respect to the implications that Jewish immigration should cease and the general principle that in seeking a solution more consideration should be given to the Christian interests in the country. With the details given in the letter for a proposed plan of partition, there is perhaps considerable difference of opinion, but general agreement on features which support Christian rights and influence.

No comment regarding the letter has been observed in the Arab press. Obviously, the views expressed meet with general approval among the Christian Arabs. Moslems undoubtedly welcome the declaration that Palestine is incapable of absorbing large numbers of Jewish immigrants, but, being opposed to partition in any form, find little to please them in its style of presentation, i. e. suggested amendment of the partition plan.

The Jewish press naturally considers that the arguments presented in the letter are directed against Jewish interests. Typical of Jewish criticism is an editorial in the *Palestine Post* of September 30 (copy enclosed)⁹⁶ which characterizes the communication as an elaborate argument aiming at closing to the Jews "the gates of the only country to which they were solemnly assured by His Majesty's Government, with the support of the League of Nations, that they would be entitled to enter 'as of right and not on sufferance'". The weekly *Palestine Review* of October 7 says that acceptance of the Bishop's proposals would be "tantamount to a rescinding of the Mandate". Particular umbrage is taken by *Hatzofe*, Mizrahi organ, which expostulates: "As if others were the rightful owners of Palestine, and not the Jews, its historical owners".

I have thought it desirable to submit the above comment and the enclosed documentation in the belief that the information thus presented may be of interest to the Department, and also to Christian leaders in the United States, in connection with the forthcoming publication of the report of the Palestine Partition Commission and such subsequent action as may be taken by the British Government. To Consul A. W. Scott should go the credit for the drafting and for much of the research on which it is based.

Respectfully yours,

GEORGE WADSWORTH

⁹⁶ Not reprinted.

867N.01/1215 : Telegram

*The Secretary of State to the Consul General at Jerusalem
(Wadsworth)*⁹⁷

WASHINGTON, October 27, 1938—7 p. m.

Your telegram of October 25, 6 p. m. It is suggested that, in your discretion, you might properly acquaint responsible Arab as well as Jewish inquirers with the Department's public statement concerning Palestine.⁹⁸ Should you deem it desirable, you may explain also that the statement represents no change in this Government's position with respect to that question. (See, in this connection, Department's Radio Bulletin No. 244.)

HULL

867N.55/148 : Telegram

*The Secretary of State to the Consul General at Jerusalem
(Wadsworth)*

WASHINGTON, October 28, 1938—7 p. m.

Press reports regarding new immigration schedule are conflicting. Please telegraph brief synopsis of schedule, indicating whether its effect will be to decrease or increase immigration as compared with previous schedule, and including any other comments that may be pertinent.

HULL

867N.01/1224 : Telegram

*The Consul General at Jerusalem (Wadsworth) to the Secretary
of State*

JERUSALEM, October 29, 1938—noon.
[Received October 29—10:38 a. m.]

Department's October 27, 7 p. m. Since despatching my telegram of October 25, 6 p. m., I have received four representative Arab delegations. All associated themselves with the views quoted in that telegram, emphasized the national character of the current revolt and their fear of Jewish domination, recalled America's traditional friendship for the Arab Near East and advocacy of the principles of self-determination and voiced particularly the hope that the Palestine Arab case would be placed fully and sympathetically before the Presi-

⁹⁷ A similar telegram was sent on the same date to the Minister Resident in Iraq as No. 21.

⁹⁸ Press release of October 14, p. 953.

dent whose views on the Palestine problem they fear have been unduly influenced by the reported recent wave of Jewish propaganda designed to obtain his intervention with the British Government to the end that the policy of the Balfour Declaration shall be continued.

They urge too that the Department study carefully the resolutions of the Cairo Arab conference as the most recent effective restatement of their case (see Cairo Legation's air mail despatches of October 21⁹⁹).

To each delegation and to other inquirers I have given copies of the Anglo-American exchange notes of last year and of the Department's public statement and the President's letter published in Radio Bulletins 241 and 248.

WADSWORTH

867N.4016/68

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

No. 757

JERUSALEM, October 30, 1938.

[Received November 19.]

SIR: The fortnight under review, I have the honor to report, witnessed a number of developments bearing on public security, some of which betoken better days for this distressed country. On October 10 there arrived at Haifa 2,400 of the expected troop reinforcements and on October 13 a further 1,100 disembarked at that port. The arrival of these troops was timely, for it was generally believed that with the approach of the hour for a final decision by the British Government on Palestine policy, the rebels were preparing to make a supreme effort to impress that Government and world opinion in general with the strength of their movement and its national character.

Their outstanding demonstration of this nature was, of course, the dramatic "occupation" of the Old City of Jerusalem. The origin and development of the Old City crisis up to the night of October 17 were described in my despatch No. 749 of that date.¹ On October 18 the Old City remained all but sealed, with intermittent firing from within to which the security forces replied from such vantage points as the roof of the principal Government offices and the (Rockefeller) Museum of Antiquities. A black-white-and-green Arab nationalist flag hoisted over the Damascus Gate was shot down by rifle fire. Several wounded Arabs were brought to the Government Hospital but only one fatal casualty was officially reported.

⁹⁹ Despatch No. 1427, p. 963; despatch No. 1426 not printed.

¹ Not printed.

Late that evening the Government published a supplement to the Emergency Regulations whereby the General Officer Commanding was authorized to appoint military commanders for the several districts, they to be charged with all duties in connection with public security, and providing that the respective District Commissioners become political advisers to such military commanders. Under these regulations Major General Richard U. O'Connor was appointed Commander of the Jerusalem Area (four other military commanders being later appointed to other sections of the country).

General O'Connor acted immediately, and early the following morning two columns of troops, shod in tennis shoes for sure-footing [*footing*] and noiseless approach, entered the Old City. They met with little resistance but, their methodical occupation requiring much time, it was not until the afternoon of the 20th that the Old City was brought entirely under control. It was reported that eight Arabs were killed, the number of wounded—probably between one and two score—being uncertain.

While the military authorities are deserving of high praise for the orderly and humane way in which the Government's authority was restored throughout the Holy City, a natural and by some regretted consequence was that almost no armed rebels were taken and, according to published reports, only "one rifle and 25 rounds of ammunition." It is generally believed that many of the rebels escaped from the Old City the night before the re-occupation and that others found temporary refuge in the Haram area where their arms remain hidden. Out of consideration for Moslem feeling no direct action was taken against the Haram.

Besides the ordinance aforementioned, several others were promulgated during the fortnight, their collective effect being to render the administrative organization of the country hardly distinguishable from martial law. The following summary review of this legislation, it is believed, will prove helpful:

On October 17 there was gazetted an ordinance providing that in the exercise of his duties the Inspector General of Police be subject to the directions of the General Officer Commanding the Military Forces.

On October 20: an ordinance empowering the High Commissioner to confiscate the immovable property of any person, whether resident in Palestine or not, when the High Commissioner is satisfied that such person is aiding, abetting, instigating or directing acts of violence or intimidation.

On October 21: an ordinance empowering military commanders to regulate, by the issuance of passes or otherwise, to restrict, control, or prohibit the travel on the roads of Palestine of any person.

Under authority of the last mentioned ordinance it was announced that beginning November 1, all males above sixteen years of age who travel the roads of Palestine must have a road pass. (The rebels immediately circulated a notice that anyone caught with such a pass would be immediately shot.)

By this measure the Government hopes greatly to restrict the movements of individual rebels or small groups of them and to prevent their infiltration, under the guise of peaceful citizens, into urban centers for the perpetration of sabotage or other acts of violence. On the other hand, these regulations probably will work considerable hardship on peaceful members of the Arab populace unless the Government effectively patrols the roads. For instance, an Arab-American has pointed out to me that these regulations make it impossible for him to visit his plantation near Jericho. Without a pass he cannot travel, and with a pass his life is seriously endangered. He cannot count on receiving effective protection either on the road or in the vicinity of his plantation.

Fatal casualties among victims of the revolt during the fortnight were: 26 Arabs, including an outstanding political figure, Hasan Sidki Dajani, a Jerusalem Municipal Counselor and supporter of the Emir Abdullah, killed by Arab terrorists; nine Jews and one British officer and two soldiers. Twelve Arabs, 23 Jews and 18 British were wounded, according to official communiqués; and 103 rebels were reported killed and five captured. The year's death toll has now passed 1500, made up as follows: British police and military, 45; Jews, 225; Arabs, 383; others, 9; Arab "terrorists" (reported killed by police and military), 850; total, 1515. Among other reported victims more than 1000 have been reported wounded, as follows: British police and military, 92; Jews, 480; Arabs, 493; others, 8; total, 1073.

Numerous other reported cases of sniping, sabotage, armed robbery and bombing are indicated in the enclosed tabulation² (compiled from official communiqués) of the fortnight's toll of violence. As usual, a record of military court trials is added. Though official communiqués no longer report all cases of sabotage of telephone and telegraph communications, they continue to be numerous and occasionally extensive. On one occasion during the fortnight Jerusalem was again completely isolated from the outside world except for Royal Air Force wireless.

Respectfully yours,

GEORGE WADSWORTH

² Not printed.

867N.01/1234 : Telegram

The Chargé in Egypt (Merriam) to the Secretary of State

CAIRO, November 1, 1938—noon.

[Received 4:27 p. m.]

87. Within the past 10 days several delegations supporting the Arab cause in Palestine have called at the Legation to present appeals for transmission to the President. Such communications have been and will be forwarded by air mail to the Department.

Some of the groups represent important manifestations such as the recent inter-Parliamentary Arab Congress and the Congress of Oriental Women. Callers have been uniformly courteous but thoroughly earnest and the tone of the communications has been increasingly serious.

Certain thoughts recur in the resolutions and pleas:

(1) full realization of the weight and effectiveness of Jewish influence in the United States;

(2) regret amounting to sorrow that this pressure should have given rise to statements by American public men sympathetic to the Zionist aims coupled with disbelief that these reflect the sentiments of the American people as a whole;

(3) a national home in the form contemplated by the Jews is a direct violation of the principle of the self-determination of peoples advanced and heretofore strongly supported by the United States Government;

(4) this violation is a particularly obnoxious form of imperialism because it contemplates submerging an existing Arab majority through forced and largely artificial immigration imposed by a third party;

(5) in sympathizing with the Zionists the Government of the United States runs the risk of losing the friendship and incurring the dislike of Arabs and Moslems generally.

Recent conversations with prominent Egyptians indicate a profound and growing sympathy here with the Arab rebels who are regarded as patriots of the first water. At the same time it is not believed that Great Britain can afford to antagonize Arabs and Moslems much longer by what the latter regard as an unreasonable implementation of the Balfour Declaration. For this reason and for major considerations of international politics anti-British demonstrations have been quelled with a firm hand.

MERRIAM

867N.01/1237 : Telegram

The Minister Resident in Iraq (Knabenshue) to the Secretary of State

BAGHDAD, November 2, 1938—2 p. m.

[Received November 2—10:48 a. m.]

44. I explained verbally to the Minister for Foreign Affairs the United States Government's position in respect to Palestine as sug-

gested in the Department's telegram No. 21, October 27, 9 p. m. [7 p. m.]³ He replied as follows. He would be glad to secure the support of the United States for the Palestine Arab cause in the present crisis, but if not possible he would of course hope that such support would not be accorded to the Jews, and that the United States Government would not intervene with the British Government and adversely influence the decision which he believes it is about to make. He would be satisfied he said to have the American policy, as recently defined by the Secretary of State, remain the same, no more no less.

KNABENSHUE

867N.01/1241 : Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, November 2, 1938—7 p. m.

[Received 8 : 35 p. m.]

Department's October 27, 7 p. m. Special correspondent Leutey of the *New York Times* last night through his Cairo office telegraphed to his newspaper the full text of a letter addressed by Abdul Razek (leading Arab rebel commander, see my despatch number 711 of September 6) to the President, the Secretary of State and Senator Grant (probably an error for Wagner) threatening reprisals against American interests and boycott of American trade unless "interference on a question which is not your concern" is stopped and "right and justice" of Arab cause is recognized.

Mimeographed copies of this letter were received in this morning's mail by the Consulate General, the Palestine Government Secretariat, the American Gospel Church, and others.

While I do not believe that this threat will be followed by overt acts, at least until after consideration of the Partition Commission's report, I am airmailing copies to Cairo, Baghdad and Beirut.

WADSWORTH

867N.01/1243 : Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, November 3, 1938—10 a. m.

[Received November 3—9 a. m.]

Beirut, Damascus and other Lebanese and Syrian manifestations on the occasion of anniversary of Balfour Declaration were kept well under control by the authorities and involved no American citizens so far as the Consulate General is aware although successive press advices of recent Washington pronouncements with reference to

³ See footnote 97, p. 975.

Palestine and the Jewish National Home have been regretfully received in Moslem and Christian circles alike and have aroused considerable anti-American feeling among students and other Arab nationalist elements which Beirut authorities considered sufficiently serious yesterday to warrant the maintenance, without any request on the part of the Consulate General, of detachments of gendarmes at the entrances to the consular premises and in neighboring streets. Despatch follows.

PALMER

867N.01/1258 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, November 7, 1938—3 p. m.
[Received November 7—12:25 p. m.]

1292. I have just left Malcolm MacDonald. He told me that the Woodhead report, a summary and the statement to be made by His Majesty's Government in Parliament on Wednesday have been forwarded to Lindsay⁴ and are to be presented to you this afternoon.

Roughly the whole plan presupposes a conference of all interested parties. I asked him if the conferees' names had been sent to Lindsay and he said they had not but they had planned to give them to me. I suggested that they cable them to Lindsay so that he could present to you the whole thing intact. They are doing so now so that if they do not arrive there before Lindsay gets to the Department you will know the names are on the way.

He is having Dr. Weizmann, President of Zionist Federation, for a conference tomorrow morning on the plan and hopes that Weizmann will give out a favorable statement. I think MacDonald will tell him they had intended a plan restricted as to immigration but that they were influenced months ago by pressure from the United States and changed their ideas.

KENNEDY

867N.01/1261 : Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, November 8, 1938—3 p. m.
[Received 5:05 p. m.]

Since the release on October 14 of the Department's statement regarding Palestine and the Jewish National Home the Consulate General has received various letters and telegrams with reference to press advices from the United States reporting this and other official state-

⁴ Sir Ronald Lindsay, British Ambassador in the United States.

ments concerning Palestine situation. A translation of the first of these telegrams, from Damascus, signed by Chairman of the Committee in Syria for the Defense of Palestine, was forwarded with my despatch No. 137 of October 29⁵ reporting visits of delegations of Moslem and Christian Arabs and transmitting a copy of a letter which the second delegation representing the Arab Women's Federation had forwarded to President Roosevelt by mail. Translations of the remaining letters and telegrams are being sent by air mail. Originating in Beirut, Damascus, Sidon, Tripoli, Hama and Aleppo they are obviously a part of an organized effort to counteract Zionist propaganda. Their general tone is one of protest against British policy and methods in implementing the Balfour Declaration and of surprise and disappointment that the United States should appear to ignore the principles of the Arab cause in Palestine and the sympathy and support which would cause increasingly enmities in neighboring Arab countries and in more distant Moslem countries. Several emphasize the unique prestige hitherto enjoyed in the Near East and especially in Syria and the Lebanon by the United States as the actual home of many natives of these countries and as the generous sponsor of disinterested and inspiring educational activities in these countries. A few suggest the possibility of anti-American reprisals, and a considerable number of tracts have been distributed from Damascus urging a boycott of American goods.

The suggestion of such a boycott has not been taken seriously by local firms handling American goods, but among the faculty of the American University of Beirut, in daily association with Arab students from leading families in Syria, Palestine, Lebanon, Iraq, Bahrain, Kuwait, the Sudan, Egypt, Trans-Jordan, there is a feeling that American economic and commercial interests and the standing and usefulness of American institutions in these Near Eastern countries may suffer appreciably if, as is feared, an early announcement of British policy in Palestine indicating unpreparedness to make concessions to the Arabs should be associated with a feeling that the attitude of the United States may have influenced the British decision.

PALMER

867N.01/1316

*Press Release Issued by the Department of State on
November 9, 1938*

The Department has received from the British Government a copy of the Report of the Palestine Partition Commission⁶ containing various proposals with regard to the partition of Palestine.

⁵ Not printed.

⁶ British Cmd. 5854: *Palestine Partition Report*, October 1938.

The Department is informed that after a careful study of the Commission's Report the British Government has reached the conclusion that the political, administrative and financial difficulties involved in the proposal to create independent Arab and Jewish states inside Palestine is so great that such a solution of the problem is impracticable.

With a view, however, to finding alternative means of meeting the needs of the difficult situation in Palestine, it is understood that the British Government proposes to invite representatives of the Palestine Arabs and neighboring States, on the one hand, and of the Jewish Agency on the other, to confer as soon as possible in London regarding future policy, including the question of immigration into Palestine.⁷ It is the Department's further understanding that if the London discussions should not result in an agreement within a reasonable period of time the British Government will take its own decision and will announce the policy which it is proposed to pursue.

The Department has been informed that in considering and in settling its policy, the British Government will keep constantly in mind the international character of the Palestine Mandate with which it has been entrusted and its obligations in that respect.

867N.01/1261 : Telegram

The Secretary of State to the Consul General at Beirut (Palmer)

WASHINGTON, November 9, 1938—7 p. m.

Your telegram of November 8, 3 p. m. If you have not already done so, it is suggested that you acknowledge the communications addressed to you concerning Palestine and furnish such correspondents with the Department's public statement on the subject contained in radio bulletin No. 241 of October 14, 1938. You may add that the statement represents no change in this Government's position in the matter.

HULL

867N.01/1262 : Telegram

The Minister Resident in Iraq (Knabenshue) to the Secretary of State

BAGHDAD, November 10, 1938—9 a. m.

[Received November 10—6:05 a. m.]

46. My telegram No. 44, November 2, 2 p. m. Medical and secondary school students demonstrated yesterday on the main street of Baghdad in support of Palestine Arabs breaking many shop windows,

⁷ See British Cmd. 5893 : *Palestine: Statement by His Majesty's Government in the United Kingdom*, November 1938.

doing some looting and wounding a number of police and individuals with stones. It seems to have been directed against the United States in part though mainly anti-British.

The new policy of the British Government was not known here until last evening. I shall report as soon as possible on local reaction.

KNABENSHUE

867N.01/1271 : Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, November 11, 1938—noon.

[Received November 11—10:40 a. m.]

Am reliably but confidentially informed that while the Grand Mufti finds British Palestine proposals less than he hoped for they are as much as he expected and are considered by him as offering a possibility for useful discussion. Apparently reconciled to British refusal to treat with him he insists and seems confident that the rebels in Palestine will insist that in any discussions that may take place they shall be represented by persons freely chosen from among their leaders rather than from among those acceptable to the British but not qualified to speak for the large number of Arabs now in the rebel ranks and their loyal supporters.

PALMER

867N.01/1279 : Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, November 12, 1938—4 p. m.

[Received November 12—3:40 p. m.]

Local reaction to Partition Commission report and British statement of policy is generally one of disappointment that positive line of action was clearly set forth and growing conviction that they offer no basis for compromise of conflicting Jewish and Arab demands or little hope that the Palestinian Arabs can be brought through persuasion and good counsel to call off the current revolt unless first assured that the pivotal question of Jewish immigration will be settled in their favor.

Jewish circles are at the same time greatly relieved that no definite announcement is made of a policy which would limit or crystallize the Jewish National Home program of the Balfour Declaration and Palestine Mandate. They hope to be able during the projected London conversations to prevent the adoption of any such policy and to

reopen the country's doors to large-scale immigration. *New York Times* and Associated Press telegrams portray accurately their categorical rejection of the Commission's conception of statehood and economic federalism as elaborated in plan C.

Arab circles are jubilant that partition is discarded and consider the British invitation to Arab rulers a notable victory for their contention that the Palestine problem can only be solved as a larger Arab and Moslem question. They cannot, however, see how effective discussions can be held in London unless the Mufti participates either in person or by representatives. They recognize him as their one outstanding acclaimed leader and hold as axiomatic both that no Arab would venture to act as representative of the Palestine Arabs except with his approval and that such approval will not be given unless satisfactory assurances as to the immigration question are first received.

In British circles the initial reaction was generally one of intense disillusionment, bordering on disgust, a word I have heard used a score of times, that their Government has again evaded obvious fundamental issues and failed to announce a clear cut policy. They can see no hope for permanent peace unless Jewish immigration is stopped or at least drastically curtailed and the onus placed squarely on the Jews for the building up of an atmosphere of confidence without which no basis of future Arab-Jewish cooperation can exist.

Among better informed and more thoughtful British officials and neutral observers, however, the view is emerging that a majority of the British Cabinet led by the Prime Minister and Foreign Secretary, while strongly favoring frank adoption of a strongly pro-Arab policy and convinced that no Jewish-Arab agreement can be reached through the projected London conversations, have compromised on the latter point with a minority view advocated by the Secretaries of War and the Colonies. That Jewish political pressure in England and the United States has influenced the majority to adopt this course of action is generally conceded but the ultimate result it is thought will be the same, i. e., after failure of the London conversations a declaration of policy supported by the Arab rulers under which Palestine will for a period be administered by Great Britain under a basically modified or reinterpreted mandate.

I concur in the view voiced generally by these latter that the report is an able and factually helpful exposition of the administrative problem of Palestine, one which can well, with necessary modification, serve as the basis of effective cantonal (five area) administration of the country for some years pending elaboration of a basis for final settlement and termination of the mandate.

WADSWORTH

867N.01/1307

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

No. 1514

LONDON, November 12, 1938.

[Received November 26.]

SIR: Referring to my despatch No. 1510 of November 10, 1938^a transmitting copies of the Palestine Partition Report drawn up by the Woodhead Commission and to the British Government's Statement of intentions with respect to Palestine announced on November 9, 1938, I have the honor to report that in the House of Commons on November 10, 1938 Mr. Malcolm MacDonald, Secretary of State for the Colonies, clarified a number of points regarding the arrangements for the forthcoming Palestine discussions in London.

Mr. MacDonald referred to the Government's proposal to invite to the London discussions representatives of the Palestinian Arabs and of the neighboring States on the one hand and of the Jewish Agency on the other, and indicated that the former category would include the Governments of Egypt, Iraq, Saudi-Arabia, the Yemen and Trans-Jordan but not Syria and the Lebanon which, as French mandates, were on a different footing. The British Government, he said, intended however to keep closely in touch with the French Government and to keep it informed of any development that might be of interest to Syria and the Lebanon.

Referring to the provision in the Government's announcement of November 9 reserving the right to refuse to receive leaders whom it regarded as responsible for the campaign of assassination and violence, Mr. MacDonald stated that the Government would exercise that right in the case of the present Mufti of Jerusalem, whose record over many years made him wholly unacceptable.

In reply to a question as to whether the meeting would be an informal discussion of the situation, or whether matters would be put to a vote, Mr. MacDonald said that there was no question of a vote at all. The discussion would be between representatives of the Arabs and of the neighboring countries and the British Government, and between representatives of the Jewish Agency and the British Government. The discussions might develop into a three-party discussion around the same table, but there was no question of a vote being taken.

Asked whether it was being made clear to both parties to the Conference that the British Government had not departed from the principle of the Balfour Declaration, Mr. MacDonald stated that the Government would, of course, enter the discussions bound by its obligations both to Jews and Arabs under the Mandate, but it would not

^a Not printed.

seek to prevent either party from presenting arguments for modification of the Mandate.

Taking note of inquiries whether the Government had considered the advisability of inviting representatives of other States, as, for example, the United States or Poland, Mr. MacDonald said that the Government had called the conference because it desired to make a determined effort toward getting agreement between the two peoples concerned, i. e., the Arabs and the Jews. In its statement of November 9, he said, the Government had specifically recognized that other countries were concerned and interested and it would keep their interests fully in mind. But, he continued, if the Government started inviting representatives from the United States and Poland, it would be very difficult to know where to draw the line. As far as the Jews were concerned, there were many American Jews represented in the Jewish Agency, and the Jewish Agency was perfectly free to select what Jewish representatives it wished.

Answering a question regarding the Treaty interest of the United States in Palestine, Mr. MacDonald said that the Government was very conscious of the great interest of the United States in the matter and that it had already kept the United States fully informed of its intentions, and would keep them fully informed of developments. To a further question as to whether the situation might not arise where the United States by virtue of its Treaty rights could dissent from the conclusions reached by the conference and thus nullify it, Mr. MacDonald stated that the British Government would watch that situation very carefully and if there were any question of the Treaty rights of the United States being involved, it would enter into discussion with the United States Government immediately. The Government, however, was not anticipating that that would happen.

I enclose the full text of the questions and answers herein referred to, as published in Hansard of November 10, 1938.⁹

Respectfully yours,

For the Ambassador:
RUDOLF E. SCHOENFELD
First Secretary of Embassy

867N.01/1280 : Telegram

The Minister Resident in Iraq (Knabenshue) to the Secretary of State

BAGHDAD, November 14, 1938—noon.
[Received November 14—11:45 a. m.]

47. In continuation of my telegram No. 46, November 10, 9 a. m., large numbers of shops remained closed until adequate police protection became evident on Saturday.

⁹ See United Kingdom, *Parliamentary Debates*, House of Commons, 5th ser., vol. 341, pp. 302 ff.

While the opposition debating Palestine question in the Iraqi Parliament affected dissatisfaction with the recent British proposals and characterized them as further procrastination, the Minister for Foreign Affairs who paid me a personal visit last evening expressed satisfaction with the proposals saying that they [apparent omission] as far as can properly be expected at this juncture and that with the partition scheme discarded the way is now open negotiation of the remaining most vital namely Jewish immigration, even with the rebellion continuing in the meantime. He is particularly pleased by the inclusion of neighboring Arab countries in the discussions. He believes that the Palestine Arabs would lay down their arms if British Government would accept as basis of discussion either the second or third amended drafts of the Hyamson-Newcombe proposals (see my letter to Wallace Murray of March 3rd last). However, he is skeptical of the successful outcome of the discussions in securing mutual agreement between the Arabs and Jews and believes that in the end the British will be obliged to decide and enforce their own policy.

Nuri as-Said who visited me last Friday holds substantially the same views as the Minister for Foreign Affairs.

KNABENSHUE

867N.01/1299 : Telegram

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

JERUSALEM, November 22, 1938—2 p. m.
[Received November 22—12:48 p. m.]

While local British circles generally maintain the view reported in the penultimate paragraph of my telegram of November 12, 4 p. m. and believe their Government's projected new Palestine policy will include provisions drastically limiting future Jewish immigration, recognizing such limitation to be a *sine qua non* to Arab acquiescence, I find a growing conviction that announcement of any such policy seemed to be precluded for the time being by public reaction in England and the United States to the last fortnight's Jewish persecutions in Germany and must await either a considerable abatement of that reaction or comprehensive plan for the settlement elsewhere than in Palestine of German Jewish refugees.

Information received from local Arab sources while not fully convincing tends to confirm Palmer's telegram of November 11, noon, regarding the attitude of the Mufti.

As the Consulate General's annual allotment of \$700 for telegrams has already been overspent by approximately \$800 I should appreciate an increase of \$2000.

WADSWORTH

867N.01/1330

*Memorandum by the Chief of the Division of Near Eastern Affairs
(Murray)*

[WASHINGTON,] November 29, 1938.

During my recent visit to Palestine Consul General Wadsworth arranged for me to meet the most important Jewish as well as Arab leaders in the country. Outstanding among the former was Dr. Magnes, who is an American citizen and has been since 1925, President of the Hebrew University which was founded in that year. A biography of Dr. Magnes, taken from *Who's Who in America*, is attached.¹⁰

It should be borne in mind that while Dr. Magnes is admitted, even by those Jewish leaders who differ with him, to be one of the most distinguished intellectuals in American, as well as international Jewry, his outspoken views on the subject of the National Home in Palestine for the Jewish people have for years been a cause of resentment and even bitter attack on the part of extreme Zionists. Dr. Magnes' thesis is and always has been that there will never be a satisfactory solution of the Palestine problem in the absence of a serious effort in which the Jews should take the leadership to arrive at a settlement through conciliation and compromise with the Arab leaders. He has emphasized that the Jews, by reason of their greater intelligence, and particularly in as much as they are seeking to impose a practically unlimited immigration of Jews into Palestine, contrary to the wishes of the overwhelming mass of the established population there, should take the lead and spare no effort in coming to an early settlement that would be acceptable to the Arabs.

During my conversation with Dr. Magnes I asked him whether in his opinion there was still a possibility of a peaceful settlement between Arabs and Jews through negotiation. He replied that much to his sorrow he felt that a negotiated settlement between the parties in dispute was no longer possible. "Such a possibility existed even until after the publication of the Report of the Royal Commission of Inquiry last year, but the situation has disintegrated so lamentably since that time and the revolt has become so widespread that I am convinced that any settlement that may eventually be made will have to be dictated by the British and imposed by them on both parties to the dispute. I may say also that since these recent disorders I have received many letters from Jews all over the world expressing deep regret that they had rejected my advice and counsel in past years and had been misled by extremists."

¹⁰ Not reprinted.

I then inquired of Dr. Magnes what sort of solution he had in mind even though it would have to be imposed upon the Jews and the Arabs by the British authorities. He replied along the following lines:

"As you probably know, I have been in correspondence during most of last year with Nuri Pasha (a former Prime Minister of Iraq who is taking the leading part in endeavoring to bring peace to Palestine) and other Arab leaders, including the Grand Mufti, and I have proposed that a solution of the problem, just to both sides, would be the limitation of the Jewish population of Palestine during a period of ten years to forty percent of the total. I am confident that if I had been able to obtain the consent of the Jews to this solution before the disorders in the country reached their present intensity, a settlement could have been made on that basis which would of course have been acceptable to the British. . . . Exception was taken to my proposal on the grounds that it would crystallize a minority status for the Jews in Palestine and that there would be no assurance that at the end of ten years such a status could be modified. To this I have replied that a ten year truce between Arab and Jew in Palestine would give us a breathing spell and an opportunity to put forth our best efforts to work out a permanent long range solution of this distressing problem."

According to our figures Dr. Magnes' proposal would entail the admission of about 10,000 Jewish immigrants into Palestine annually.

The various Arab leaders, without exception, to whom Mr. Wadsworth presented me, emphasized the fact that the present revolt in Palestine is a national one in every respect and that it has penetrated deeply into the masses of the population and can never be permanently crushed until the Arabs are relieved of the fear that the country is to be inundated, against their will, with an alien population seeking to become the majority population and to force the present majority into the position of a subject race. The Arabs repeatedly emphasized two points: first, that mass Jewish immigration into Palestine against the will of the settled inhabitants was a gross violation of President Wilson's doctrine of self-determination and, second, that no country, and notably not the United States, would tolerate such an influx of aliens as has occurred in Palestine, particularly when the immigrating aliens made no pretense of concealing their intention of gaining control of the country of refuge.

I found practically all British officials of the Palestine Administration surprisingly frank in their criticism of the present vacillation of the British Government regarding Palestine and convinced that, regardless of intermediary subterfuges, their Government would in the end be obliged to limit Jewish immigration into Palestine to a point that would render the minority status of the Jewish population there a permanent one.

WALLACE MURRAY

867N.55/154

The Consul General at Jerusalem (Wadsworth) to the Secretary of State

No. 805

JERUSALEM, December 14, 1938.

[Received January 3, 1939.]

SIR: In despatch No. 577 of April 16, last, entitled "Effect of Jewish Immigration on the Population of Palestine", I had the honor to submit detailed calculations establishing at approximately 5,300 "the number of Jews who must immigrate (annually into Palestine) if the current Arab-Jewish proportion (of 70-30) is to be maintained."

These calculations were based on the Palestine Government's published population statistics as of June 30, 1936, and on the respective rates of natural increase of the Arab and Jewish inhabitants for the calendar year 1936. Expressed in round figures the population at that time was 385,000 Jews and 900,000 Arabs, the population ratio between the two peoples being, therefore, 30 to 70 percent. The natural rates of increase used were respectively 21 and 33 per 1000. My conclusion, as already indicated, was that, if there should be no material variation in these rates of natural increase, there should be a net Jewish immigration during the year of 5,300 to maintain the existing ratio between the two peoples.

In the population figures then used two items were ignored, i. e. the number of nomad Arabs and "others", respectively estimated at some 75,000 and 25,000. The latter figure included British military forces temporarily (*sic*) stationed in the country.

Population figures as of June 30, 1938, have now been officially published. They are, as usual, computed on the basis of recorded vital statistics and migration records of the intervening year. Only the number of the British military forces is omitted. To the nearest 1,000 they are as follows:

| | | | |
|---------------------|----------|----------|-------------|
| Arab: | | | |
| Moslem: | | | |
| Settled | 829, 000 | | |
| Nomad | 67, 000 | | |
| | | 896, 000 | |
| Christian | | 112, 000 | |
| | | | 1, 008, 000 |
| Jews | | | 400, 000 |
| Others | | | 12, 000 |
| | | | <hr/> |
| Total | | | 1, 420, 000 |

On the basis of these new figures the Jews form only 28 percent of the total population, the Arabs 71 percent and the small figure of "others" one percent of the total. Thus there has been an apparent

reduction of two percent in the Jewish percentage of the whole. That this reduction is only apparent, however, is clear from the fact that, in the population figures used in my preceding despatch, nomads and "others" were not included. If these items be omitted from the current figures we have—as of June 30, 1938—941,000 Arabs as against 400,000 Jews, or the same 70-30 ratio as was reported in my earlier despatch.

Actual rates of natural increase for 1937 as officially published in the recently issued *Annual Report* for 1937 of the Palestine Department of Health (please see despatch No. 799 of December 10, 1938¹¹) were for the Jews 18.9 and for the Arabs 24.4 per thousand. The latter figure is a balanced computation of the Moslem and Christian Arab rates of natural increase, respectively 24.9 and 19.6 per thousand. All three rates, it will be noted, are less than those of the preceding year.

With the foregoing figures in mind we may now follow the computations used on pages 4 and 5 of my previous despatch and compute anew, as for the current year, the figure of net Jewish immigration required to maintain the *status quo* of Jewish-Arab population ratio, as follows:

1) The anticipated natural increase of the Arab population for the year is 24.4 (per thousand) times 941 (thousands) or 23,000.

2) Adding this figure to the Arab population as of June 30, 1938, we obtain the estimated Arab population as of next June, i. e., 963,000 (nomads always omitted).

3) Employing these figures, the equation given on page 4 of my previous despatch becomes: 70 is to 30 as 963,000 is to x ; and the unknown x —which represents the total number of Jews necessary at the end of the year to maintain the existing Jewish percentage in the population—is found to be 413,000.

4) Subtracting the known Jewish population of 400,000 we obtain a remainder of 13,000, which is the figure by which the Jewish population must increase to maintain the 30-70 ratio.

5) A part of this 13,000 will be made up through natural increase, i. e., 18.9 (per thousand) times 400 (thousands) or 7,600.

6) Subtracting this last figure from the 13,000 required total Jewish increase leaves a figure of 5,400 which represents the net Jewish immigration required during the coming year to maintain the 30-70 ratio.

Thus the conclusion may be drawn that, on the basis of the new figures as well as on that of those previously submitted, a net annual Jewish immigration of only some five thousand, three or four hundred can be permitted if the present ratio between the settled Jewish and Arab inhabitants of the country is to be maintained.

In the light of this conclusion it is interesting to examine, on the basis of published statistics, the actual effect on the country's population of Jewish immigration during the calendar year 1937. These statistics indicate that 10,536 Jews entered the country in that year as

¹¹ Not printed.

immigrants. The figure includes those arriving as visitors and later given permission to remain permanently and may, for purposes of the present discussion, be taken as representing the net increase in the population due to Jewish migration. For it may reasonably be assumed that Jewish emigration about balanced the number of Jews entering the country illegally.

There is, of course, no official estimate of the number of illegal entrants, but well-informed persons estimate it at about 3,000 annually; and while, as earlier reported, emigration figures are unreliable, total Jewish emigration may be estimated at a similar figure. The records of this office show that in 1937 some 2,000 American and alien Jews went to the United States alone for permanent residence.

Therefore, approximately 5,000 more Jews than the 5,400 necessary to maintain the 30-70 ratio entered the country in 1937, changing the population ratio by about $\frac{1}{3}$ of one percent in favor of the Jews. Expressed in numbers, we find that the Jewish population increased by approximately 18,000 (10,500 through immigration and 7,500 through natural increase) while the Arab population gained approximately 23,000 (entirely through natural increase, as a rough balance was maintained between the relatively small Arab immigration and emigration). Hence, in 1937, Arab population gained over Jewish by approximately 5,000. It may be emphasized, however, that, as shown above, Jewish immigration at around the political high level of 1,000 a month has relatively little effect on the 30-70 ratio.

In conclusion, I may add that recently published migration statistics tend to bear out the estimate reported in my despatch No. 759 of October 31, last,¹² that anticipated total immigration for the current calendar year would not exceed some 15,000. These statistics show that for the first nine months of the year 10,710 immigrants (of whom 9,363 Jews) were admitted. The question of illegal immigration was discussed in despatch No. 672 of August 6, last.¹² It is thought that the total will be substantial, for rumors of "smuggling" persist; and I learn from various sources that a considerable number of temporary visitors of German and Austrian nationality will perforce be permitted to remain because their return to their countries of origin cannot reasonably be required and they are unable to obtain visas for other countries.

As to immigration for 1939, no prediction can be given at this time as it will depend on the decision taken by the British Government after the political discussions with Arabs and Jews—which it is proposed to hold in London next month. It is generally predicted in Jerusalem, however, that the upshot of any such discussions will involve reduction

¹² Not printed.

of annual Jewish immigration to or below that political high level figure of an average of roughly 1,000 a month imposed since August 1937.

Respectfully yours,

GEORGE WADSWORTH

867N.01/1364

The Chargé in Egypt (Merriam) to the Secretary of State

No. 1473

CAIRO, December 15, 1938.

SIR: With reference to the Legation's telegram No. 94 of December 8, 10 a. m., 1938,¹³ I have the honor to enclose herewith the original of a note in Arabic from the King of Saudi Arabia to the President, together with a careful suggested translation thereof which has been made in the Legation.

The note was handed to me on December 6, 1938 by Sheikh Fawzan Es Sabek, Saudi Arabian Chargé d'Affaires in Cairo, who called at the Legation for the purpose accompanied by Mohamed Reda, his First Secretary. The Sheikh did not allude to the contents of the note in any way in the course of the conversation that took place during his call, but merely asked me to transmit it. I agreed to do this and said that it would be accompanied by an English translation made by my staff.

The Legation has made a longhand copy of the Arabic original for its files.

Respectfully yours,

GORDON P. MERRIAM

[Enclosure—Translation]

*The King of Saudi Arabia (Abdul Es Saud) to
President Roosevelt*

MR. PRESIDENT: We have been informed of what has been published regarding the position of the Government of the United States of America concerning support of the Jews in Palestine. In view of our confidence in your love of right and justice, and the attachment of the free American People to the fundamental democratic traditions based upon the maintenance of right and justice and succor for defeated peoples, and in view of the friendly relations existing between our Kingdom and the Government of the United States, we wish to draw your attention, Mr. President, to the cause of the Arabs in Palestine and their legitimate rights, and we have full confidence that our statement will make clear to you and the American People the just cause of the Arabs in those Holy Lands.

¹³ Not printed.

It has appeared to us from the account which has been published of the American position that the case of Palestine has been considered from a single point of view: the point of view of the Zionist Jews; and the Arab points of view have been neglected. We have observed as one of the effects of the widespread Jewish propaganda that the democratic American People has been grossly misled, and it has resulted in considering support for the Jews in crushing the Arabs in Palestine as an act of humanity. Although such an action is a wrong directed against a peaceful people dwelling in their country, they have not ceased to have confidence in the fairness of general democratic opinion in the world at large and in America particularly. I am confident that if the rights of the Arabs in Palestine were clear to you, Mr. President, and to the American People, you would give them full support.

The argument on which the Jews depend in their claims regarding Palestine is that they settled there for a time in the olden days and that they have wandered in various countries of the world, and that they wish to create a gathering-place for themselves in Palestine where they may live freely. And for their action they rely upon a promise they received from the British Government, namely: the Balfour Declaration.

As for the historical claim of the Jews, there is nothing to justify it, because Palestine was and has not ceased to be occupied by the Arabs through all the periods and progression of history, and its sovereign was their sovereign. If we except the interval when the Jews were established there, and a second period when the Roman Empire ruled there, the ruler of the Arabs has been the ruler of Palestine from the oldest times to our own day. The Arabs, through the entire course of their existence have been the keepers of the Holy Places, the magnifiers of their situation, the respecters of their sanctity, maintaining their affairs with all faithfulness and devotion. When the Ottoman Government extended over Palestine, Arab influence was dominant, and the Arabs never felt that the Turks were a colonizing power in their country, owing to:

1. The oneness of the religious bond;
2. The feeling of the Arabs that they were partners of the Turks in government;
3. The local administration of government being in the hands of the sons of the land itself.

From the foregoing it is seen that the Jewish claim of rights in Palestine in so far as it rests upon history has no reality, for if the Jews dwelt in Palestine for a certain period as possessors, surely the Arabs have dwelt there a far longer time, and it is impossible to consider the annexation of a country by a people as a natural right justifying their claim thereto. If this principle be now held in esteem,

then it is the right of every people to reclaim the country it formerly occupied by force for a certain time. This would bring about astonishing changes in the map of the world, and would be irreconcilable with right, with justice, or with equity.

Now regarding the other claim of the Jews, they take unto themselves the sympathy of the world because they are scattered and persecuted in various countries, and they would like to find a place in which to take shelter in order to be safe from the injustice they encounter in many countries.

The important thing in this matter is to discriminate between the cause of Judaism and Islam [*anti-Semitism*] in the world, as contrasted with the cause of political Zionism. The intention was sympathy for scattered Jews. But Palestine is a small country. It has already received such a great number of them as to exceed comparison with any country in the world, taking account of the limited area of Palestine as compared with the lands of the earth where the Jews dwell. There is no power to remedy the straitness of Palestine in order to make room for all the Jews of the world, even supposing it were empty of its inhabitants, the Arabs (as Mr. Malcolm MacDonald said in a speech which he delivered recently in the British House of Commons). If the principle be accepted that the Jews now in Palestine are to remain there, then that little country has already performed a greater human justice than any other. You will see, Mr. President, that it is not just that the governments of the world—including the United States—have closed their doors against the immigration of the Jews and impose on Palestine, a small Arab country, the task of sustaining them.

But if we look at the matter from the standpoint of political Zionism this point of view resembles [*represents*] a wrong and unjust way. Its aim is to ruin a peaceable and tranquil people and to drive them from their country by various means, and to feed the political greed and personal ambition of a few Zionists. As to the reliance of the Jews upon the Balfour Declaration, surely that Declaration has brought the limit of oppression and iniquity to a peaceful and tranquil country. It was given by a government which at the time of the gift did not possess the right to impose it upon Palestine. Similarly, the opinion of the Arabs of Palestine was not taken in this regard nor with regard to the arrangement of the Mandate which was imposed upon them, as has been made clear also by Malcolm MacDonald, British Minister of Colonies, and this in spite of promises given by the Allies, including America, that they would have the right of self-determination. It is important for us to mention that Balfour's promise was preceded by another promise from the British Government with the knowledge of the Allies regarding the rights of the Arabs in Palestine and in other Arab countries.

From this it will be clear to you, Mr. President, that the historical pretext of the Jews is unjust and it is impossible to consider it. Their plea from the standpoint of humanity has been fulfilled more by Palestine than by any other country, and Balfour's promise on which they depend is contrary to right and justice and inconsistent with the principle of self-determination. The ambition of the Zionists renders the Arabs in all countries apprehensive, and causes them to resist it.

The rights of the Arabs in Palestine do not admit of discussion because Palestine has been their country since the oldest times, and they did not leave it nor did others drive them out. Places flourished there, Arab in civilization, to an extent calling for admiration, for the reason that they were Arab in origin, in language, in situation, in culture; and of this there is no uncertainty or doubt. The history of the Arabs is full of just laws and useful works.

When the World War broke out, the Arabs sided with the Allies hoping to obtain their independence, and they were wholly confident that they would achieve it after the World War for the following reasons:

1. Because they participated in the War by action, and sacrificed their lives and property;
2. Because it was promised them by the British Government through notes exchanged between its representative at the time, Sir Henry McMahon, and the Sherif Hussein;¹⁴
3. Because of your predecessor, the Great President Wilson who decided upon the participation of the United States of America in the War on the side of the Allies in support of high human principles, of which the most important was the right of self-determination;
4. Because the Allies declared in November 1919 [1918],¹⁵ following their occupation of the countries, that they entered them in order to free them and to give the people their liberty and independence.

Mr. President, if you will refer to the report¹⁶ submitted by the Commission of Investigation which your predecessor, President Wilson, sent to the Near East in 1919, you will find the demands which the Arabs in Palestine and Syria made when they were questioned as to what future they asked for themselves.

But unfortunately the Arabs found after the War that they were abandoned, and the assurances given did not materialize. Their lands have been divided and distributed unjustly. Artificial frontiers resulted from these divisions which are not justified by the facts of geography, nationality, or religion. In addition to this, they found

¹⁴ British Cmd. 5957, Miscellaneous No. 3 (1939): *Correspondence between Sir Henry McMahon . . . His Majesty's High Commissioner at Cairo and the Sherif Hussein of Mecca, July 1915-March 1916.*

¹⁵ Anglo-French Declaration, November 9, 1918, *Foreign Relations, The Paris Peace Conference, 1919*, vol. XII, p. 747.

¹⁶ Report of the King-Crane Commission, *ibid.*, p. 751.

themselves facing a very great danger: the incursion upon them of the Zionists, who became the possessors of their best lands.

The Arabs protested strongly when they learned of the Balfour Declaration, and they protested against the organization of the Mandate. They announced their rejection and their non-acceptance from the first day. The stream of Jewish immigration from various countries to Palestine has caused the Arabs to fear for their lives and their destiny; consequently numerous outbreaks and disturbances in Palestine took place in 1920, 1921, and 1929, but the most important outbreak was that of 1936, and its fire has not ceased to blaze to this hour.

Mr. President, the Arabs of Palestine and behind them the rest of the Arabs—or rather, the rest of the Islamic World—demand their rights, and they defend their lands against those who intrude upon them and their territories. It is impossible to establish peace in Palestine unless the Arabs obtain their rights, and unless they are sure that their countries will not be given to an alien people whose principles, aims and customs differ from theirs in every way. Therefore we beseech and adjure you Mr. President, in the name of Justice and Freedom and help for weak peoples for which the noble American People is celebrated, to have the goodness to consider the cause of the Arabs of Palestine, and to support those who live in peace and quiet despite attack from these homeless groups from all parts of the world. For it is not just that the Jews be sent away from all the various countries of the world and that weak, conquered Palestine should, against its will, suffer this whole people. We do not doubt that the high principles to which the American People adhere, will cause them to yield to right and grant support for justice and fair play.

Written in our Palace at Ar Riad on the seventh day of the month of Shawal, in the year 1357 of the Hejira, corresponding to November 29, 1938, A. D.

ABDUL AZIZ ES SAUD

867N.01/1363

The Chargé in the United Kingdom (Johnson) to the Secretary of State

No. 1736

LONDON, December 21, 1938.
[Received January 3, 1939.]

SIR: I have the honor to enclose a memorandum of a conversation which a member of the Embassy staff today had with Mr. C. W. Baxter of the British Foreign Office, regarding the present status of preparations for the forthcoming London discussions on Palestine.

Respectfully yours,

HERSCHEL V. JOHNSON

[Enclosure]

Memorandum by the First Secretary of Embassy in the United Kingdom (Schoenfeld)

I called on Mr. Baxter this afternoon and talked with him regarding the status of preparations for the forthcoming London discussions on Palestine.

Mr. Baxter told me that the status of acceptances was the same as it had been a fortnight ago. Egypt, Iraq, Saudi-Arabia, Transjordan and the Jewish Agency had accepted. But the Yemen's acceptance had not yet been received and the Palestinian Arab delegation was still undetermined.

The Yemen's acceptance, he thought, would be received in due time. The British Government had originally been in doubt whether the Yemen wished to participate and as it did not desire to embarrass that country with an undesired invitation it had sounded it out first. The Yemen indicated that it did wish to receive an invitation and accordingly could be expected to accept.

The Palestinian Arab delegation was of course the difficult problem. The leaders were scattered in various countries. The British Government naturally could not pick the delegation. He could say, however, in strict confidence, that the Government was working through the Governments of the three neighboring Arab States, Iraq, Saudi-Arabia and Egypt, and by their cooperation hoped to secure a representative Arab delegation from Palestine.

The Government here, though it reserved the right to approve of the delegation would, he thought, accept the list that the three Governments mentioned and the other interested Arabs presented to it. But the matter was not yet completed and considerable delay was occasioned by the necessity for triangular (and indeed polyangular) correspondence between the three States referred to and the Arabs in Palestine and elsewhere.

The date for the discussions, Mr. Baxter said, was also still open. The Government proposed to fix it as soon as the Palestinian Arab delegation had been named. The discussions, he thought, could not well take place before the middle of January, since the Prime Minister (Mr. Chamberlain) and the Foreign Minister (Lord Halifax) would be in Rome from January 11 to 14. The former planned to return to London on January 15 whereas the latter would stop off at Geneva for a day or two for the meeting of the League Council.

I mentioned the recent debates on Palestine in Parliament and the fact that their tone had seemed to indicate a certain sympathy for the Arab point of view. Mr. Baxter said that it had also been his impression that there was a greater appreciation of the Arab viewpoint than had often been the case in the past. The Arabs, he said,

had usually felt that their viewpoint was inadequately presented and that the Jews, who through the Jewish Agency had almost direct access to the British Government, understood this sort of thing much better and had generally been more successful in presenting the Zionist point of view.

I asked him how the Jews felt about the forthcoming discussions. He said that the Zionists were in rather a despondent mood. They had also been keenly dismayed by the recent decision of the Government not to grant permits for 10,000 refugee children to enter Palestine at this time. The Government, however, could not risk prejudicing the success of the London discussions or of getting the Arabs to the discussions by authorizing this increased immigration on the very eve of the discussions.

I referred to Lord Samuel's recent speech in the House of Lords,¹⁷ in which he summarized proposals he had previously advanced when the Peel Report was under discussion, looking toward a system of government by communities in Palestine, with reserved areas, immigration based on a proportional population system, etc., and a loose federation of Arab States, and asked whether this represented a practical scheme. Mr. Baxter doubted whether it would be acceptable either to the Jews or Arabs. With regard to the idea of federation, this, he said, was talked of in Damascus and some places in the Near East but it was hard to know how much strength there was behind it. The French, he thought, would dislike the idea as calculated to endanger their special position in Syria. Their interest in Syria was not only historic and sentimental but also practical, for one fork of the Iraq pipe line branched off into Syria and it had strategic importance in connection with the Suez Canal and Djibouti. As for the idea itself insofar as the Arabs were concerned, he found it hard to judge how much vitality there was in it.

DECEMBER 21, 1938.

867N.01/1372

The Ambassador in Poland (Biddle) to the Secretary of State

No. 870

WARSAW, December 28, 1938.

[Received January 12, 1939.]

SIR: I have the honor to refer to my cable No. 149 of August 18, 2 p. m.,¹⁸ and to report the following observations on the existence of a branch of the Jewish national military organization, "Irgun Civae Leumi".

For background, this organization, bearing illegal status, was established the latter part of 1929. The organization, with headquarters in

¹⁷ December 8, 1938; for text, see United Kingdom, *Parliamentary Debates*, House of Lords, 5th ser., vol. cxx, p. 420.

¹⁸ Not printed.

Palestine, now has branches in nearly all Jewish communities abroad. Moreover, the organization is an offshoot of, and collaborates with, the Zionist Revisionists.

According to the Chief of I. C. L.'s branch in Poland, the aim of this terrorist organization is to prevent, with the assistance of its intelligence service and the effective force of its membership, the occupation of Palestine prepared by the Arabs. I. C. L. is not in competition with "Hagana" (Jewish militia) since the former bears no character of self-defense—rather it is meant to serve as an instrument of national force. In fact, the Chief of the Polish branch describes I. C. L. as an independent military organization which aims to live alongside the militia, which is engaged mainly in police work. All Jews may join, but must assume an obligation not only to defend the lives and property of the Jewish colonies, but also to take an oath that they will fight for the honor and for the establishment of a Jewish state. After three years of educational work in Palestine, the organization began its work outside Palestine. It arranged for the purchase of modern arms. Moreover, a military textbook is now being written under its auspices.

The organizer and active Chief (to whom I above referred) of the Polish branch is a Mr. Strassman, son of the well-to-do proprietor of a business house known locally as "Asko". He is an energetic young man and assumes the attitude that the Jews should understand that when they are not wanted in a given place they must establish their own national home. According to his own words, Strassman would prefer a tent in Palestine to a flat in Warsaw. Moreover, characterizing the attitude of the Zionist Revisionists, whereof he is the recognized permanent leading authority in Poland, he contends that the Jews should assume responsibility for the emigration of the Jews to Palestine, adding that it is only up to them to decide whether they prefer to suffer the hardships of pioneering in Palestine or the grim outlook in European countries where they are now situated.

In further describing the Polish branch of the I. C. L. Strassman points out that in view of the illegal character of the organization the details concerning it cannot be published in the press. However, commencing with September last the organization here has issued a bi-monthly magazine written in the Polish language and entitled *Jerusalem Liberated*. This magazine enjoys a circulation of 3,000. Moreover, the same magazine, printed in the Yiddish language under the name of *Dietat* (The Deed) enjoys a circulation of 13,000. The editorial staff engaged in the publication of this magazine are all ideologists and receive no remuneration for their services.

In reviewing the editions which have appeared since September, I made note in effect of the following enlightening excerpts. One editorial states that "Only Jewish blood should be shed for the de-

fense of the Jewish cause." The article continues to the effect that altogether there were no more than 4,000 Arab terrorists in the Palestine district. They were badly financed and possessed only primitive military equipment. Moreover, they were lacking in military training and in leadership—and many of them were mercenaries. Already there were many victims of Jewish counter-terrorism which had terrified the civilian Arab population.

Hence the suppression of the Arab terror was quite possible, but called for serious efforts, time and patience. The only method and the only road towards that end was planned, systematic combat, carried out by a Jewish armed force. This editorial ends, as in the case of a number of other like writings, to the effect that the Jews might have been beaten in Germany and Austria, but in Palestine the Jews refuse to be beaten.

From the foregoing it is apparent that the Zionist Revisionist Organization and its offshoot, the Polish branch of the I. C. L., are bent upon (a) stiffening the backbone of the Jews in Poland, (b) inciting the Jews to throw their weight behind an appeal to the British Government to open the gates for larger-scale immigration into Palestine, and (c) inciting the Jewish community here to a desire to emigrate from Poland to Palestine.

It is pertinent to state at this point that in my recent conversations with several of the Zionist Revisionist leaders here they stated that in their envisaged program of coordinating Jewish and governmental efforts to bring about large-scale emigration to Palestine, they would require less of Minister Beck than of any other Minister in the Polish Government since, after his outburst of last year in Geneva wherein he pled for international attention to the Jewish problem in Poland, they feared that the British might accuse Beck of being primarily interested in getting rid of the Jews rather than being interested in their welfare. They added their opinion that Beck had been the only one to take his hands out of his pockets and manifest a genuine and effective interest in the Jews' difficulties. They were deeply appreciative of the rôle he had assumed, but now they did not want either to embarrass him nor hurt their own cause.

Respectfully yours,

A. J. DREXEL BIDDLE, JR.

SYRIA AND THE LEBANON

NEGOTIATIONS BETWEEN THE UNITED STATES AND FRANCE REGARDING POSSIBLE TERMINATION OF FRENCH MANDATE OVER SYRIA AND THE LEBANON¹

890D.01/467

The Consul at Beirut (Steger) to the Chief of the Division of Near Eastern Affairs (Murray)

BEIRUT, December 6, 1937.
[Received January 13, 1938.]

DEAR MR. MURRAY: For some time I have been thinking on the points raised in your letter of October 4th² to Mr. Marriner, and especially the question as to the procedure by which the French will carry out the provisions of Article 3 of the Franco-Lebanese and Franco-Syrian Treaties,³ requiring the transfer to the Syrian and Lebanese Governments of obligations assumed by France toward the United States on behalf of these Governments. Routine work, however, has been so pressing that I have only now found it possible to study carefully the material on file, and endeavor to evolve some orderly thoughts on the subject. I hope that the results, which I give below, may prove to be of some interest to you.

In the first place, I am rather doubtful that the French have given any especial thought to the matter, or if they intend to take any definite steps prior to the admission of the two countries to the League of Nations. More probably it is assumed that, by virtue of Article 3 of the Treaties, all international obligations which France has undertaken with respect to the mandated territory will automatically become binding on the Syrian and Lebanese Governments. This view would appear to be borne out by Article 8 of the Treaties, which reads as follows:

“Article 8.—Dès l'entrée en vigueur du présent traité, le Gouvernement français sera déchargé des responsabilités et obligations qui lui incombent, en ce qui concerne la Syrie (le Liban), du fait tant de décisions internationales que d'actes de la Société des Nations.

¹ For previous correspondence, see *Foreign Relations*, 1936, vol. III, pp. 496 ff.

² Not printed.

³ Signed at Beirut, November 13, 1936, and at Damascus, December 22, 1936, respectively. For French texts, see France, Ministère des Affaires Étrangères, *Rapport à la Société des Nations sur la Situation de la Syrie et du Liban* (Année 1936), pp. 201-273.

“Ces responsabilités et obligations, dans la mesure où elles subsisteraient, seront automatiquement transférées au Gouvernement Syrien (Libanais).”

If this is to be the attitude of the Mandatory, the situation created will, as your letter implies, be somewhat confusing and none too satisfactory. Therefore I agree that it would be desirable to begin, prior to the entry into force of the Franco-Syrian and Franco-Lebanese Treaties, at least preliminary conversations looking toward the conclusion of agreements with the two fledgling nations.

In respect to this I see two possible difficulties. The first is the legal point that the two countries, not being sovereign, may not be considered as qualified to enter into binding international agreements. However, the precedent of the Treaties with France, which enter into effect only on the date of admission to the League of Nations, should be ample to justify the signing and ratification of other agreements to come into effect at the same time. I assume, therefore, that the French would hardly interpose any objection to the conduct of negotiations prior to the termination of the Mandate.

The second difficulty is more of a practical nature, and lies in the political inexperience of the individuals who might be designated to carry on the negotiations. A case in point is that of the Lebano-Syrian conversations regarding the question of the *Intérêts Communs*, in which the French have been giving no especial assistance: After about six months of intermittent discussions, the only result is that no agreement has been reached. The individuals concerned cannot be hurried, and there is of course no assurance that the negotiators will not be changed at any time. This dilatory tendency is of course a point in favor of beginning negotiations at the earliest possible moment; but even then there is no assurance that treaties can be concluded before independence is achieved.

One strong bargaining point is of course Article 5 of the Mandate, which provides that the privileges formerly enjoyed by foreigners under the capitulations shall be reestablished on the conclusion of the Mandate unless the Powers shall have previously renounced these rights or agreed to their suspension. While I do not suppose that the United States, or any of the other Powers, intend to insist on these rights in the future, the legal position created by this provision should make the Lebanese and Syrians very desirous of concluding treaties whereby these privileges are renounced.

If, as is now contemplated, these two countries should become independent on January 1, 1940 (and I, like yourself, remain unconvinced that this can be accepted as an established fact), and if, as is probable in that event, satisfactory treaties have not yet been negotiated, it would undoubtedly be desirable, shortly before that date, to assure the

preservation of our rights by a provisional agreement. This might, presumably, take the form of an exchange of notes in which we receive assurances that, pending their confirmation or re-definition in formal treaties, all rights and privileges enjoyed by the United States and its nationals under the mandatory regime shall continue to exist unchanged and unimpaired. As indicated in the preceding paragraph, it seems to me that the Lebanese and Syrians would have every interest in coming to such an agreement.

I infer from your letter that you would not advise any discussion of this matter with the French at the present time. However, it seems to me that it might be proper to approach the question, quite informally, shortly after the exchange of ratifications. If, as I am inclined to believe, the French intend to take no steps, considering that Articles 3 and 8 of the Treaties make their position sufficiently clear, then we might, providing the French raise no objection, suggest to the Lebanese and Syrians the opening of negotiations.

I should be glad to hear further from you on this subject, especially as to whether you would like to have the matter discussed informally either with the French or with the heads of the local Governments.

Very truly yours,

CHRISTIAN T. STEGER

890D.01/467a

The Chief of the Division of Near Eastern Affairs (Murray) to the Ambassador in France (Bullitt)

WASHINGTON, January 13, 1938.

DEAR MR. AMBASSADOR: In an instruction No. 1440 of August 4, 1936,⁴ the Department requested the Embassy to bring to the attention of the French Government our interest in the forthcoming termination of the mandate in Syria and the Lebanon, and to inquire what arrangements were contemplated for consultation with the United States in respect to the conditions under which the territories were to be administered upon the cessation of the mandatory regime. The Embassy under date of August 27, 1936,⁵ reported that it had taken up this matter with the Chief of the Africa-Levant section of the Foreign Office, and forwarded a copy of a memorandum from the Foreign Office setting forth the French position with respect to the treaties then to be concluded with Syria and the Lebanon. The Foreign Office, however, apparently did not go into the question of consultation with the United States, and we were inclined to feel at the time that it had treated the underlying issues rather inadequately.

⁴ *Foreign Relations, 1936*, vol. III, p. 496.

⁵ Despatch No. 3021, *ibid.*, p. 498.

As you know, it is proposed that Syria and the Lebanon shall become independent countries on January 1, 1940, and while there seems to be some doubt whether this will be an accomplished fact on that date, we nevertheless feel that it is important at this time to give consideration to the future rights of the United States and its nationals in those territories under the new conditions which will prevail. In this connection you will recall that Articles 3 and 8 of the Franco-Syrian and the Franco-Lebanese treaties apparently assume that all international obligations which were undertaken by France with respect to the mandated territories will automatically become binding on the Syrian and Lebanese governments when these States attain their sovereignty. This intention would seem to be clearly stated by Article 8 of the treaties, which reads as follows:

“Article 8.—From the entry into force of the present treaty, the French Government will be freed from the responsibilities and obligations which are incumbent upon it, so far as Syria (the Lebanon) is concerned, whether arising from international decisions or acts of the League of Nations.

“These responsibilities and obligations, so far as they may continue to exist, shall be automatically transferred to the Syrian (Lebanese) Government.”

From our point of view, I think you will agree that if France transfers its responsibilities and obligations to the new States without our having received acceptable assurances from France or the States themselves relating to the protection of American interests in those areas, the situation would be confusing and unsatisfactory to say the least.

Our attitude toward the disposition of territories over which a mandate is being terminated was set forth in correspondence exchanged with the British Government in 1932 concerning the termination of the mandatory relationship between Great Britain and Iraq⁶ and published in the *Official Journal* of the League of Nations, January 1933, in which full reservation was made of our position that “the approval of the United States is essential to the validity of any determination which may be reached regarding mandated territories.” Moreover, we specifically enunciated the principle that “since the termination of a régime in a mandated territory necessarily involves the ‘disposition’ of the territory and affects the interests of American nationals therein, the right of the United States to be consulted with respect to the conditions under which the territory is subsequently to be administered is on precisely the same basis as its right to be consulted with regard to the establishment of a mandatory régime.” Copies of

⁶ See *Foreign Relations*, 1932, vol. II, pp. 672 ff.

the correspondence containing these declarations were enclosed in the Department's instruction No. 1440 of August 4, 1936, referred to above.

In addition to the right which we claimed in the case of Iraq to be consulted in the disposition of territories over which a mandate is being terminated and in their subsequent administration, we are obviously entitled to be consulted in respect to any modification which may be made in the mandate for Syria and the Lebanon, in accordance with the provisions of Article 6 of the American-French Convention signed at Paris on April 4, 1924,⁷ which I quote below for your convenience:

"Nothing contained in the present Convention shall be affected by any modification which may be made in the terms of the mandate as recited above unless such modification shall have been assented to by the United States."

There would thus appear to be no doubt that the French Government is obligated to consult us in respect to the forthcoming change in the political status of Syria and the Lebanon. Our position in this matter is much stronger than it was in the case of the termination by Great Britain of its mandate over Iraq, for you will recall that in the latter instance we had waived our right to consultation in regard to the actual termination of the mandate by the provisions of Article 7 of the Tripartite Convention of January 9, 1930, between the United States, Great Britain and Iraq.⁸ I may add that a not dissimilar question and one with which you are of course familiar, is the recent controversy between Turkey and France regarding the Sanjak of Alexandretta,⁹ arising from Turkey's insistence that the French Government could not freely transfer to Syria and the Lebanon the obligations and responsibilities which it had assumed under the terms of the Franklin Bouillon Agreement of 1921.¹⁰

In so far as both Syria and the Lebanon are concerned, it would seem to be to the interest of both to come to an agreement with the United States respecting the rights and privileges of the latter, since Article 5 of the Mandate, to the benefits of which we are entitled by our convention with France, provides that the privileges formerly enjoyed by foreigners under the Capitulations shall be re-established at the termination of the mandate unless the Powers shall have previously renounced these rights or agreed to their suspension. While it is not probable that any of the Powers would insist on the re-establishment of capitulatory rights, the legal position created by this

⁷ *Foreign Relations*, 1924, vol. I, p. 741.

⁸ *Ibid.*, 1930, vol. III, p. 302.

⁹ For further correspondence regarding the status of the Sanjak of Alexandretta, see pp. 1031 ff.

¹⁰ Signed at Angora, October 20, 1921; League of Nations Treaty Series, vol. LIV, p. 177.

provision should make the Syrians and Lebanese desirous of concluding treaties whereby these privileges are renounced.

The question arises whether we should now endeavor to commence negotiations with the governments of Syria and the Lebanon looking toward the conclusion of appropriate agreements to come into force upon the termination of the mandate or, pending the attainment of full sovereignty by the respective States, assure the preservation of our rights by some kind of provisional accord. It has further occurred to us that possibly the best course, in view of the existing doubt as to how much headway we could make at this juncture with the new and inexperienced governments, would be to approach the French Government directly on the subject of the safeguards and assurances which our interests require with a view to negotiating a tripartite convention along the lines of our agreement with Great Britain and Iraq in 1930. The advantages of making France a party to such a convention while that country is still custodian of the mandate are, of course, obvious—even if French participation therein would have a relatively short time to run. If such a tripartite convention were concluded provision might be made for the termination of France's obligations toward us upon the termination of the mandate. In any case it would seem essential for France to obtain a release from its obligations to us through the conclusion of some formal agreement, and a tripartite convention might prove to be a suitable instrument.

I realize of course that you are in an excellent position to obtain an expression of the French views on this subject, and accordingly I should be greatly appreciative if at the earliest favorable opportunity you could find it convenient to discuss the question informally but in some detail with the appropriate authorities, seeking in particular a clarification of the French attitude toward our right to be consulted in respect to the projected changes in the mandated territories as well as in respect to the procedure which might be envisaged by the United States in its establishment of treaty relations with the new States. Your own comments and observations on this subject would of course be warmly welcomed and given the Division's close attention.

Sincerely yours,

WALLACE MURRAY

890D.01/469

The Consul at Beirut (Steger) to the Chief of the Division of Near Eastern Affairs (Murray)

BEIRUT, February 1, 1938.

DEAR MR. MURRAY: My letter of December 27, 1937, crossing yours of December 31st,¹¹ will have given you such ideas as I have on the

¹¹ Neither printed.

subject of the reopening of the Damascus office. I trust that this will have covered most of the points in which you are interested.

The heavy task of settling Mr. Marriner's estate¹² has been just about completed. Blatchford¹³ went back to Jerusalem last week, and I am finishing up the final account. I expect to get this in the next pouch, leaving here February 7th, on which date also the effects will be shipped. Blatchford was a great help, but in spite of that the estate has taken up a considerable amount of my own time; its completion will be a corresponding relief.

With regard to the last paragraph of your letter of December 21st [31st], I may say that the French authorities still appear to expect the termination of the Mandate on January 1, 1940. This is the opinion of M. Robert de Caix, French representative with the Mandates Commission, with whom I had a talk the other day on this general subject.

M. de Caix, I may add, seems personally to be rather pessimistic as to the ability of Lebanese and Syrians to govern themselves. On the matter of our interests after January 1, 1940, he especially recommends careful attention with regard to the judiciary system, and insistence on the retention of Mixed Courts. As you will recall, this is a point which has been mentioned several times in Mr. Marriner's despatches; and it seems more than a coincidence that it should be the matter chiefly stressed by M. de Caix.

I brought up in a general way also the question of Treaty relations after 1940. M. de Caix there confirms the opinion expressed in my letter to you of December 6th—namely, that the French will take no steps regarding existing treaties, considering that all obligations entered into by France for the two countries will be automatically assumed by them when they are admitted to the League. He called attention to the fact that this refers only to treaties between France and other countries made on behalf of Syria and the Lebanon, or specifically applied to Syria and the Lebanon by some definite decision or agreement. For instance, he believes that our commercial agreements with France have never been definitely applied to Syria and the Lebanon, inasmuch as our rights in this respect are safeguarded under the Convention of April 4, 1924, guaranteeing us equal rights with nations members of the League. I am not sure of the legal position regarding our consular convention with France,¹⁴ although the High Commission has tacitly, at least, recognized the applicability on one recent occasion. This has of course had little importance up to now, since

¹² Theodore Marriner, former Consul General at Beirut, who was assassinated October 12, 1937.

¹³ Edward W. Blatchford, Vice Consul at Jerusalem.

¹⁴ Signed at Washington, February 23, 1853; William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. i, p. 528.

consular privileges enjoyed here are in excess of those granted in the Treaty with France; but in the future we should of course have a definite Treaty. The Franco-American Extradition Convention¹⁵ has been definitely recognized as applicable, although I cannot locate any especial agreement to that effect.

I was especially interested in hearing M. de Caix suggest, as a method of safeguarding such rights as may not have been defined by Treaty prior to independence of the present Mandated States, some such procedure as that which I recommended in my letter of December 6, 1937, namely, that the Lebanese and Syrian Governments be requested to give written assurances as to the maintenance of the rights and privileges at present enjoyed by us, pending their definition in a Treaty.

There is of course very little in the above that is new. I feel, however, that it will be of interest to you to know that the opinions which I previously expressed are shared by a person who is undoubtedly better acquainted than any other individual with these States and their international relations.

Very sincerely yours,

CHRISTIAN T. STEGER

890D.01/468 : Telegram

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

PARIS, February 7, 1938—6 p. m.
[Received February 7—5:07 p. m.]

206. Reference Wallace Murray's letter of January 13, 1938, regarding Syria and the Lebanon:

We have had a satisfactory talk concerning these questions with Lagarde, the new chief of the Africa-Levant section of the Foreign Office. He agrees "in principle" that the United States must be consulted regarding the termination or modification of the mandate and that there should be an agreement formally discharging France from the obligations assumed towards the United States under the Convention of April 4, 1924. He is also of the opinion that it would be in the interest of Syria and the Lebanon to have an agreement with the United States regarding the rights of American nationals in those countries, thereby putting an end to the legal right to claim reestablishment of capitulatory privileges. He is of the view that the best way to deal with the foregoing matters would be through the negotiation of tripartite conventions between the United States,

¹⁵ Signed at Paris, January 6, 1909, *Foreign Relations*, 1911, p. 189. For supplementary conventions, signed at Paris, January 15, 1929, and April 23, 1936, see *ibid.*, 1929, vol. II, p. 991, and 50 Stat. 1117.

France, and Syria in one case, and the United States, France, and the Lebanon in the other case, along the lines of the 1930 treaty between the United States and Great Britain and Iraq.

Lagarde leaves today for Morocco to be gone until March 1 and we will resume our discussions following his return. I should greatly appreciate it if the Department would prepare and forward to the Embassy so that it will be received if possible prior to March 1 a draft of a tripartite convention which we can use as a basis of discussion.

BULLITT

890D.01/470

The Ambassador in France (Bullitt) to the Chief of the Division of Near Eastern Affairs (Murray)

PARIS, February 8, 1938.

[Received March 17.]

DEAR MR. MURRAY: I acknowledge receipt of your letter of January 13, 1938, concerning Syria and the Lebanon.

Wilson has had this matter under discussion with Lagarde, the new Chief of the Africa-Levant section at the Foreign Office, who has succeeded de Saint Quentin.¹⁶ Our telegram No. 206, February 7, 6 P. M. informed you of Lagarde's agreement "in principle" that the United States would have to be consulted regarding the termination or any modification of the mandate and that France should obtain a formal discharge of the obligations assumed towards the United States in the 1924 Convention. He also agreed that it would be desirable from the point of view of both Syria and the Lebanon to enter into treaty relations with the United States regarding the rights of American nationals in those territories, thus removing the legal right of the United States to insist upon the reestablishment of capitulatory privileges upon the termination of the mandate. He was of the opinion that the best way to deal with all these questions would be through the negotiation of tripartite conventions, one with Syria and the other with the Lebanon, along the lines of the Convention of 1930 between the United States, Great Britain and Iraq.

When Lagarde returns from Morocco on March 1, discussion of these points will be continued with him and, as stated in our telegram, I hope very much that it will be possible for you to furnish the Embassy with the draft of a tripartite convention which can serve as a basis for further discussion with the Foreign Office.

¹⁶Appointed Ambassador to the United States.

In order that you may be fully informed, there is enclosed a copy of a memorandum of the conversation with Lagarde¹⁷ and a copy of an *Aide-Mémoire* sent to Lagarde at his request, setting out in detail our position in these matters.

Sincerely yours,

WILLIAM C. BULLITT

[Enclosure]

The American Embassy to the French Ministry for Foreign Affairs

AIDE-MÉMOIRE

In the Embassy's *Aide-Mémoire* of August 19, 1936,¹⁸ reference was made to the negotiations then taking place between the French Government and a Syrian delegation, looking toward the termination of the mandatory régime and the entrance of Syria and the Lebanon into the League of Nations as independent states, and it was pointed out that it had become important to provide for the future respecting the rights of the United States and its nationals in those states under the new conditions which would prevail. Inquiry was therefore made concerning the arrangements the French Government contemplated with respect to consultation with the United States concerning the termination of the mandate, the disposition of the territories of Syria and the Lebanon, and the conditions under which those territories would be administered upon the cessation of the mandatory régime. In that connection, reference was made to Article 6 of the Convention between the United States and France, signed at Paris on April 4, 1924, regarding the rights of the two governments and their respective nationals in Syria and the Lebanon, which provides that nothing contained in that Convention shall be affected by any modification of the mandate, unless such modification has been assented to by the United States.

The memorandum of the Ministry of Foreign Affairs, dated August 25, 1936,¹⁹ replied that the informal negotiations then in course with the Syrian delegation had as their object the preparation of official negotiations at a later period, and that at the close of these official negotiations and after the ratification of the agreements concluded, the text of the agreements would be communicated to the League of Nations, and at the same time to the Government of the United States. The Ministry added that the Franco-Syrian and Franco-Lebanon treaties would be closely inspired by the Anglo-Iraq treaty of 1932 [1930]²⁰ and that they would include a transfer clause to the Syrian

¹⁷ Not printed.

¹⁸ *Foreign Relations*, 1936, vol. III, p. 467.

¹⁹ *Ibid.*, p. 500.

²⁰ Apparently a reference to the Anglo-Iraq Treaty, signed June 30, 1930. For text, see British Cmd. 3797, Treaty Series No. 15 (1931): *Treaty of Alliance*; or League of Nations Treaty Series, vol. cxxxii, p. 363.

(Lebanese) Government of the rights and obligations resulting from any treaties, conventions or other international acts concluded by the French Government as regards Syria (the Lebanon) or in its name.

The memorandum of the Ministry of Foreign Affairs mentioned above did not go into the question of consultation with the United States.

The attitude of the United States towards the disposition of territories over which a mandate is being terminated was set forth in correspondence with the British Government in 1932 concerning the termination of the mandatory relationship between Great Britain and Iraq and published in the *Official Journal* of the League of Nations, January 1933. A copy of this correspondence was enclosed with a letter addressed by Mr. Wilson of the Embassy to M. de Saint Quentin of the Foreign Office, dated August 27, 1936. In this correspondence, full reservation was made of the position of the United States that "the approval of the United States is essential to the validity of any determination which may be reached regarding mandated territories". The United States specifically enunciated the principle that "since the termination of a régime in a mandated territory necessarily involves the 'disposition' of the territory and affects the interests of American nationals therein, the right of the United States to be consulted with respect to the conditions under which the territory is subsequently to be administered is on precisely the same basis as its right to be consulted with regard to the establishment of a mandatory régime."

In addition to the right asserted in the case of Iraq to be consulted in the disposition of territories over which a mandate is being terminated and in their subsequent administration, the United States is obviously entitled to be consulted in respect of any modification which may be made in the mandate for Syria and the Lebanon, in accordance with the provisions of Article 6 of the American-French Convention signed at Paris on April 4, 1924, to which reference has been made hereinabove.

The position of the United States in this matter is, moreover, much stronger than it was in the case of the termination by Great Britain of its mandate over Iraq, because in the latter case the United States had waived its right to consultation in regard to the actual termination of the mandate by the provisions of Article 7 of the Tripartite Convention of January 9, 1930, between the United States, Great Britain and Iraq.

It is evident from the foregoing that the United States has the right to be consulted by France respecting the projected changes in the mandated territories, and that France should obtain a release from its obligations to the United States through the conclusion of some formal

agreement. In so far as both Syria and the Lebanon are concerned, it would seem to be in the interest of both to come to an agreement with the United States respecting the rights and privileges of the latter, since Article 5 of the mandate, to the benefits of which the United States is entitled by the 1924 convention with France, provides that the privileges formerly enjoyed by foreigners under the capitulations shall be reestablished at the termination of the mandate unless the Powers shall have previously renounced these rights or agreed to their non-application. In view of the legal position created by this provision, Syria and the Lebanon would undoubtedly be desirous of concluding treaties whereby these privileges are renounced.

It has been suggested that possibly the best procedure to deal with the foregoing questions in satisfactory manner would be the negotiation of tripartite conventions between the United States, France and Syria on the one hand, and the United States, France and the Lebanon on the other, along the lines of the convention of 1930 between the United States, Great Britain and Iraq. If such tripartite conventions were concluded, provision might be made therein for the termination of France's obligations towards the United States upon the termination of the mandate.

PARIS, February 7, 1938.

890D.01/468

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

No. 734

WASHINGTON, March 8, 1938.

SIR: Reference is made to the Embassy's telegram No. 206 of February 7, 1938, reporting a conversation with M. Lagarde, Chief of the Africa-Levant section of the Foreign Office, concerning the rights of the United States and its Nationals in the mandated territory of Syria and the Lebanon. The Department is gratified to observe that M. Lagarde agrees in principle that the United States must be consulted before the termination or modification of the mandate over Syria and the Lebanon and that there should be an agreement formally discharging France from the obligations assumed under the American-French Convention of April 4, 1924.

The Department concurs in the suggestion that the situation might appropriately be regulated through the conclusion of tripartite agreements between the United States, France and Syria in the one case and the United States, France and the Lebanese Republic in the other case. Because of the different situation prevailing with respect to Syria and the Lebanon, as compared with that in Iraq at the time of the negotiation of the tripartite agreement of January 9, 1930,

between the United States, Great Britain and Iraq, the Department would not consider, however, that agreements respecting Syria and the Lebanon, drafted along the lines of the Iraq agreement, would be adequate or feasible. In this connection you will recall that at the time the tripartite convention regarding Iraq was signed on January 9, 1930, it was expected that the "special relations" between Great Britain and Iraq would continue for another twenty years. As a matter of fact, the Council of the League of Nations in a decision of December 16, 1926 [1925],²¹ approving the settlement of the frontier between Turkey and Iraq, effected by the Treaty of June 5, 1926, between Great Britain, Turkey and Iraq,²² had specifically stipulated that the mandatory relationship between Great Britain and Iraq should continue for twenty-five years. The negotiations culminating in the tripartite agreement of January 9, 1930, between the United States, Great Britain and Iraq, which had been initiated several years before, were intended therefore to safeguard the rights of the United States and its nationals in Iraq for the rather extended period during which those "special relations" were expected to continue, in the same manner that those rights were safeguarded in Syria and the Lebanon by the American-French Convention of April 4, 1924. A comparison of the texts of the two conventions clearly indicates their similarity of purpose.

The present situation with respect to Syria and the Lebanon is quite different. Whereas in the case of Iraq it was not expected that the territory would gain its independence for a considerable number of years, it appears reasonably certain that Syria and the Lebanese Republic will become independent States within the next two years. It will therefore be essential that the United States have in effect in those territories, upon the termination of the present mandate, agreements clearly and in detail establishing the rights of this Government and its nationals in replacement of the American-French Convention of April 4, 1924. For your confidential information it should be pointed out that although Article 7 of the tripartite agreement respecting Iraq provided that upon the termination of the special relations between Great Britain and Iraq "negotiations shall be entered into between the United States and Iraq for the conclusion of a treaty in regard to their future relations and the rights of the nationals of each in the territories of the other" it has not yet been possible to conclude such a treaty despite the fact that negotiations were initiated by the United States Minister Resident at Baghdad within a few months after the attainment of independence by Iraq and have been pressed almost continuously.²³

²¹ League of Nations, *Official Journal*, February 1926, p. 191.

²² League of Nations Treaty Series, vol. LXIV, p. 379.

²³ See *Foreign Relations*, 1936, vol. III, pp. 401 ff.

The Department would be loath to agree to the termination of France's obligations under the provisions of the Convention of April 4, 1924, until satisfactory bilateral agreements had been reached with Syria and the Lebanese Republic covering at least those rights which are now provided for by the above-mentioned Convention and by subsidiary agreements. It would appear necessary therefore to conclude bilateral agreements with each of those States covering the following subjects: residence and establishment, commerce and navigation, consular rights, extradition, naturalization, arbitration and conciliation. Elements of the first six subjects are already contained in the Mandate, in the Convention of April 4, 1924, and in separate exchanges of notes. The subject of naturalization is covered to a considerable, though not entirely satisfactory, extent by the so-called Gouraud-Knabenshue Agreement of 1921,²⁴ establishing the right of the United States to extend protection to those American citizens of Syrian or Lebanese extraction who, under American law, are entitled to such protection. Even the subject of conciliation may be considered to be already covered in part by an existing agreement between the United States and France. Copies of the several instruments through which are derived the basic rights mentioned above are transmitted herewith for your information.

In the light of the foregoing I enclose a tentative draft of an agreement which it is proposed might be negotiated, *mutatis mutandis*, between the United States, France and the Lebanese Republic in the one case and the United States, France and Syria in the other case. It will be observed that under the terms of this agreement France would be released from the obligations assumed toward the United States in the American-French Convention of April 4, 1924, upon the termination of the mandate and the entrance into force of treaties covering certain specified subjects between the United States and the Lebanese Republic and the United States and Syria. The French Government would thus find it to its advantage to assist in the conclusion of the treaties referred to in order to discharge itself at an early date from the obligations by which it is bound toward the United States. Furthermore, it will be seen that through the provisions relating to most-favored-nation treatment, the governments of Syria and the Lebanon would receive definite benefits by the terms of the proposed tripartite agreement.

Pending the conclusion and entry into force of treaties covering the above-mentioned subjects, Syria and the Lebanon and their consular officers, nationals, corporations, associations, vessels and goods

²⁴ See Hackworth, *Digest of International Law*, vol. III, pp. 194-196. For further correspondence regarding continued application of this agreement, see *Foreign Relations*, 1937, vol. II, pp. 923 ff.

would enjoy unconditional most-favored-nation treatment in the United States, and, reciprocally, similar treatment would be accorded in Syria and the Lebanon to the United States, its consular officers, nationals, corporations, associations, vessels and goods. In respect to import or customs quotas or other quantitative restrictions, or any system of foreign exchange control, it would be provided that the share of the United States on the one hand, and Syria or the Lebanon on the other, in the total permissible importation of any product or of the total exchange made available for importation of any product would be equal to the share in the trade in such product which either country enjoyed in the territory of the other during a previous representative period.

It should be made clear in any discussions which may take place in regard to the suggested tripartite convention that its terms would be regarded as being in force until the treaties provided for in the convention had been concluded and put into effect. In other words, it is proposed that treaty negotiations covering the several subjects mentioned should be carried on concurrently and that at the conclusion thereof the treaties should be submitted to the United States Senate. It would be expected that a similar procedure would be adopted by the Syrian and Lebanese Governments, in order that the tripartite convention might be terminated by the entrance into effect of the several treaties at the same time through the exchange of ratifications. In this way any possible question of conflict as to the respective provisions of one or more of the treaties and the tripartite convention would be avoided.

It will be noted that the proposed agreement makes no provision for renunciation by the United States of the capitulatory privileges formerly enjoyed by foreigners which, under Article 5 of the Mandate, were subject to reestablishment at the conclusion of the mandatory régime unless the Powers should have previously renounced such rights or agreed to their suspension. While from the Syrian or Lebanese point of view it might be deemed desirable to include in the agreement an article whereby these rights were renounced by the United States, the Department is of the opinion that the judiciary system at this time in force in Syria and the Lebanon does not warrant the specific surrender of all rights of a capitulatory character in the present treaty.

For your confidential information, the Department's position in this matter is based in part on a conversation recently held in Beirut by Consul Steger with Mr. Robert de Caix, French representative with the League of Nations Mandates Commission, who expressed himself as "rather pessimistic as to the ability of Lebanese and Syrians to govern themselves." On the matter of American interests after ter-

mination of the Mandate, Mr. de Caix especially recommended "careful attention with regard to the judiciary system, and insistence on the retention of mixed courts."

You are, of course, aware that the only provision in the Franco-Syrian Treaty of Friendship and Alliance, signed at Paris on September 9, 1936,²⁵ relating to the judicial rights and privileges of foreigners after the termination of the Mandate is that represented by the so-called program of judicial reform which appears beginning with paragraph 3 of Protocol number 4 of the treaty, and which the Department is not inclined to regard as an adequate safeguard or assurance for the future. The Franco-Lebanese Treaty of Friendship and Alliance, moreover, does not even include such a program of judicial reform, it having been reported by the Consulate General at Beirut in a despatch of November 19, 1937 [1936],²⁶ that "the Lebanon is satisfied with the present administration of justice."

If, however, in the course of the tripartite conversations the question of renunciation of capitulatory rights should be brought up, you are requested to inform the Department by telegraph, and further consideration will be given to the matter.

Please keep the Department informed by telegraph as to the progress of your negotiations.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

[Enclosure]

*Draft of Proposed Tripartite Convention Between the United States,
France, and the Lebanese Republic*

ARTICLE I

The High Contracting Parties agree to the termination of the convention between the United States of America and France relating to rights in the mandated territory of Syria and the Lebanon, signed April 4, 1924, upon the entry into force of the treaties between the United States of America and the Lebanese Republic provided for in Article II of the present convention.

ARTICLE II

The United States of America and the Lebanese Republic will conclude at the earliest practicable moment treaties relating to estab-

²⁵ This treaty was only initialed at Paris, and was signed at Damascus, December 22, 1936.

²⁶ Not printed.

lishment and residence, commerce and navigation, consular rights, naturalization, extradition, arbitration and conciliation.

ARTICLE III

Pending the entry into force of the treaties between the United States of America and the Lebanese Republic provided for in Article II of the present convention, the United States of America, its consular officers, nationals, corporations, associations, vessels, and goods shall enjoy unconditional most-favored-nation treatment in the Lebanese Republic.

In connection with the unconditional most-favored-nation treatment of American goods in the Lebanese Republic, it is agreed that in the event the Lebanese Republic establishes or maintains import or customs quotas or other quantitative restrictions, or any system of foreign exchange control, the share of the United States of America in the total permissible importation of any product or of the total exchange made available for importation of any product shall be equal to the share in the trade in such product which the United States of America enjoyed in a previous representative period.

ARTICLE IV

Reciprocally, pending the entry into force of the treaties between the United States of America and the Lebanese Republic provided for in Article II of the present convention, the Lebanese Republic, its consular officers, nationals, corporations, associations, vessels and goods shall enjoy unconditional most-favored-nation treatment in the United States of America.

In connection with the unconditional most-favored-nation treatment of Lebanese goods in the United States of America, it is agreed that in the event the United States of America establishes or maintains import or customs quotas or other quantitative restrictions, or any system of foreign exchange control, the share of the Lebanese Republic in the total permissible importation of any product or of the total exchange made available for the importation of any product shall be equal to the share in the trade in such product which the Lebanese Republic enjoyed in a previous representative period.

890D.01/473 : Telegram

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

PARIS, April 8, 1938—3 p. m.
[Received April 8—2: 10 p. m.]

564. Embassy's 206, February 7, 6 p. m. Yesterday afternoon Barnes and I discussed treaty problem with Lagarde and Basdevant, Legal Adviser of Foreign Office.

In a conversation on March 31 Lagarde had told me that Basdevant was not disposed to support him in his tentative acceptance on February 8 of our contention that France must obtain our assent to the termination of the mandate. When I replied by expressing surprise and reviewing the arguments in support our position Lagarde asked me to delay reporting on the subject until Basdevant had had time to go into the matter more carefully.

Yesterday's conversation revealed that Basdevant has now definitely concluded that the French Government must in principle reject our contention. Lagarde who did most of the talking on the French side emphasized the point that the mandate provided specifically for a temporary regime designed to lead to the political independence of the territories in question and that France would find herself in a false, and possibly difficult, situation with respect to other countries having interests in Syria and the Lebanon if she were to accept at this time a contention which in principle was at variance with the temporary nature of the obligations assumed by her in the mandate.

He said, however, that disagreement between our two Governments on this point should not present any difficulties with respect to the practical problem of safeguarding American rights in Syria as the 1924 convention relates specifically to these rights and as article VI provides that these rights may not be modified without our assent. He explained that under these circumstances the French Government is prepared to enter into tripartite negotiations looking to the conclusion of conventions terminating the 1924 convention and to the conclusion of the other agreements envisaged in the Department's instruction No. 734.

Lagarde was of the opinion that the most desirable procedure would be for us to submit simultaneously to the Foreign Office drafts of all the suggested agreements and that on the basis of these drafts the French Government, through the High Commissioner in Beirut, would enter into conversations with the Syrian and the Lebanese authorities. The tentative draft of conventions to replace the 1924 (enclosed with the Department's mail instruction No. 734) was therefore not submitted for discussion.

While reserving our point of view with respect to termination of the mandate without our assent, I suggested that Lagarde's statements be communicated to me in the form of an *aide-mémoire*, to which he readily agreed. He also promised to inform the Embassy fully at the same time with respect to the judicial safeguards envisaged in connection with the capitulations problem.

I emphasized also that even if we did take the practical course proposed by him we would be unable to consider France as released from her obligations under the 1924 agreement until all the treaties

envisaged had entered into force. Lagarde said that he understood our position, that time was not a major factor, implying that independence may be delayed even beyond January 1, 1940, and that technical difficulties of a juridical nature relating to the ratification of such treaties as may be negotiated could be surmounted without too much difficulty once the parties concerned were in agreement as to the substance of the treaties.

In the event Lagarde's promised *aide-mémoire* is satisfactory from a practical point of view and full information with respect to the question of juridical safeguards is forthcoming the Department may wish to supply the Embassy with tentative drafts covering the whole field of our future relations with Syria and the Lebanon. In view of this possibility and because of the difference in principle which has now developed, I shall take no further action on the basis of the Department's 734 until receiving additional instructions. Lagarde's *aide-mémoire* will be transmitted as soon as received.

WILSON

890D.01/476

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

No. 2276

PARIS, May 17, 1938.

[Received May 27.]

SIR: As stated in the Embassy's telegram No. 564, of April 8, 1938, reporting the considered views of the Legal Adviser of the French Foreign Office concerning the rights of the United States and its nationals in the mandated territory of Syria and the Lebanon, M. Lagarde, the Chief of the African and Levant Section of the Foreign Office, promised to set forth the French point of view in a written communication to the Embassy.

The communication, in the form of an *aide-mémoire*, has been received by the Embassy and the text thereof, together with an English translation, is transmitted herewith. There are also enclosed detailed memoranda of the conversations of March 31 and April 8 [7], 1938, on the subject.²⁷

Although M. Lagarde promised on April 8 to supply the Embassy with information concerning the judicial safeguards envisaged in connection with the capitulations problem, the *aide-mémoire* of April 27, 1938, makes no mention of this subject. In a subsequent informal conversation with M. Lagarde, reference was made to this omission. The Chief of the African and Levant Section replied that he would make his promise good at an early date, but that he found himself in

²⁷ Neither printed.

the difficult position of not knowing exactly what to say as the whole situation with respect to the treaties negotiated with the Syrian and Lebanese authorities, and particularly with respect to the Syrian treaty, has become confused through the development, both in France and in Syria, of strong currents of opposition. He agreed, however, that the Foreign Office had formulated definite objectives with respect to the question of judicial safeguards and that he would, at an early date, supply information on the subject. He, of course, realizes that such information is essential to the elaboration of a draft residence and establishment agreement.

As regards the opposition to the treaties that are to establish the new order in Syria and the Lebanon, which opposition relates primarily to the Syrian treaty, it should be borne in mind that the treaties were the work of the Popular Front Government of M. Léon Blum, and that as the authority of the leader of the Socialist Party waned, opposition to the termination of French control over Syria became more vociferous in France. The opponents of the Syrian treaty in France argue that France must not abandon the Christian population of Syria to certain despoliation by the Moslem majority and, furthermore, that international developments since the negotiation of the treaty have made it imperative that the French retain a foothold in the eastern Mediterranean. The critics of the treaty contend that this foothold in the eastern Mediterranean can be assured only through revision of the treaty. The Christians of Syria have, apparently, taken full advantage of this situation, and, according to M. Lagarde, are pressing for further safeguards than those which have been obtained to date in their behalf by the French Government. Under these circumstances there seems ample reason to believe that ratification of the treaties will not be accomplished in the very near future.

Now that the Foreign Office has made its point of view definitely known with respect to the question of prior assent by the American Government to termination of the Mandate, but at the same time has admitted responsibility with respect to the safeguarding of future American rights in Syria and the Lebanon and has proposed tripartite negotiations looking to the conclusion of agreements which will assure those rights, the Department will, of course, wish to supply the Embassy with further instructions. In the meantime the Embassy will continue to press for information on the question of judicial safeguards and will also follow closely such developments as may have an important bearing on the question of the ratification of the Franco-Syrian and the Franco-Lebanese treaties.

It has, no doubt, occurred to the Department that the British Government has, since the signature of the Franco-Syrian and the Franco-

Lebanese treaties, presumably been giving consideration to the question of its future treaty relations with Syria and the Lebanon. In the event the Department has obtained any information as to the intentions in this regard of the British Government it might prove helpful if the information were passed on to the Embassy.

Respectfully yours,

For the Ambassador:
EDWIN C. WILSON
Counselor of Embassy

[Enclosure—Translation]

The French Ministry for Foreign Affairs to the American Embassy

PARIS, April 27, 1938.

By its *aide-mémoire* of February 7 last the Embassy of the United States of America was so good as to make known to the Ministry of Foreign Affairs the views of its Government as to the meaning of Article 6 of the convention signed at Paris, April 4, 1924.

The Ministry has carefully examined the arguments invoked by the Embassy and by virtue of which the above clause would give the United States the right to subordinate to its prior consent the validity of the status conferred on Syria and on the Lebanon upon the termination of the régime now in force.

The Ministry is not able to join in this interpretation. The mandate, in effect, was conceived as having a provisional character embodying in itself the terms of its expiration. The authority (France) exercising the mandate is under the essential obligation of guiding to emancipation the countries submitted to its expressly temporary tutelage. The American Government has acquiesced, by the convention of 1924, in the fundamental conditions of this system, as have, on their side, the members of the League of Nations accepted them by the resolution of the Council, dated July 24, 1922.²⁸ Moreover, these powers, just as the United States, would be justified in contesting the validity of the treaties which have as their object to sanction the independence and the sovereignty of Syria and of the Lebanon, only in case these acts ignored the rights which these powers possess by virtue of the charter of the mandate.

The Ministry of Foreign Affairs understands none the less the interest of the United States that the juridical conditions of its nationals in the countries concerned be defined by appropriate agreements. The negotiations to be undertaken would relate to questions concerning consular status, establishment, commerce and navigation, as well as the treatment of scholastic or charitable institutions. The

²⁸ League of Nations, *Official Journal*, August 1922, p. 1013.

Ministry, in communicating herewith the text of the Franco-Lebanese Treaty of November 13, 1936, and of the Franco-Syrian Treaty of December 22, 1936, as well as the annexed or supplementary accords, assures the Embassy that it will gladly lend its good offices to the American Government in the exchange of views of a technical character which should be opened to this end (protection of the rights of the nationals of the United States).

890D.01/476

*The Chief of the Division of Near Eastern Affairs (Murray) to the
Counselor of Embassy in France (Wilson)*

WASHINGTON, June 7, 1938.

DEAR ED: We have just received and read with great interest your despatch No. 2276 of May 17, 1938, furnishing information regarding your discussions with the Foreign Office concerning the rights of the United States and its nationals in Syria and the Lebanon. First of all, let me extend my sincere congratulations for the very effective and able manner in which you conducted your discussions with M. Lagarde. I cannot imagine that your presentation of our case could be improved upon.

We are naturally disappointed that the Foreign Office declines to accept our point of view but as a practical matter I think that we can work out an arrangement which will prove mutually satisfactory and avoid the discussion of doctrinaire principles. In anticipation of your despatch, the Treaty Division has been working for some weeks upon drafts of treaties which we would wish to negotiate with Syria and the Lebanon. We hope to be able to send these to you within the comparatively near future. It may be necessary for you, in presenting these discussions to the Foreign Office, to enter a reservation of our position with respect to the French viewpoint as expressed in the Foreign Office note of April 27, 1938. If we consider such a step essential, we shall try to word our reservation in such a manner as not to provoke further arguments by the French.

One thought occurs to me in connection with the French note mentioned above. In the final sentence of the third paragraph, the note points out that the United States would be justified in contesting the validity of the Franco-Syrian treaties only in the event that those acts ignored the rights which the powers in question possessed by virtue of the charter of the mandate. This argument might be carried somewhat further and the point developed that those members of the League of Nations sitting on the Council do, in fact, have an opportunity to contest the validity of the Franco-Syrian and Franco-

Lebanese Conventions since those agreements will eventually have to be approved by the League Council. Thus, the United States, in claiming a similar right, is only asking that it be placed in a position equally favorable with that of members of the Council. That the United States intended to obtain for itself such a position is made clear, to some extent, by the provision in all of our mandate treaties to the effect that the mandatory governments should furnish us with a duplicate of the annual report which they make to the Council.

With best wishes [etc.]

WALLACE MURRAY

751.90D/73

Memorandum of Conversation, by the Chief of the Division of Near Eastern Affairs (Murray)

[WASHINGTON,] July 23, 1938.

During a call from the French Ambassador on July 23 I inquired whether he had any information as to whether the French Parliament contemplated ratifying at an early date the Franco-Syrian Treaty of 1936 looking to the termination of the French Mandate over Syria. The Ambassador said he had received no information on the subject nor was he informed of the course of the conversations that had taken place between our Embassy in Paris and the French Foreign Office regarding proposed tripartite treaties between the United States, France and Syria and the United States, France and the Lebanon, in which reference would be made to the various treaties to be negotiated by this Government with those states under French Mandate prior to the termination of their mandatory status and which would also contain a clause releasing France from the obligations she assumed in her Treaty of 1924 with the United States, in which this Government assented, under certain conditions, to the exercise of a French Mandate over Syria and the Lebanon.

I reminded the Ambassador that the Franco-Syrian and the Franco-Lebanese Treaties of 1936 did not cover satisfactorily the judicial arrangements that would have to be made with the mandated states prior to the termination of the mandates, and I referred in this connection to the very detailed judicial agreement that had been negotiated between Great Britain and Iraq²⁹ some years before the termination of the Iraq Mandate. The Ambassador replied that he was responsible for the absence from the above-mentioned treaties of 1936 of any judicial agreements since he thought it preferable to await the outcome of the Montreux Conference for the termination of

²⁹ Signed at Baghdad, March 4, 1931, League of Nations Treaty Series, vol. CXXXIII, p. 77.

the capitulations in Egypt, which took place in May, 1937.⁸⁰ In this connection he expressed his very keen disappointment over the failure of the American delegate at the Conference, Mr. Fish, to support the French viewpoint regarding the status of the Egyptian Mixed Courts after the termination of the capitulations. It will be recalled that the French delegation at the Montreux Conference proposed that for a period of six years after the termination of the capitulations there should be no modification in the proportion of foreign judges on the Tribunals of First Instance. In the absence of any support from the other delegations for their position, the French delegation was in the end obliged to yield to the Egyptian demands that any vacancies among foreign judgeships on the Courts of First Instance would be filled forthwith by Egyptian judges. The Ambassador felt that the outcome of the Montreux Conference, particularly with respect to the future status of the Mixed Courts of Egypt, would make France's position in Syria more difficult when the time came to work out a new judicial agreement. He observed also that, while the Anglo-Iraqi judicial agreement of 1931 served the British needs in Iraq very well, such an agreement for Syria where the foreign judges sit in panels would not be adequate for the needs of the situation.

751.90D/78

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

No. 2900

PARIS, September 6, 1938.
[Received September 16.]

SIR: A member of my staff recently discussed the subject of the Franco-Syrian Treaty with Monsieur Gaston Riou, a member of the Foreign Affairs Committee of the Chamber of Deputies and the *rapporteur* for the treaty. The presence in Paris on an official visit of Mardam Bey, the Syrian Prime Minister, gave rise to the conversation.

M. Riou stated that ratification of the treaty as it now stands is quite out of the question. He explained that the political situation in the eastern Mediterranean, due to international developments since the negotiation of the treaty, has entirely changed, and that the treaty must be revised in the light of this change. He added that the domestic political situation in France has also changed considerably since 1936, and that this fact also has a direct bearing upon the belief now

⁸⁰ For correspondence relating to this conference, see *Foreign Relations, 1937*, vol. II, pp. 615 ff.

generally held in French political circles that neither the Chamber of Deputies nor the Senate would accept the Syrian treaty in its present form.

According to M. Riou, Mardam Bey fully understands this situation and is trying to be reasonable in his relations with the French Government, while at the same time he must avoid any acts or statements that might increase his political difficulties at home. It is M. Riou's belief that either he, or Senator Henry-Haye will be sent to Syria in the fairly near future to study the Syrian problem on the ground and to negotiate a modification of the treaty in conformity with present-day conditions. He anticipates that such a mission would require at least six months of effort in Syria.

Respectfully yours,

For the Ambassador:
EDWIN C. WILSON
Counselor of Embassy

751.90D/78

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

No. 1119

WASHINGTON, October 13, 1938.

SIR: The Department refers to the Embassy's despatch No. 2900 of September 6, 1938, reporting a conversation between a member of the Embassy staff and M. Riou, a member of the French Chamber of Deputies, regarding the treaties designed to grant independence to Syria and the Lebanon. It is observed that M. Riou is of the opinion that the ratification of the treaties as they now stand is quite out of the question and thinks that a French representative will be sent to Syria soon to negotiate modifications.

As the Embassy will recall, on March 8, 1938,¹ the Department forwarded to the Embassy, at the suggestion of the Ambassador, drafts of tripartite treaties to be negotiated between France, Syria and the United States in the one case and between France, the Lebanese Republic and the United States in the other, intended to relieve France of its obligations to the United States in Syria and the Lebanon. In its telegram No. 564 of April 8, 1938, the Embassy suggested that the Department might wish to supply the Embassy with tentative drafts of treaties covering the whole field of our future relations with Syria and the Lebanese Republic.

In response to the latter suggestion, the Department has almost completed the preparation of tentative drafts of the following bi-

¹ Instruction No. 734, p. 1014.

lateral treaties intended to be negotiated between the United States and Syria and between the United States and the Lebanese Republic:

1. Establishment, Commerce and Navigation.
2. Consular Rights.
3. Arbitration.
4. Conciliation.
5. Naturalization.
6. Extradition.

In view of the fact that the French Government has not taken final action on the question of independence for Syria and the Lebanon, there would appear to be some question regarding the propriety of the American Government's suggesting to the French Government at this time the negotiation of treaties the coming into effect of which would be contingent upon the granting of independence. It would appear advisable at least to wait until the terms under which independence is to be granted shall have been definitely determined before proposing to the Foreign Office a consideration of the bilateral treaties. Furthermore, any drafts prepared at the present time might have to be altered considerably in the light of the modifications to be made in the independence treaties.

It is possible, however, that some useful purpose might be served if the tentative drafts now under preparation in the Department were completed and forwarded to the Embassy for study and possibly for use as the basis for informal discussions with the appropriate French officials. The Embassy's opinion in this regard is requested.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

751.90D/80

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

No. 3488

PARIS, December 15, 1938.
[Received December 23.]

SIR: As the Department knows, Mardam Bey, the Syrian Prime Minister, came to Paris late in August of this year for the purpose of ironing out the difficulties in the way of ratification by the French Government of the Franco-Syrian treaty of December 22, 1936.

On November 14 "arrangements" were concluded between the Syrian Prime Minister and the French Minister of Foreign Affairs "completing the December 22, 1936, treaty". These "arrangements" consist of a protocol, a joint declaration, and an agreement "regarding the relations between the French and Syrian armies".

The Foreign Office has supplied the Embassy, at its request, with the texts of the protocol and joint declaration, but not with the text of the military agreement. The texts of the protocol and the joint declaration are enclosed, with translations³² made by the Embassy, for the Department's confidential information.

The protocol relates primarily to the exchange of notes of December 11, 1937,³³ between the French and Syrian Governments, in which, according to a statement appearing in the April 1, 1938, issue of the *Revue de Paris*, the Syrian Government (1) confirms its "guarantee to individuals and to communities of the full exercise of their rights"; (2) assures a certain autonomy to the "Mohafazats", and (3) provides for the employment of French "technical counselors" to assist the Syrian authorities. In other words, the exchange of notes of December 11, 1937, is understood not only to renew undertakings with respect to the rights of the minorities but also to give a double guaranty of those rights in the form of concessions to small local autonomous units and a commitment to employ French experts or advisors.

The joint declaration sets January 20, 1939, for the Syrian Parliament, and January 31, 1939, for the French Parliament, as the ultimate date limits for ratification of the treaty of December 22, 1936. In the event of such ratification the administrative functions still retained by the mandatory power will be transferred to the Syrian Government during the month of February 1939.

In conversation with a member of the Embassy staff several days after the signature of these "arrangements", M. Lagarde expressed the opinion that the independence of Syria would be an accomplished fact soon after the beginning of the new year. Subsequently, the Embassy was advised, from a private source which has usually been very dependable with respect to Franco-Syrian matters, not to take M. Lagarde's opinion on this point at its face value; that developments within the French Parliament were in the making which would shortly justify an entirely different estimate of the situation with respect to the full entry into force of the treaty of December 22, 1936.

These developments have apparently now materialized. Last night the Foreign Affairs Committee of the Senate, after having listened to a detailed exposition of the international situation by the Minister of Foreign Affairs, issued an official communiqué which contained, *inter alia*, the statement that "with respect to the Franco-Syrian treaty, he [the Minister of Foreign Affairs]³⁴ declared that the Government will not request, for the time being, consideration of the treaty's ratification."

³² Not printed.

³³ For French texts of notes, see France, Ministère des Affaires Étrangères, *Rapport à la Société des Nations sur la Situation de la Syrie et du Liban* (Année 1937) pp. 215-217.

³⁴ Brackets appear in the original despatch.

The explanation of this statement so obviously at variance with the provisions of the joint declaration of November 14, 1938, as obtained by the Embassy from a private source, is briefly as follows: Since the Munich accord, French opinion has become increasingly aware of "empire interests." The desire to protect and to develop these interests has been strengthened by recent Italian maneuvers. The parties of the Center and the Right, particularly the Democratic Alliance and the Republican Federation, are determined in their opposition to any concessions at the expense of the French empire. The votes of these two parties were essential to the Government in the recent test of strength in the Chamber. Under these circumstances, M. Grat, Secretary of the Foreign Affairs Committee of the Chamber and a member of the Republican Federation, was sent to the Prime Minister as a representative of the Moderate parties in the Chamber to obtain a firm undertaking that ratification of the Franco-Syrian treaty would not be requested by the Daladier Government. According to the Embassy's informant, this undertaking was given, which explains yesterday's announcement in the communiqué of the Foreign Affairs Committee.

There has not yet been time to check the foregoing explanation, but the Embassy will attempt to do so within the next few days and will report its findings. In the meantime, however, there is enclosed, in substantiation of this explanation, a translation of an article³⁵ on the subject of the Franco-Syrian treaty by M. Grat which appeared in the December 6 issue of *Le Jour-Echo de Paris*.

It is the Embassy's understanding, based on articles in the press and on conversations with private persons and officials interested in the problem of the Franco-Syrian treaty, and on articles which have recently appeared in the press, that the arguments adduced against ratification are:

(1) The loss of Damascus would presage the loss of Tunis, Algeria, and Morocco.

(2) Naval and air bases in the eastern Mediterranean are essential to the protection of the French empire.

(3) France must protect its 25 percent participation in the Mosul oil fields through control of the pipe line from those fields, and it must also keep its hand on Syrian petroleum in the Upper Jeziret.

(4) French culture is on the decline in Palestine, Egypt, and Turkey—France must not lose its dominant position in Syria.

(5) France cannot abandon the Christian minorities of Syria to a Moslem majority.

In view of the foregoing, it is difficult to express a categorical opinion with respect to the question raised in the Department's instruction No. 1119 of October 13, 1938; namely, whether any useful purpose

³⁵ Not printed.

would be served if the tentative drafts of treaties with Syria, which are envisaged by the Department, should be completed and forwarded to the Embassy to serve as the basis of informal conversations with the Foreign Office. At the present time it seems unlikely that the independence of Syria will become a reality in the very near future. On the other hand, during the past eighteen months progressive application has been given to the various provisions of the treaty. The Syrian Nationalist State, although not completed by full independence, is largely existent and functioning. The modalities of returning to the mandate are, therefore, difficult to envisage. Perhaps within the next week or so the Embassy will be able to submit a somewhat more definite opinion on this point.

Before terminating this despatch it should be recorded that during the course of the conversation between M. Lagarde and a member of the Embassy staff, the question of juridical safeguards for foreigners in Syria was touched upon. M. Lagarde admitted that this troublesome problem had not been solved in any detail by a written agreement with the Syrian Government, but that the general principle had been adopted that legal procedure in Syria with respect to foreigners resident in that area should follow the lines of the procedure envisaged for Morocco; i. e., that courts on which French judges sit would be available to foreigners in Syria. No expression of opinion on this point was vouchsafed by the representative of the Embassy.

Respectfully yours,

EDWIN C. WILSON

PROTECTION OF AMERICAN RIGHTS AND INTERESTS IN THE SANJAK OF ALEXANDRETTA

890D.927/59

The Chairman of the Committee for the Excavation of Antioch and Its Vicinity (Morey) to the Assistant Chief of the Division of Near Eastern Affairs (Alling)

PRINCETON, N. J., March 7, 1938.

[Received March 9.]

DEAR MR. ALLING: In accordance with your advice during our interview on the 20th of January, I am writing you the result of our discussion of the political situation at the meeting of the Committee for the Excavation of Antioch held in Princeton on February 22nd. I must say that nothing very definite came out of the discussion except a feeling of great uncertainty as to the political future of the Sanjak.³⁸

³⁸ For general correspondence relating to the status of the Sanjak of Alexandretta, see League of Nations, *Official Journal*, January 1937, pp. 22 ff.; *ibid.*, May-June 1937, pp. 329 ff.; and *ibid.*, February 1938, pp. 93 ff. and 115 ff.

We are particularly concerned (1) with the possibility that a Nationalist movement in the Sanjak may abrogate the contract contained in our concession for the export of antiquities (in practice 50%), (2) that possible Turkish control of the Sanjak may have the same effect, and (3) the possibility of actual trouble in the way of rioting and insurrection.

I have no doubt that to advise on these points is difficult for the State Department, but I would appreciate very much any information or counsel that your Bureau will be able to give.

With many thanks [etc.]

C. R. MOREY

890D.927/59

The Chief of the Division of Near Eastern Affairs (Murray) to the Chairman of the Committee for the Excavation of Antioch and Its Vicinity (Morey)

WASHINGTON, March 14, 1938.

MY DEAR PROFESSOR MOREY: The receipt is acknowledged of your letter of March 7, 1938, referring to your recent conversation with Mr. Alling regarding excavation rights in the Sanjak of Alexandretta.

We are watching carefully the developments in the Sanjak, and will bear particularly in mind the circumstances regarding excavations as indicated in your letter and conversation. Up to the present, however, we have received no information which would lead us to believe that American archaeological interests in the Sanjak are in any way jeopardized.

As you are aware, the Convention of April 4, 1924, between the United States and France, entitled "Rights in Syria and the Lebanon,"⁸⁷ guarantees to the United States and its citizens the same archaeological rights in those territories as are enjoyed by members of the League of Nations, France included. The mandate, which includes specific guarantees respecting archaeological research, is still operative with regard to the Sanjak and will continue to be so until it is altered or terminated. Should there be any change or termination of the mandate, the United States intends to safeguard the archaeological rights of its citizens in a treaty to be negotiated with Syria. Every effort will be made to include in such an instrument provisions for rights in the Sanjak on the same basis as in the remainder of Syria.

A copy of your letter under acknowledgment is being forwarded to the American Consul at Beirut, with an instruction⁸⁸ to report any changes which seem likely to occur affecting our archaeological inter-

⁸⁷ *Foreign Relations*, 1924, vol. 1, p. 741.

⁸⁸ Instruction of March 14, not printed.

ests in the Sanjak. The Consul is also being informed that, if occasion arises to warrant any action on his part, he should take any feasible and appropriate steps to protect the American archaeological interests in the Antioch area. If the reports which we expect to receive from the Consul, as a result of the above-mentioned instruction, should throw any additional light on the archaeological situation in the Sanjak, I shall be glad to communicate with you further.

Sincerely yours,

WALLACE MURRAY

890D.00/694: Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, May 31, 1938—5 p. m.
[Received May 31—1: 15 p. m.]

Sanjak situation increasingly disquieting. High Commission delegate at Antioch has expressed to me his concern over the increasing bitterness between Turkish and non-Turkish elements and pessimism as to eventual developments whatever the outcome of registrations and election. The President of the League Commission now sitting at Antioch has similarly expressed himself to me. No major disturbances recently but two Alaouites killed at Antioch yesterday and two today. French authorities claim 600 Moroccan troops and 6 armored cars now in Antioch adequate to maintain order. Am keeping in touch with Princeton and Oriental Institute Expeditions.

Despatch follows.⁵⁹

PALMER

890D.00/695: Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, June 2, 1938—5 p. m.
[Received June 2—1: 30 p. m.]

Referring to my telegram of May 31, 5 p. m., Oriental Institute director at Antioch informs me situation tense, armored cars on main street, Moroccan patrols.

He reports that from his own and Princeton director's sources of information which they consider reliable they understand that registrations actually suspended for 5 days may not be resumed; that if present disorders continue League Commission may withdraw; that High Commission delegate, faced with impossibility of maintaining impartial attitude in view of Paris commitments of which he is under-

⁵⁹ Despatch No. 644, June 27, not printed.

stood to have been officially informed within the past few days and which allegedly have assured the Turks of a 55 percent majority, may resign.

He expresses opinion that neither expeditions nor investments are menaced, but he suggests that in view of generally disquieting situation and possibility of its continuance and uncertainty as to developments a consular officer on this spot as an observer and in constant touch with local authorities might be advisable. He and Princeton director offer to house any such officer detailed there.

Possibility of following the situation satisfactorily from Beirut seems extremely doubtful. If Farrell⁴⁰ were free for detail at Antioch his presence there would be most helpful, but either Steger or Gwynn⁴¹ might advantageously be sent there temporarily. Instructions would be appreciated.

PALMER

890D.00/696 : Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, June 3, 1938—2 p. m.
[Received June 3—11:40 a. m.]

My telegram of June 2, 5 p. m. Oriental Institute director, McEwen, has just telephoned that communication with Antioch is about to be cut off and High Commission informs me state of siege was declared June 3, noon, with patrols of Moroccan troops. McEwen reports that High Commission delegate Garreats has resigned and left for Beirut after many efforts to persuade Arab leaders to have their followers abstain from registering. He also reports that Secretary of League Commission has left by plane for Geneva and that members of Commission consider it futile to attempt to continue with registrations. Turkish leader Abdul Rahman Malek resident in Antioch has been appointed Governor of the Sanjak.

McEwen believes that public security will be maintained in Antioch but fears serious disturbances in the outlying villages. He is bringing Mr. and Mrs. Braidwood from the Oriental Institute dig to Antioch and later may send Mrs. Braidwood and Mrs. McEwen and their children to Beirut but is reluctant to do so now because of possibly disturbing moral effect on native population. In response to his and the Princeton director's urgent request will send Farrell to Antioch tomorrow in absence of contrary instructions.

PALMER

⁴⁰ William S. Farrell, Vice Consul at Beirut.

⁴¹ Christian T. Steger and William M. Gwynn, Consuls at Beirut.

890D.00/695 : Telegram

*The Acting Secretary of State to the Consul General at Beirut
(Palmer)*

WASHINGTON, June 3, 1938—7 p. m.

Your June 2, 5 p. m. and June 3, 2 p. m. Department approves of Farrell proceeding to Antioch for brief period in order to report on situation and to submit recommendations on any steps that may be necessary to protect American citizens and their property in that area.

Meanwhile in view of the reports you have thus far received from director of the Oriental Institute, you should urge that all American members of both expeditions in outlying districts proceed to Antioch at once and in case public security there appears threatened they should be urged to depart for Beirut.

The Department assumes that you have already requested the High Commission to extend protection to American nationals and interests in the Sanjak.

Please keep Department promptly informed of developments.

WELLES

890D.00/697 : Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, June 4, 1938—4 p. m.

[Received June 5—11 a. m.]

Department's June 3, 7 p. m. Farrell left yesterday with *laissez passer* obtained through the High Commission. I have notified Embassy at Ankara that his address is as follows: Princeton Expedition, Antioch. He reports situation calm today and that Commandant Collet, as officer responsible for public security, promises to notify Americans if emergency makes their departure advisable.

PALMER

890D.00/699 : Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, June 6, 1938—11 a. m.

[Received June 6—9 a. m.]

Oriental Institute and Princeton directors remaining at Antioch with Farrell; are sending today to Tartous Mr. and Mrs. Braidwood and to Beirut temporarily, Mr. Smith, Mr. and Mrs. Waage and Mrs.

McEwen and children. They emphasize this is only precautionary and not indicative of immediate danger or probability of serious disturbances and they wish to avoid if possible publication of news of departure of expedition personnel.

PALMER

890D.00/702 : Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, June 8, 1938—9 a. m.

[Received June 8—9 a. m.]

Referring to my telegram of June 6, 11 a. m., members of expeditions are now here; directors at Antioch with Farrell in close touch with Commandant Collet and Turkish Mohafez Malek who assumed the duties of his office Monday last. Registrations resumed in nearby village Monday expected to begin again in Antioch tomorrow. Farrell, after visiting Alexandretta and Aleppo reports situation near border strikingly calm in contrast to Antioch area and that American interests Alexandretta anticipate no difficulty.

PALMER

890D.00/703 : Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, June 9, 1938—11 a. m.

[Received June 9—9 a. m.]

Farrell telephoned me as follows: "Military authorities attempting coerce population vote Turkish". He adds that censorship has been established and that emigration of native population from the Sanjak is prohibited. He informs me expedition directors asked that Wilson of Chicago and Pitre of Princeton be advised to keep in touch with the Department; also that Princeton be informed that the best of expedition share of mosaics have been sent to Beirut.

PALMER

890D.00/710b : Telegram

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

WASHINGTON, June 14, 1938—4 p. m.

368. Princeton University, which is operating an archeological expedition in the Sanjak of Alexandretta on behalf of a group of

American institutions, has received indications that the work of its expedition and one operating in the same area under the direction of the Oriental Institute of the University of Chicago may be jeopardized by the current Franco-Turkish negotiations concerning the Sanjak. The rights of these American institutions would appear to be safeguarded fully by Article 14 of the Syrian Mandate to the benefits of which the United States is entitled under the American-French Convention of April 4, 1924. Please make inquiry at the Foreign Office and endeavor to obtain assurances that the rights of these institutions will not be adversely affected by any decisions which may be reached with respect to the Sanjak.

HULL

 890D.00/711 : Telegram

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

PARIS, June 17, 1938—noon.

[Received June 17—7:35 a. m.]

951. Department's 368, June 14, 4 p. m. Lagarde⁴² stated yesterday evening that he could not conceive any development in connection with current Franco-Turkish negotiations that might jeopardize rights of American institutions under article 14 of the Syrian Mandate. He said that we could rest assured that the rights of our archeological expedition would not be adversely affected.

At his request the substance of the Department's telegram No. 368 was left with him in writing to be used in connection with instructions which he promised to send to Martel.⁴³

BULLITT

 890D.00/720 : Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, June 29, 1938—3 p. m.

[Received June 29—12:10 p. m.]

Director of Princeton expedition has telephoned from Antioch that Collet, commanding French troops in the Sanjak, informed Campbell at noon today that Turkish Consul General at Antioch had presented this morning formal request from Turkish General Gunduz for Princeton expedition field headquarters as barracks for Turkish troops. Campbell requests that Morey be informed and he [apparent

⁴² Ernest Lagarde, Chief of the Africa-Levant Section of the French Foreign Office.

⁴³ Damien de Martel, French High Commissioner in Syria and the Lebanon.

omission] that the expedition has spent considerable sums in repairing and renovating these headquarters which are the only suitable premises available and the rent of which has been paid in advance to July 1939.

Oriental Institute director reports that he has been authoritatively informed that Turkish troops are expected next week if not before in appreciably larger numbers than originally proposed. Majority of League Commission members and delegates have already left the Sanjak and it is understood that the last are planning to leave Sunday.

Unable to reach High Commissioner today. I should appreciate instructions before I see him tomorrow morning. Shall I invoke article 3 Treaty Series No. 695.⁴⁴

This telegram is being repeated to the Embassy in Ankara.

PALMER

890D.00/720 : Telegram

The Secretary of State to the Consul General at Beirut (Palmer)

WASHINGTON, June 29, 1938—7 p. m.

Your June 29, 3 p. m. The Department considers that forcible occupation of the Princeton expedition field headquarters in the Sanjak by Turkish troops would be a violation of Article 3 of the Convention between the United States and France regarding Rights in Syria and the Lebanon. You should inform the High Commissioner to this effect and request him to take such steps as may become necessary to protect the vested American property rights involved unless in the opinion of the expedition authorities such action on your part might be prejudicial to their long range interests.

HULL

890D.00/721 : Telegram

The Consul General at Beirut (Palmer) to the Secretary of State

BEIRUT, June 30, 1938—2 p. m.
[Received June 30—9:55 a. m.]

Department's June 29, 7 p. m. At noon today High Commissioner in my presence telephoned Collet at Antioch instructions to point out to Turkish general American rights to property in question and to inform the latter that American Consul General under instructions from Washington now protests against any steps toward disposses-

⁴⁴ Convention between the United States and France, signed April 4, 1924, *Foreign Relations*, 1924, vol. I, p. 741.

sion; that American interests concerned could not be dispossessed *manu militari* and that Turkish troops must be housed elsewhere.

I have telegraphed Embassy at Ankara.

PALMER

751.67/239

The Ambassador in Turkey (MacMurray) to the Secretary of State

No. 742

ISTANBUL, July 13, 1938.

[Received July 26.]

SIR: I have the honor to inform the Department that since the submission of the Embassy's last despatch on the Hatay,⁴⁵ No. 725 of June 29 last,⁴⁶ the impediments to the reaching of an adjustment of the matter between France and Turkey have been overcome and the problem has, in the words of the French Foreign Minister, been "definitely liquidated" by the signing of a series of documents affirming Franco-Turkish friendship and providing for the territorial integrity and the security of the Sanjak.

As reported in the press of July 2, these documents comprise: (1) a Treaty of Friendship between Turkey and France, (2) a Military Agreement providing for joint guarantees by France and Turkey, on an equal basis, with regard to the internal and external security of the Hatay, (3) a Protocol implementing the foregoing Agreement and fixing the strength of the French and Turkish garrisons to be maintained in the Sanjak, (4) a Joint Declaration concerning the determination of boundaries between the Sanjak and Turkey and the Sanjak and the States under French Mandate, which anticipates the eventual collaboration of Syria and will ultimately (when Syria achieves independence) be replaced by a tripartite treaty, and (5) a Protocol concerning optants for Turkish or Syrian (or Lebanese) nationality.

Translations of unofficial texts of the above documents, with the exception of the Military Agreement and the Military Protocol, the texts of which have not been published, have been transmitted to the Department as enclosures to the Embassy's despatch No. 734 of July 13, 1938.⁴⁷

The first indication that a settlement of the Hatay question was imminent was contained in the Prime Minister's closing address to the Grand National Assembly on June 29. On that date he said that al-

⁴⁵ Turkish name for Sanjak of Alexandretta.

⁴⁶ Not printed.

⁴⁷ Not printed. For French texts of the Treaty of Friendship and the Joint Declaration, see Royal Institute of International Affairs, *Documents on International Affairs*, 1937, pp. 515-517.

though the several conversations progressing simultaneously at Paris, Ankara and Antioch had not yet entered their final stages, the question was no longer critical and "a softer wind was blowing". (A translation of Mr. Bayar's remarks with regard to the Hatay is transmitted herewith for the Department's information as Enclosure No. 1).⁴⁸

The grounds for the Prime Minister's optimism were soon disclosed. On July 2, the Turkish press published the text of a joint declaration issued the day before by M. Bonnet and Bay Suad Davaz, Turkish Ambassador in Paris, to the effect that the "problem of Alexandretta" had been effectively solved. The communiqué, furthermore, officially admitted France's recognition of the fact that "the arrangements of 1921"⁴⁹ implicitly conferred a special situation upon the Turkish elements of the Sanjak" and reasserted "Turkey's territorial disinterestedness".

On the morning of July 3, the Military Agreement and Protocol were signed at Antioch. As already stated, the former is understood to provide for Franco-Turkish collaboration in guaranteeing the territorial integrity and the internal security of the Sanjak, and the latter to specify the number of troops to be despatched to the Hatay by both France and Turkey. In this latter respect, it is the Embassy's understanding that the French and Turkish military missions had disagreed concerning the size of their respective garrisons, France originally wishing to set the number of its troops at 750 and Turkey insisting on 4,000, and that a compromise was finally accepted by both parties by which the number of each country's troops was fixed at 2,500. The official communiqué issued on that date by the Turkish Government, announcing the signature of the Agreement and Protocol, likewise announced the successful termination of the treaty negotiations taking place at Ankara.

On July 4, the Franco-Turkish Treaty of Friendship, the Joint Declaration, and the Protocol concerning optants, to which reference has already been made, were signed at Ankara.

In view of the opinions contained in the enclosed memorandum (Enclosure No. 2)⁴⁸ with regard to possible British interest in the Hatay situation, expressed by Mr. Joseph M. Levy, Staff Correspondent of the *New York Times* for the Near East, it is perhaps worthy of mention that on both July 3 and 4, official or semi-official British pronouncements were made calling attention to the happy termination of the Sanjak problem and emphasizing the importance of Great Britain's friendly relations with Turkey. The first statement was contained

⁴⁸ Not printed.

⁴⁹ Franklin-Bouillon Agreement, signed at Angora, October 20, 1921, League of Nations Treaty Series, vol. LIV, p. 177.

in an editorial appearing in Mr. Anthony Eden's *Yorkshire Post*, and the second was made by Sir John Simon during the course of a speech in the House of Commons.

As provided for by the Military Agreement and Protocol, Turkish troops began immediately to enter the Hatay. The first detachment arrived on July 4, and the main body during the course of the following few days.

As was to be expected, the events of July 3 and 4 were the occasion of great jubilation in the Turkish press, which pointed out that Turkish statesmanship had once again triumphed over France. Considerable emphasis was also placed upon the contribution thus made to world peace in general and particularly to security in the Mediterranean.

On July 7, negotiations were begun between Dr. Aras and a French delegation, under the Chairmanship of the French Ambassador, which included several experts to represent the Mandatory Power, and the Emir Adil Arslan as representative of the Syrian Government, with a view to concluding the tripartite treaty envisaged in the Joint Declaration of July 4th. These negotiations continued until July 11, when the press announced their postponement because of the need of further research and deliberation. It will be observed from the remarks of Dr. Aras to Mr. Levy (Enclosure No. 2), however, that the real reason for postponing the negotiations was that Turkey was unprepared at the present time to accept the Syrian proposal that an area including Alexandretta and Antioch be ceded outright to Turkey. Later, on July 12, in a conversation with Mr. Kelley, First Secretary of Embassy, Dr. Aras repeated this statement in somewhat elaborated form. A copy of a memorandum of Mr. Kelley's conversation with the Foreign Minister is enclosed for the Department's information (Enclosure No. 3).⁵⁰ It is understood that the postponed negotiations will be resumed in September, at which time the French Foreign Minister is expected to make an official visit to Turkey.

Now that the Hatay question has been "definitely liquidated" (at least in so far as it is a direct issue between France and Turkey) it is perhaps opportune to inquire into its significance, into the reasons which originally created it, and into the probable effects of the solution reached. Throughout the last two years, approximately, during which time the matter has sporadically flared and waned—one moment as a question involving the national honor of Turkey and hence capable of precipitating the most serious consequences, and the next as a dispute about to be settled along lines dictated by Turkey—the Turkish press has never once given a clear statement of the Turkish case, or developed any logical argument as to the basis of Turkey's

⁵⁰ Not printed.

claims. The welter of press comment concerning France which has appeared during this time has been overbearing, threatening, vitriolic and even insulting in tone, but it has contained only vague allusions to the causes of the dispute, in which, apparently, no great interest was generally felt. There has therefore been considerable speculation as to why Turkey should insist upon the inauguration of a special régime for the Sanjak, at the same time definitely denying any territorial aspirations in that quarter, and also as to why France should so often recede before Turkish demands and remain apparently unruffled by the turgid attacks of the Turkish press.

To explain these facts, several theories have been advanced. Of these the most popular are that Turkey desires, for military reasons, control of the approaches to the Cilician Gates, or that Turkey was merely insisting upon the fulfillment of a moral right, or that the matter has been a personal obsession of Atatürk's and has been so understood by all concerned.

The theory advanced by Mr. Levy (Enclosure No. 2), that granting Turkey control of the Hatay is a necessary *quid pro quo* in return for assurances concerning control of the Straits and the furnishing of military assistance, and that it is only one part of a much larger whole having to do with British measures of defense against possible European aggression, is a view that has not been previously encountered in Turkey. It would appear, however, to be consonant with the facts at hand and, moreover, to offer an explanation of certain aspects of the case—notably Turkey's assured insistence, France's willingness to recede before Turkish demands, and the apparently intimate connection of the British Ambassador with the progress of the matter—for which it is otherwise difficult to find a satisfactory explanation. This view, therefore, appears not only possible but worthy of serious consideration.

As to the effects of the solution of the question, it seems probable that, for some time at least, Turkey will content itself with developing the Port of Alexandretta and the resources of the district. It is the Embassy's understanding that every effort will be made to keep what might be considered as purely Turkish institutions, administrative practices, et cetera, from appearing as a part of the government machinery of the Hatay, and to develop as great an amount of autonomy as circumstances permit. It is further understood that a free port will be created at Alexandretta, the benefits of which will be shared by Turkey, Syria and Iran [*Iraq?*]. The questions of the fixing of boundaries and of Syrian collaboration in assuring security, and other problems involving Syria, will be disposed of provisionally by agreement and ultimately by a tripartite treaty.

Negotiations in this regard, as has been stated, are to be resumed in September. When they have been satisfactorily concluded, a basic adjustment of the matter will, therefore, have been arrived at by the three countries most immediately concerned. As the Department will observe from Enclosure No. 4 (Memorandum of a Conversation between the French Ambassador and Mr. S. Walter Washington),⁵² however, the possibility that a fourth country (Russia) may manifest an active interest in the Port of Alexandretta is, somewhat surprisingly, seriously considered in certain quarters.

Respectfully yours,

J. V. A. MACMURRAY

ATTITUDE OF THE DEPARTMENT OF STATE REGARDING THE RESTRICTION OF MISSIONARY ACTIVITIES IN SYRIA BY THE FRENCH HIGH COMMISSION

390D.1163/4

The Consul General at Beirut (Palmer) to the Secretary of State

No. 37

BEIRUT, June 1, 1938.

[Received July 8.]

SIR: I have the honor to enclose copies of correspondence of this office⁵³ in connection with the request of the Christian and Missionary Alliance, an evangelical mission operating in the Djebel Druze and the Hauran, for permission to construct a church and school building at Tesia, Hauran. It will be noted that the French High Commission, in its note of April 1, 1938, has refused this permission on the ground that an extension of the work of the Christian and Missionary Alliance might tend to create troubles among the various elements of the population of that region.

During the past several years, it may be added, the French authorities have apparently regarded with disfavor this particular mission, and have previously refused permission for the erection of a building in Soueida, capital city of the Djebel Druze. The reason given in that instance was the same as that mentioned above.

It is somewhat difficult to express a definite opinion as to the validity of the reason given for refusal of permission to extend the work of this American mission. The Reverend George W. Braden, who is in charge of the work, reports that both Greek Orthodox and French Catholic organizations have been permitted to establish churches and schools during the period over which his requests have been consistently refused. While I know of no reason to doubt his statement, I have not been able to confirm it.

⁵² Not printed.

⁵³ None printed.

It is of course known to the Department that the Mandatory authorities have, especially since 1926, regarded the situation in the Djebel Druze as delicate, and have been desirous of avoiding any action which might offend the susceptibilities of the Druzes, or give rise to disorder. The Reverend George Breaden appears to be a rather aggressive type of evangelizer, and it is not at all impossible that the fears of the High Commission in regard to his work may be well founded. On one occasion at least, he recounted to an officer of the Consulate General the story of one of his converts, formerly a Moslem, who did not dare return to his native village lest he be killed for having abandoned his original faith. French officials of the High Commission have hinted verbally at the possibility that the resentment of the native elements might take the form of physical aggression against the missionary himself, which would create an extremely embarrassing situation.

Under these circumstances the Consulate General has not felt justified in pressing its request, and the representatives of the Christian and Missionary Alliance have refrained from further insistence. In the present instance, however, the Reverend W. Orville Brooks, in charge of the work during Mr. Breaden's absence, has, in his letter of May 25, 1938, asked that the High Commission be again approached in the matter.

It is therefore considered advisable, before reaching a decision regarding the course to be pursued, to request an expression of the Department's opinion as to whether the Consulate General should accept the decision of the French High Commission, or should make further representations in behalf of the American organization.

At the same time it would be appreciated if the Department would indicate to the Consulate General, for its future guidance, the interpretation which it places on Article 10 of the Mandate for Syria and the Lebanon,⁵⁴ the first paragraph of which reads as follows:

"The supervision exercised by the Mandatory over the religious missions in Syria and the Lebanon shall be limited to the maintenance of public order and good government; the activities of these religious missions shall in no way be restricted, nor shall their members be subjected to any restrictive measures on the ground of nationality, provided their activities are confined to the domain of religion."

In general, the Mandatory authorities appear to interpret this paragraph as applying to religious missions already existing or operating in the mandated territory at the time the Mandate came into effect. In other words, they consider that the Mandatory is bound to permit the continued operation, without restriction, of existing missions, but may exercise its discretion with regard to extension of the work of

⁵⁴ *Foreign Relations*, 1924, vol. I, p. 743.

such missions, or the establishment of new missions. This attitude is indicated by the fact that the authorization of the French High Commission must be obtained in each case when an existing mission desires to acquire property or establish new churches or schools, or when a new mission desires to begin work in this territory.

It should be noted that only in very infrequent instances has the High Commission refused requests of American missions for extensions of their work, and that there has been no indication of discrimination on the grounds of nationality. Nevertheless, it would be of interest to know whether the Department is in agreement with the French interpretation of the article above quoted, or whether it desires in all cases to insist upon the right of any established religious community to found and operate missions in the States under French Mandate.

Respectfully yours,

ELY E. PALMER

890D.1163/4

The Secretary of State to the Consul General at Beirut (Palmer)

WASHINGTON, July 22, 1938.

SIR: The Department has received your despatch No. 37 of June 1, 1938, regarding the request of the Christian and Missionary Alliance for your assistance in obtaining permission to construct a church and school building at Tesia, Hauran. You point out that the French authorities in Syria have refused this request on the grounds that "the extension of the activity of the 'Christian and Missionary Alliance' in the Djebel Druze might tend to create troubles among the various elements of the population of that region".

The provision in Article 10 of the Mandate for Syria reading "the activities of these religious missions shall in no way be restricted" is interpreted by the Department to guarantee to American mission groups the right to extend their activities. This interpretation is supported by assurances given the Italian Government by the French Government and extended to the United States in a note from the French Minister of Foreign Affairs to the American Ambassador at Paris dated November 2, 1923.⁵⁵ The assurances given the Italian Government included the following:

"The French Government gives to the Italian Government the assurance that the object of Article 10 of the mandate for Syria and the Lebanon will not be to prevent the opening of new Italian schools nor to limit the right of these schools to receive pupils from other communities. The supervision of the mandate will be limited strictly to

⁵⁵ *Foreign Relations*, 1923, vol. II, p. 4.

what is required by public order and a good administration. It adds that there is no intention of authorizing any arbitrary intervention in the internal affairs of any faith."

Although the above assurances appear to refer particularly to schools, the inclusion of the word "faith" seems to indicate that the paragraph may be extended to cover religious institutions. Furthermore, since the French Government has accepted, in the above quoted assurance, the principle of extension, at least as applied to schools, and since Article 10 of the Mandate does not differentiate between the treatment to be accorded the educational as opposed to the religious activities of mission organizations, it is apparent that the principle of extension is fully applicable to all mission activity.

The right which religious missions enjoy to extend their activities is, however, susceptible of restriction by the Mandatory Power in the exercise of its authority to supervise the missions to the degree necessary for the maintenance of public order and good government. The Mandatory Power may not restrict the activities of missions on any grounds other than those cited. If, therefore, the French authorities had refused to the Christian and Missionary Alliance the right to build at Tesia solely on the grounds that the Mission would thereby be extending its activities and that under the terms of the Mandate the Mandatory Power was authorized to prohibit any extension, you would be justified in protesting the decision. However, since the refusal was based on the provision regarding the maintenance of public order, no grounds are perceived for protesting the decision, in the absence of an indication that the decision was unreasonable or discriminatory.

In view of your description of the Mission's past activity, and particularly in view of the recent murder of an evangelical missionary in Iraq⁵⁶ for reasons which appear to have been entirely religious, the Department is inclined to the opinion that the French authorities may not have been unwarranted in their view that public order might be endangered by the erection of the proposed building.

You are requested to follow the situation closely, and to report to the Department any evidence which may appear to you to indicate a discrimination in favor of other missionary groups in your district. In the absence of more cogent reasons than those which have been furnished you by the Mission, you should take no further action in an attempt to persuade the French authorities to rescind their decision.

Very truly yours,

For the Secretary of State:

R. WALTON MOORE

⁵⁶ The Reverend Roger Craig Cumberland, an American Presbyterian missionary, was murdered in Iraq on June 12, 1938.

TANGANYIKA TERRITORY

ASSENT OF THE UNITED STATES TO ALTERATIONS IN THE FRONTIERS BETWEEN THE MANDATED TERRITORY OF TANGANYIKA AND THE PORTUGUESE COLONY OF MOZAMBIQUE

741.5314/2

*The Chargé in the United Kingdom (Johnson) to the Secretary
of State*

LONDON, February 19, 1938.

[Received March 3.]

SIR: I have the honor to forward herewith, for the information of the Treaty Division, five copies of the British White Paper entitled "Treaty Series No. 14 (1938)—Exchanges of Notes Between His Majesty's Government in the United Kingdom and the Portuguese Government Regarding the Boundary Between Tanganyika Territory and Mozambique: Lisbon, May 11, 1936, and December 28, 1937"¹ which have just been received gratis from His Majesty's Stationery Office.

Respectfully yours,

HERSCHEL V. JOHNSON

741.5314/2

*The Secretary of State to the Ambassador in the United Kingdom
(Kennedy)*

No. 55

WASHINGTON, April 15, 1938.

SIR: Reference is made to the Embassy's unnumbered despatch of February 19, 1938, transmitting copies of the British White Paper containing the text of the notes exchanged at Lisbon on May 11, 1936 and December 28, 1937 between Great Britain and Portugal making certain changes in the boundary between Tanganyika Territory and Mozambique. Under the latter date it was declared that the Council of the League of Nations had approved² the agreement of May 11, 1936 and that it was, therefore, proposed to put the agreement into effect on February 1, 1938.

¹ Also printed in League of Nations Treaty Series, vol. CLXXXV, pp. 205-215.

² September 14, 1937. See League of Nations, *Official Journal*, December 1937, p. 898.

On a previous occasion involving the transfer of a portion of a mandated territory, this Government brought to the attention of the British Government its view that any changes made in the boundary of such territory could not be applied to the United States without its consent. In its instruction to the Embassy No. 165 of August 18, 1932,³ the Department took the position that the terms of an agreement concluded on October 31, 1931, between the British and French Governments⁴ with regard to the frontiers of Syria and the Jebel Druze on the one hand and Transjordan on the other, were legally inapplicable to the United States and its nationals until such time as this Government should have assented to the changes made by the agreement in question. It was pointed out that the changes effected in the boundaries of Syria and the Jebel Druze constituted a material alteration of the terms of the Palestine Mandate; and that when the United States gave its consent to the administration of the mandate by Great Britain, such consent was necessarily limited to the territory legally established at that time as the territory of Palestine. While such changes had been approved by the Council of the League of Nations, they had not received the assent of the United States, as required by Article 7 of the American-British Convention of December 3, 1924,⁵ in order to make them applicable to United States nationals.

The Department considers that the principle involved in the recent alteration of the boundary between Tanganyika Territory and Mozambique is in every respect similar to the above. The consent of the United States to the administration by Great Britain of Tanganyika Territory was limited by the terms of the American-British Convention of February 10, 1925,⁶ Article 1 of which reads as follows:

“Subject to the provisions of the present Convention, the United States consents to the administration by His Britannic Majesty, pursuant to the aforesaid mandate, of the former German territory described in Article 1 of the mandate, hereinafter called the mandated territory.”

Article 5 of the same convention clearly requires the assent of this Government before any changes in the boundaries of the mandate as then constituted can be made applicable to the United States. This article reads as follows:

“Nothing contained in the present Convention shall be affected by any modification which may be made in the terms of the mandate as

³ *Foreign Relations*, 1933, vol. II, p. 1004.

⁴ League of Nations, *Official Journal*, March 1932, p. 798.

⁵ *Foreign Relations*, 1924, vol. II, p. 212.

⁶ *Ibid.*, 1925, vol. II, p. 203.

recited above, unless such modification shall have been assented to by the United States.”

In the case of the Syrian and Jebel Druze frontiers, the British Foreign Office replied to the Embassy's representations by stating, under date of January 4, 1933,⁷ that while His Majesty's Government did not propose to embark on a discussion of this Government's views in the matter, they were “fully prepared to invite the United States Government to consent to the modified frontier and indeed they desire(d) to take this occasion to do so”. Having consulted with the American consular representatives at Beirut and Jerusalem, neither of whom perceived any objection to the frontier changes involved, the Department on May 18, 1933⁸ assented to the alterations in the frontiers between Syria and the Jebel Druze on the one hand and Trans-jordan, on the other, as set forth in the British-French Agreement of October 31, 1931.

You should take an early opportunity to discuss the above matter with the Foreign Office, recalling the views previously expressed in this connection and pointing out that notification to the United States of the alteration of the boundary between Tanganyika Territory and Mozambique has apparently been overlooked. You should add that while this Government would probably have no grounds for objecting to such boundary changes when officially informed thereof, it continues to regard the principle involved as of importance. In the present instance you should make it clear that the Department considers any territorial changes in the mandated territory of Tanganyika to be inapplicable to the United States and its nationals until such alterations have received the consent of the Government of the United States.

For your information, there are enclosed copies of correspondence between the Belgian Ambassador and the British Chargé d'Affaires on the one hand, and the Department, on the other, in regard to the modification of the boundary between the mandated territories of Ruanda Urundi and Tanganyika.⁹ It will be observed that in acknowledging the receipt of a copy of a treaty between Belgium and Great Britain relating to the frontier in question, this Government took note of the treaty “without prejudice to any rights which it may have in the territory effected” under existing treaties and conventions.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

⁷ *Foreign Relations*, 1933, vol. II, p. 1006.

⁸ *Ibid.*, p. 1009.

⁹ For Department's notes of October 20, 1937, see *ibid.*, 1937, vol. II, pp. 939-940; notes of September 17 and October 4, 1937, from the Belgian Ambassador and the British Chargé are missing from Department files.

741.5314/4

*The Chargé in the United Kingdom (Johnson) to the Secretary
of State*

No. 686

LONDON, July 2, 1938.

[Received July 12.]

SIR: I have the honor to refer to the Department's instruction No. 55 of April 15, 1938, regarding the notes exchanged at Lisbon on May 11, 1936 and December 28, 1937, between Great Britain and Portugal making certain modifications of the frontier between Tanganyika Territory and Mozambique. The Embassy was directed to point out to the Foreign Office that notification to the United States of the above mentioned boundary changes has been apparently overlooked and that while the Department would probably have no grounds for objection to such changes, when officially informed thereof, it continues to regard the principle involved as of importance.

The matter was at once taken up with the Foreign Office in the sense of the Department's instruction under reference and the Embassy is now in receipt of a note No. W 7459/156/36 of July 1, 1938, which states that, without prejudice to the question whether this step is legally necessary under Article 5 of the Convention signed at London on February 10, 1925, His Majesty's Government in the United Kingdom are fully prepared to invite the United States Government to consent to the modification of the frontier between Tanganyika Territory and Mozambique introduced by the exchange of notes of December 28, 1937, and indeed, they desire to take this occasion to do so.

Respectfully yours,

HERSCHEL V. JOHNSON

741.5314/7

*The Secretary of State to the Chargé in the United Kingdom
(Johnson)*

No. 439

WASHINGTON, January 13, 1939.

SIR: Reference is made to your despatch No. 686 of July 2, 1938, which reported the receipt of a Foreign Office note No. W 7459/156/36 of July 1, 1938, in reply to the Embassy's representations with regard to the right of the United States to be consulted in connection with certain modifications of the frontier between Tanganyika Territory and Mozambique.

Having consulted with the American consular representatives at Nairobi and Lourenço Marques, neither of whom perceive objection to the frontier changes in question, the Department authorizes you to

inform the Foreign Office that the Government of the United States assents to the alterations in the frontiers between Tanganyika Territory and Mozambique as set forth in the notes exchanged at Lisbon on May 11, 1936 and December 28, 1937 between Great Britain and Portugal.¹⁰

Very truly yours,

For the Secretary of State:
SUMNER WELLES

¹⁰ In accordance with this instruction the assent of the United States was given in a note to the British Secretary of State for Foreign Affairs, dated January 24, 1939, not printed (741.5314/10).

TURKEY

NEGOTIATIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND TURKEY¹

611.6731/245a : Telegram

The Secretary of State to the Chargé in Turkey (Kelley)

WASHINGTON, January 8, 1938—3 p. m.

3. Please inform the Turkish Government that the formal notice of intention to negotiate a trade agreement with Turkey referred to in the Department's telegram No. 109, December 23, 7 p. m.,² will be issued here for publication in morning newspapers Wednesday, January 12.³ Copies of announcement are being forwarded to you by mail and are being given Turkish Embassy here.

In accordance with our established procedure the formal notice states that the final date for the receipt of briefs from interested persons with respect to products to be considered is February 9, and oral hearings will open February 23. We would be able therefore to begin discussions with the Turkish delegation here on or about March 1.

HULL

611.6731/249 : Telegram

The Chargé in Turkey (Kelley) to the Secretary of State

ANKARA, January 17, 1938—1 p. m.

[Received 1:40 p. m.]

3. Prime Minister has sent me a message requesting me to ascertain whether it would be possible to have the trade agreement negotiations carried on in Ankara. If it is not possible, he states that the Turkish Government will send a delegation to Washington.

Some weeks ago in a conversation with me Prime Minister referred to trade agreement negotiations and inquired whether the American Government insisted on having all trade agreement negotiations conducted in Washington. I said that I understood the Department preferred to have such negotiations carried on in Washington, but that I

¹ For previous correspondence, see *Foreign Relations, 1937*, vol. II, pp. 941 ff.

² *Ibid.*, p. 953.

³ Department of State, *Press Releases*, January 15, 1938, p. 108.

was under the impression that some trade agreements had been negotiated outside of Washington, although I did not know under what circumstances. He said that, while he had not come to any decision concerning the matter, it would be very inconvenient to the Turkish Government to send a delegation to Washington, since they had only a few experts available for trade agreement negotiations and their services were greatly in demand and a trip to Washington would require their absence from Turkey for a long time on account of distance involved. Furthermore, he doubted the necessity of sending a delegation such a long distance for negotiations which in his opinion would be very brief in view of harmony of views of two Governments with regard to trade agreement. I offered to take the matter up with you, but he requested me not to do so until he had made up his mind.

KELLEY

611.6731/249 : Telegram

The Secretary of State to the Chargé in Turkey (Kelley)

WASHINGTON, January 18, 1938—4 p. m.

6. Your 3, January 17, 1 p. m. The Department would not exclude the possibility of carrying on trade agreement negotiations at Ankara, but before reaching a decision it would appreciate an expression of your views as to the relative advantages and disadvantages of such an arrangement. If it should be decided to accept the Turkish proposal the Department would probably wish to send two experts from Washington to assist the Embassy in the negotiations.

HULL

611.6731/256 : Telegram

The Chargé in Turkey (Kelley) to the Secretary of State

ANKARA, January 22, 1938—4 p. m.
[Received January 22—12:25 p. m.]

6. Department's January 18, 4 p. m. It is the opinion of the Embassy and also that of the Commercial Attaché that there would be no important advantage or disadvantage in carrying on negotiations in Ankara. We feel that it makes very little difference insofar as terms of eventual agreement are concerned whether the negotiations are carried on here or in Washington. While on the one hand it is probable that there might be less haggling over minor details on the part of the Turks if negotiations were carried on in Washington by a Turkish delegation headed by Faik, Undersecretary of Ministry of

Economy (usually granted considerable authority when sent abroad), on the other hand negotiations carried on in Ankara might be facilitated by the fact that they would be more directly (without intermediation of Foreign Office) under the supervision of Prime Minister who is personally deeply interested in conclusion of agreement.

Prime Minister desires very much to have negotiations here. I understand that his attitude in the matter is due to the great inconvenience caused the Government, especially the Ministry of Economy, by the recent absence for about 2 months of the Turkish delegation under Faik which negotiated a commercial agreement in Bucharest. He has stated that he hopes to be able later in the year to send a trade mission to the United States to study the American market and American products and technique with a view to bringing about an increase in trade.

KELLEY

611.6731/256 : Telegram

The Secretary of State to the Chargé in Turkey (Kelley)

WASHINGTON, January 28, 1938—1 p. m.

9. Your 6, January 22, 4 p. m. You may inform the Turkish authorities that your Government accepts the Turkish proposal to carry on the trade agreement negotiations at Ankara and that the American delegation will leave the United States on or about March 1. For your information, the American delegation will not be in a position to leave sooner as the public hearings in connection with the products under consideration for concessions to Turkey will not open until February 23.

HULL

611.6731/315a : Telegram

The Secretary of State to the Chargé in Turkey (Kelley)

WASHINGTON, February 12, 1938—2 p. m.

15. 1. Please transmit to the Turkish Government as indicated below, a tentative list of products with respect to which the United States requests consideration of concessions by the Turkish Government in the proposed trade agreement between Turkey and the United States.

[Here follows list of Turkish tariff schedules.]

5. In transmitting these requests to the Turkish Government, it is important to point out that the list is necessarily incomplete inas-

much as it has been formulated without the consultation with the trade which is required by law and must, therefore, be considered as tentative pending such consultation. In the light of information and views obtained from the trade and from the public hearings it may be necessary for us subsequently to make certain additions to the list.⁴

HULL

611.6731/343a : Telegram

The Secretary of State to the Chargé in Turkey (Kelley)

WASHINGTON, March 7, 1938—noon.

26. Henry J. Wadleigh of the Division of Trade Agreements, Department of State, and Mr. Norman R. Burns of the United States Tariff Commission have been designated members of the delegation to negotiate a trade agreement with Turkey at Ankara. They will sail from New York on the S. S. *Washington* on March 9. Mr. Gillespie, who will be the Department of Commerce's member on the delegation, will sail on the S. S. *Bremen* on March 12. All will arrive in Ankara before March 28. Negotiations should commence if possible on that day, and you are requested to make all necessary arrangements to this end, including hotel reservations. Kelley is hereby designated chief of the delegation and Gillespie⁵ his alternate.

HULL

611.6731/356 : Telegram

The Secretary of State to the Chargé in Turkey (Kelley)

WASHINGTON, April 6, 1938—6 p. m.

41. Your 14, March 28, 4 p. m.⁶ The purpose of the compensating tax article is to permit the imposition or increase of a tax on schedule products equivalent to a bona fide internal tax on like products of domestic origin. From a strictly legal viewpoint, however, the article would not prohibit the imposition or increase of a tax on a schedule article of which there was no substantial domestic production. While such a tax might, in form at least, be within the language of the article, it would be considered by the Department to be a violation of the spirit of the agreement since it would be in effect an additional import duty.

⁴ A supplementary list was sent in telegram No. 29, March 10, 7 p. m., not printed.

⁵ Julian E. Gillespie, Commercial Attaché in Turkey.

⁶ Not printed.

The Department does not consider it feasible to attempt a revision of the compensating tax article in such a manner as to expressly prohibit the imposition on schedule products of additional charges which do not in fact, when there is no substantial domestic production, compensate for internal taxes on like domestic products. Also, in the case of such products, article reference 6 would not from a strictly legal viewpoint prohibit the imposition of new or additional internal taxes having the same economic effect as import duties. However, a binding of internal taxes is not considered feasible because of the fact that this Government would probably not be inclined to reciprocate.

You should make it clear to the Turkish authorities that the duty concessions proposed by your Government are based upon the assumption that there will be no subsequent imposition of new or additional taxes on schedule articles of which there is no substantial production in Turkey, either in the form of compensating taxes or internal taxes, the effect of which would be to impair the concessions granted, and you should state that the imposition of any such taxes would be considered a violation of the spirit of the agreement.

In view of the above, you are also instructed, if you perceive no objection, to add to the standard general provision, reference 18,⁷ the last sentence of Article XV of the Swiss agreement⁸ as an additional safeguard.

HULL

867.5151/82: Telegram

The Chargé in Turkey (Kelley) to the Secretary of State

ANKARA, May 10, 1938—6 p. m.

[Received May 10—3:58 p. m.]

31. Having learned that Council of Ministers had approved a decree amending the exchange regulations, to become effective shortly, the effect of which would be to place all Turkish trade on a clearing basis, matter was discussed yesterday with Turkish delegation.

Chief of delegation⁹ explained that imports from the United States and all other countries whose balance of trade is normally favorable to Turkey will be paid from proceeds of exports of Turkish goods to that country, proceeds from Turkish exports to the United States

⁷ Corresponding to article XV of standard general provisions for Trade Agreements, *Foreign Relations*, 1935, vol. I, p. 541.

⁸ Reciprocal Trade Agreement between the United States and Switzerland, signed at Washington, January 9, 1936; Department of State Executive Agreement Series No. 90, or 49 Stat. 3917.

⁹ Numan Menemencioğlu.

will be deposited in special account in central bank, and that 80 per cent of the amount received will be available for payment of commercial imports from the United States and remaining 20 percent will be at free disposition of Turkish Government for payment Government purchases, military supplies, salaries of experts and invisibles.

For some months Turkey's foreign exchange situation has been growing steadily more difficult, and as a result of increased imports from the United States and decreased Turkish exports to the United States exchange situation has become desperate. Turkish imports from the United States first 3 months amounted to 5,663,000 pounds (2,404,000 in 1937) compared to exports of 2,310,000 pounds (4,100,000 in 1937).

Government states this action dictated by necessity protect value of Turkish currency and to prevent accumulation of commercial obligations payable in foreign exchange, and is not designed to influence or interfere with negotiations. Chief of Turkish delegation stated categorically that when trade agreement is signed with the United States the decree will automatically no longer apply to us.

Expect to submit to the Department in a few days results of discussions with regard to quota and exchange provisions.

KELLEY

611.6731/387: Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ANKARA, June 8, 1938—7 p. m.

[Received June 10—8 p. m.]

46. From Trade Agreement Delegation. Embassy's No. 43, May 30, 5 p. m.¹⁰

Delegation has been informed by the Secretary General of the Foreign Office, acting under instructions from Prime Minister, that the Turkish Government has become convinced that it is not in Turkey's interest to enter into a trade agreement with the United States on the basis of the general provisions proposed by us.¹¹ He said that our project contained so many provisions contrary to the existing Turkish commercial system that Turkey would derive "neither material nor moral advantages" from an agreement containing such provisions.

He emphasized especially that for internal political reasons the Turkish Government could not accept our proposals with regard to making absolute tariff reductions and binding them for period of

¹⁰ Not printed.

¹¹ See telegram No. 66, August 13, 1937, 6 p. m., to the Chargé in Turkey, *Foreign Relations*, 1937, vol. II, p. 947, and footnote 7, p. 949.

agreement, and with regard to consolidating other similar taxes and charges, and bases and methods of determining dutiable value the Turkish Government could not make an agreement which would limit legislative power of Turkish Parliament. (As indicated by the Embassy's telegrams question of basis of tariff reductions has been subject of discussion from very beginning. When Turks insisted upon inability to accept our proposals regarding binding of tariff rates, et cetera, the two delegations sought to formulate a compromise along the lines of fifth paragraph of article 1 of trade agreement with France.¹² When eventually Prime Minister decided that tariff reductions could be made only on percentage basis, an effort was made to work out a provision stipulating 6 or 8 months delay in the application to imports from the United States of tariff increases on schedule articles. Consolidation strikes the Turks as a new form of capitulations. Reaction against pre-war capitulatory régime has not yet run its course and Turks are firmly set against assuming obligations which limit their freedom of action.)

In discussing other objectionable provisions Secretary General stated that it would be impossible for Turkey to make exchange available without delay for American imports unless there were quota restrictions on importations of American goods. Turkey, however, had given up the quota system and did not desire to revert to it. He objected strongly to the various escape clauses which permitted denunciation of trade agreement on short notice as being disadvantageous to the weaker country. Not only did such clauses make the agreement very fragile but they were specially disadvantageous in the case of Turkey on account of seasonal character of Turkish export trade.

Secretary General went on to say that Turkey attached great importance to relations with the United States for both economic and political reasons. He hoped, therefore, that it would be possible to conclude for a 1-year period a very simple trade agreement similar to our trade agreement with Belgium¹³ which would supplement the existing commercial treaty and facilitate the development of American-Turkish commercial relations through tariff concessions. Such an agreement would be based on unconditional most-favored-nation treatment, contain lists of articles upon which tariff concessions were accorded—those in schedule I being percentage reductions—and provide (1) that the schedule articles could be freely imported without restriction or limitation and (2) that the two Governments would refrain from prohibiting, restricting or delaying payments for im-

¹² Signed at Washington, May 6, 1936; Department of State Executive Agreement Series No. 146, or 53 Stat. 2236.

¹³ Reciprocal Trade Agreement between the United States and the Belgium-Luxemburg Economic Union, signed at Washington, February 27, 1935; Department of State Executive Agreement Series No. 75, or 49 Stat. 3680.

portations "on condition that the commercial exchanges between the two countries leave a balance of 20% in exchange freely transferable in favor of Turkey." There would be also a provision providing for (1) a delay of 3 months in the application to imports from the United States of any tariff increases which Turkey might make on schedule articles, (2) consultation with regard to such increases if United States desired official list to commence not later than 30 days after promulgation of new duties and (3) right of United States to terminate agreement on 3 months' notice if satisfactory agreement had not been reached within a month after beginning of negotiations.

Secretary General was informed that it was not believed that our Government would be willing to make tariff reductions on any basis other than the general provisions proposed by us. However, delegation would inquire of its Government whether it would be possible to conclude a trade agreement along the lines suggested by him. Secretary General stated that in case it was impossible to make a trade agreement with tariff concessions, some sort of a *modus vivendi* might be worked out which would stabilize the present trade pending further study of the question of the possibility of concluding a trade agreement if no *modus vivendi* were possible, then trade would function under provisions of unpublished decree summarized in Embassy's number 31, May 10, 6 p. m.

This changed attitude toward trade agreement are [*is?*] not yet entirely clear but it is believed that the most important factor is the worsening of Turkey's foreign exchange position, particularly in respect to the United States. Imports from the United States during first 4 months 1938 increased to pounds (Turkish) 7,392,041 (3,926,153 in 1937) while exports to the United States decreased to pounds (Turkish) 2,603,986 (4,587,295 in 1937). Foreign exchange shortage finally became so alarming that payments for imports were stopped on May 11. Under influence of this situation Turks are unwilling to make concessions which they might make under more favorable conditions and apparently fear that acceptance of our standard provisions would so weaken their position vis-à-vis the principal European countries that their present basic tariff, financial, and commercial policies would be endangered. The weakening of their position that might result from the acceptance of our general provisions outweighs in their eyes any possible advantage they might derive from the conclusion of a trade agreement with us.

The provisions contained in Turkish proposal are obviously inadequate as a substitute for our standard provisions. While Turkish Government might be willing to make minor concessions to our viewpoint delegation believes that it will be impossible to obtain at the present time the Turkish Government's acceptance of the substance of our general provisions. Ambassador shares this view as a result

of conversations which he had yesterday with Secretary General and Prime Minister. Prime Minister stated to him that while he greatly admired our trade agreements program, Turkey's economy was not strong enough to permit her to enter into such definite commitments as acceptance of our provisions involve.

The delegation is furthermore of the opinion that even if it were possible to reach an agreement at this time as the result of concessions to the Turkish viewpoint which we could make, there would not be sufficient benefits accruing to us in the near future from the agreement to justify our making substantial concessions. In view of Turkey's foreign exchange situation at the present time any trade agreement containing a provision providing for making available foreign exchange without delay could not be put into effect now or in the near future without being accompanied by quantitative restrictions on imports from the United States involving drastic reductions from amounts imported in 1937. Practically only exchange available to Turkey for payment of American goods is that derived from sale of Turkish products in the United States and due to great increase in imports of American goods during the past 12 months Turkey's supply of exchange is lower than it has ever been before.

In view of the foregoing, delegation recommends that Department give consideration to suspension of present negotiations for trade agreement with door being kept open for resumption of negotiations whenever situation appears to offer possibilities of Turks agreeing to provisions which would be acceptable to us.

Delegation requests Department to give urgent consideration to American-Turkish trade problems which will require settlement in the event no trade agreement is concluded.

As the Department is aware no exchange is now being made available for imports from the United States except for petroleum. Arrears in the form of customs amount to approximately \$3,500,000. Without taking into account new imports it is estimated that amount now in arrears cannot be liquidated before middle of October. From the aforesaid period to the end of year foreign exchange available to Turkey from American tobacco purchases alone will amount to a minimum of \$6,000,000.

If no trade agreement can be concluded Turkish Government will probably propose a temporary agreement designed to palliate failure to conclude a trade agreement and to secure our acceptance of the principle involved in unpublished decree referred to in Embassy's No. 31, May 10, 6 p. m. Proposed agreement will probably be based on following:

(1) Unconditional most-favored-nation treatment; (2) no quantitative restrictions and (3) exchange for payment of commercial imports of American origin to be made available to the extent of 80 percent of

exchange derived from sale of Turkish goods in the United States. Such an arrangement would have advantage of consolidating very large part of gain made by American exports to Turkey during last 2 years, and of still leaving ample margin of dollar exchange available to Turkey to meet financial obligations in the United States, such as match company bonds, et cetera. It would limit to small amounts possible utilization of dollar exchange for payments on British credit, French bonds, et cetera. (Turkey probably desires to be in a position to state that they have no dollar exchange available for noncommercial payments in other countries and consequently to force these countries to take Turkish goods.) Apart from apparent incompatibility with Department's commercial policy, this arrangement would have disadvantage of permitting accumulation of blocked balances.

If there is no temporary agreement the American trade will be subject to terms of unpublished decree and other applicable legislation.

Department's instructions are desired with regard to desirability of a temporary agreement and if so along what lines? If no temporary agreement is concluded what sort of public statement should be made? What position does the Department desire taken toward application to American trade of principle contained in unpublished decree—if published, or if applied without publication? Department's views are also requested with regard to action to be taken with respect to application to imports from the United States of decree of March 15 (Embassy's despatches Nos. 590, 602, and 647¹⁴).

Inasmuch as within the next 2 weeks there will be a general exodus of high officials from Ankara, including Prime Minister, and also principal Turkish negotiators, Secretary General of the Foreign Office and Chief of Turko F. I. S.,¹⁵ who are leaving for Berlin on trade mission, it is hoped that the Department will find it possible to telegraph its instructions not later than next Wednesday. [Trade Agreement Delegation.]

MACMURRAY

611.6731/387 : Telegram

The Secretary of State to the Ambassador in Turkey (MacMurray)

WASHINGTON, June 15, 1938—6 p. m.

12. Your 46, June 8, 7 p. m.

1. Department would not wish to entertain a proposal for suspending negotiations at this late stage until it had been conclusively

¹⁴ None printed.

¹⁵ Usually referred to as Türkofis, which is the Turkish designation for the Department of Trade in the Ministry of National Economy.

determined that no acceptable alternatives exist. With respect to most of the major difficulties you have reported, there appears to us to remain scope for exploration of possible compromises adapted to necessities of the Turkish position while saving the essential substance of our policy. These problems, together with a recent request from the Turkish Ambassador, acting under instructions from his Government, for favorable replies respecting (1) percentage concessions, (2) tariff quotas, and (3) 80 percent exchange clause, are being given careful study with a view to telegraphing you more detailed instructions shortly.

2. Our evaluation of the situation is hampered by lack of precise information as to Turkish Schedule II¹⁶ requests and Schedule I¹⁷ counterproposals on individual items. Please telegraph immediately when your reports on these are due to reach the Department. We have received your despatches numbered 622, 628, 650, and 651.¹⁸ If the Turkish Schedule II requests are not due to reach the Department shortly, telegraph their substance as well as present status of negotiations regarding them. Telegraph also your views as to the practicability of proceeding with negotiations on individual schedule items on the assumption that solutions will be found for problems of general provisions including question of binding rates. This may permit Burns return at an early date while Wadleigh remains to work on general provisions.

3. Since present Turkish position is evidently influenced in large measure by current Turkish-American trade balance, detailed study by commodities of the changes reported in your telegram may throw valuable light. Please make such study as available Turkish data permit, to supplement our studies of United States statistics here, with a view to determining nature of the changes and particularly to what extent the changed trade balance appears likely to continue, and report results briefly by telegraph.

4. We are also considering the desirability of calling the Turkish Ambassador in to express to him our concern over the nature of the Turkish reply but our confidence that Turkey does not intend to retract its earlier assurances, on the basis of which we undertook negotiations last fall, that an agreement could be concluded on the most-favored-nation basis, and that we are prepared to explore all means of accommodating the precise formulation of our basic policy to the needs of Turkey's position. Such an interview might well be

¹⁶ Schedule of tariff concessions to be given by the United States on imports from Turkey.

¹⁷ Schedule of tariff concessions to be given by Turkey on imports from the United States.

¹⁸ None printed.

preceded by a similar interview by Ambassador MacMurray with the Foreign Minister. Please telegraph your views as to the desirability of such action.

HULL

611.6731/396 : Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ANKARA, June 17, 1938—6 p. m.

[Received June 17—5 p. m.]

47. From Trade Agreement Delegation. Your 12, June 15, 6 p. m.

1. Reference paragraph 2. Turkey has requested a 50 percent reduction on all dutiable items and bindings on all free items on published Schedule II list, with the following reclassification "Izmir and Samsoun type tobacco", "Levant type shelled filberts" and "Anatolian type rugs"; while we have presented our requests on Schedule I we have not been able to obtain Turkish counter-proposals. Turks have indicated that they intend offering generous tariff reductions on American specialties. Negotiations regarding tariff concessions on both schedules have been necessarily pushed into background by discussions regarding nature of tariff reductions and question of quotas and exchange payments.

Delegation is of the opinion that no useful purpose would be served by proceeding with negotiations regarding individual schedule items until agreement is reached on general provisions. Nature and extent of Turkish tariff concessions are dependent on provisions regarding quotas on schedule articles and exchange control. If we should embark on discussion of tariff concessions on individual schedule items Turks would almost immediately desire to know for instance whether we accept their 80 percent exchange clause.

2. Reference paragraph 4. Delegation is of opinion that it would be helpful if the Department would discuss situation with Turkish Ambassador, but suggests that nothing be said indicating that we feel that Turkey is retracting its assurances on the basis of which negotiations have been undertaken. As the Department is aware Turkey has undertaken to give us unconditional most-favored-nation treatment in respect to all forms of trade control. Turkey still declares that it is prepared to accord us this treatment and, in declining to accept our proposals with regard to tariff reductions and bindings and the full text of our standard provisions, Turkey does not feel that it is retracting its commitment.

In view of the fact that the trade agreement negotiations were discussed in conversations which the Ambassador had recently with Prime Minister and Foreign Minister, Ambassador feels that a spe-

cial interview with the Minister for Foreign Affairs with regard to this matter would be of more use at a later date.

3. Reference paragraph 3. Study of published Turkish import statistics for first 3 months 1938 (which do not include Government purchases or military supplies) shows that the large increase which took place in imports from the United States in that period compared with corresponding months 1937 was distributed over practically entire range of commodities normally imported and includes many new items. As long as Turkey continues to maintain trade with other countries on clearing basis there is every reason to believe that, in the absence of restrictions on imports from the United States, the changed trade balance would continue and that the demand for American goods will tend to exceed the exchange availabilities. [Trade Agreement Delegation.]

MACMURRAY

611.6731/396 : Telegram

The Secretary of State to the Ambassador in Turkey (MacMurray)

WASHINGTON, June 25, 1938—2 p. m.

15. Your 46, June 8, 7 p. m. and 47, June 17, 6 p. m. Department's 12, June 15, 6 p. m. We have received your despatches numbered 660 and 672.¹⁹

It is suggested that you explore the possibility of solutions along the following lines:

The essential points of difference appear to be

- (1) setting forth of actual rates versus percentage reductions of general rates;
- (2) consolidation of (a) other similar taxes and charges, and (b) bases and methods of determining dutiable value;
- (3) assurances with respect to exchange control, to which questions of 80 percent clause and quotas on schedule articles are related;
- (4) the escape clauses.

As to (1) your telegrams and despatches suggest practical solution whereby the actual tariff rates would be stated in Schedule I combined with an escape clause permitting Turkey to increase the rates at any time, but with a safeguard of a suitable period of notice (possibly 1 year) before increases in rates became effective, and with provision for optional termination of agreement by the United States upon 30 days' notice within 15 days after such increases become effective. A year's notice and optional termination by the United States

¹⁹ Neither printed.

rather than automatic termination should meet the objections of the Turkish authorities regarding fragility and onus for termination reported in your despatch no. 672, Enclosure 5, first paragraph. In addition to the reasons stated by you to the Turkish authorities (Enclosure 1, same despatch) the Department is unwilling to agree to accept percentage reductions because concessions in that form would imply a desire to be assured of preferential tariff treatment. It is suggested that discussion of this matter be postponed until after other points regarding general provisions have been discussed.

(2) (a) It would not, of course, be possible to accept mere most-favored-nation treatment in respect of supplementary charges, but a solution may be found in a commitment with escape clause along the lines suggested in (1) above. Since the Turkish counter-proposal is apparently taken from Article I, section 3, paragraph 1, of our agreement with France (your despatch no. 628,²⁰ enclosure 1) it may be desirable to make it clear to the Turkish authorities that Article I, section 6, of the French agreement in effect consolidates French supplementary duties on schedule items. This matter is of course closely related to that discussed in the preceding paragraph.

(2) (b) A solution of this question might be found in the acceptance of specific rates on all Schedule I items and drop Article V (your Despatch No. 622, enclosure 10²⁰).

(3) While obviously the Department cannot subscribe to the bilateral principle involved in the 80 percent clause, it recognizes Turkey's exchange difficulties. The solution may be found in an agreement which would assure us of payment for a share of Turkey's total imports somewhat below that attained during 1937 and recent months. The Department does not wish to press Turkey for assurances which may subsequently be found in excess of her capacity to fulfill. It may be necessary to have fewer items in Schedule I or smaller reductions which would not increase Turkey's imports beyond her expected exchange availabilities. While we are reluctant to see a large increase in the number of tariff quotas by which concessions scheduled in our trade agreements are limited, their acceptability on selected items would depend upon the individual circumstances including the reasonableness of the amounts.

A solution may be found therefore in a restricted Schedule I and in exchange provisions whereby Turkey would assure that there would be made available for the payment of merchandise imported into Turkey from the United States in any calendar year free exchange (at the most favorable rate as compared with all other currencies)

²⁰ Not printed.

in an amount which shall not be less in relation to total merchandise imports into Turkey than that represented by the proportion of Turkey's total merchandise imports supplied by the United States in a previous representative period. The representative period chosen might well be such that Turkey might reasonably expect to have a surplus of dollar exchange over and above the amounts required to pay for merchandise imports. Care would be necessary to see that this would mean no less favorable treatment for our trade than Turkey would contemplate in absence of a trade agreement. If such a proportion were based upon the percentage of the value of total Turkish imports supplied by the United States during the three calendar years 1935-37, it would be 10.6 percent. (For your information this figure is slightly less than that represented by 80 percent of the value of Turkish exports to the United States in the same 3-year period, namely, 11.2 percent. Moreover, an analysis made in the Department shows that 80 percent of the value of Turkish exports to the United States during the 10-year period 1928-37 averaged 9.75 percent, and for the 6-year period 1932-37 averaged 10.74 percent, of Turkey's total imports.)

(4) Although it may be possible to eliminate several of the escape clauses, possibly those in Articles IX, X, and XIV of your Despatch No. 622, enclosure No. 10, the Department prefers to defer decision pending the outcome of discussions concerning major points.

In order that the Department may concurrently reply to the questions raised by the Turkish Ambassador here, please notify Department by telegraph when you resume your negotiations, unless you perceive objection to proceeding along the lines above indicated, in which case you should telegraph your comments and recommendations.

The Department feels that a stage has been reached in the negotiations where it may be desirable to proceed with schedule negotiations in order that the Turkish authorities may be informed of the general nature of the concessions we are prepared to grant and those we wish to obtain. Unless you perceive objection, you are instructed therefore to proceed with such negotiations.

Please endeavor to ascertain and report by telegraph, from an inspection of Turkish commodity export statistics to the United States, the nature of the changes which account for the sharp decline in the first 4 months of 1938 as compared with 1937. United States figures for general imports from Turkey, which of course are not closely comparable with Turkish export figures, are 6,446 thousand dollars for the first 4 months 1938, compared with 6,634 thousand dollars in corresponding period 1937.

HULL

867.5151/93 : Telegram

The Secretary of State to the Ambassador in Turkey (MacMurray)

WASHINGTON, June 25, 1938—4 p. m.

65. Your 46, June 8, 7 p. m., Section 4, paragraph 2.²¹ National Foreign Trade Council has informed the Department that some American merchants appear inclined to continue shipments to Turkey and to accept in payment therefor funds to be deposited in Turkey provided they may obtain assurances that when exchange becomes available, the blocked funds will be liquidated chronologically, and that the exchange will not be used for current shipments. This question should of course not be injected into the trade agreement negotiations at the present time and should therefore not be taken up with the Turkish authorities, but the Department would be glad to receive any information you may already have on the subject in order that a suitable reply may be made to the Council.

HULL

611.6731/403 : Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ANKARA, June 30, 1938—7 p. m.

[Received July 2—7: 15 p. m.]

49. From Trade Delegation. Department's telegram No. 15, June 25, 2 p. m.

1. Referring to last paragraph Department's telegram, an investigation and analysis of Turkish commodity export statistics to the United States for first 3 months indicates that the sharp decline in exports is accounted for by decreased shipments chiefly of tobacco, and secondarily of skins and furs, sheep casings, walnuts, valonia, valonia extract and emery.

2. In order that the delegation may be in a position to proceed with negotiations on tariff concessions, in accordance with the Department's instructions, delegation requests that decisions be reached as to reclassification of oriental rugs and as to reduction which may be offered to Turkey.

Delegation suggests that consideration be given to following possible reclassifications: (1) "carpets, rugs and mats of the Turkish type, not made on a power driven loom, et cetera"; (2) substitution of "Anatolian" for "Turkish"; (3) substitution of "Sivas," Isparta, Smyrna, Kaysereri, Ouschak, Gordes, Bergama" for "Turkish."

With regard to possible reclassification (1) delegation desires to point out that Turkish is a term generally used in rug trade to desig-

²¹ Paragraph beginning "As the Department is aware", p. 1060.

nate a distinctive type of rug, distinct from other types such as Persian, Caucasian, Turcoman, et cetera. It is believed that either (1) or (2) would be satisfactory to Turkey and that (3) would probably be acceptable.

3. Delegation perceives no objection to exploring possibility of a solution of the question of the consolidation of tariff reductions and other similar taxes and charges, et cetera, along lines indicated in your paragraphs 1, 2 (a) and 2 (b). It is of the opinion that the exchange formula proposed by the Department is not feasible because, on account of the impossibility of forecasting with reasonable accuracy Turkey's total imports from all countries and Turkey's exports to the United States, it is not possible to fix a percentage for United States share of Turkey's total imports from all countries which would reasonably assure the fulfillment of both of the conditions laid down by the Department, namely (1) insure Turkey a surplus of dollar exchange over and above amounts required to pay for merchandise imports from the United States and (2) assure for payment of American goods an amount of exchange not less than that which would be available in the absence of a trade agreement. Whatever percentage be selected, any unforeseen increase in Turkey's total imports or unforeseen decrease in Turkey's exports to the United States would reduce or eliminate Turkey's surplus of dollar exchange and might even make it impossible for Turkey to supply the amount of exchange required by the formula; and any unforeseen decrease in Turkey's total imports or unforeseen increase in Turkey's exports to the United States would result in the United States obtaining less favorable treatment under Department's formula than Turkey would contemplate in the absence of a trade agreement.

In view of the foregoing the delegation desires to submit for the Department's consideration the following alternative suggestions with regard to exchange control provision.

(a) Standard general provision on exchange control with insertion at the end of subparagraph (a) of a sentence to the following effect "the foregoing however does not preclude such delay as may be incidental to Turkey's refraining from making available for commercial payments exchange required for essential needs of the State".

(b) Provision to the effect that in respect to all aspects of foreign exchange control the United States shall be accorded treatment no less favorable than that which it received in a specified period, say 1935-1937, and in any event no less favorable than that accorded the most favored nation.

It does not seem possible to draft a provision imposing precise obligations on Turkey in respect to making exchange available for pay-

ment of imports from the United States which would fulfill the two requirements set forth by the Department in regard to this matter. A provision based upon either of the above suggestions would afford a base for our obtaining as favorable treatment as is possible under the present circumstances. Such a provision would permit Turkey to reserve a portion of dollar exchange for requirements other than commercial payments, and would not set up a formula under which Turkey would have the right to accord us treatment less favorable than it contemplates in the absence of a trade agreement.

4. As the Prime Minister is leaving Ankara tomorrow and has indicated an interest in the tenor of Department's latest instructions, Acting Secretary General of Foreign Office was informed today that our Government was prepared to explore every possibility with a view to finding a solution for the difficulties confronting the Turkish Government in connection with our proposals, especially with respect to the questions of the consolidation of tariff rates, et cetera, and exchange control. A solution to question of tariff reductions along the lines outlined in the Department's paragraphs 1 and 2 was submitted to him.

With regard to question of exchange control, Secretary General was informed that the United States Government recognizes Turkey's exchange difficulties and is disposed to agree to a limitation of Turkey's obligation to make exchange available for payment of commercial imports from the United States, but that it could not accept the particular form of limitation contained in the Turkish 80% exchange clause. He was informed that the American delegation was prepared to cooperate with the Turkish delegation in working out a formula which would meet the needs of Turkey's position and which would not be in conflict with our policy.

Acting Secretary General stated that he would immediately consult with appropriate officials and let us know by the middle of next week Turkish Government's attitude with regard to our suggestions. [Trade Delegation.]

MACMURRAY

611.6731/412

*The American Trade Delegation at Istanbul to the Turkish Foreign Office*²²

AIDE-MÉMOIRE

The Delegation has brought to the attention of its Government the position of the Turkish Government, as set forth by the Secretary

²² Copy transmitted to the Department by the Ambassador in Turkey in his despatch No. 740, July 7; received July 26.

General of the Foreign Office, with respect to the provisions in our proposals which the Turkish Government finds itself unable to accept, the most important of which are those relating to the consolidation of tariff rates, other similar taxes and charges, and bases and methods of determining dutiable value, and that regarding exchange control. The American Government is prepared to explore every possibility with a view to finding a solution for the difficulties confronting the Turkish Government in respect to our proposals.

With respect to the question of the consolidation of tariff rates, et cetera, a solution along the following lines is suggested for the consideration of the Turkish Government. While fixed tariff rates would be listed in both Schedules the American Government is prepared to agree to a clause permitting Turkey to increase at any time tariff rates and other similar taxes and charges on articles enumerated in the Schedule. Application of new duties, however, would be deferred for a suitable period after their promulgation, and the United States would be free within 15 days after such increases become effective in respect to imports from the United States to terminate the agreement, upon 30 days' notice. The American Government is prepared to omit the provision with regard to the consolidation of the bases and methods of determining dutiable value. There is attached a proposed draft incorporating these ideas.

With regard to the provisions concerning exchange control, the American Government recognizes Turkey's exchange difficulties and has no desire to ask Turkey for assurances which might prove to be in excess of her capacity to fulfill. It is therefore disposed to agree to a limitation of Turkey's obligation to make exchange available for payment of commercial imports from the United States, but it cannot accept the particular form of the limitation contained in Article 4 of the Turkish counter-proposal of June 7th,²³ namely, the 80 per cent exchange clause, nor any form of limitation which expressly fixes a ratio between exports and imports in the trade between the two countries. Such bilateral balancing is in direct conflict with the fundamental policy of American Trade Agreement Program. The American Delegation is prepared to cooperate with the Turkish Delegation in working out a formula which will meet the needs of the Turkish position in respect to limitation of exchange for payment of commercial imports, and which will not be in conflict with American policy.

ANKARA, July 1, 1938.

²³ For general summary of Turkish counterproposal of June 7, see telegram No. 46, June 8, 7 p. m., from the Ambassador in Turkey, p. 1057.

[Enclosure—Translation *]

Draft of Article I

1. The natural or manufactured products originating in the United States of America which are enumerated and described in Schedule 1 annexed to the present agreement shall enjoy upon their importation to the territory of the Turkish Republic the customs duties provided in said schedule except for the dispositions of the following paragraph.

2. In case the Government of the Turkish Republic should raise the customs duties provided in Schedule 1, or should proceed, in that which concerns the products enumerated or described in said schedule, to create or increase any other duties, taxes or charges whatsoever, collected on importation or at the time of importation, the resulting tariffing of the advantages which are provided at the effective date of the present agreement will be maintained without change for said products until the expiration of a delay of one year from the date of the promulgation of the new duties, taxes or charges. Nevertheless, the Government of the United States will be free, in the fifteen days from the date of the application of the new duties, taxes or charges on either one or the other of the products originating in the United States of America enumerated and described in Schedule 1, to terminate the present agreement upon written notice thirty days in advance.

611.6731/403 : Telegram

The Secretary of State to the Ambassador in Turkey (MacMurray)

WASHINGTON, July 15, 1938—3 p. m.

16. Your 49, June 30, 7 p. m., paragraph 3. With respect to your alternative suggestion numbered (a) the Department feels that the incorporation in a trade agreement of such an exchange article would not give us adequate assurances, since the Turkish Government could conceivably claim that the "essential needs of the State" required a major portion of the exchange derived from Turkish exports to the United States.

The assurance of "treatment no less favorable than that which it received in a specified period, say 1935-1937," in suggestion (b) appears to be no less rigid than the Department's suggested formula. If this assurance is intended to mean that the absolute amount of exchange shall be no less than the average amount of exchange made available for imports from the United States in the 3-year period,

* Translation supplied by the editors.

suggestion (b) probably would be more rigid than the Department's proposal. (Incidentally, the Department has no information as to the amount of free exchange actually allotted during 1935-1937 for imports into Turkey from the United States. If possible, please ascertain from the Turkish authorities this amount and inform the Department by telegraph.)

With reference to "in any event no less favorable than that accorded the most-favored-nation" in suggestion (b), it is not clear to the Department, particularly in view of Turkey's clearing and compensation agreements, what interpretation would be placed upon this part of the proposal. The Turkish authorities might conceivably interpret this to mean that the amount of free exchange accorded to the United States shall be no less than the amount of free exchange accorded to any third country.

It may be necessary, in the case of Turkey, in order not to depart from our basic principles, to accept exchange provisions assuring us of treatment which under certain conditions might be less favorable for our trade than Turkey contemplates under the 80 percent clause. In this connection any exchange provisions which may be incorporated in a trade agreement would provide of course for minimum and not maximum assurances; in the absence of a trade agreement we have no assurances. The formula proposed by the Department would assure us of free exchange for a minimum proportion of total merchandise imports into Turkey, but would not preclude treatment in good years better than that required by the formula. Although an exceptionally favorable base period and percentage would impose an obligation which Turkey might find it difficult or impossible to fulfill in some years, it appears to the Department that a base period might be found which it would be possible for the Turkish authorities to accept.

It is assumed that the Turkish authorities would not, merely by reason of the conclusion of a trade agreement, treat our trade less favorably than they otherwise would intend, but would allocate exchange on as favorable a basis as their circumstances would permit, even when this might mean more favorable treatment than the minimum guarantee provided in a trade agreement. If this assumption is correct, the evident strong demand for American goods in Turkey would serve as assurance against the minimum guarantee in the trade agreement becoming the maximum limitation upon the treatment of our trade.

The Department's purpose in suggesting this formula was to endeavor to find a different approach to the exchange problem, and to ascertain the views of the Turkish authorities with reference

thereto. You are therefore requested, unless you still perceive objection, to discuss this formula with the Turkish authorities, and inform the Department by telegraph of their reaction.

HULL

611.6731/413

Draft of Turkish Counterproposals Handed to the Secretary of State by the Turkish Ambassador (Ertegin), July 26, 1938

[Translation]

The two governments, without prejudice to the provisions of the Turco-American Treaty of Commerce and Navigation of October 1, 1929,²⁵ have agreed upon the following:

ARTICLE 1

The natural or manufactured products originating in the United States which are enumerated and described in Schedule No. 1 annexed to the present instrument shall, upon their importation to the territory of the Turkish Republic, enjoy the tariff reductions provided in the said schedule.

In case the Government of the Republic raises the customs duties provided in the aforesaid schedule, such increases shall not be applied to the natural or manufactured products originating in the United States of America until three months after the date of promulgation of the new duties.

However, the United States Government shall be free, fifteen days after the application of the new duties in question, to denounce the present Protocol in its entirety, upon notice three months in advance, to be counted from the announcement of the denunciation to the Turkish Republic.

ARTICLE 2

The natural or manufactured products originating in the territory of the Turkish Republic which are enumerated and described in Schedule No. 2 annexed to the present Agreement shall not be subject, upon their importation to the territory of the United States of America, to customs duties higher than those indicated and provided in the said schedule.

ARTICLE 3

The natural or manufactured products originating in one of the two countries, enumerated in Schedules Nos. 1 and 2, shall be admitted to free importation to the territory of the other, without restriction or limit.

²⁵ *Foreign Relations*, 1929, vol. III, p. 838.

ARTICLE 4

In case the United States Government or the Turkish Government establishes or maintains, directly or indirectly, and under any form whatsoever, a system of control of the means of international payments, it must, in practicing such regulation, abstain from prohibiting, restraining or deferring payments intended to cover the total amount of imports of natural or manufactured products originating in the other country.

However, the United States Government agrees that the transfer of the amounts coming from American importations into Turkey during the life of the present Protocol may be effected within a period of two years from the date when this Protocol goes into effect.

ARTICLE 5

The present Protocol shall be in force for a period of one year.

611.6731/412a : Telegram

The Secretary of State to the Ambassador in Turkey (MacMurray)

WASHINGTON, July 27, 1938—6 p. m.

18. The Turkish Ambassador called at the Department on July 25 under instructions from his Government to submit a copy of the Turkish Government's latest proposal²⁶ with respect to the general provisions in the proposed trade agreement relating to binding of duty reductions, exchange control, and duration of agreement. If the Delegation has not yet received a copy of this proposal, you should request one from the Turkish authorities at the earliest opportunity, and telegraph the Department (1) your comments and recommendations with reference thereto and (2) the reasons, if known, for this action on the part of the Turkish Government in transmitting its proposal through the Ambassador here rather than through the Delegation at Ankara.

HULL

611.6731/419

*Draft Article on Exchange Control Submitted by the American Trade Delegation at Istanbul on July 28, 1938*²⁷

1. In the event that the United States of America or the Turkish Republic shall establish or maintain, directly or indirectly, any form of control of the means of international payment, it shall, in the

²⁶ *Supra.*

²⁷ Transmitted to the Department by the Ambassador in his despatch No. 764, August 1; received August 12.

administration of such control, accord unconditionally with respect to (a) the rate of exchange applicable to the purchase of foreign exchange intended for the transfer of payments for imported articles originating in the other country or payments necessitated by such importations, (b) all charges and surtaxes imposed in connection with the purchase of such foreign exchange, and (c) all regulations and formalities applicable to the purchase of such foreign exchange, treatment not less favorable than that which is accorded in regard to payments connected with importations of any article from any third country.

2. The Turkish Government undertakes, with respect to the amount of exchange made available for the transfer of payments for imported articles originating in the United States, to allocate in any year, as a minimum, an amount of exchange which shall be sufficient to pay for a proportion of the total importations into the Turkish Republic in such year equivalent to the proportion of the total importations supplied by the United States in the period from January 1, 1935 to December 31, 1937.

611.6731/414 : Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ANKARA, July 29, 1938—6 p. m.

[Received July 29—6 p. m.]

41. From Trade Agreement Delegation. Department's No. 18, July 27, 6 p. m. Proposal referred to is undoubtedly a copy of Turkish counterproposals²⁸ transmitted, after a discussion concerning them between Chief of Delegation and Minister of Foreign Affairs to delegation on July 13 in response to proposals made by delegation on July 1 (Embassy's No. 740 of July 7, 1938²⁹).

Turkish proposal regarding article I is quite unsatisfactory and delegation will make every effort to obtain inclusion of other duties and charges, reduction of period of notice to be given by the United States and a delay of at least 6 months in the application of increased duties to imports from the United States. Turkish proposal concerning payment within 2 years of imports from United States during 1 year is also considered unacceptable and delegation has proposed formula suggested by Department and is now awaiting formulation of Turkish views with regard thereto.

With respect to Department's (2), since proposal was submitted to delegation on July 13 and has been subject of discussion delega-

²⁸ *Ante*, p. 1073.

²⁹ Not printed, but see *aide-mémoire* dated July 1, p. 1069.

tion assumes that Foreign Office transmitted copy of proposal to Turkish Ambassador only for information purposes. [Trade Agreement Delegation.]

MACMURRAY

611.6731/420: Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ISTANBUL, August 18, 1938—1 p. m.

[Received 4:50 p. m.]

49. From Trade Agreement Delegation. Department's 16, July 25 [15], 3 p. m. Turkish Government accepts Department's exchange formula and as base period the 3-year period 1935 to 1937 proposed by delegation (Embassy's despatch No. 764, August 1, 1938, enclosure No. 2³⁰). It desires however that following clause be placed at the beginning of second paragraph.

"Proceeding from the principle that Turkish exports to the United States during the period of the present agreement (Turkey has had in mind a 1-year agreement) will not be less in value than the average of such exportations during the years 1935, 36, and 37".

Presumably this provision contemplates the use of Turkish export statistics as evidence of Turkish exportations to the United States. In connection with the Department's consideration of the use of Turkish statistics it may be noted that the Turkish statistics of exportation to the United States agree closely with the United States statistics of general imports from Turkey for the average of the 3-year period 1935-37.

The purpose of the proposed clause is apparently to protect Turkey against any unforeseen drop in Turkish exports to the United States which would of course seriously affect Turkey's exchange availabilities. Since Turkey's availing itself of this clause, which is in effect a proviso, would suspend Turkey's most important obligation to the United States in the agreement our Government may wish to because [be?] in a position to be released from its obligations under the agreement. The delegation suggests for the consideration of the Department in the event that it is desired to include a safeguarding clause the following alternative counter proposals.

(a) A provision giving Turkey the option of terminating the agreement in the event that Turkish exports to the United States

³⁰ Despatch not printed; for enclosure here referred to, see draft article on exchange control, submitted by the American Trade Delegation on July 28, 1938, p. 1074.

(or American imports from Turkey) should fall below the stated amount or;

(b) a proviso similar to that proposed by Turkey with option by the United States to terminate agreement if Turkey avails itself of this proviso.

Delegation desires to point out however that it may be difficult to obtain the acceptance of either of these provisions in view of the Secretary General's pronounced dislike of escape clauses.

Turkish delegation also suggested desirability of an exchange of notes with reference to this article in which Turkish Government would state "the transfer of sums resulting from the application of article X having to be effected during a period extending to the end of the validity of the present agreement, the successive transfers will be effected by the Turkish Government in accordance with the possibilities of its means of payment in free exchange". It was pointed out that such a statement seemed unnecessary since article in question did not obligate Turkey to make available exchange immediately and did not preclude delays in making transfers when Turkey had no foreign exchange available. It was indicated that if Turkey were given assurances that such is our understanding of the provision the Turkish Government would not insist on the proposed exchange of notes.

The Turkish Government proposes that paragraph 1 be changed to read as follows after "payment" in fourth line: "it shall in respect to everything concerning the application of this control grant to the other party most-favored-nation treatment". In explanation of the change it was stated that our proposal was too complicated and involved and that a simpler formulation of the matter would be more effective.

Impression was gained from discussions concerning the exchange article that the Turkish Government does not intend to allocate for commercial imports from the United States exchange on the 80 percent basis regardless of whether the amount may be required under the terms of the article. It would appear that this article will be administered in such a way as normally to make available to the United States only the amount of exchange required under the article. This of course would not preclude the allocation of more exchange if it was considered desirable to do so.

In answer to a question as to how the provisions of the exchange article would be administered Secretary General of Foreign Office said the required amount might be paid either out of the general exchange fund or out of a special fund set up for deposit of exchange from Turkish exports to the United States. He added that his Government would be glad to entertain any suggestions as to the method

of administration of the exchange control article. Delegation presumes Department would prefer the general fund as being more in line with our policy but wishes to point out to the Department that the adoption of this method would not mean that Turkey was likely to allocate more exchange than is required by the article.

2. With respect to Turkish counter proposal concerning the question of consolidation of tariff rates, et cetera—article 1³¹—(despatch under reference enclosure number 1) Turkish Government has now agreed to a 6 months delay in the application of increased tariff duties instead of 3 months as proposed by it.

Department will note that Turkish Government also desire 3 months' notice by the United States instead of 30 days as suggested by Department.

Turkish Government has refused to agree to any consolidation of "other duties, taxes or charges". Secretary General insists that Turkish Government never has agreed and cannot agree to restrict in any way power of Grand National Assembly to impose charges of this character.

3. Secretary General has emphasized again at great length that Turkish Government does not desire to conclude at this time a comprehensive trade agreement along the lines originally proposed by delegation. It does not wish to add any more articles to those contained in the last Turkish draft (despatch under reference enclosure number 1). (In an earlier conversation Secretary General listed the most-favored-nation clause as one of the articles to be contained in the Turkish project). The proposed agreement is looked upon as a sort of provisional supplement to the existing commercial treaty pending the conclusion of a comprehensive trade agreement. When it was pointed out that, while the delegation had no instructions on this point, it was felt that the Department would insist on the inclusion of other provisions reference being made to the provisions with regard to territorial application, Secretary General argued that such an involved article would be quite out of place in the agreement and finally said that if we had to have it he might be willing to include it in a separate exchange of notes. He urged very strongly the signing of the agreement as soon as possible with a view to dispelling existing uncertainty hanging over American-Turkish trade.

With regard to duration of the agreement he finally agreed to the automatic extension of the agreement beyond the 1-year period, contained in Turkish proposal, if it was not denounced within a specified period.

³¹ *Ante*, p. 1073.

With regard to article 3 of Turkish proposal, when asked whether Turkey would be willing to undertake to place no restrictions on the importation from the United States of articles other than those on the schedule, he said that he had no objection to stipulating that the importation of such articles was subject to the general Turkish import regime and to stating in an exchange of notes that the general Turkish import regime places no restriction or limitation on the importation of goods from the United States. While such a statement would not constitute a promise by Turkey not to impose any restrictions, it would carry a strong implication that Turkey would not impose any restrictions on American imports under its present foreign trade system. Turkey would probably desire a similar statement by the United States.

4. Turkish delegation has promised to submit within a few days Schedule I concessions and its observations on Schedule II concessions.

5. Department's instructions are requested with regard to the various points mentioned above. [Trade Agreement Delegation.]

MACMURRAY

611.6731/420 : Telegram

The Secretary of State to the Ambassador in Turkey (MacMurray)

WASHINGTON, August 25, 1938—3 p. m.

83. Your 49, August 18, 1 p. m.

1. Although a number of difficult questions concerning the general provisions remain, the Department is inclined to believe that they are not insurmountable. However, for tactical reasons, it would seem best to defer discussions of these matters, in regard to which further instructions will be sent in due course, until the schedule discussions have reached a more advanced stage.

2. You are instructed therefore to expedite schedule negotiations,³² particularly of schedule II items. Latest Turkish counter-proposals regarding schedule II items, with the Delegation's comments, should be telegraphed as soon as possible in order that they may be considered by the committees. If we should be able to meet substantially the Turkish requests, it seems reasonable to assume that their interest in concluding the agreement with general provisions which meet our minimum requirements would be considerably increased.

HULL

³² A number of telegrams reporting these detailed schedule negotiations are not printed.

611.6731/420 : Telegram

The Secretary of State to the Ambassador in Turkey (MacMurray)

WASHINGTON, September 17, 1938—3 p. m.

90. Your 49, August 18, 1 p. m.

1. You should make it clear to the Turkish authorities that the proposed trade agreement must stand by itself as a complete and independent agreement; that it could not take the form of a provisional supplement to the existing commercial treaty unless it were submitted to the Senate for advice and consent to ratification. If reference is made to our trade agreement with Belgium, you should point out (1) that it is independent of our existing Treaty of Commerce and Navigation with Belgium;³³ (2) that it provides that the Agreement shall be supplemented as soon as possible by more detailed general provisions and that negotiations regarding such provisions have been in progress for some time. Independent and complete trade agreements have been concluded with a number of other countries with which the United States has commercial treaties, for example, Finland and Honduras.

2. Although the Department is willing to accept a simpler formulation of the text of the first paragraph of the Delegation's proposed exchange article (your despatch no. 764, August 1, 1938, enclosure no. 2³⁴), it greatly prefers the substitution, after "payment" in the fourth line, of the following phraseology for that proposed by the Turkish authorities: "it shall, in the administration of all aspects of such control, accord to the nationals and commerce of the other country the most general and complete application of the unconditional most-favored-nation principle".

3. The Department is not disposed, however, to accept the Turkish proposal to add at the beginning of the second paragraph of the Delegation's proposed exchange article the clause "Proceeding from the principle" et cetera, for the reason that it would again place the exchange provisions on a strictly bilateralistic basis. You should point out that the agreement could be terminated by the Turkish Government if trade and exchange developments should render the exchange commitment more onerous than can be foreseen at this time.

For your information, we should be willing, if necessary to obtain the assent of the Turkish authorities to the deletion of any such clause, to accept a longer base period, for example, 1934-37.

³³ William M. Malloy (ed.) *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. 1, p. 90; or 19 Stat. 628.

³⁴ Despatch not printed; for enclosure here referred to, see draft article on exchange control submitted by the American Trade Delegation on July 28, 1938, p. 1074.

4. For technical reasons, the Department would also prefer that in paragraph 1 the words "the Government of" be inserted before the words "United" and "Turkish" in the first and second lines, respectively, and that paragraph 2 be changed to read as follows: "The Government of the Turkish Republic undertakes that, so long as it maintains, directly or indirectly, any form of control of the means of international payment, there will be made available in any calendar year for the payment of merchandise imported into Turkey from the United States of America an amount of exchange which shall not be less in relation to total merchandise imports into the Turkish Republic than that represented by the proportion of the total merchandise imports supplied by the United States in the period from" et cetera.

5. The Department agrees with the Delegation that the Turkish proposal for an exchange of notes relating to the exchange article is unnecessary, since our proposal would not preclude seasonal delays in making transfers within any calendar year. However, an understanding on this point could be included in the final minutes.

6. With reference to the administration of the exchange article, the Department also agrees that payment from Turkey's general exchange fund would be preferable. In this connection you should endeavor to ascertain whether the Turkish authorities intend to allocate exchange for imports of merchandise from the United States chronologically in the order of application therefor, or upon some other basis. In view of the existing preferential treatment in the allocation of exchange for imports of petroleum, you should point out that our exchange article under reference was drafted with the understanding that the exchange made available for imports from the United States would not be allocated by articles. The Department is particularly concerned that a general provision relating to the allocation of a global amount of exchange shall not be susceptible of enabling the Turkish Government to divert a large part of its orders for ordinary imports to countries from which they can be secured through compensation arrangements, reserving its dollar exchange for the increased purchase of armaments and other supplies of military importance, the exports of which this Government is not anxious to promote at the expense of its more normal trade. Such an understanding might be included in the final minutes. Your comments on this matter would be appreciated.

7. There is also the problem of the liquidation of commercial and other balances blocked in Turkey prior to the effective date of the Agreement. While the Department still does not desire to inject this question directly into the trade-agreement negotiations, you should, at a favorable opportunity and within your discretion, endeavor to ascertain what action the Turkish authorities propose to

take with respect to the liquidation of these blocked balances. If the agreement can be signed and made effective prior to the end of this year, a partial solution may be found by endeavoring to have the proportional exchange formula apply to 1938, which would presumably hasten the liquidation of the blocked commercial balances. However, if necessary, we would accept 1939 as the first year to which the formula will be applied.

8. With respect to the question of consolidation of tariff rates and other supplementary charges on Schedule I items, the Department is unwilling to recede from the substance of Article I as contained in your despatch No. 740, enclosure No. 1, of July 7, 1938,³⁵ except for the change in the period of delay from 1 year to 6 months.

9. Moreover, the Department feels (1) that paragraph 2 requires clarification, since the phrase "la tarification résultant", et cetera might be interpreted as not to include supplementary charges; (2) that the duties, taxes and charges to be bound should be those imposed on the date of signature rather than the effective date of the Agreement; and (3) that the incorporation of a clause providing for compensatory modifications (as in our agreement with France) would be desirable. Unless you perceive objection, you should therefore inform the Turkish authorities that your Government is willing to accept a 6 months' notice clause, but that it prefers that the first sentence of the second paragraph of the Article read as follows:

"2. In the event that the Government of the Turkish Republic should find it necessary to increase the rates of duty set forth in Schedule I, or to impose other new or increased duties, taxes or charges of any kind on or in connection with the importation of the articles enumerated and described in the said Schedule, the rates of duty set forth in that Schedule as well as all other duties, taxes or charges of any kind imposed on or in connection with importation on the day of the signature of this Agreement or required to be imposed thereafter under laws of the Turkish Republic in force on that day, shall be maintained without change in respect of such articles until the expiration of 6 months from the date of promulgation of any such new or increased duties, taxes or charges."

10. For purely technical reasons, the Department also prefers that the opening phrase of paragraph 1 read "Articles the growth, produce or manufacture of the" et cetera.

11. Article 2 of the Turkish counterproposal of July 13 relating to Schedule II items (your despatch No. 764, enclosure 1³⁶) is of course also unsatisfactory in that it omits the substance of the second sentence of our standard article, reference No. 3.

³⁵ Despatch not printed; for its enclosure, see *aide-mémoire*, July 1, p. 1069.

³⁶ Despatch not printed; the enclosure referred to was substantially the same as the Turkish counterproposals handed to the Secretary of State on July 26, p. 1073.

12. At a favorable opportunity you should discuss the foregoing matters with the Turkish authorities. However, you may wish to defer such discussions pending receipt of instructions concerning Turkish Schedule II requests expected to be telegraphed shortly.

HULL

611.6731/430a : Telegram

The Secretary of State to the Ambassador in Turkey (MacMurray)

WASHINGTON, September 23, 1938—6 p. m.

93. Personal for the Ambassador. I am becoming somewhat concerned lest the trade agreement negotiations, which have now been in progress for 6 months, may result in failure. I fully appreciate the difficulties which the delegation has encountered but I feel that our recent telegrams have suggested alternatives and concessions which should offer a reasonable basis of agreement acceptable to both parties.

It has occurred to me that such an agreement might be expedited if you would express to the Prime Minister or the Foreign Minister or both my personal interest in seeing the negotiations brought to a successful conclusion at an early date. I leave to your discretion whether such an approach would be helpful or otherwise, but in any case I should be appreciative if you would continue to follow the negotiations closely with a view to coordinating our own efforts and otherwise assisting our delegation by your advice and counsel.

HULL

611.6731/437 : Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ISTANBUL, October 6, 1938—10 a. m.

[Received 6 p. m.]

69. From Trade Agreement Delegation. Department's telegram No. 90, September 17, 3 p. m.

1. With reference to paragraph 1 delegation does not believe Turkish authorities will insist upon making the proposed trade agreement a supplement to the existing commercial treaty. Present Chief of Turkish delegation however has repeatedly stated, as we have reported to the Department, that Turkey is prepared to conclude at this time, not a comprehensive trade agreement along the lines of our original proposal but a short simple agreement along the lines of Turkish counter proposal of June.³⁷

³⁷For general summary of Turkish counterproposal of June 7, see telegram No. 46, June 8, 7 p. m., from the Ambassador in Turkey, p. 1057.

Department has failed up to the present time to indicate whether the Department will insist that the trade agreement be similar in length and scope to Standard General Provisions, whether it is willing to follow the same procedure in the case of Turkey as was followed in the case of Belgium. (Enclosure 1, despatch No. 691, June 10, 1938).³⁸ Or whether it is willing to negotiate permanent general provisions on the basis of the Turkish draft. We urgently desire to know what provisions the Department will insist upon having included in the agreement because in view of the fact that we have not been able to take any position in the matter the Turkish delegation is assuming that we have accepted the Turkish counter-draft as the basis of the agreement.

If the Department should insist that trade agreement be similar in length and scope to the Standard General Provisions we believe in view of the attitude taken by the Turkish authorities that the chances of concluding an agreement would be slight. Moreover in view particularly of the proposed short duration of the agreement we believe that the needs of American Turkish trade can be adequately covered by adding to the five articles of the Turkish proposal now under discussion, an article covering most favored nation treatment including application to Government purchases and also perhaps quantitative restrictions and articles (which we assume that it will also be necessary to add for technical reasons) covering compensating taxes, general reservations, territorial application and existing treaty. Should the Department be disposed to conclude a trade agreement on such a basis we recommend that we be instructed to endeavor to secure the acceptance of the following text:

Article 1 on concessions by Turkey as indicated Department's telegram under reference with provision for compensatory modifications.

Article 2 identical with standard reference number 3.³⁹

Article 3 identical with enclosure number 2 to despatch 651, May 16, 1938.⁴⁰

Article 4 "Articles the growth, produce or manufacture of the United States enumerated and described in Schedule I and articles the growth, produce or manufacture of the Turkish Republic enumerated and described in Schedule II, shall be permitted to be imported into the territory of the other country freely without restriction or limitation". There follow paragraphs identical with the second and third paragraphs of article 5 of French agreement.

³⁸ Not printed.

³⁹ Regarding duty concessions by the United States. See article II of standard general provisions, *Foreign Relations*, 1935, vol. I, p. 541.

⁴⁰ Not printed. The proposed text was as follows: "The provisions of this Agreement shall not prevent the Government of either country from imposing at any time on the importation of any article a charge equivalent to an internal tax imposed in respect of a like domestic article or in respect of an article from which the imported article has been manufactured or produced in whole or in part."

Article 5 numbered paragraph 1 identical with standard article reference number 12⁴¹ omitting reference to financial assistance and inserting in its place "and with respect to all foreign purchases by the Government of either country or any agency thereof".

Numbered paragraph 2. "The Government of either country shall impose no prohibitions, restrictions or limitations upon importation of any article the growth, produce or manufacture of the other country unless importation of the like article the growth, produce or manufacture of all countries is similarly prohibited, restricted or limited. In the event that any such restrictions or limitations are imposed the Government which imposes them shall allot to such other country a fair and equitable share of the total permitted importations of each article subject to such requirements or limitations."

Article 6 article on exchange control as indicated in Department's telegram under reference with following change: in paragraph 2 for "merchandise imported into Turkey from the United States of America" substitute "commercial imports into Turkey, the growth, produce or manufacture of the United States of America" and for "merchandise" in the two places where this word occurs substitute "commercial".

Article 7 identical with enclosure 2(a) to despatch No. 660, May 30, 1938.⁴²

⁴¹ Regarding most-favored-nation clause. Except for a few minor changes, this is the same as article X of the standard general provisions, *Foreign Relations*, 1935, vol. I, p. 541.

⁴² Not printed. Proposed text of Article on General Reservations was as follows:

"1. The provisions of this Agreement concerning the treatment accorded by the United States of America or the Turkish Republic to the trade of the other country shall not apply to:

(a) advantages now accorded or which may hereafter be accorded by each of the two countries to adjacent countries in order to facilitate frontier traffic within a zone not exceeding fifteen kilometers on either side of the frontier;

(b) advantages resulting from a customs union to which either the United States of America or the Turkish Republic may become a party, so long as such advantages are not accorded to any third country;

(c) advantages which the Turkish Republic has accorded or may hereafter accord in the matter of the customs tariff affecting products originating within the territories detached in 1923 from the Ottoman Empire;

(d) advantages now accorded or which may hereafter be accorded by the United States of America, its territories or possessions, or the Panama Canal Zone to one another or to the Republic of Cuba.

The provisions of sub-paragraph (d) of the present 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.

"2. Nothing in the present Agreement shall be construed to prevent the adoption of measures prohibiting or restricting the exportation 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, and it is agreed, further, that nothing in the present Agreement shall be construed to prevent the adoption or enforcement of measures relating to neutrality.

"3. Subject to the requirement that, under like circumstances and conditions, there shall be no arbitrary discrimination by either country against the other

Article 8 identical with enclosure 3 (a) to same despatch.⁴³

Article 9 identical with enclosure 7 to despatch No. 651, May 16, 1938.⁴⁴

Article 10 on effective date duration and termination providing that effective date 1 month after signature, duration of 1 year with automatic extension if not denounced at 2 months notice.

2. In recommending the above text we request the Department's decisions on the following points.

Reference article 5 paragraph 2. No comment has been received from the Department on the Turkish proposal relating to import restrictions on non-schedule articles discussed at the end of numbered paragraph 3 of Embassy's telegram No. 49 of August 18. We think a statement in the text of the agreement to the effect that such articles imported into Turkey from the United States shall continue to be subject to the Turkish general import [restrictions?] might be interpreted as giving freedom of action to the Turkish authorities. If the Turks should reject the paragraph under reference would the Department be disposed to accept an exchange of notes indicating that Turkey now imposes no restriction on imports of United States products and also indicating the present practices and policies of our Government with respect to import restrictions in so far as they affect Turkey?

Reference article 6 paragraph 2 and article 5 paragraph 2. The use of the phrase "commercial imports" will reserve allocated exchange for ordinary imports since armament purchases and other military purchases are not classified by Turkish Government as commercial im-

country in favor of any third country, the provisions of this Agreement shall not extend to prohibitions and restrictions:

- (a) relative to public security;
- (b) imposed on moral or humanitarian grounds;
- (c) designed to protect public health or the life of animals or plants;
- (d) relative to prison-made goods; or
- (e) relative to measures taken for the enforcement of police or revenue laws."

⁴³ Proposed text of Article on Territorial Application was as follows:

"1. The provisions of this Agreement regarding most-favored-nation treatment 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 Turkish Republic, 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.

"2. Except as otherwise provided in the second paragraph of this Article, the provisions of this Agreement relating to the treatment to be accorded by the United States of America and the Turkish Republic, 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 the Panama Canal Zone."

⁴⁴ Not printed. Proposed text of Article on Existing Treaty was as follows:

"Nothing in this Agreement shall be deemed to affect the rights and obligations arising out of the Treaty of Commerce and Navigation between the United States of America and the Turkish Republic, signed at Ankara on October 1, 1929."

ports and are not included in the Turkish import statistics upon which our exchange formula is based. The use of the phrase "growth, produce or manufacture of the United States of America" is designed to prevent the use of the allocated exchange for the payment of goods purchased in other countries and shipped through the United States. The insertion in paragraph 1 of article 5 of reference to Government purchases is intended to protect our trade against the practice of the Turkish Government of ordering its agencies to buy only from clearing countries.

3. Article on internal taxation has been omitted from our suggested draft mainly because nearly all of the important American exports to Turkey particularly items to be included in Schedule I are non-competitive with Turkish production.

4. Wadleigh desires to draw to the attention of the Department the fact that the use of the word "nationals" in the first paragraph of the exchange control article (numbered paragraph 2 of the Department's telegram) would make the provisions of this paragraph apply to the non-commercial as well as commercial transactions. [Trade Agreement Delegation.]

MACMURRAY

611.6731/439 : Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ISTANBUL, October 12, 1938—9 a. m.

[Received 1:40 p. m.]

70. Your personal telegram 93, September 23, 6 p. m.

1. Since my return to my post I have kept in close touch with the trade agreement negotiations although leaving their actual conduct in the hands of Kelley who has been carrying them on very capably. I shall, of course, hold myself ready to intervene with the Prime Minister or Minister for Foreign Affairs at any desirable juncture; but neither he nor I consider that the moment has yet come when it would be helpful to act upon your suggestion. The discouraging delays that have occurred have not been due to any lack of good will but (save as they may have been increased by external and accidental circumstances) have been primarily the result of fundamental difference in the prevalent attitude of the Turks and of ourselves towards the whole question of international trade. While the principles which we advocate appeal to them as doubly desirable their situation and their experience do not qualify them to appreciate the necessity for such elaborations as we have found advisable and they are timid about committing themselves to formulas which are new to them and

whose effects they do not feel able to foresee. I therefore consider as does the delegation (see my telegram 69, October 6, 10 a. m.) that we can scarcely hope that the Turks can be persuaded to conclude with us so comprehensive and precise an agreement as the Department has had in view but must content ourselves with something considerably less detailed. And so far as concerns our trade relations with this country I do not think we could lose anything by foregoing a considerable degree of elaboration and relying upon broad general statements of essential principles.

2. May I submit for your personal consideration the fact that one aspect of the current negotiations which gives me considerable concern is the formulation of the exchange clause proposed by the Department. I cannot but acknowledge that that formulation seems to me to sacrifice substantial trade possibilities in grasping at a mere shadow of multilateralism. The Turks have offered to buy from us 80% of what we buy from them and say they need the 20% margin for exchange requirements that they have very little opportunity to meet otherwise. We have in effect said that we do not mind their getting the benefit of a margin equivalent to 20% or even more if only they will consent to state it in ostensibly multilateralistic terms. Because the formula which we have proposed for that purpose introduces into the situation a further variable the Turks have to assume a greater risk as to the amount of free exchange that may be left available to them under it and they not unnaturally consider that it would entitle them to treat their commitment as a maximum rather than a minimum obligation leaving them a possible surplus which they would feel free to expend elsewhere for such purposes as the purchase of armaments or the repayment of obligations incurred under the recent credit agreement with Great Britain. The probable reduction in the amount of their purchases from us is a price that we might well pay if in exchange for it we were assuring Turkey's adherence to the principles which we are advocating: but to me it seems that on the contrary our adoption of an exchange formula which is expressed in multilateralistic terms but which is in fact calculated on a base period chosen for the purpose of giving the Turkish Government at least the equivalent of the amount of exchange it would have got under its bilateralistic formula, is not an affirmation but a denial of our principles. I venture to submit my own strong feeling (although I am aware that the Department has already ruled against such a view) that the agreement would be not only more advantageous to our trade but also more consonant with our own principles if the exchange clause were to take some form embodying a mere general undertaking on the part of the Turkish Government to make exchange available for commercial payments to the United States to the fullest extent com-

patible with its own exchange availabilities. And I believe that our generally satisfactory experience with the Turkish Government in regard to the application of the most-favored-nation clause in our existing commercial treaty justifies the conclusion that under such a general provision with regard to exchange we could obtain for our trade actually better treatment than under the more detailed provisions contemplated by the Department.

3. The negotiations have recently been slowed down by the illness of the Turkish negotiator Numan but we now expect them to be accelerated in consonance with the desire of the Prime Minister and Minister of Economy as expressed to me in the course of a casual conversation last Friday. With that in view it would be particularly helpful if the Department were to give us as early a reply as possible to my telegram 69, October 6, 10 a. m.

MACMURRAY

611.6731/444 : Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ISTANBUL, October 21, 1938—3 p. m.

[Received 6 : 55 p. m.]

74. From Trade Agreement Delegation. Department's 90, September 17, 3 p. m.

1. Your numbered paragraph 3. Turkey is willing to accept our exchange article without clause proposed by it, provided we are willing to exclude from the total of Turkish imports to be used as a basis of calculation under exchange provision, goods imported into Turkey under the recently arranged British and German Government credits beyond the amount of payments made on those credits during the year in question. Chief of Turkish delegation states that he is willing to try out our exchange provision, although it involves some risk for Turkey but he points out that during the next few years Turkish total imports will be abnormally large as a result of imports under the above-mentioned credits; goods will be imported in a few years which will be paid for only over 10 years; 10 million pounds sterling of the British credit and more than 100 million marks of the German credit will be used for non-military purchases and the resulting imports will therefore be included in the Turkish import statistics. In consequence of this situation, he believes that Turkish exchange availabilities will probably be insufficient to pay for 10.9 percent of Turkish total imports during next few years. It is the opinion of the delegation that the Turkish request deserves serious consideration since it is important that under the operation of these credits Turkish total imports may be increased to such an extent during the next few years that Turkey

would not have available for imports from the United States (after meeting other essential needs) the amount of exchange required by our formula.

Chief of Turkish delegation proposes as an alternative to our formula that Turkey undertake to make available for imports from the United States in any year, a specified amount of exchange rather than, as we have proposed, exchange for a fixed percentage of Turkish total imports. He has in mind as specified amount the sum corresponding to 10.9 percent of average annual Turkish total imports in 1935-37. He would give us a letter to the effect that if commercial exchanges between the two countries developed favorably the amount specified would be increased by mutual agreement. He explained that Turkey would make available to us any difference between the specified amount and 80 percent of the proceeds from Turkish exports to the United States. He said that this alternative proposed was merely a suggestion on which he would not insist in any way.

2. With respect to Schedule I concessions, Turkish Government takes position that, since the Turkish Parliament is so strongly opposed to any restriction on its powers in regard to customs matters, such as would result from the provision requiring a 6 months' delay in application of increased rates to schedule articles, it can include in an agreement containing that provision only small tariff reductions on a small number of articles as contained in its offer of August 30 (see despatch No. 818, September 16, 1938 enclosure 2⁴⁵). While the Turkish Government desires to lower its tariff rates on many American specialties for internal reasons, it does not desire to be bound to reduced rates under an international agreement. Accordingly, Chief of Turkish Delegation has proposed the following alternatives:

(a) If the United States insists on the 6 months' clause, the Turkish Government will grant in the agreement only small percentage reductions on a small list of articles (list of August 30 may be slightly enlarged), and then by unilateral action (outside of the agreement itself but in consultation with the United States) it will make substantial further tariff reductions on the same schedule articles and on other American specialties. This procedure, he said, would give us the substance of what we desire and at the same time would enable him to defend the agreement in Parliament by pointing out that the Government had consolidated only a small part of the reductions made.

(b) If the United States were willing to give up the 6 months' clause, the Turkish Government would write into the agreement substantial percentage reductions on a wide range of American specialties. Under this procedure, the agreement itself would contain the

⁴⁵ Not printed.

tariff reductions which under alternative (a) would be made outside of the agreement. The Chief of the Turkish delegation declared that he could guarantee 100 percent that there would be no increase in the duties on schedule articles during the term of the agreement. He said that the practical result would be the same, whichever alternative we selected.

Although there may be objections from the point of view of general commercial policy we consider that alternative (b) would be satisfactory in practice from the point of view of Turkish-American trade. In the first place, the agreement may be terminated at the end of a year; secondly, the general trend of Turkish policy is to decrease, rather than to increase rates for reasons of internal policy; thirdly, we believe, specially on the basis of past practice, that the Turkish Government considers it a moral obligation not to increase tariff duties on articles upon which percentage reductions have been made in international agreements.

It should be noted that while the executive authorities have under the Turkish system large powers to make reductions of tariff duties they are not empowered to assure the maintenance of such rates as against the rather jealously guarded right of the Parliament to determine at will the basic rates. The Cabinet is, therefore, not in a position to undertake to bind any given rate. If Schedule I were to contain only percentage reductions, it would be necessary that the binding of those items for which we have requested such treatment should take the form of a nominal reduction of duties.

3. Your numbered paragraphs 8 and 9. Chief of the Turkish delegation states that the consolidation of supplementary taxes and other charges on schedule articles is constitutionally impossible for the Turkish Government. He says that Parliament has not given the Government power to consolidate such charges and Parliament would not approve any provision to this effect. He proposes instead a clause specifying that, in the event of an increase of the supplementary taxes and charges on schedule articles of such nature as to impair the value of concessions granted in the agreement, the United States would be free to terminate the agreement.

4. In view of Turkish desire to conclude the negotiations as soon as possible and of the unfavorable effect on our commercial interests of continued uncertainty with regard to the conclusion of the agreement and in view of the fact that the great bulk of the tobacco purchasing which constitute the principal source of Turkey's dollar exchange will start November 14 and be completed in a few days, the delegation hopes that it will receive promptly Department's instructions with regard to questions presented in this telegram. [Trade Agreement Delegation.]

611.8731/437 : Telegram

The Secretary of State to the Ambassador in Turkey (MacMurray)

WASHINGTON, October 31, 1938—1 p. m.

101. For Trade Agreements Delegation. Your 69, October 6, 10 a. m. and 74, October 21, 3 p. m.

1. The Committee on Trade Agreements has approved the following general provisions for inclusion in the proposed Turkish Agreement and you are instructed, unless you perceive objection, to propose them to the Turkish authorities.

(1) The articles recommended in your telegram 69 under reference with the following modifications:

Article 1, substitute the following text:

“Articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I annexed to this Agreement shall be subject, on their importation into the territory of the Turkish Republic, to the rates of duty provided for in the said Schedule. In the event that the Government of the Turkish Republic should deem it necessary, after this Agreement enters into force, to increase the duties or other charges applicable to the said articles, such new or increased duties or charges shall not be applied to the said articles until 6 months after the date of their promulgation. If, before the expiration of the aforesaid period of 6 months, a satisfactory agreement has not been reached with respect to such compensatory modifications of this Agreement as may be deemed appropriate, the Government of the United States of America shall be free, within 15 days after the date of the application of the new or increased duties or charges, to terminate this Agreement in its entirety on 30 days’ written notice.”

With reference to your telegram 74, paragraph 2, neither (a) nor (b) is satisfactory. Proposal (a) would subject us to severe criticism on the ground that we had failed to obtain in the agreement itself substantial concessions the Turks were apparently willing to give. We would greatly prefer substantial reductions on as long a list as possible, with any unilateral reductions largely confined to non-schedule items. Proposal (b) would give us nothing even resembling a binding of concessions. If, despite your insistence upon 6 months’ delay and a fairly long Schedule I with substantial concessions, the Turks hold firmly to their proposal (a), you should endeavor in the time at your disposal to work out a compromise solution which would give us the best possible Schedule I, both as to items and concessions, on the basis of a shorter period of delay such as 90 or even 60 days. Since such a compromise solution would be beyond the scope of the instructions contained in this telegram, it would have to be clearly understood that it was on an *ad referendum* basis. You may consider it within the scope of your instructions to agree, if necessary, to the

expression of the concessions in two columns in the form of percentage reductions from existing general rates applicable to the items in the schedule.

With reference to your 74, paragraph 3, we regret exceedingly that the Turkish authorities have again refused anything in the nature of a binding of supplementary charges (other than those permitted by Article 3) even for a short period, as we attach great importance to a suitable provision on this point. You should consider carefully whether any further approach on this question would have any chance of success, but, if you are satisfied that it is in fact legally impossible for the Turkish Government to accept the text quoted in full above, you are authorized to propose the foregoing text of Article 1 with the following changes:

(a) Substitute the following text as the second sentence: "In the event that the Government of the Turkish Republic should deem it necessary, after this Agreement enters into force, to increase the duties provided for in the said Schedule, such increased duties shall not be applied to the said articles until six months after the date of their promulgation"; (b) substitute in the last phrase of the last sentence after "application of" the words "such increased duties, to terminate" et cetera.

In proposing this modified text you should inform the Chief of the Turkish Delegation that we prefer to rely on the general safeguards Article (new number 10 below) rather than include a provision along the lines he suggested.

Article 2, delete "and made a part thereof".

Article 3, see Department's instruction No. 289, August 11, 1938.⁴⁶

Article 4 (new article 5), paragraph 1, insert "of America" after "United States"; delete "freely" and "or limitation"; insert "any quantitative" before "restriction". Paragraph 2 substitute "articles" for "products" wherever occurring and add "or tending to increase the labor costs of production of such articles". The addition of this phrase is necessary for legal reasons.

Articles 5 and 6 combined in one article (new article 6) as follows: numbered paragraph 1 identical with standard article reference number 12 with no additions. Numbered paragraph 2 as follows: "Neither the United States of America nor the Turkish Republic shall establish or maintain any import or export prohibition or restriction on any article originating in or destined for the territory of the other country, which is not applied to the like article originating in or destined for any third country. If imports of any article in which the other country has an interest should be regulated either as regards the total

⁴⁶ Not printed. It stated that the Department would be prepared to accept the text of the article as contained in enclosure No. 2, Despatch No. 651, May 16 (611.6731/386). See footnote 40, p. 1084.

amount permitted to be imported or as regards the amount permitted to be imported at a specified rate of duty, and if shares are allocated to countries of export, the share allocated to the other country shall be based upon the proportion of the total imports of such article from all foreign countries supplied by the other country in a previous representative period." Numbered paragraph 3: your article 6 combined as one paragraph, with the insertion of the words "of articles" after "Turkey". Numbered paragraph 4: "It is agreed that the Government of the United States of America and the Government of the Turkish Republic, in the awarding of contracts for public works and generally in the purchase of foreign supplies by the respective Governments or any agency thereof, shall not discriminate against the other country in favor of any third country."

With reference to the foregoing numbered paragraph 2 covering general quantitative restrictions, the Turkish proposal for provisions stipulating that the importation into Turkey of non-schedule articles shall be subject to the general Turkish import regime and the proposed exchange of notes relating thereto is not acceptable. The foregoing text, while similar to that proposed by you, covers export prohibitions, customs quotas, and makes allocation optional. This last point is very desirable because in general we do not wish to be obliged to allocate quotas.

The inclusion of the words "nationals and" in numbered paragraph 3, which are also contained in earlier agreements, would make the provisions of the first sentence of that paragraph apply generally to non-commercial transactions and their retention is desirable. However, you are authorized to omit them if the Turkish authorities object. With reference to non-military imports into Turkey resulting from British and German loans (your telegram 74, paragraph 1), we assume that they would fall in the category of governmental purchases and hence would be properly deductible from total imports for purposes of the exchange formula. If the Turkish authorities do not wish to publish statistics showing imports of non-military supplies by the Turkish Government or agencies thereof separate from non-governmental (that is, commercial) imports, we would be willing to have them inform us of the amount of total governmental non-military purchases made abroad, including without specification such purchases as may result from the British and German loans, which they may deduct from total imports to arrive at the figure for total commercial imports. On the basis of this understanding, it is assumed that the Turkish authorities will agree to our exchange proposal. The Turkish proposal to make available for imports from the United States a specified amount of exchange rather than a share of whatever the total commercial imports may be is of course not acceptable.

You should endeavor to obtain acceptance of numbered paragraph 4, covering government purchases but if it is objected to, you are authorized to drop it.

Article numbered 7 (new Article 9), paragraph 1: change to read "The provisions of this Agreement shall not apply to:"; in sub-paragraph (a) substitute "either country" for "each of the two countries"; in sub-paragraph (c) substitute "articles" for "products"; in sub-paragraph (d) insert comma after "Cuba", add "irrespective of" et cetera and delete intervening text. Numbered paragraph 2: insert "or importation" after "exportation" in third line and substitute semi-colon for comma after "supplies" in seventh line, and delete "it is agreed, further, that" and "be construed to" in the phrase which follows. Numbered paragraph 3: substitute "or" for "and" in fifth line.

For your confidential information the Department is giving serious consideration to the request of the Greek Government for the inclusion in the proposed *modus vivendi*⁴⁷ with Greece of provisions excepting the advantages which may be accorded by Greece to the members of the Balkan Entente. We would therefore appreciate your comments as to the desirability of including similar provisions in the proposed agreement with Turkey. (Your despatch No. 650, May 18, 1938,⁴⁸ enclosure No. 1, last paragraph.)

Article 8 (new Article 8) substitute the following simplified text which has been proposed in other agreements now being negotiated: "The provisions of this Agreement relating to the treatment to be accorded by the United States of America and the Turkish Republic, respectively, to the commerce of the other country shall apply, on the part of the United States of America, to the continental territory of the United States and such of its territories and possessions as are included in its customs territory on the day of the signature of this Agreement. The provisions of this Agreement relating to most-favored-nation treatment shall apply, however, to all territories under the sovereignty or authority of the United States of America, other than the Panama Canal Zone." In explanation of this article you may state that the customs territory of the United States includes all its territories and possessions except the following: the Philippine Islands, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, and the Island of Guam; furthermore, the customs territory of the United States does not include the Panama Canal Zone.

Article 9 (new Article 11), no change.

Article 10 (new article 12). It is suggested that you adapt the text of Article 19 of our Agreement with Czechoslovakia⁴⁹ as required

⁴⁷ See pp. 516 ff.

⁴⁸ Not printed.

⁴⁹ Signed at Washington, March 7, 1938; Department of State Executive Agreement Series No. 147, or 53 Stat. 2293.

by the Turkish situation. On our part the effective date must be at least 1 month after proclamation by the President. Therefore, only in the event that the Agreement should be proclaimed on day of signature could the provisional effective date be 1 month after signature.

While we would prefer 6 months' notice after initial period of 1 year, we are prepared, if necessary, to accept 2 months;

(2) Standard articles reference numbers 6⁵⁰ and 18⁵¹ (new Articles numbers 4 and 10), the latter with the 60 day escape clause added in our instruction No. 235, April 19, 1938.⁵² Article standard reference number 6 is considered important for the protection of non-schedule as well as schedule articles;

(3) The Treasury Department prefers that standard article reference number 14⁵³ (new 7) be included in the Agreement.

2. If you should find it necessary to drop any provisions as authorized above, you should not fail to make it clear that we expect to receive in fact the treatment which those provisions would insure, and that if such treatment should not be accorded we would feel free to invoke the general safeguards article.

3. While we do not wish to follow the Belgian precedent of an exchange of specific concessions covered by an exchange of notes so inadequate in substance as to require further supplementary negotiations, we are willing, if necessary to obtain an agreement, to accept general provisions as indicated above in the form of an exchange of notes. In this event the usual form for exchanges of notes would be followed. However, if the Turkish authorities are willing to conclude an agreement in the usual form, containing a Preamble, you are authorized to propose a simplified Preamble similar to that contained in the trade agreement between the United States and Haiti.⁵⁴

⁵⁰ Regarding internal taxation. Text as follows: "Articles the growth, produce or manufacture of the United States of America or 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."

⁵¹ General provision to safeguard concessions. Text as follows: "In the event that the Government of the United States of America or the Government of 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 which has adopted any such measure shall consider such representations and proposals as the other Government may make with a view to effecting a mutually satisfactory adjustment of the matter."

⁵² Not printed.

⁵³ Regarding exchange depreciation. Text as follows: "In the event that the rate of exchange between the currencies of the United States of America and varies considerably from the rate obtaining on the day of the signature of this Agreement, the Government of either country, if it considers the change in rate so substantial as to prejudice the industry 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."

⁵⁴ Signed at Washington, March 28, 1935; Department of State Executive Agreement Series No. 78, or 49 Stat. 3737.

4. If there appears to be a reasonable opportunity of reaching an agreement along the lines outlined above, but the Turkish authorities request further concessions on any Schedule II items, you should telegraph such requests for further consideration here.

5. With these instructions, the Department desires that you make every effort to reach a tentative agreement at the earliest possible date. If the Turkish authorities are not willing to accept provisions substantially as outlined herein, you should nevertheless obtain the best possible agreement on both general provisions and schedules, making it clear as regards any provisions not authorized by your instructions that they are tentative and subject to approval. Wadleigh and Burns should leave Istanbul with a draft agreement in both languages if possible, so as to sail from Le Havre not later than on the S. S. *Manhattan*, leaving December 15th.

HULL

611.6731/462 : Telegram

*The Acting Secretary of State to the Ambassador in Turkey
(MacMurray)*

WASHINGTON, December 3, 1938—4 p. m.

28. Your 58, November 27, 4 p. m.⁵⁵

1. It is the definite policy of this Government to include an article on exchange depreciation in the general provisions of its trade agreements, and this policy has been consistently followed in all agreements concluded since 1935. It is felt therefore that the Article should be included in the proposed agreement with Turkey in order that a precedent may not be established for its omission in any subsequent agreement where its inclusion would be of greatest practical importance. It is therefore essential that you continue to seek the assent of the Turkish authorities to its inclusion. If, however, the omission of this Article proves to be a *sine qua non*, for the Turks, and if agreement has been reached with respect to all other essential points, you should so inform the Department by telegraph.

2. In view of this Government's general policy of granting concessions on articles of which the other country is a principal or major supplier, it is felt that the exception to this principle already made in

⁵⁵ Not printed. This telegram reported detailed tariff schedule negotiations and with respect to general provisions as follows: "Turks are prepared to accept the general provisions approved by the Department in its 101, October 31, 1 p. m., with the following changes; reduction of delay provided in article 1 to 3 months, omission of article on exchange depreciation and several very minor modifications." In its reply, telegram No. 27, November 29, 7 p. m., the Department authorized the delegation to accept provision for 3 months' notice in article 1. (611.6731/437, 462)

authorizing you to offer a reduction to 40 cents in the specific rate on oriental rugs is as far as we should go, and therefore that no further reduction should be granted in this rate.

WELLES

611.6731/467: Telegram

*The Acting Secretary of State to the Ambassador in Turkey
(MacMurray)*

WASHINGTON, December 12, 1938—7 p. m.

33. Your No. 65, December 11, 4 p. m.⁵⁶

1. Please telegraph immediately text of proposed Balkan clause.

2. The Department desires to avoid any publicity regarding the terms of the agreement or the fact that a text has been initialed until text is signed and made public along with a press release analyzing the agreement. Please make arrangements with the Turks in this sense.

3. Since it is necessary to have exact text and to obtain final clearance before authorizing signature, it is assumed that the initialing of the draft on Thursday will signify agreement of the negotiators only and that the draft will be subject to final approval here as well as to any necessary technical and drafting changes.

4. The Turkish request for a further concession on rugs is being given consideration with a view to instructing you before Thursday.

WELLES

611.6731/471: Telegram

*The Ambassador in Turkey (MacMurray) to the Acting Secretary
of State*

ANKARA, December 13, 1938—6 p. m.

[Received 8:46 p. m.]

66. From Trade Agreement Delegation. Department's 33, December 12, 7 p. m.

1. Your numbered paragraph 1. It is proposed to insert words "and to the countries of the Balkan Entente" at the end of subparagraph (c) in paragraph (1) of your article 9 (Department's telegram No. 101, October 31, 1 p. m.).

When informed that the correspondence clause does not appear in provisional commercial agreement recently concluded between the United States and Greece, Turks replied that a conference of Balkan

⁵⁶ Not printed.

Entente had decided that all member countries should include this exception in their commercial treaties and that it was the established policy of the Turkish Government to act in accordance with this decision.

2. Your numbered paragraph 2. Inasmuch as complete silence at the time of initialing agreement might well be interpreted as indicating a break-down of the negotiations (departure of delegates cannot be kept secret) and since Turkish authorities will probably be unwilling to agree to maintain complete silence (local press is constantly publishing items about the negotiations and inquiring of the Government as to their status) we suggest that the two delegations be permitted to state informally to the press that they have come to an understanding with regard to a draft of an agreement which is being submitted to their governments for approval and that we be permitted to state if inquiry is made that the proposed agreement is not a clearing agreement but along the lines of the trade agreements concluded by the United States with other countries (local press is constantly stating and businessmen generally believe that a clearing agreement is being negotiated, as this is the type of agreement usually concluded by Turkey with foreign countries it is desirable to correct this impression).

3. Turks understand that initialing of the text signifies agreement of the negotiators only and that the draft is subject to final approval in Washington. [Trade Agreement Delegation.]

For Ambassador
KELLEY

611.6781/467 : Telegram

The Acting Secretary of State to the Ambassador in Turkey
(MacMurray)

WASHINGTON, December 13, 1938—7 p. m.

34. Your 65, December 11, 4 p. m.⁵⁷

1. As stated in our 104, November 14, 6 p. m., numbered paragraph 2, and our 27, November 29, 7 p. m.,^{57a} numbered paragraph 1, you were instructed to offer a reduction in the duty on tobacco if you found it necessary or helpful in obtaining a more satisfactory Schedule I. Since the Turkish authorities place no value on a concession on tobacco you should of course withdraw the offer.

2. You are authorized to offer Turkey a reduction in the rug duty to 30 cents per square foot, but not less than 45 percent ad valorem with no restriction as to value.

⁵⁷ Not printed.

^{57a} Neither printed.

3. The Committee on Trade Agreements objects strongly to any reduction in the period of delay in article 1 to less than 3 months. In view of the reduction now authorized on rugs, you should request the assent of the Turkish authorities to the 3 months' period of delay previously authorized.

4. We assume that "increase of period of delay in article 5 to 2 months" refers to delay in the imposition of quantitative restrictions rather than in the period of notice. This modification is approved.

5. The Committee on Trade Agreements is very reluctant to agree to the inclusion of the Balkan clause. In any event, it would need to be restricted to named countries. Therefore, if you cannot avoid including a clause relating to Balkan preferences in the draft which you propose to initial on Thursday, you should make it clear to the Turks that it is included on an *ad referendum* basis, and subject to approval here.

6. It is not possible for us to conclude the agreement solely in French, and we would greatly prefer that the agreement be made in only two languages, one of them, of course, being English. While we would have no objection to the other language being French, we presume that, inasmuch as the present Treaty of Commerce and Navigation is in English and Turkish, the Turkish Government would prefer those two languages.

WELLES

611.6731/470: Telegram

*The Acting Secretary of State to the Ambassador in Turkey
(MacMurray)*

WASHINGTON, December 14, 1938—4 p. m.

36. Your 66, December 13, 6 p. m.

1. The authority requested in your numbered paragraph 2 is granted. Please telegraph as soon as possible when your informal statement will be given to the press there in order that a similar statement may be made here simultaneously.

2. Please forward by air mail copies of the text of the agreement which you initial, in all languages, as soon as possible. You should verify the Turkish text before transmission. If this necessitates a delay, you should forward a copy of the English text at once to be followed later by the Turkish text.

3. It is assumed that Wadleigh and Burns will leave Ankara in time to sail from Le Havre on December 22. They should bring with them the latest available Turkish trade statistics, particularly those relating to schedule items, for use here in preparing the analysis of the agreement.

WELLES

611.6731/480 : Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ISTANBUL, December 22, 1938—3 p. m.
[Received December 22—12: 15 p. m.]

76. Department's telegram No. 40, December 20, 8 p. m.⁵⁸

1. The initialed Turkish and English texts of the agreement will be forwarded by courier scheduled to leave Istanbul December 28.

2. Balkan clause in agreement as initialed reads (at the end of sub-paragraph *c*) "or to the countries of the Balkan Entente namely Greece, Rumania and Yugoslavia". Turkish authorities are willing to insert only names of the three countries if we so desire. Delegation preferred present wording. Turkish authorities are unwilling to omit clause for reasons stated in numbered paragraph 1 of Embassy's 66, December 13, 6 p. m.

A 5 cent reduction on tobacco is contained in schedule II. When American delegation proposed the withdrawal of tobacco concessions Turkish delegation stated that since the reduction might work out in a way to benefit Turkey it desired to have it remain in the agreement.

MACMURRAY

**PROPOSED AGREEMENT BETWEEN THE UNITED STATES AND TURKEY
REGARDING THE STATUS OF CERTAIN NATURALIZED AMERICAN
CITIZENS NATIVES OF TERRITORY DETACHED FROM TURKEY BY
THE TREATY OF LAUSANNE**⁵⁹

390D.11/105

*Memorandum of Conversation by the Chief of the Division of Near
Eastern Affairs (Murray)*

[WASHINGTON,] December 9, 1937.

During a call from the Turkish Ambassador⁶⁰ yesterday I took occasion to discuss with him quite informally the situation set forth in the attached statement⁶¹ regarding the status of American citizens of Syrian or Lebanese origin under the terms of the Franco-Turkish Agreement of May 29, 1937.

I told the Ambassador that the Department had received many anxious inquiries from American naturalized citizens of Syrian or Lebanese origin as a result of the above-mentioned agreement between France and Turkey. These citizens are, in brief, concerned

⁵⁸ Not printed.

⁵⁹ For previous correspondence with France on this subject, see *Foreign Relations*, 1937, vol. II, pp. 923 ff.

⁶⁰ Mehmet Münir Ertegün.

⁶¹ Not attached to file copy of this document.

over the fact that if they opt for Syrian nationality under the agreement in question they will, in the opinion of the Department, lose their American nationality, whereas if they fail to opt they will, at least in Turkey, be regarded as Turkish nationals. These American naturalized citizens emphasize that under the present régime in Turkey the Turkish Government neither desires to claim them as citizens nor do they desire to be regarded and treated as such.

While the Department has taken the view that such citizens are unlikely to incur any serious risk of their American nationality being questioned in any courts outside of Turkey, those citizens are nevertheless apprehensive that in any jurisdiction where a determination of their citizenship might be of importance in a court proceeding, it might be held that the pertinent provisions of the Lausanne Treaty⁶² as well as the Franco-Turkish Agreement of May 29, 1937, definitely establish their Turkish nationality. In particular, such citizens pointed out the likelihood of difficulty in such a country as Egypt, where, unless they were able to establish their American nationality, they would not be eligible to appear before the Mixed Tribunals.

I reminded the Ambassador that we had discussed, some years ago, quite informally the possibility of a naturalization treaty between the United States and Turkey but that the matter had never reached the stage of formal negotiations.⁶³ I said that we were quite aware of the obstacles which, in the view of the Turkish Government, prevented any negotiations at that particular juncture. It was my impression, however, that the situation had meanwhile materially changed particularly in view of the settlement, in 1934,⁶⁴ of all outstanding claims of American nationals against Turkey. Such being the case the Turkish Government would not, today, by reason of any naturalization agreement affecting former Ottoman nationals originating in detached mandated or independent territories of the former Empire, or even in the case of a general naturalization convention, run any risk of being faced with a large number of old claims on behalf of former Ottoman nationals. The Ambassador agreed that the debt settlement would undoubtedly make it easier for his Government to consider some sort of a naturalization agreement. He observed, however, that it was contrary to the policy of his Government to permit non-Turkish nationals or former nationals of the Ottoman Empire now residing abroad to return to Turkey. The Ambassador added that if it were understood that American

⁶² Treaty of Peace signed at Lausanne July 24, 1923. For text, see League of Nations Treaty Series, vol. xxviii, p. 11.

⁶³ See *Foreign Relations*, 1923, vol. II, pp. 1191 ff.

⁶⁴ For text of Claims Agreement, signed at Ankara, October 25, 1934, see *ibid.*, 1934, vol. II, p. 933.

naturalized citizens of non-Turkish Ottoman origin might be excluded from the right to return to Turkey under the protection of their American nationality he thought it might be possible to reach an understanding that would alleviate the present difficulty.

The Ambassador said that he would like to give more thought to the matter and would probably correspond informally with his Government on this question.

WALLACE MURRAY

390D.11/122a

The Secretary of State to the Chargé in Turkey (Kelley)

No. 208

WASHINGTON, February 15, 1938.

SIR: There is enclosed a mimeographed statement⁶⁵ prepared by the Department in response to numerous inquiries as to the effect upon naturalized American citizens of Syrian or Lebanese origin, and upon their property rights in Syria and the Lebanese Republic, if such citizens opted for Syrian or Lebanese nationality, or failed to opt for such nationality, under the terms of the Franco-Turkish Agreement of May 29, 1937. This agreement, as you are aware, was entered into between the Turkish Government and the French Government, the latter acting on behalf of the mandated territories of Syria and the Lebanon, for the purpose of renewing the right, as from May 29, 1937, to May 29, 1938, which certain persons of Syrian or Lebanese origin had been granted by Article 34 of the Treaty of Lausanne to opt for the nationality in force in their country of origin. It will be recalled that under the terms of the Treaty of Lausanne, in the event such persons did not opt for Syrian or Lebanese nationality, they were considered to have retained their Turkish nationality.

With a view to clarifying the situation brought about by the Franco-Turkish Agreement of May 29, 1937, the American Consulate General at Beirut, as set forth in the enclosed mimeographed statement, obtained from the French High Commission in that city oral assurances, which were later confirmed in writing,⁶⁶ that American citizens of Syrian or Lebanese origin who visit their native countries temporarily, and who under American law are entitled to receive the protection of the American Government, will continue to be regarded as American citizens by the Syrian and Lebanese authorities in accordance with the provisions of the so-called Gouraud-Knabenshue Agreement concluded between the French and American authorities in Beirut on November 15 and December 2, 1921.⁶⁷ However, the Department

⁶⁵ Not attached to file copy of instruction.

⁶⁶ *Foreign Relations*, 1937, vol. II, p. 938.

⁶⁷ See Hackworth, *Digest of International Law*, vol. III, pp. 194-196.

continues to receive many communications from naturalized American citizens of Syrian and Lebanese origin who point out that if they should fail to opt for Syrian or Lebanese nationality under the Franco-Turkish Agreement of May 29, 1937, they would, in Turkey at least, under the Treaty of Lausanne, be regarded as Turkish nationals, whereas if they should proceed to opt for the nationality of their country of origin their rights as American citizens would be endangered. Such naturalized citizens are further concerned in respect to the possibility that in the course of legal proceedings in a third country the courts might hold that through their failure to opt, they had confirmed their Turkish nationality under the terms of the Treaty of Lausanne and the Franco-Turkish Agreement of May 29, 1937, regardless of the probability that the present régime in Turkey would have no interest in claiming them as Turkish citizens. As an example of the communications received by the Department on this subject, there is enclosed a printed copy of a brief⁶⁸ prepared by interested persons, members of the Bar of the State of New York.

In view of the existing apprehension in the minds of many naturalized American citizens of Ottoman origin, the Department is of the opinion that it would be desirable to reach an agreement with the Turkish Government as soon as possible with respect to the status of American citizens who were formerly natives of those territories which were detached from the Ottoman Empire by the Treaty of Lausanne. In this connection the Department believes that a simple agreement, through an exchange of notes, by which Turkey would renounce all rights to the allegiance of such persons, would serve the purpose intended. Owing to the difficulty experienced in the past in negotiating a general naturalization treaty with Turkey, it is believed that the proposed agreement might be limited in its application to naturalized American citizens who were formerly natives of any of the detached Ottoman territories, including Syria and the Lebanon, Palestine, Iraq, Transjordan, Egypt and Arabia, rather than of territory now represented by the Turkish Republic. Reference is made in this connection to the enclosed memorandum of a conversation between the Turkish Ambassador and the Chief of the Division of Near Eastern Affairs⁶⁹ in which the possibility was discussed of negotiating a naturalization agreement along these lines between the United States and Turkey.

Unless you perceive some objection, the Department desires that you inquire of the Turkish Government at the earliest opportunity whether it would be willing to conclude an agreement between the two countries which would regularize the position of those naturalized American citizens of Ottoman origin who were natives of the detached

⁶⁸ Not reprinted.

⁶⁹ *Supra.*

territories of the former Ottoman Empire, in whose technical allegiance the Government of Turkey is presumably no longer interested. In view of the approaching termination of the period during which persons of Syrian and Lebanese origin may opt for Syrian or Lebanese nationality under the terms of the Franco-Turkish Agreement of May 29, 1937, the Department hopes that a prompt indication of the Turkish Government's views on this subject may be obtained. The Department is confident that the Turkish Government should view this proposal favorably, since it would in effect achieve for naturalized American citizens a purpose similar to that envisaged in the arrangement between the French and Turkish Governments whereby certain persons of Syrian and Lebanese origin were offered the renewed opportunity to opt for Syrian or Lebanese nationality.

There is transmitted herewith a draft of a proposed exchange of notes which the Department considers the most suitable form of agreement for this purpose, and which you should use as a basis for your discussions with the Turkish authorities. Please keep the Department informed by telegraph as to the progress of your negotiations.

Very truly yours,

For the Secretary of State:
G. S. MESSERSMITH

[Enclosure]

Proposed Draft of Exchange of Notes

EXCELLENCY: In accordance with the discussions which have taken place between us I have the honor to state that it is my understanding that the Government of Turkey is willing to relinquish all claim to the allegiance of naturalized American citizens of Ottoman origin who are natives of those territories detached from the Ottoman Empire by the Treaty of Lausanne of July 24, 1923, and who shall have established and maintained a permanent residence in the United States.

I should be gratified if Your Excellency's Government would be so good as to confirm this understanding.

(The reply of the Turkish Government would coincide verbally with the above.)

390D.11/143

The Chargé in Turkey (Kelley) to the Secretary of State

No. 605

ANKARA, April 13, 1938.

[Received May 2.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 208 of February 15, 1938, instructing me to as-

certain whether the Turkish Government would be willing to conclude an agreement with the United States for the purpose of regularizing the status of naturalized American citizens who were formerly Ottoman subjects and who are natives of territories detached from the former Ottoman Empire, and to make the following report to the Department of the action thus far taken by the Embassy and of the present status of the matter.

Acting under instructions from me, an officer of the Embassy called on the Chief of the Bureau of Claims and Consular Affairs in the Ministry for Foreign Affairs on March 11, and acquainted him with the Department's desire to conclude such an agreement and with the considerations which led the Department to make a proposal of this nature at the present time. A memorandum of the conversation with Mr. Ayaş⁷¹ is enclosed for the Department's information. It will be observed that Mr. Ayaş already had an inkling of the proposed agreement and felt able to give qualified assurances that some agreement such as that proposed by the Department could be concluded. He availed himself of the opportunity thus occasioned to explain in some detail Turkey's position with regard to former Ottoman subjects, natives of territories detached from the Empire, who are resident outside of Turkey.

On the following day, during the course of an informal conversation with an officer of the Embassy, Mr. Ayaş stated that as our proposal was principally of a political nature it had been transferred to the First Department of the Foreign Office.

On March 17, I mentioned the proposed agreement to the Foreign Minister during the course of a conversation at the Ministry for Foreign Affairs (my telegram No. 12 of March 17, 7 p. m.⁷¹). Dr. Aras thought that a settlement along the lines desired by the Department was quite possible, and said that he would give the matter his personal attention. It was evident from his remarks that the Turkish Government has been giving consideration to the ways and means of definitely settling the status of former Ottoman subjects who are natives of territories detached from the Ottoman Empire and who are technically Turkish citizens.

A few days later, on March 21, I inquired of the Director of the First Department with regard to the status of the matter and was told that Dr. Aras had discussed our proposal with him and that he believed that he would soon be in a position to address to us a formal reply. Subsequently, on March 29, in response to further inquiry by me, he expressed the opinion that it would be found possible to conclude an

⁷¹ Not printed.

agreement along the lines desired by the Department, but certain studies, in particular those being undertaken by the legal authorities, would have to be completed before the Foreign Office could take any action in the matter.

The nature of these studies were explained to me on April 2, when I had an interview with the Foreign Minister prior to his departure for Athens and Cairo. At that time, as reported to the Department by my telegram No. 17 of April 2, 4 p. m.,⁷² Dr. Aras stated that two studies relating to this matter were in progress. The first consisted of a study of Turkish nationality laws with a view to ascertaining the relative feasibility of concluding an exchange of notes along the lines proposed, as compared with the desirability of accomplishing the desired end by some other arrangement. In this respect he mentioned particularly provisions of Turkish law which permit the Turkish Government to deprive of Turkish nationality persons residing abroad who have not registered at a Turkish Consulate for more than five years. He felt that perhaps if the powers thus vested in the Government were invoked no need would exist for an exchange of notes such as is contemplated by the Department.

The second study, the Foreign Minister said, had to do with the status of the property of persons to whose allegiance the Turkish Government would relinquish claim. In this regard, he explained that his Government wished to be certain that in the future no controversial questions concerning the property rights of the persons affected would arise. In concluding this conversation, Dr. Aras stated that he anticipated that his Government's studies would be completed by the time he returned to Ankara early in May, at which time he would advise me of the considered views of the Turkish Government.

Throughout the conversations which have been held between members of the Embassy and of the Turkish Ministry for Foreign Affairs it has been apparent that the Turkish Government, which is keenly desirous of settling the question of the status of natives of detached territories of the former Ottoman Empire who are now technically Turkish citizens, is much interested in and sympathetic to the Department's proposal. From the atmosphere which has prevailed during these conversations and from the informal assurances which have been forthcoming, the Embassy believes that some definite arrangement will eventually be reached to regularize the status of the persons in question and that it is not unlikely that the means chosen will involve an exchange of notes similar to that proposed by the Department.

Respectfully yours,

ROBERT F. KELLEY

⁷² Not printed.

390D.11/152

Memorandum of Conversation, by the Chief of the Division of Near Eastern Affairs (Murray)

[WASHINGTON,] June 2, 1938.

During a call from the Turkish Ambassador yesterday he conveyed to me the following information which he has recently received in an instruction from the Turkish Foreign Office, regarding the problem of naturalized American citizens of Syrian and Lebanese origin who have not opted for Syrian nationality under the Franco-Turkish Agreement of May 29, 1937.

According to the information received by the Ambassador, the Turkish Government is of the opinion that it may be possible to find a means of relieving American citizens of the above category from unwanted Turkish citizenship in case they have not opted for Syrian or Lebanese citizenship in accordance with the Franco-Turkish Agreement under reference, although some solution must be found to obviate certain conflicting provisions of Turkish law.

The Turkish Government is of the opinion that a solution might be found in one of the two following procedures:

- (1) The Turkish Government might authorize such Syrian and Lebanese Americans to abandon their Turkish nationality; or
- (2) The Turkish Government might declare that the Turkish citizenship of such naturalized Americans has lapsed or that they have been divested of their Turkish citizenship.

The Ambassador emphasized, however, that in either of the above cases it would have to be understood that Turkey would reserve the right to refuse permission to such former Turkish nationals as those referred to above to return to Turkey; and that no claims on behalf of such former Turkish nationals up to the time of their being divested of their former nationality would be admissible against the Turkish Government.

I told the Turkish Ambassador that we would be glad to give consideration to these views of his Government, and that meanwhile we would doubtless be hearing from our Embassy in Istanbul on the subject.

Without entering in detail at this time into the assurances, either implicit or explicit, which the Turkish Government would expect to receive in case of the negotiation of an exchange of notes on the above subject, it would appear that no insuperable obstacle would be presented by reason of the Turkish viewpoint in this matter. It would appear that in any agreement that we might negotiate with the Turks on this subject full reservation would be made of the immigration laws

and regulations of both countries which would, I presume, cover the question of former Turkish nationals requesting permission to return to Turkey. In so far as claims against the Turkish Government on behalf of such naturalized American citizens of Syrian or Lebanese origin are concerned, it would appear that under the ordinary accepted principles of international law the Turkish Government would be under no obligation to entertain claims from another Government on behalf of individuals who, when the claims arose, were under Turkish law regarded as Turkish nationals. This principle was accepted by this Government in the American-Turkish claims settlement of 1934, and there would appear to be no reason why it is less valid today than it was at that time.

WALLACE MURRAY

390D.11/149 : Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ISTANBUL, June 15, 1938—2 p. m.

[Received 3 : 30 p. m.]

24. Department's instruction No. 208 of February 15 and Embassy's despatch 605 of April 13 last.

Ministry of Foreign Affairs has informed Embassy that appropriate instructions with regard to proposed agreement have been sent to the Turkish Ambassador at Washington who first brought the matter to Ministry's attention. Embassy will take no further action in this matter pending instructions from the Department.

MACMURRAY

390D.11/153

*Memorandum of Conversation, by Mr. George V. Allen of the
Division of Near Eastern Affairs*

[WASHINGTON,] June 20, 1938.

Participants: Turkish Ambassador
Mr. Murray
Mr. Allen

The Turkish Ambassador called to discuss further the proposed exchange of notes between the United States and Turkey regarding the termination of the allegiance owed to Turkey by certain naturalized American citizens who are natives of territory detached from the Ottoman Empire by the Treaty of Lausanne.

The Turkish Ambassador said that he had received instructions from his Foreign Office to discuss the subject with officials of the Department in order to clarify certain points which the Turkish Government has in mind. These points, to which he had referred in his conversation of June 2 with Mr. Murray, concern (1) the Turkish law which denies to persons who have lost their Turkish nationality the right to enter Turkey and (2) Turkey's desire to avoid the presentation of claims on behalf of the persons to be covered in the exchange of notes.

As regards the first point Mr. Murray drew the Ambassador's attention to Article 1 of the Treaty of Establishment and Sojourn⁷⁸ between the United States and Turkey, which contains the following provision:

"Nothing contained in this treaty shall be construed to affect existing statutes and regulations of either country in relation to the immigration of aliens or the right of either country to enact such statutes."

Mr. Murray said that under the American Government's interpretation of this Article, the term "immigration of aliens" is held to include the entry of aliens for temporary visits as well as for permanent residence. The Turkish Ambassador expressed the opinion that this Article adequately safeguarded Turkey's right to deny admission to persons to be divested of Turkish allegiance by the proposed exchange of notes.

As regards the question of claims, Mr. Murray pointed out that the Department is of course aware of the position taken by the Turkish Government at the time of the Turkish-American claims settlement of 1934, namely that the Turkish Government was unwilling to receive claims on behalf of persons who were, under Turkish law, Turkish citizens at the time the claim arose.

Discussion then took place regarding the method which the Turkish Government might employ to effect the termination of the Turkish citizenship of the persons involved. The Turkish Ambassador said that the termination might be effected either by action in individual cases or by a blanket provision covering all persons within the category to be specified. If the termination should be made in individual cases, the Turkish Government would probably desire that the American Government submit a list of names of all the individuals to be covered. The Turkish Council of Ministers would then declare that the persons named on the list had been divested of their Turkish citizenship. If this method were used, the Ambassador said no legisla-

⁷⁸ Signed at Ankara, October 28, 1931, *Foreign Relations*, 1931, vol. II, p. 1042.

tion would be required. If a blanket method were adopted, however, an act ratified by the Turkish Parliament would probably be necessary.

The Ambassador was informed that it was believed to be impracticable to adopt the individual method since the drawing up of lists of the persons to be affected would not be feasible. To this suggestion he readily agreed.

Mr. Murray pointed out that the Turkish Council of Ministers had found itself able to agree, in an exchange of notes with the French Ambassador at Istanbul on May 29, 1937, to the extension of one year in which natives of Syria and the Lebanon might opt for Syrian and Lebanese citizenship. He suggested that this action might possibly indicate a method of procedure which the Council of Ministers might be able to adopt in the present instance. At the Ambassador's request, a copy of this exchange of notes, in the French text, was given to him. He was also supplied with a copy, in the French text, of the Knabenshue-Gouraud Agreement of November 15 and December 2, 1921. He promised to study these notes with a view to finding some means by which blanket action might be taken by the Council of Ministers.

In discussing the draft note which the American Embassy in Istanbul has already presented to the Turkish Government (see Department's instruction to Istanbul No. 208 of February 15, 1938), the Turkish Ambassador suggested that in lieu of the statement "Natives of those territories detached from the Ottoman Empire by the Treaty of Lausanne" it might be preferable to specify merely Syria and the Lebanon, since the natives of those countries were the principal ones who are interested in having their Turkish allegiance terminated. Mr. Murray replied that he thought it would be preferable to leave the wording as it stands, since if the exchange of notes were limited in its application to Syrians and Lebanese, American citizens who are natives of other parts of the Ottoman Empire detached by the Treaty of Lausanne might complain. The Ambassador agreed that his suggestion was of minor importance and that he did not believe his Government would object to the wording proposed by the United States.

There was discussion, also, concerning the following phrase in the draft note: "The Government of Turkey is willing to relinquish all claim to the allegiance of". The Ambassador concurred in Mr. Murray's suggestion that it would be preferable to make this wording more positive by changing the phrase "is willing to relinquish" to "relinquishes".

The Ambassador said that he would like to continue the discussion within a few days, after he had had an opportunity to study the material which had been furnished him.

890D.11/155

*Memorandum of Conversation, by Mr. George V. Allen of the Division
of Near Eastern Affairs*

[WASHINGTON,] July 2, 1938.

Participants: Turkish Ambassador;
Mr. Murray;
Mr. Alling;⁷⁴
Mr. Allen.

The Turkish Ambassador stated that the draft exchange of notes and letters⁷⁵ regarding the above subject which had recently been handed to him met with his full approval, and he agreed to recommend to his Government their acceptance. He added, however, that he did not feel that the portion of the draft exchange of letters which set forth the American Government's policy of not espousing the claims of naturalized American citizens if those claims arose prior to the time when the persons in question obtained American nationality, was sufficient to reassure the Turkish fears that we might present claims arising between 1934 and the date of signature of the proposed agreement. He pointed out that claims may have arisen during that period on the part of persons whom we regard as American citizens but whom the Turkish Government regard as Turkish nationals, and that if his Government accepted our exchange of letters as drafted such action might be held to imply acceptance on its part that it would receive and consider the claims of such persons.

Under the circumstances he proposed that in replying to our letter the Turkish Government might add a unilateral statement that it reaffirmed the position which it put forward at the time of the American-Turkish Claims Agreement of 1934 to the effect that it could not entertain the claims of any persons who, under Turkish law, were Turkish nationals at the time the claim arose.

The Turkish Ambassador indicated that he would not expect the American Government to acquiesce in this statement; it would be merely a unilateral declaration on the part of the Turkish Government.

Mr. Murray stated that he could perceive no objection to the American Embassy receiving without comment such a unilateral declaration.

Reverting to the subject of the manner in which the Turkish Government might release from Turkish citizenship the persons to be covered by the exchange of notes, the Turkish Ambassador said that if the Turkish Council of Ministers should find itself not empowered to approve, on its own authority, the proposed exchange of notes, the Turkish Government's note would have to be submitted to the Turkish

⁷⁴ Paul H. Alling, Assistant Chief of the Division of Near Eastern Affairs.

⁷⁵ For drafts of notes and letters, see pp. 1119-1120.

Parliament for approval. He thought it possible that at the time of such approval, or thereafter, implementing legislation would have to be enacted by Parliament to release from Turkish citizenship the persons to be affected. If such implementing legislation was subsequent to the exchange of notes, the wording of the notes would have to be altered to some extent to indicate that the loss of Turkish citizenship would take place as of the effective date of such legislation.

The Turkish Ambassador said that he would communicate immediately with his Government, indicating that he concurred fully in the exchange of notes and letters as at present drafted and recommending their acceptance by his Government.

390D.11/156b

The Chief of the Division of Near Eastern Affairs (Murray) to the Ambassador in Turkey (MacMurray)

WASHINGTON, July 20, 1938.

MY DEAR MR. AMBASSADOR: We are sending to you in the next pouch an instruction⁷⁶ regarding the proposed exchange of notes with the Turkish Government concerning the Turkish nationality of certain American citizens who are natives of parts of the Ottoman Empire detached by the Treaty of Lausanne. As you will observe, we are asking you to proceed with the negotiations.

As background, I might point out that the idea of the exchange of notes originated in a very informal conversation which I had with the Turkish Ambassador on December 9, 1937. In looking through the files we find that a memorandum of this conversation was, by inadvertence, not sent to the Embassy. A copy thereof is enclosed herewith, with our regrets. As you will observe, I pointed out to the Ambassador the desire of a large number of naturalized American citizens of Syrian or Lebanese origin to be released from their technical allegiance to Turkey, and said that in view of the Turkish-American Claims Settlement of 1934, which had eliminated the principal obstacle to the conclusion of a naturalization treaty between the United States and Turkey, I thought the time propitious for reaching an agreement between the Governments of the United States and Turkey regarding the citizenship of these persons. The Ambassador said that he would like to give more thought to the matter and would probably correspond informally with his Government on this question.

Growing out of this very informal discussion was our instruction to you of February 15, 1938, proposing the exchange of notes. There

⁷⁶ *Infra.*

has been at no time any idea in the mind of the Turkish Ambassador or my own that the negotiations would or could be officially conducted here. Since my conversation of December 9, we have discussed the question several times with the Turkish Ambassador, and I believe considerable progress has been made as a result of these discussions. However, inasmuch as final decision in the matter must be taken by the Turkish Government, it seems obvious that the negotiations must be conducted in Turkey. Should any problems arise during such negotiations which are not covered by your instructions, you will, of course, wish to clarify them by telegrams to the Department.

I should like to point out the urgency of the questions and our desire that a satisfactory solution be reached as soon as possible. As you are of course aware, the period during which natives of Syria and the Lebanon were entitled to opt for the nationality of their origin under the Treaty of Lausanne was extended for one year by the Franco-Turkish exchange of notes of May 29, 1937. That extended period expired on May 29, 1938. The naturalized Americans of Syrian and Lebanese origin hoped that our negotiations with Turkey would have been completed by that time. Interested persons are continually requesting information regarding the progress of the discussions. The Department's original instruction requesting that the negotiations be undertaken will already be five months old by the time you receive the present letter. I hope you will be able to convince the Turkish authorities of the desirability of taking prompt action.

There is one portion of the exchange of notes as redrafted which deserves mention. As you will observe from the new draft, a provision has been included regarding persons in the specified category who have declared their intention of becoming American citizens or who make such declaration within one year after the date of the exchange of notes. Such persons would be released from Turkish citizenship as of the date on which they acquire American citizenship. This provision has been included in an endeavor to find as full a solution as possible to the whole problem of persons who are natives of former parts of the Ottoman Empire and are permanent residents of the United States, but who still owe a technical allegiance to Turkey. The provision appears also to make our exchange of notes somewhat more comparable to the notes signed by Turkey and France on May 29, 1937, and it is hoped that the Turkish Government will be able to draw the parallel and agree to our request without the necessity of formal parliamentary action.

I should also call attention to the fact that one word in the draft exchange of letters has been changed since it was handed to the Turkish Ambassador. In the final paragraph of the draft, the phrase "confirmed by nearly a century of usage" appears. In the draft as

handed to the Turkish Ambassador, and as forwarded by him to his Government, the phrase was "consecrated by nearly a century of usage". The word "confirmed" was subsequently substituted for the word "consecrated". I make this explanation in order that you may understand any reference which may be made by the Turkish authorities to the fact that the draft which you will submit (if the exchange of letters is found desirable) does not agree verbatim with the draft we have already handed the Ambassador. I have telephoned to the Ambassador telling him of this change, and he approves.

We do not anticipate that the Turkish Government will hesitate to agree to our request for the proposed exchange of notes, particularly in view of our willingness to agree to the exchange of letters and to receive the Turkish Government's unilateral declaration regarding claims. However, it is of course desirable for you to be fortified with as many points of argument as possible, in case the authorities in Turkey may not be as ready to agree as their Ambassador here. One additional consideration has occurred to us. The Department and your Embassy, no less than the Turkish Government, has been frequently annoyed in the past by deportee cases involving persons who are natives of former parts of the Ottoman Empire but who never lived in Turkey proper, and whose allegiance to Turkey is at best merely a technical one. If Turkey refuses to agree to the present exchange of notes, Turkey will place itself in the position of appearing to desire tenaciously to hold to the allegiance of the persons involved. If so, Turkey must be willing to give consideration, under generally accepted principles of international law, to receiving such Turkish citizens back to Turkey should we desire to deport them. I believe the Turkish Government will appreciate the fact that it is in an illogical position if it stubbornly refuses to release persons from Turkish allegiance and at the same time refuse their admission to Turkey upon the request of the United States.

We realize that the argument is in the present instance largely academic, since the proposed exchange of notes would effect the cancellation of the Turkish citizenship only of persons who have acquired American citizenship, and we, of course, do not seek to deport naturalized American citizens. However, the Turkish Government does not recognize their naturalization, and there would be, at least theoretically, nothing to prevent our changing our laws to enable us to deport naturalized Americans to the country of their former nationality if that country still claimed them as its citizens. At any rate, the deportation angle of the question may possibly appeal to the Turkish authorities, without consideration of its limited applicability of the question in the present instance.

Just as our latest instruction to you on this subject was ready to leave the Department, we received your despatch No. 704 of June 20, 1938.⁷⁷ We have not felt that this despatch necessitates any change in the instruction. One of the enclosures to your despatch, however, appears to call for comment. In the *aide-mémoire* which the Embassy left with the Turkish authorities on March 11, 1938,⁷⁸ the statement is made that agreement is desired as soon as possible "with regard to the situation of naturalized American citizens, until recently natives of the territories detached from the Ottoman Empire by virtue of the Treaty of Lausanne". The phrase "until recently natives" is obviously incorrect, and we are at a loss to determine what the Embassy actually had in mind. A native of any territory, according to our understanding, is a person born in that territory, and, regardless of what citizenship a person may later acquire, his nativity, of course, remains unchanged.

The persons to be affected by the proposed exchange of notes must have left the place of their nativity prior to August 6, 1924, the effective date of the Treaty of Lausanne, for persons who were still residing in those territories at the time the Lausanne Treaty went into effect automatically lost their Turkish citizenship at that time and acquired the citizenship of their place of residence. I point this out in view of the word "recently" used in the phrase quoted in the preceding paragraph.

Sincerely yours,

WALLACE MURRAY

390D.11/156a

The Secretary of State to the Ambassador in Turkey (MacMurray)

No. 279

WASHINGTON, July 21, 1938.

SIR: Reference is made to the Department's instruction of February 15, 1938, and to your telegram of June 15, 1938, regarding the desire of the Department to effect, by exchange of notes with the Turkish Government, an understanding regarding the citizenship of certain naturalized American citizens who are natives of former parts of the Ottoman Empire.

As a result of several conversations with the Turkish Ambassador in Washington, a revision has been made of the draft exchange of notes between the Government of the United States and Turkey enclosed with the Department's instruction of February 15. This revision is acceptable to the Department and to the Turkish Ambassador, and the latter is understood to be sending a copy thereof to his

⁷⁷ Not printed.

⁷⁸ Not printed; the *aide-mémoire* contained the substance of the Department's instruction No. 208, February 15, p. 1103.

Government with recommendations that it be adopted. The revised draft is attached hereto as enclosure No. 1.

It has developed during the conversations referred to above that the Turkish Government may desire assurances on two particular points: (1) the Turkish Government's right to refuse admission to Turkey of persons who have lost their Turkish citizenship, and (2) the Turkish Government's right to refuse to receive diplomatic claims on behalf of persons who, under Turkish law, were Turkish citizens at the time the claims arose. The Turkish Ambassador is apparently in accord with the Department's view that in practice the Turkish Government's position with respect to the above particulars would not be affected in any way by the Turkish Government's action in releasing from Turkish nationality those naturalized American citizens originating in former parts of the Ottoman Empire who were entitled under the Treaty of Lausanne to opt for the nationality of the country of their origin but who in fact did not exercise that right. However, in order to meet the Turkish Government's possible objections, the Department suggests, in addition to the exchange of notes, a supplementary exchange of letters, to bear the same date as the exchange of notes, giving assurances, if necessary, on the points mentioned. A draft of the suggested supplementary exchange of letters is enclosure No. 2 hereto. This draft also has the full approval of the Turkish Ambassador.

It will be observed that in its supplementary letter, the Embassy would set forth, with respect to claims, merely a statement with regard to the American Government's long established practice not to espouse the claim of a person who, under American law, was not an American citizen at the time the claim arose. The Turkish Ambassador has pointed out that although his Government could not properly request the American Government to make a more inclusive statement with regard to claims, his Government might not be entirely satisfied with the statement in the proposed letter. He suggested that his Government might wish to make a unilateral declaration to you in writing, at the time of the exchange of notes, drawing attention to the fact that it did not intend that anything in the exchange of notes should be construed as indicating a change in the position taken by the Turkish Government at the time of the Turkish-American claims settlement of 1934, when the Turkish Government declined to accept diplomatic claims on behalf of persons who, under Turkish law, were Turkish nationals at the time the claims arose. You may accept without comment such a unilateral declaration.

For your information, there are also attached, as enclosures Nos. 3, 4 and 5, memoranda of conversations between the Turkish Ambas-

sador and officials of the Department on June 2, June 20 and July 2, 1938,⁷⁹ on this subject. It will be observed from these memoranda that the Turkish Ambassador is of the opinion that one of two methods might be employed by the Turkish Government to release from Turkish citizenship the persons to be affected by the exchange of notes. The first method would be by action covering individual persons, and would be based on a list of names which would be submitted to the Turkish Government by the Government of the United States. This method, the Ambassador believes, could be adopted by the Turkish Council of Ministers without ratification by Parliament. It has been pointed out to the Ambassador that this method would be impracticable for the American Government, since the drawing up of a list of names would entail investigations very difficult if not impossible of accomplishment. The Ambassador suggested that the second method would be by blanket action of the Turkish Government, canceling as of a given date (probably the date of the exchange of notes) the Turkish nationality of all persons coming within the stated category. The Ambassador is inclined to the opinion that blanket action would require the approval of the Turkish Parliament. He agreed, however, to request his Government to explore every possibility to discover some legal means by which the Council of Ministers might take blanket action by decree, without the delay which would be entailed by ratification by Parliament.

The Department suggested to the Turkish Ambassador that he might point out to his Government that it had agreed, in the Treaty of Lausanne, that certain of its nationals might opt for Syrian, Lebanese, Iraqi, or other citizenship, and that the present exchange of notes was designed in fact to extend to those persons who had not so opted the privilege of making fully effective their election (or "option") to become American citizens rather than to become citizens of Syria, the Lebanon, etc. Since the action requested by the American Government was therefore quite in line with principles already approved by the Turkish Parliament in its ratification of the Treaty of Lausanne, it was hoped that the Turkish Council of Ministers might be in a position to release from Turkish citizenship, by blanket action, the persons to be affected, without the necessity of parliamentary ratification.

In view of the full agreement which has now been reached between the Turkish Ambassador and the Department, it is believed that no useful purpose would be served by further discussions of the subject in Washington between the Department and the Turkish Embassy. Furthermore, since final decision must be taken by the Turkish Government, you should proceed with the negotiations and request the

⁷⁹ *Ante*, pp. 1108, 1109, and 1112.

Turkish authorities to agree to an exchange of notes and, if necessary, of letters in accordance with the enclosed drafts.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

[Enclosure 1]

Revised Draft of Exchange of Notes

EXCELLENCY: In the course of discussions which have taken place between us I had the honor to explain to Your Excellency that a considerable number of persons who have acquired American citizenship through naturalization and who originated in territories detached from Turkey under the provisions of the Treaty of Lausanne of July 24, 1923, refrained from exercising the right of option accorded them by Article 34 of that Treaty and extended for one year, in so far as persons originating in Syria and the Lebanon are concerned, by the Turkish-French Agreement of May 29, 1937, because such option would have jeopardized their American citizenship.

From these same discussions it is my understanding that, from the date of the present exchange of notes, the Government of Turkey releases from their Turkish nationality, in accordance with the provisions of the Turkish Nationality Law of May 28, 1928, those naturalized American citizens originating in the aforementioned territories who, though entitled under the provisions of Article 34 of the Treaty of Lausanne or the Turkish-French Agreement of May 29, 1937, to opt for the nationality of their country of origin, did not in fact exercise their right. I also understand that the Turkish Government will release from Turkish nationality, in accordance with the Turkish Nationality Law of May 28, 1928, any persons originating in the aforementioned territories who, although entitled to opt under the terms of one or both of the above-mentioned agreements, have not in fact exercised their right of option, provided that those persons have formally declared their intention to become American citizens or provided they make such declaration within one year from the date of the present agreement, such release from Turkish nationality to become effective upon the date the persons in question legally acquire American citizenship.

If my understanding as set forth above is correct, I should be pleased if Your Excellency would be good enough to confirm it by a communication reproducing the above terms, in which case it would be understood that this arrangement enters into force as of this date.

Accept, Excellency [etc.]

(The reply of the Turkish Government would coincide verbally with the above.)

[Enclosure 2]

Draft of Supplementary Exchange of Letters

EXCELLENCY: During the course of discussions which we have had in connection with the notes exchanged this day concerning the release from Turkish nationality of certain American citizens originating in territories detached from Turkey under the provisions of the Treaty of Lausanne of July 24, 1923, Your Excellency inquired whether it is the practice of the United States Government to espouse and support diplomatic claims on behalf of naturalized American citizens if such claims arose prior to the date on which the American citizens in question acquired American nationality. Your Excellency also requested my Government's interpretation of the final paragraph of Article 1 of the American-Turkish Treaty of Establishment, signed at Ankara on October 28, 1931, reading as follows:

"Nothing contained in this treaty shall be construed to affect existing statutes and regulations of either country in relation to the immigration of aliens or the right of either country to enact such statutes."

In reply I am glad to assure Your Excellency, under instructions from my Government, that the United States Government considers that the provisions of the above quoted paragraph leave both Governments free to enact such legislation as each may consider appropriate regarding the admission of aliens into its territories.

I am further authorized to state that it has been the invariable practice of the United States Government, confirmed by nearly a century of usage, to decline to espouse or support the claims of naturalized American citizens if such claims arose prior to the date on which those citizens acquired American nationality. I am also authorized to state that the United States Government has no intention of departing from its practice in this respect.

Accept, Excellency [etc.]

(The reply of the Turkish Government would coincide verbally with the above.)

390D.11/158a : Telegram

The Secretary of State to the Ambassador in Turkey (MacMurray)

WASHINGTON, September 24, 1938—3 p. m.

96. Department's mail instruction No. 279 of July 21. Please telegraph briefly present status of negotiations.

HULL

390D.11/159 : Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ISTANBUL, September 27, 1938—4 p. m.

[Received 4:45 p. m.]

65. Your telegram No. 96, September 24, 3 p. m. In the absence of the Foreign Office officials familiar with the matter the revised draft of exchange of notes and draft of supplementary exchange of letters were submitted to the Ministry with a note dated August 25. Although Murray recently found occasion to ask Secretary General to expedite the matter it is doubtful whether actual progress can be made until the return to duty of Acikalin, Chief of Department No. 2 who is now on brief leave after temporary duty in the Hatay.

MACMURRAY

390D.11/159 : Telegram

*The Acting Secretary of State to the Ambassador in Turkey
(MacMurray)*

WASHINGTON, December 7, 1938—noon.

29. Your 65, September 27, 4 p. m. In as much as the Department is being pressed by Syrian organizations for information regarding proposed nationality arrangement please telegraph present status of negotiations and keep the Department currently informed of developments. If an arrangement has not already been reached we hope that a satisfactory settlement can be made in the near future.

WELLES

390D.11/164 : Telegram

The Ambassador in Turkey (MacMurray) to the Secretary of State

ANKARA, December 9, 1938—1 p. m.

[Received December 9—8:45 a. m.]

63. Your telegram No. 29, December 7, noon. Foreign Office some weeks ago requested for the proposed nationality arrangement approval of the Ministry of the Interior which has full jurisdiction in the matter and it has now requested that the decision be expedited. I understand that there seems to be no opposition to the proposal and that the necessary bureaucratic action may probably be taken within fortnight or so.

MACMURRAY

INDEX

INDEX

- Abyssinia. *See* Ethiopia.
- Act of Algieras (1906), 848, 859, 866, 868, 870-872, 873, 875, 880-881, 887, 888
- Afghanistan, cancellation of oil concession held by Seaboard Oil Co. in, 752-757
- Agreements. *See* Trade agreements; Treaties, conventions, etc.
- Alsace-Lorraine, 333, 336, 340, 341, 442, 443
- American Bondholders Protective Council. *See* Foreign Bondholders Protective Council, Inc.
- Amiranian Oil Co., 752-757
- Angola, 657
- Anti-Comintern Pact (1936), 440
- Anti-Dumping Act (1921), 73, 574, 627
- Anti-Semitism. *See under* Poland and Rumania.
- Arab-Jewish conflict. *See under* Palestine.
- Australia, 120-163
- Canada, trade relations with, 153, 163
- Conflicting U. S.-British claims to Pacific islands, interest in, 82, 85, 87, 90, 92, 93, 98, 108, 115
- Trade agreement with United States, preliminary discussions respecting, 120-163
- Discriminatory practices by Australia, U. S. insistence on removal prior to discussions, 120-133, 147, 159; U. S. formula, 127-129, 131
- Empire preferences, relation to, 122, 123, 139, 143, 147, 152, 163
- Exploratory conversations regarding concessions, political situations, and timing of announcement to negotiate, 132-163; formal U. S. proposals, and Australian replies, 137-139, 149-152, 155-156, 159-160
- Interrelation of British-Canadian-U. S. trade negotiations and agreements, 60, 74, 122, 123, 133, 135, 139-140, 141, 143-144, 146, 147, 150-156 *passim*
- Trade balance, Australian concern with, 148, 151, 153, 156, 157-158, 159, 161, 162
- United Kingdom, trade relations with, 145, 148, 152, 153, 162, 163
- Austria, problems arising from annexation by Germany, 483-515
- American citizens in Vienna, informal representations regarding treatment of, 506-515
- Austria—Continued
- Attitude of various countries toward, 440, 489, 490, 579, 650, 683
- Refusal by Germany to assume obligations of Austrian indebtedness, 483-502
- German position, 486-491, 495-496, 499-500
- Negotiations and arrangements with interested countries other than United States, 486-487, 488-490, 494, 496, 500
- U. S. representations, 483-484, 492-501 *passim*
- Representations by Germany regarding removal of Austria from list of states enjoying tariff concessions on basis of Trade Agreements Act (1934), 502-505
- Aviation (*see also under* Canada: Treaties):
- Air Forces, relative strength of various countries, 298, 300-301
- Airplanes and airplane parts. *See under* France.
- U. S. refusal to sell helium to German Government for use in zeppelins, 457-461
- Balfour Declaration (1917), 900, 928, 952, 956, 957, 958, 968, 969, 976, 979, 986, 996, 998
- Balkan Entente, clause favoring members in trade negotiations between United States and other countries, 533, 540, 543-549, 551, 695
- Belgium, 204-222
- Morocco, French Zone, trade relations with, 858-860, 868-872, 887
- Netherlands, tax convention with, 607, 611
- Tanganyika and Ruanda Urundi, interest in frontier question of, 1049
- Trade agreement, supplementary, with United States, preliminary discussions respecting, 204-222
- Automobile industry, problems regarding, 211, 212-213, 214-218, 219-220
- Difficulties in operation of Trade Agreement of 1935, 205-206, 207, 211, 212-213, 216, 221
- Import licenses and quotas, 206-207, 215
- War materials, question of shipment in case of war, 213-219
- Berlin-Rome Axis, 673, 681, 683

- Bethlehem Steel Corp., 800, 803, 807-809, 813, 814
- Brazil, 663-664, 677, 708
- Bulgaria, 695
- Canada, 164-183
- Airplanes purchased by France in United States, possible transshipment through Canada in case of war, 298, 302, 303
 - Australia, trade relations with, 153, 163
 - St. Lawrence Waterway project, discussions with United States concerning, 177-183
 - Trade agreement with United States signed *Nov. 17, 164-177*
 - Citation to text, 177
 - Effect of U. S. customs legislation, 165-173 *passim*
 - Interrelation of British-Australian-U. S. trade negotiations and agreement, 25, 37, 43, 45-48, 59, 133, 135, 146, 150, 152, 153, 156, 167-177
 - Reciprocal agreement of 1935, termination of, 165*n*, 167-168, 169, 171, 174
 - Treaties with United States:
 - Agreement regarding radio communications between Alaska and British Columbia, effected by exchange of notes signed *June 9, July 11 and 13, Aug. 22, Sept. 27, Oct. 4, Nov. 16, and Dec. 20*, citation to texts, 184
 - Arrangement regarding radio broadcasting, effected by exchange of notes signed *Oct. 28 and Dec. 10*, citation to texts, 184
 - Aviation, arrangements effected by exchanges of notes signed *July 28*, citations to texts: Air navigation, 184; certificates of airworthiness for export, 184; issuance of certificates of competency or pilots' licenses, 184
 - Boundary waters treaty (1909), 178
 - Convention for emergency regulation of Rainy Lake and other boundary waters, signed *Sept. 15*, citation to text, 183
 - Reciprocal arrangement respecting admission to practice before patent offices, effected by exchange of notes signed *Dec. 2 and 28, 1937, and Jan. 24, 1938*, citation to texts, 183
 - United Kingdom, trade relations with, 166-167
- Canton Island. *See* United Kingdom: Pacific islands.
- Capitulations. *See* Morocco, French Zone: Abolition; Syria and the Lebanon: French mandate.
- Case, Pomeroy and Co., 753
- Chase National Bank, 833, 834
- Civil Aeronautics Act (*June 23*), 843
- Claims. *See under* France; Germany; Morocco, French Zone: Abolition.
- Commercial treaties and agreements. *See* Trade agreements *and under* Treaties, conventions, etc.
- Commissions, committees, etc.: Inter-Governmental Committee on Political Refugees, 398, 403-404, 449-450; Royal Commission of Inquiry on Mandate in Palestine, 890, 891-893, 895, 899, 900, 901, 904, 906, 914, 930, 945, 957, 970, 971, 989
- Communism, 259-260, 261, 933
- Conferences: Inter-Parliamentary Congress for the Defence of Palestine, Cairo (*Oct. 7-11*), 963-964; New Zionist World Conference, Prague (*Jan. 31*), 889, 896-897
- Cotton, 705-709
- Cuba, 529, 540
- Curtiss-Wright Export Corp., 299, 304, 308-309, 310
- Customs Administration Act (*June 25*), 167, 168, 171, 173
- Czechoslovakia, 223-236
- German-Czechoslovak crisis, 223
 - Jews, attitude toward, 898
 - Motion picture films, agreement with United States effected by exchange of notes signed *May 18, 27, 230, 231-236*; citation to text, 236
 - Trade agreement with United States, signed *Mar. 7, 223-230*; citation to text, 230
 - Trade relations with other countries, 225, 241, 695
- Dawes and Young loans, 419, 444, 489, 500
- Denmark, 237-244
- Efforts of Department of State to secure equal opportunity for American commerce, 237-244
 - Trade relations with other countries, 74, 241
- Egypt, 705-709
- Mixed Courts in, 1026, 1102
 - Palestine partition problem, interest in, 917, 979, 982, 986, 999
 - Tariff rate on long-staple cotton, request for U. S. reduction of, 705-709
- Enderbury Island. *See* United Kingdom: Pacific islands.
- Espionage Act (1917), 299, 303
- Estonia, 245-255
- Commercial treaty with United States (1925), continuation in force and preliminary discussions regarding possible trade agreement, 245-255
 - Trade relations with other countries, 246-247, 248, 253, 254

- Ethiopia, 710-726
 Italian occupation forces, conduct of, 710, 711, 713, 716, 717, 718, 722, 723
 Jewish immigration, possibility of, 594, 677
 Missionary activities, Italian repressive measures against, 710-723
 Non-recognition by United States of Italian annexation, 723-726
 Racial segregation measures by Italy, 586, 587
 European political situation, 649-650, 681
- Falkland Islands, 3
 Finland, 51
 Firestone Plantation Co., 831, 832, 833, 835
 Foreign Bondholders Protective Council, Inc., 419, 420, 491, 636, 637, 638, 640, 644-645
 France (*see also* Morocco; Syria and the Lebanon), 255-354
 Airplanes and airplane parts, efforts to purchase in United States, 297-314
 Air Force, status and plans, 298, 300-301, 307
 Financial arrangements, 307, 311
 French naval air mission in United States and question of permission of trial flights, 309-310, 312-314
 Negotiations with American manufacturers, 299-304
 Citizenship status of children born in United States to fathers then French consular officers, 348-354
 Claims arising from sequestration of property during First World War, efforts of United States and France to effect reciprocal arrangement relative to, 331-342
 Communist influence, 259-260, 261
 Denmark, trade relations with, 241
 Devaluation of franc and maintenance of 1936 tripartite monetary agreement, 256-297
 Anglo-American consultations, 264-267, 291-295
 Anglo-French consultations, and British attitude, 256, 257, 263-264, 277, 279-280, 281, 282, 284, 292, 293, 294, 295-296
 Equalization Fund. *See* Stabilization Fund, *infra*.
 Exchange controls, imposition and question of compatibility with agreement, 256, 257, 258, 260, 263, 268-269, 270-274, 293
 Franco-American consultations, and U. S. attitude, 256-257, 257-258, 263-264, 270-285 *passim*, 289
- France—Continued
 Devaluation, etc.—Continued
 French monetary policies: Rate of exchange fluctuations, 266, 269, 274-275, 276-277, 280-282, 285, 287, 293, 296; steps to defend franc, and general financial situation, 256, 260, 263-264, 265-266, 274-275, 286, 292, 295
 Gold: Modification of U. S. method of handling gold movements, 262; status in proposed statement by tripartite members, 291-292; use of Bank of France reserves to defend franc, 260, 265, 266, 273, 275
 Loans, possibility of, 258, 260-261, 266
 Stabilization Fund, 265, 275, 276, 287, 289, 295
 Ethiopia, possible recognition of Italian sovereignty in, 724
 Germany, relations with. *See under* Germany.
 Internal political situation, 259-260, 261
 Iran, relations with, 745, 746, 747, 748, 757
 Liberia, relations with, 828, 829, 836-839, 840-842
 Military service, status under French law of U. S. citizens of French origin, with respect to liability to, 314-330
 Dual nationality, 323-324, 327
 Loss of nationality in French law through acquisition of foreign nationality, 315, 316-318, 319-322, 325-326, 327-328
 Status of minors, 325-326, 329-330
 Pacific islands, question of U. S. claim to certain French possessions in, 79, 93
 Palestine, interest in, 986, 1000
 Poland, arrangements on payments to French bondholders of Polish obligations, 641
 Soviet Union, relations with, 650
 Trade agreement with United States (1936), 271, 272, 273, 344-345, 346, 347, 865
 U. S. citizens of French origin. *See* Military service, *supra*.
 U. S. citizens of Syrian or Lebanese origin. *See under* Turkey.
 U. S. legislation permitting American producers to use French wine names, representations against, 343-348
- Freedom of religion, 720
 Germany (*see also* Austria), 355-515
 Analyses of German and U. S. policies, 439-441, 442-446, 447, 450, 451-453

Germany—Continued

- Claims, inheritance, of American citizens to estates of persons deceased in Germany, declaration by Germany of transfer to beneficiaries, 479-482
- Catholic Church, position of, 448, 449
- Colonial question, 447
- Denmark, trade relations with, 241
- Estonia, trade relations with, 253, 254
- Expansion policy in central and southeastern Europe, 229, 426-427, 447
- Financial situation: Analysis, 423-425; foreign exchange problems, 357, 423-424, 479-482
- France, relations with: Alsace-Lorraine, expulsion of Germans from, 442, 443; French attitude toward German request for declaration of property by foreign Jews, 368, 373, 376; negotiations and arrangement on payments to French bondholders of Austrian loans, 493, 494, 496, 500
- German-American Bund, 436, 442, 461-464
- German-Czechoslovak crisis, 223
- Goebbels, Joseph, 382, 396, 397, 400, 432, 434-438
- Goering, Hermann, 459-460, 489, 512-513
- Helium, U. S. refusal to sell for use in zeppelins, 457-461
- Hitler, Adolf: American press attacks against, 435; German-American relations, 427, 451-452, 452-453, 454, 463; interview with Herbert Hoover, 433-434; Liberia, interest in, 828, 839; Palestine Jews, attitude toward, 897
- Iran, relations with, 747, 756, 760
- Italy, question of trade preferences, 579
- Japan, relations with, 439-440
- Jews, persecution of, 355-418
- Analyses and reports by U. S. officials, 355, 386-387, 389-390, 396-398, 403-404, 411-413, 415-417
- Army and navy opposition to extremist policies, 400
- Arrests, persecutions and organized demonstrations, 374, 376-377, 380-381, 382, 393-394, 395-398, 897, 919, 988
- Decrees and regulations: Exclusion of Jews from certain occupations and prohibition of access to certain places, 355, 381, 386-388, 391-393, 395, 400, 401, 405, 408, 416; financial measures, 358, 363, 375-376, 377, 381, 388, 390, 408-409; Goering's decree of *Nov. 12*,

Germany—Continued

- Jews, persecution of—Continued
- 399-400, 401, 405, 406; Jewish names compulsory for Jews, 389-390; Jewish religious communities, 360-361; passport regulations and possible loss of German nationality, 356-358, 362-364, 370-371, 391; registration of property, foreign reaction to, 365-367, 368, 369, 373, 376, 377-378, 379, 384-385
- Emigration, 357, 358, 362, 363-364, 371, 375-376, 393-395, 403-404, 449-450, 597, 654-658; to United States, 363-364, 371
- Goebbels, Joseph, activities of, 382, 396, 397, 400
- Nuremberg Laws (1935), 355, 362
- Protection of American and other foreign Jews: Damage to American property, 399, 403, 406, 415-416; exemption from one-billion-mark fine, 401, 406, 408; persecution and expulsion of Polish Jews as answer to Polish citizenship law, 393-395, 654-658; registration of property, question of, 365, 366-367, 368, 369-370, 373, 376, 377, 379, 383-385, 444; representations by United States regarding rights of American citizens, and answers by Germany, 368, 369-370, 372-375, 378, 383-386, 388-389, 399-400, 401, 404-405, 406, 408-409, 410-411, 413
- Recall of American and German Ambassadors, 397-399, 401-403, 408
- Relief operations within Germany, 407
- Vom Rath, assassination of: Anti-Jewish riots following, 395-397, 400; one-billion-mark fine, 399, 401, 405-406
- Liberia, attitude toward. *See under* Liberia.
- National Socialist Party (*see also* Representations, *infra*): Members in United States forbidden to participate in German-American Bund, 462; policy in Austria, 367; rôle in anti-Jewish campaign, 380, 382; S. S. and S. A. activities against U. S. citizens, 508-515
- Naturalization and dual nationality, U. S. disagreement with Germany regarding interpretation of treaty provisions affecting, 464-479
- Draft of treaty, 466-468, 472
- Military service obligations, 464, 465, 467, 468, 470, 474
- Rupprecht case, 468-479

- Germany—Continued
 Netherlands, relations with, 494, 496, 500
 Pacific islands, interest in, 104
 Poland, expulsion of Polish Jews from Germany, 393-395, 654-655, 657
 Propaganda by Germany in United States, 442, 444, 461-464
 Recall of American and German Ambassadors, 397-399, 402-403, 405
 Representations by Germany against American criticism of Nazi officials and policies, 432-457
 American correspondents in Germany, questions regarding, 432-434, 436-437, 438
 American press attacks against Germany, and German protests, 435, 438-441, 442
 German attacks on United States, and U. S. protests, 433, 446, 452, 453, 456-457, 463
 New York trial of German spies discussed, 449, 450-451
 Public opinion in United States versus Germany, 400-401, 437, 447, 448-449, 451
 Speech by German Consul General in New York, 446-447
 Speech of Dec. 18 by Secretary of the Interior Ickes, and German protest, 451-453, 455, 456
 Rumania, relations with, 683
 Sweden, relations with, 494, 496, 500
 Trade policy, 161
 Trade relations with United States, 418-431
 American holders of German bonds, situation of, 420, 422-423
 German proposals for improving relations, 422-425, 427-431
 Trade agreement, possibility of, 422
 Treaty of friendship, commerce and consular rights with United States (1923), 368, 370, 373-374, 383, 384, 388, 410, 413, 416
 United Kingdom, relations with: British attitude toward German request for declaration of property by foreign Jews, 369, 373; negotiations and arrangements on payments to bondholders of Austrian loans, 486-487, 493-494, 495, 500; trade discussions, 486, 487-488, 489
 Gilbert and Ellice Island Colony, 85-86, 98, 99-100, 103, 105-106, 108, 112, 114, 118
 Good Neighbor policy, 733, 734, 735, 739, 742
 Great Britain. *See* United Kingdom.
 Greece, provisional commercial agreement with United States, signed Nov. 15, 516-552
 Balkan clause, 533, 540, 548-549, 551, 1095
- Greece, provisional commercial agreement, etc.—Continued
 Citation to text, 552
 Customs duties question, 523-524, 526, 535-536, 550
 Discriminatory practices by Greece, question of abolishing, 517-520, 522, 526, 529, 540, 544-547
 Exchange controls, 517, 519, 522, 524-525, 528, 531, 538-539, 546
 Monopolies problem, 539, 547
 Quantitative restrictions and quota system, 519, 524, 526-528, 530-538, 541
- Hawaii, 88-97 *passim*, 103, 108
 Hitler, Adolf. *See* under Germany.
 Hoover, Herbert, 433-434
 Hungary, 553-556
 Proposal by Hungary for new debt settlement agreement with United States, 553-556
 Trade relations with various countries, 225, 695
- Inland Exploration Co., 752-757
 Iran, 727-762
 Cancellation of oil concession by Seaboard Oil Co. in, 752-757
 France, relations with, 745, 746, 747, 748, 757
 Resumption of diplomatic representation in United States, 727-751
 American press comment, Iranian sensitivity to, 732, 735, 739, 743, 744, 746, 747, 748-749, 753
 U. S. efforts to improve relations, 733-734, 735-743
 Sanjak of Alexandretta, interest in, 1042
 Trade agreement with United States, resumption of preliminary discussions for, 757-762
- Iraq, 763-769
 Partition of Palestine, actions regarding, 894-896, 903-904, 913, 952, 962, 968-969, 980, 982, 983-984, 986, 987-988, 999
 Treaty of commerce and navigation with United States, signed Dec. 3, 763-769; citation to text, 769
 United Kingdom: Judicial agreement with, 1025; termination of mandate with (1932), 1006-1007, 1013, 1015
- Ireland, 185-201
 Sale of sweepstakes tickets in United States, U. S. representations regarding, 194-201
 Trade agreement with United States, preliminary discussions regarding, 185-194
- Italy (*see also* Ethiopia), 557-606
 American public opinion relative to, 582, 585
 Austria, relations with, 489, 490, 579

Italy—Continued

- Capitulations in Morocco, interest in, 880-881
- Germany, question of trade preferences, 579
- Japan, relations with, 439-440
- Jews, persecution of, 582-606
- Decrees and regulations: Business and professional, 589, 601; definition, 594; educational, 588, 589, 591, 592, 594; emigration, 594; exemption, 594; expulsion, 594; marriage, 593
- Ethiopia, possible immigration into, 594, 677
- Fascist racial views, 583, 591-592, 594, 597
- Italo-American conversations, 584-588, 591
- Protection of American and other foreign Jews: Blattner case, 601-602; diplomatic and consular officials, problems regarding, 602-603; discrimination among American citizens, question of, 593, 596, 598-599, 602, 603, 604, 605; expulsion of, 589, 590, 594; immigration of, 587, 597; petitions and procedure for specific cases, 604-606; representations by United States, and Italian replies, 592-593, 594-595, 598-599
- Vatican position, 584
- Mussolini, Benito, 591-592, 720
- Syria and the Lebanon, educational activities in, 1045-1046
- Trade relations with United States, 557-582
- "Bolletta" system, 559, 564-565, 567
- Customs inquiries in United States on imported Italian articles and anti-dumping surtax question, 565-567, 567-569, 574
- License, articles subject to, 557-559, 562-564
- Quota allocations, difficulties over, 558-560, 561-565, 567, 570-571, 575-579, 580-582
- Temporary commercial arrangement (1937), problems regarding, 525, 557, 561, 563, 564, 567, 578, 580, 581, 692, 695
- Trade agreement negotiations, possibility of, 561, 573, 580
- United Kingdom, relations with, 262-263, 561
- Withdrawal of U. S. oil concession from Iran, interest in, 757
- Japan: Pacific islands, interest in, 77, 82, 91, 96, 104; trade relations with various countries, 439-440, 878
- Jews. *See* Latin America; Palestine; Austria: American citizens; *also* Anti-Semitism under Poland and Rumania; and Jews under Germany and Italy.
- Johnson Act (1934), 258, 260-261, 311, 407
- Latin America, possibility of Jewish immigration to, 649
- Latvia, 254, 548-549
- League of Nations, actions regarding—
- Palestine, 890, 974, 1048
- Syria and the Lebanon, 1003, 1004, 1012, 1015, 1023, 1024-1025, 1033
- Tanganyika, 1047
- Lebanon. *See* Syria and the Lebanon.
- Liberia, 770-845
- Analysis by U. S. diplomatic officer of Liberian situation, 824-836
- Consular convention with United States, signed Oct. 7, citation to text, 845
- Dutch mineral concession (Neep), failure to obtain mining concession; U. S. interest in developing iron resources, 770-817
- Financial control of company, 774, 775, 776, 782-783, 784-785, 796, 811
- Foreign interests, 771, 776, 777, 779, 783, 788, 789, 792-793, 794, 808, 811
- United States Steel Corp.: Application for exclusive exploratory rights granted, 809-810; commission to study ore deposits, preliminaries to sending, 804-807; foreigners in Liberia, attitude of, 832-835; general interest of, 778, 781, 785, 787, 794, 800, 803-804, 811, 812, 814, 815-816; Liberian legislature, attitude of, 811-812, 815-817
- Ethiopia, interest in Italian annexation of, 826, 830
- Firestone Plantation Co., 831, 832, 833, 835
- Germany: Interest in Liberian iron resources, 771, 776, 777, 779, 788, 789, 792-793, 794, 808, 811; Liberian fear of, 825, 826-829, 837, 838-839, 840
- Political and territorial integrity: Informal proposals for guarantee of, 836-842; tripartite alliance with France and United Kingdom, possibility of, 828, 836-839, 840-842
- Treaty of friendship, commerce and navigation with United States, signed Aug. 8, 842-845; citation to text, 845

Liberia—Continued

- U. S. Congress, passage of legislation affecting civil employees in Liberia, 790-791, 792, 797, 798, 799, 832
- U. S. Legation, dedication of new building site for, 819, 821, 823
- U. S. S. *Boise*, courtesy visit of (*Oct. 29-Nov. 3*), 817-836
 - Preliminaries to, 817-824
 - Reaction of Liberians, 825-826, 835-836
- Libya, 589, 592
- Liquor Tax Administration Act (*1936*), 343, 345, 347
- Lithuania: Greece, trade relations with, 548-549; Poland, diplomatic relations with, 651, 653
- Madagascar, 677
- Mandates. *See* Palestine; Syria and the Lebanon: French mandate.
- Martin Co., Glenn L., 299, 307
- Mexico, 677
- Middle Eastern (Saadabad) Pact (*1937*), 735, 742, 751
- Minorities. *See* Anti-Semitism under Poland and Rumania; Jews under Germany and Italy.
- Missionary activities: Ethiopia, Italian repressive measures in, 710-723; Syria and the Lebanon, U. S. attitude toward French restrictions, 1043-1046
- Morgan & Co., J. P., 485, 487
- Morocco, French Zone:
 - Abolition of U. S. capitulatory rights in, proposed, 846-888
 - Act of Algeciras (*1906*), 848, 859, 866, 868, 870-872, 873, 875, 880-881, 887, 888
 - Claims in respect of U. S. nationals and protégées, 853, 863, 885
 - Internal taxation, 848, 857, 858, 861, 868
 - Most-favored-nation treatment, question of, 847, 848, 856, 859, 864-866, 870, 873
 - Quotas, establishment of, 849-852, 854-858, 860, 861, 867, 868-869, 874, 875, 879
 - Trade relations with—
 - Belgium, 858-860, 868-872, 887
 - Japan, 878
 - Netherlands, 876
 - United Kingdom: Anglo-French treaty of commerce and navigation, signed *July 18*, 846-851, 852, 854-858, 860-867, 873, 877-879, 883-884, 885, 887, 888
 - United States, 851-852, 854, 855-856, 861, 862-864, 867, 873-875, 878-880, 883-888
- Most-favored-nation principle, application to U. S. reciprocal trade negotiations and agreements with various countries: Australia, 131; Bel-

Most-favored-nation principle—Con.

- gium, 209; Canada, 171, 173; Czechoslovakia, 224-225, 227, 229; Egypt, 708; Estonia, 238, 239; Greece, 523-524, 525, 535-536, 548, 551; Iran, 758, 759; Iraq, 763; Ireland, 186, 187, 191, 192, 193; Liberia, 842; Morocco, French Zone, 847, 848, 856, 859, 864-866, 870, 873; Portugal, 667, 668; Syria and the Lebanon, 1016-1017, 1019; Turkey, 1058, 1060, 1062, 1063, 1068, 1080; United Kingdom, 34, 35, 36, 46-51, 55, 72; Yugoslavia, 693-694
- Motion pictures:
 - Australian restrictions against, 158, 161, 162
 - British legislation against, and U. S. representations, 3-19, 20-25, 26-27, 28-29, 33-34
 - U. S.-Czech agreement, effected by exchange of notes signed *May 18*, 231-236; citation to texts, 236
- Mozambique and Tanganyika, U. S. assent to common frontier alterations, 1047-1051
- Mussolini, Benito, 591-592, 720
- Nationality and naturalization. *See* France: Citizenship status and Military service; Germany: Naturalization; Turkey: U. S. citizens.
- Netherlands (*see also* Liberia: Dutch mineral concession), 607-618
 - Belgium, tax convention with, 607, 611
 - Convention with United States for arbitration of difference relating to payment for certain requisitioned military supplies, signed *Mar. 18*, 616-618; citation to text, 616
 - Germany, relations with, 494, 496, 500
 - Morocco, French Zone, trade relations with, 876
 - Taxation, negotiations with United States for convention for the prevention of double taxation, 607-616
- Neutrality Act (*1935*), 298-309 *passim*
- Newfoundland, 1-3, 28
- New Zealand: Conflicting U. S.-British claims to Pacific islands, interest in, 79, 80, 82, 85, 86, 87, 90-98 *passim*, 108, 115; trade relations with United States, 158
- Norway, 619-634
 - Supplementary extradition treaty with United States, signed *Feb. 1*, citation to text, 634
 - Trade agreement with United States, preliminary discussions respecting, 619-633
 - Exchange of American wheat for whale oil, proposal for, 632-633

Norway—Continued

Trade agreement, etc.—Continued

Reduction of U. S. tax and duty on whale oil, question of, 619, 620, 621, 622, 624-625, 626-627, 630

Open door policy, 860

Ottawa agreements (1932), 145, 152

Palestine, Arab-Jewish difficulties, and partition question, 889-1002

American Jews, attitude of, 900, 904, 906, 917, 921, 925, 927-929, 942, 952, 953-954, 956-959, 960, 1001-1002

Arab-Jewish conflict: Acts of violence, 930-934, 935, 936-937, 939-940, 943-945, 946-947, 949, 961, 976-978; British activity regarding, 931-932, 947, 951, 976-978; Communist influence suspected, 933; local press reaction, 937-939; suggested basis for Arab-Jewish discussion of Hyamson-Newcomb proposals, 911-913, 921-925, 926, 938

Attitude of various nations: Czechoslovakia, 898; Egypt, 917, 979, 982, 986, 999; France, 986, 1000; Iraq, 894-896, 903-904, 913, 952, 962, 968-969, 980, 982, 983-984, 986, 987-988, 999; Poland, 898; Rumania, 898; Syria and the Lebanon, 980-981, 982; Transjordan, 903-904, 982, 986, 999; United States, and reprisals threatened by Arabs, 942, 953-955, 979, 980, 982-983, 984

Balfour Declaration (1917), 900, 928, 952, 956, 957, 958, 968, 969, 976, 979, 986, 996, 998

Christians, viewpoint of, 969-974

Grand Mufti of Jerusalem, activity of, 904, 906, 908, 922, 944, 945, 965, 984, 985, 986

"Haganā", 1001

Holy places, proposed treatment of, 900, 906

I. C. L. ("Irgun Civae Leumi"), 1000-1002

Immigration, 649, 651, 684, 895, 896-899, 904, 911, 914, 917-920, 923, 952, 964, 966, 968, 974, 981, 985, 988, 989, 990, 993; policy concerning, 892, 893, 895, 914-916, 1001-1002

Independent Arab states, proposal for confederation of, 903, 904, 907

Inter-Parliamentary Congress for the Defence of Palestine, Cairo (Oct. 7-11), 963-964

Jewish Agency, 900, 921, 922, 923, 926, 933, 949, 983, 986, 987, 999, 1000

Jewish military strength, 948-949

Palestine—Continued

Jewish population, status of (*see also* Immigration, *supra*), 908, 909-911, 912, 923-925, 927, 991-994

Mandates, U. S. view of, 951, 955, 962-963, 1048

New Zionist World Conference, Prague (Jan. 31), 889, 896-897

Partition and cantonization proposals (*see also* Royal Commission, *infra*): General, 895-896, 902-903, 905, 940-941, 945, 981-985; opinion of Palestine press, 922, 974

Protection of American nationals, 929, 930, 934-935, 947, 949, 950, 954-955, 957, 963, 967-968

Royal Commission of Inquiry (*see also* Partition, *supra*), 890, 891-893, 895, 899, 900, 901, 904, 906, 914, 930, 945, 957, 970, 971, 972, 989

Treaty rights of United States, question of, 987

United Kingdom (*see also* Royal Commission, *supra*):

Relations with Arabs and Jews, 890, 897, 904, 917, 921

Technical (Partition) Commission. *See* Partition, *supra*.

London discussions of British, Arabs, and Jews to be held in 1939, proposed, 986-987, 999-1000

Weizmann, Chaim, 893, 896, 899, 905, 923, 925, 932, 947, 981

Zionist Organization, 889, 896-898, 925, 1001-1002

Palmyra Island, 78-79

Panama Canal Zone, 529, 540

Pan American Airways, 86-87, 88, 89, 92, 94, 96, 100, 102, 107-111, 113, 117

Philippine Islands, 529, 540, 790, 791, 798

Phoenix Islands. *See* United Kingdom: Pacific islands.

Poland, 635-658

Anti-Semitism and consideration of Jewish emigration as possible solution, 647-653

Consultation with United States, 647-650, 655-656

Polish Jews from Germany, 393-395, 654-658

Discrimination against American bondholders in connection with partial defaults and suspensions of payments on various Polish obligations, 635-647

Dillon-Read loan (1925), 639, 640, 644-645, 647

France, arrangements on payments to French bondholders of Polish obligations, 641

- Poland—Continued
 Discrimination, etc.—Continued
 Stabilization loan bonds and multiple-currency clause, 635-640, 643-644, 645
 Treatment of dollar bondholders compared to sterling bondholders, 637-643
 Warsaw and Silesia loans, 635, 644
 Lithuania, diplomatic relations with, 651, 653
 Trade relations with various countries, 74, 241
- Portugal, 659-671
- Tanganyika and Mozambique, U. S. assent to common frontier alterations, 1047-1051
- Trade agreement with United States, preliminary discussions concerning, 659-671
- Flag discrimination, question of, 659, 662, 664, 668
- Protection of Port and Madeira wine designations, problem of, 659, 662-663, 664
- Tariff rate reductions, 660, 668-670
- Red Cross, 655
- Refugees:
 Emigration from Italy, 589, 590, 594; Poland, 648-649, 651, 656-658, 898, 1002; Rumania, 677, 898
- Immigration to various countries (*see also under* Palestine): Ethiopia, 594, 677; Italy, 587, 597; Latin America, 649; United States, 363-364, 371, 657
- Inter-Governmental Committee on Political Refugees, 398, 403-404, 449-450
- Religion, freedom of, 720
- Republic Steel Corp., 803, 809, 814
- Revenue Acts: 1932, 165, 166, 167, 169; 1934, 75, 626, 627
- Roosevelt, Franklin D. (President):
 Devaluation of French franc, action regarding, 271-272
- Federal Alcohol Administration, question of appointments to, 343
- Germany: Attacks by German press on, 452; attitude of President toward, 402, 442-443, 458, 459, 460
- Iran, active interest in resumption of diplomatic relations with, 728, 733, 734-735
- Liberia, interest in progress of, 786, 789, 791, 797, 817
- Pacific islands, proposal for and interest in Anglo-American administration and use of, 77-79, 84, 86, 91, 93-97, 101, 102, 104, 107, 109
- Palestine, interest in, 958, 959
- Turkey, interest in progress of, 734n
- Ruanda Urundi, 1049
- Rubber regulation agreement, international (1934), 73-74
- Rumania, anti-Semitism and consideration of Jewish emigration as a possible solution, 672-684; U. S. position, 674-676
- Rupprecht, Ransom Otto Theodore, case of, 468-479
- Saadabad (Middle Eastern) Pact (1937), 735, 742, 751
- St. Lawrence Waterway project, discussions between United States and Canada concerning, 177-183
- Sanjak of Alexandretta, protection of American rights and interests in, 1031-1043
- Saudi Arabia, 986, 994-998, 999
- Seaboard Oil Co., 752-757
- Socony Vacuum Co., 950
- Soviet Union, 687, 726, 1043
- Spanish Civil War, 685
- Sweden: Arrangement with United States for relief from double income tax on shipping profits, effected by exchange of notes signed *Mar. 31*, citation to text, 686; Germany, relations with, 494, 496, 500; Liberia, interest in iron resources in, 783; United Kingdom, trade relations with, 50-51
- Syria and the Lebanon, 1003-1046
 French mandate, negotiations between United States and France regarding possible termination of, 1003-1031
 Judicial safeguards, question of, 1009, 1017-1018, 1020, 1021-1022, 1025-1026, 1031
 Mandated territories, U. S. policy concerning, 1006-1007, 1013; French opposition, 1020-1024
 Tripartite convention, proposed, 1008, 1010-1011, 1014, 1016, 1017, 1020; draft text, 1018-1019
- Frontier changes, U. S. attitude toward, 1048, 1049
- Missionary activities, U. S. attitude toward restrictions by French High Commission, 1043-1046
- Palestine, attitude toward, 980-981, 982
- Sanjak of Alexandretta, protection of American rights and interests in, 1031-1043
- U. S. citizens of Syrian or Lebanese origin. *See under* Turkey.
- Tanganyika and Mozambique, U. S. assent to common frontier alterations, 1047-1051
- Tariff Acts: 1913, 54; 1930, 73, 76, 149, 165-169, 194, 705

- Taxation:** Arrangement between United States and Sweden for relief from double income tax on shipping profits, effected by exchange of notes signed *Mar. 31*, citation to text, 686; convention between United States and Netherlands for prevention of double taxation, negotiations, 607-616
- Trade Agreements Act (1934)**, 32, 126, 146, 149, 186, 502-505, 521, 620, 621, 625, 626, 660, 666-667, 669, 867
- Trade agreements between United States and other countries:**
 Basic U. S. policy, 43, 52, 54, 68, 126, 140, 141, 144, 145-146, 154, 158, 185, 193, 237-238, 246, 426, 518, 521, 547, 629, 630, 660, 661, 664-665, 667, 692
- Conclusion of agreements with—**
 Canada. *See under* Canada.
 Czechoslovakia (*Mar. 7*), 223-230; citation to text, 230
 United Kingdom. *See under* United Kingdom.
- Discussions and negotiations with—**
 Australia. *See under* Australia.
 Belgium. *See under* Belgium.
 Estonia, 245-255
 Iran, 757-762
 Ireland, 185-194
 Norway. *See under* Norway.
 Portugal. *See under* Portugal.
 Turkey. *See under* Turkey.
 Yugoslavia, 690, 692
- Trading with the Enemy Act (1917)**, 331, 338
- Transjordan:** Frontier changes, 1048, 1049; Palestine partition, interest in, 903-904, 932, 986, 999
- Treaties, conventions, etc.:**
 Act of Algeiras (1906), 848, 859, 866, 868, 870-872, 873, 875, 880-881, 887, 888
 Anglo-American mandate conventions of 1924 and 1925, cited, 1048-1049
 Anglo-French convention for the abolition of capitulations in Morocco and Zanzibar (1937), 847, 858, 873, 885
 Anglo-Iraq treaty of alliance (1930), 1012-1013
 Anti-Comintern Pact (1936), 440
- Commercial treaties and agreements:**
 Anglo-French treaty of commerce and navigation concerning French Zone of Morocco (July 18), 883-884, 885, 887, 888
 Greece-Latvia, convention on commerce and navigation (*Jan. 15*), 548-549
 Greece-Lithuania, commercial agreement (1937), 548-549
 U. S.-Denmark, convention of friendship, commerce and navigation (1826), 237
 U. S.-Estonia (1925), 245-255
- Treaties, conventions, etc.—Continued**
Commercial treaties—Continued
 U. S.—Germany, treaty of friendship, commerce and consular rights (1923), 368, 370, 373-374, 383, 384, 388, 410, 413, 416
 U. S.—Greece. *See* Greece.
 U. S.—Iraq, treaty of commerce and navigation, signed *Dec. 3*, 763-769; citation to text, 769
 U. S.—Italy: Provisional commercial arrangement (1937), 525, 557, 561, 563, 564, 567, 576, 578, 580, 581; treaty of commerce and navigation (1871), 592
 U. S.—Liberia, treaty of friendship, commerce and navigation, signed *Aug. 8*, 842-845; citation to text, 845
 U. S.—Portugal, commercial arrangement (1910), 662
 U. S.—Turkey, treaty of commerce and navigation (1929), 1073
- Franco-Lebanese treaty (1936)**, 1003-1004, 1006, 1024, 1025
- Franco-Russian treaty of mutual assistance (1925)**, 650
- Franco-Syrian treaty of friendship and alliance (1936)**, 1018, 1024, 1025, 1028-1029
- Franco-Turkish agreement (1937)**, 1101, 1102, 1103, 1104, 1105, 1108, 1119
- Franklin-Bouillon agreement (1921)**, 1007, 1040
- Hague agreement (1937)**, 623
- Knabenshue-Gouraud agreement (1921)**, 1016, 1103
- Lausanne, Treaty of (1923)**, 1102, 1104, 1113, 1116, 1118, 1119
- Montreux convention for the abolition of capitulations in Egypt (1937)**, 862, 873, 1025-1026
- Oslo Convention (1930)**, 623
- Ottawa agreements (1932)**, 145, 152
- Principal Allied and Associated Powers and Rumania ("Minorities Treaty," 1919)**, 676
- Rubber regulation agreement, international (1934)**, 73-74
- Saadabad (Middle Eastern) Pact (1937)**, 735, 742, 751
- Tripartite monetary agreement. See** France: Devaluation.
- U. S.—Austria, debt agreement (1930) and moratorium agreement (1932), 483, 501
- U. S.—Canada. *See under* Canada.
- U. S.—Czechoslovakia, agreement with respect to motion picture films, signed *May 18*, 231-236; citation to text, 236
- U. S.—France: Convention regarding U. S. rights in Syria and the Lebanon (1924), 1007, 1009-1016 *passim*, 1020, 1023, 1025, 1032, 1037, 1038; extradition convention (1909), 1010

- Treaties, conventions, etc.—Continued
- U. S.—German States, naturalization treaties (1868), 464
 - U. S.—Germany, restoration of friendly relations (1921), 464-465, 470-475, 478
 - U. S.—Great Britain—Iraq (1930), 1007, 1013, 1015
 - U. S.—Liberia, consular convention signed Oct. 7, citation to text, 845
 - U. S.—Netherlands. *See* Netherlands: Convention and Taxation.
 - U. S.—Norway, supplementary extradition treaty, signed Feb. 1, citation to text, 634
 - U. S.—Sweden: Arrangement for relief from double income tax on shipping profits, signed Mar. 31, citation to text, 686; nationality convention (1933), 465
 - U. S.—Turkey, treaty of establishment and sojourn (1931), 1110
 - Versailles, Treaty of (1919), 448, 465, 470, 471, 473-474, 475, 476-478
- Turkey, 1052-1121
- Sanjak of Alexandretta, 1033-1043 *passim*
 - Trade agreement with United States, negotiations for, 1052-1101
 - Exchange control, 517, 1056-1061, 1064-1072 *passim*; draft article on, 1074-1075, 1076-1078
 - General reservations, proposed text, 1085n-1086n
 - Territorial application, proposed text, 1086n
 - Turkish counterproposals, text, 1073-1074
 - U. S. citizens of Syrian or Lebanese origin, agreement with United States regarding, 1101-1121
 - Citizenship status, 1102, 1104, 1106, 1110, 1112-1119 *passim*
 - Immigration, question of, 1108-1109, 1110, 1120
 - Protection of rights, 1016, 1103, 1107
- Ulen and Co., 752
- Union of South Africa, 74
- Union of Soviet Socialist Republics, 687, 726, 1043
- United Kingdom (*see also* Palestine), 1-119
- Devaluation of French franc, problem of: Anglo-American consultations, 264-267, 291-295; Anglo-French consultations, 256, 257, 263-264, 277, 279-280, 281, 282, 284, 292, 293, 294, 295-296
 - Ethiopia, recognition of Italian sovereignty in, 724, 725-726
 - Germany, relations with. *See under* Germany.
- United Kingdom—Continued
- Iraq: Judicial agreement with, 1025; termination of mandate with (1932), 1006-1007, 1013, 1015
 - Italy, relations with, 262-263, 561
 - Liberia, relations with, 828, 829, 836-839, 840-842
 - Morocco, French Zone: Anglo-French treaty of commerce and navigation (July 18), 883-884, 885, 887, 888; miscellaneous, 846-851, 852, 854-858, 860-867, 873, 877-879
 - Pacific islands, conflicting British-U. S. claims to, and question of use for trans-Pacific aviation, 77-119
 - Colonization from Gilbert and Ellice group, British desire for, 85-86, 98, 99-100, 103, 105-106, 108, 112, 114, 118
 - Joint administration, proposal for and question of, 77, 84-89, 91-99, 102, 104, 107, 110-119 *passim*
 - Pan American Airways, survey and use by, 86-87, 88, 89, 92, 94, 96, 100, 102, 107, 108-109, 110-111, 113, 117
 - Standstill proposal and occupation by British and American parties, 78, 79-84, 100-101, 102, 104, 105, 107, 115, 118
 - Press, government control of, 439
 - Rumania, relations with, 683
 - Syria and the Lebanon: Sanjak of Alexandretta, interest in, 1040-1041; treaty relations with, question of, 1022-1023
 - Tanganyika and Mozambique, actions regarding frontier between, 1047
 - Trade agreement with United States, signed Nov. 17, 1-76
 - American film industry, effect of British legislation against, and U. S. representations, 3-19, 20-25, 26-27, 28-29, 33-34
 - Attitude of American Government, 1-3, 19-21, 25, 26, 27, 34-35, 37-39, 40-42, 45-48, 51-55, 57-58, 60-61, 67, 71, 75-76; of British Government, 25, 30-33, 35-37, 42-46, 59, 62-64, 68-69
 - Citation to text, 71
 - Commodities, 25-26, 30-32, 35-36, 37, 44-46, 48-51, 54-55, 57, 60-61, 74, 75
 - Empire preferences, question of, 2, 20, 43, 46, 52, 57, 59, 60, 63, 64-65, 67, 74
 - Most-favored-nation treatment, question of, 34-36, 43-50, 72
 - Motion picture film quotas, 3-29 *passim*, 33-34

- United Kingdom—Continued
 Trade agreement—Continued
 Relation to—
 U. S.—Australia negotiations, 122, 123, 133, 135, 139-140, 141, 143-144, 146, 147, 150, 152, 153-154, 155, 156
 U. S.—Canada agreement, 166-167
 U. S.—Ireland negotiations, 188, 190, 193-194
 Trade relations with other countries:
 Australia, 145, 148, 152, 153, 162, 163; Canada, 166-177; Estonia, 246-247, 248, 253; Greece, 550
 Turkey, relations with, 1040, 1042
 United States Grain Corp., 483, 553
 United States Steel Corp. *See under* Liberia: Dutch mineral concession.
- U. S. citizens:
 Claims in respect of U. S. nationals and protégées in French Zone of Morocco, 853, 863, 885
 Nationality and naturalization. *See* France: Citizenship status *and* Military service; Germany: Naturalization; Turkey: U. S. citizens.
 Protection of (*see also* Austria: American citizens; *and under* Germany: Jews *and* Italy: Jews): Palestine, 929, 930, 934-935, 947, 949, 950, 954-955, 957, 963, 967-968; Turkey, 1016, 1103, 1107
- U. S. Congress, passage of legislation affecting civil employees in Liberia, 790-791, 792, 797, 798, 799, 832
- Vatican, 584, 973
 Venezuela, 649
- Weizmann, Chaim, 893, 896, 899, 905, 923, 925, 932, 947, 981
 Wilson, Woodrow, 447, 452-453, 958, 964, 990, 997
- Young plan loans, 419, 444, 489, 500
 Yugoslavia, 688-704
 Commercial relations with United States, proposal for regulation of, 688-704
 Danubian preferences, question of, 695
 Foreign exchange, problem of control, 691, 694
 Non-discriminatory treatment, question of, 698, 699, 700-701
 Quota allocations with special regard to automobile industry, 688-691, 694-702 *passim*
 Trade agreement, discussions concerning, 690, 692
 Unilateral declaration by Yugoslavia, 691-692, 702-703; text, 704
 Trade relations with other countries, 225, 695
- Zionist Organization, 889, 896-898, 925, 1001-1002