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Foreign
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United
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1936

Volume V

THE AMERICAN
REPUBLICS

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Foreign Relations
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United States
Diplomatic Papers
1936

(In Five Volumes)

Volume V
The American Republics



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June 2	<i>To the Director General of the Pan American Union</i> Opinion that formulation of the definitive agenda for the Conference of American States might profitably be postponed pending results of the Inter-American Conference at Buenos Aires.	1

INTER-AMERICAN CONFERENCE FOR THE MAINTENANCE OF PEACE HELD AT BUENOS AIRES, DECEMBER 1-23, 1936

PRELIMINARIES

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Jan. 30	<i>From President Roosevelt to the President of Argentina</i> Belief that with the conclusion of peace between Bolivia and Paraguay in the Chaco controversy, a favorable opportunity exists for an extraordinary inter-American conference to be summoned at an early date, probably at Buenos Aires, to advance the cause of maintenance of peace throughout the American Republic. (Footnote: The same, <i>mutatis mutandis</i> , to the Presidents of the American Republics.)	3
Feb. 6 (22)	<i>From the Ambassador in Argentina (tel.)</i> For Assistant Secretary of State Welles from Braden, U. S. delegate to the Chaco Peace Conference: Comments and suggestions of the Foreign Minister relative to conference proposed by President Roosevelt, and request for instructions for further discussions of the matter.	5
Feb. 8 (19)	<i>To the Ambassador in Argentina (tel.)</i> For Braden: Instructions as requested in No. 22 of February 6, and advice of intention to create a special committee to formulate plans for consideration at the proposed inter-American conference.	6
Feb. 18 (38)	<i>From the Ambassador in Argentina (tel.)</i> Conversation with the Foreign Minister, who expressed his Government's approval of the proposed extraordinary conference and reported concurrence of certain other Latin American Foreign Ministers.	7

INTER-AMERICAN PEACE CONFERENCE

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Feb. 27 (40)	<i>To the Ambassador in Mexico (tel.)</i> Information for use in conversation with the Under Secretary for Foreign Affairs, and advice that unanimous agreement in the American Republics will be sought relative to appropriate steps for beneficial publicity.	9
Mar. 18 (67)	<i>From the Ambassador in Argentina (tel.)</i> Foreign Minister's reasons for desiring the conference to meet at an early date.	10
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Mar. 19	<i>Memorandum by the Assistant Secretary of State to the Under Secretary of State</i> President Roosevelt's feeling that there is no reason why Canada, a component part of the British Empire, should enter into any political or quasi-political conventions agreed to by the independent American Republics.	11
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May 8 (1688 Pol.)	<i>From the Consul at Geneva</i> Transmittal of a memorandum (text printed) which embodies the official League Secretariat viewpoint concerning the probable effect of the forthcoming Buenos Aires Conference upon relations between Geneva and Latin America.	18
June 3 (903)	<i>To the Ambassador in Peru</i> Information for reply to the Foreign Minister's inquiry relative to setting an early date for the Inter-American Conference.	21
June 11	<i>Memorandum by the Secretary of State</i> Conversation with the Spanish Ambassador regarding appointment of a Spanish observer to attend the Pan American Peace Conference, and assurance that, with or without a designated observer, reports of all considerations at the Conference would be available to the Spanish Government.	22
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Nov. 11 (3)	<i>From the Chairman of the American Delegation to the Inter-American Conference for the Maintenance of Peace (tel.)</i> For Mr. Duggan, Chief of the Division of Latin American Affairs: Possibility of lending support at the Conference to an Argentine-inspired proposal for a truce against any new obstacles to trade among the American Republics, and instructions to seek the cooperation of the Secretary of Agriculture in clearing the matter with the three Departments concerned with the trade aspects of such a truce. (Footnote: Information that Secretary of State Hull, Chairman of the American Delegation, sailed from New York on November 7.)	27
Nov. 12	<i>From the Secretary of War to President Roosevelt</i> Message (text printed) from the President of the Philippines, who expressed the hope that a signatory privilege clause, for use when Philippine independence is achieved, might be inserted in the pending arbitration agreement between the American Republics. (Footnote: President's request that this message be forwarded by air mail to Secretary of State Hull, en route to Buenos Aires.)	30
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CHACO DISPUTE BETWEEN BOLIVIA AND PARAGUAY: THE CHACO PEACE CONFERENCE

1936	(Bibliographical note.)	35
Jan. 21 (104)	<p><i>From the American Delegate to the Chaco Peace Conference</i> Transmittal of three documents (texts printed): (1) A Conference resolution recommending maintenance of certain security measures, return of prisoners of war, and renewal of diplomatic relations between Bolivia and Paraguay; (2) Protocolized Act signed by the two countries on January 21 putting the recommendations into effect; and (3) identic notes exchanged by the two countries in regard to submitting the act to their Congresses for legislative approval.</p>	35
Jan. 23 (9)	<p><i>From the Ambassador in Argentina (tel.)</i> From Braden, American Delegate to the Chaco Peace Conference: Advice that Conference will not recess until after legislative approval of the Protocolized Act of January 21. Plan to clear up details and then go on projected trip to Bolivia; suggestion that Dawson, assistant to Braden, go to Washington for consultation.</p>	39
Jan. 24 (7)	<p><i>To the Ambassador in Argentina (tel.)</i> For Braden: Advice that Legations at La Paz and Asunción have been ordered to repeat to Braden reports on developments relative to legislative approval. Approval of Braden's plan, but desire that Dawson remain at Buenos Aires.</p>	40

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Mar. 26 (41)	<i>To the American Delegate (tel.)</i> Designation of Major Weeks as military observer, as recommended in despatch No. 131 of February 28.	45
Mar. 27 (146)	<i>From the American Delegate</i> Request for authorization to designate Lieutenant Colonel Baker, the newly assigned Military Attaché at Buenos Aires, as American member of the Special Repatriation Commission, replacing his predecessor, Captain Sharp.	45
Apr. 16 (160)	<i>From the American Delegate</i> Arrival of Major Weeks, and advice of the assistance which he will have in performing his duties as military observer.	46

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June 18 (196)	<i>From the Minister in Paraguay</i> Conversation with the Foreign Minister, who mentioned the Paraguayan refusal to relinquish control of the Villa Montes-Boyuibé Road to Bolivian control, and stated that an interview between the Presidents of Bolivia and of Paraguay would probably be arranged, subject to the approval of the Peace Conference.	51
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COOPERATION OF THE UNITED STATES WITH OTHER GOVERNMENTS
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PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND ARGENTINA

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INTEREST OF THE UNITED STATES IN SECURING EQUALITY OF TREATMENT FOR AMERICAN OIL COMPANIES OPERATING IN ARGENTINA

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

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REVOLUTION IN BOLIVIA

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ECUADOR

PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND ECUADOR, SIGNED JUNE 12, 1936

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Apr. 14 (330)	<i>From the Minister in Ecuador</i> Observations on the Ecuadoran addition to the proposed draft relative to preferential tariff, with indication that its purpose is contrary to U. S. policy but not unacceptable since it is solely a unilateral statement.	495
Undated [Rec'd Apr. 20]	<i>From the Ecuadoran Legation</i> Text of proposed commercial <i>modus vivendi</i> , including article added by Ecuador.	498
Apr. 20	<i>Memorandum of Conversation, by the Chief of the Division of Latin American Affairs</i> Explanation to the Ecuadoran Minister that Department does not wish to include the article added by Ecuador, but that it might be included in the preamble of the Ecuadoran proclamation approving the agreement.	499
Apr. 24	<i>To the Ecuadoran Legation</i> Suggestion for two changes in the Ecuadoran text with reasons therefor.	500
May 19 (377)	<i>From the Minister in Ecuador</i> Transmittal of copy of instruction sent to the Ecuadoran Minister to change article 2 as suggested by the Department, to eliminate article 3, and to send separate note outlining reasons for granting preferential tariff to the United States.	501
June 12 (19)	<i>To the Minister in Ecuador (tel.)</i> Information that <i>modus vivendi</i> became effective on June 12 by an exchange of notes, final text same as draft sent with Department's instruction No. 84 of December 24, 1935.	502

ECUADOR

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND ECUADOR

Date and number	Subject	Page
1936 June 9 (18)	<i>To the Minister in Ecuador (tel.)</i> Arrangements to begin studies on a trade agreement with Ecuador, which are to be kept confidential until instructions for conversations are given; advice of material requested from Consulate General.	503
Oct. 13 (565)	<i>From the Chargé in Ecuador</i> Conversation with an official of the Foreign Office, who expressed hope for an early commercial agreement, and said his country would like a reduction of 50% on existing duties on Panama hats, naranjilla juice, mineral waters, carbonic gas, and lentils.	503
Nov. 11 (186)	<i>To the Chargé in Ecuador</i> Instructions relative to trade agreement, with indication that Department wishes it to be predicated on most-favored-nation principle and attaches importance to reductions in duty on flour and hog lard, in return for concessions on hats and other products.	504
Nov. 23 (55)	<i>From the Chargé in Ecuador (tel.)</i> Advice of Ecuadoran policy to facilitate import of lard and flour up to margin of deficiency, and that benefits arising from reductions in import duties would accrue to other countries also.	506
Dec. 10 (41)	<i>To the Chargé in Ecuador (tel.)</i> Advice that concessions on flour would be worthwhile despite necessity of sharing market with other countries; instructions to open preliminary conversations.	506
Dec. 11 (631)	<i>From the Chargé in Ecuador</i> Opening of conversations, with emphasis on U. S. desire for agreement based on most-favored-nation principle and for concessions on flour and hog fat, but willingness to make concessions on major Ecuadoran products; memorandum left with Foreign Minister (text printed).	507
Dec. 14 (632)	<i>From the Chargé in Ecuador</i> Further conversation during which discussion centered on various commodities: flour, hog lard, naranjilla juice, lentils, and natural carbonic gas; and during which U. S. expectation of 50% reduction on flour and lard was made clear.	511
Dec. 15 (633)	<i>From the Chargé in Ecuador</i> Note from Foreign Minister (text printed), expressing willingness to negotiate agreement on basis of unconditional most-favored-nation clause and willingness to grant 50% reductions in duty on flour and hog lard in return of concessions and assurances on its chief products. Comments on note.	512
Dec. 21 (138)	<i>From the Acting Secretary of State to the Secretary of State (tel.)</i> Information on status of trade agreement negotiations and desirability of proceeding with public announcement of intention to negotiate a treaty; request for instructions. (Footnote: Information that the Secretary attended the Inter-American Conference at Buenos Aires, December 1-23, 1936.)	515

ECUADOR

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND ECUADOR—Continued

Date and number	Subject	Page
1936 Dec. 22 (73)	<i>From the Secretary of State to the Acting Secretary of State (tel.)</i> Approval of announcement of intention to negotiate an agreement; and instruction to watch exchange control features carefully.	516
Dec.[23?] (76)	<i>From the Secretary of State to the Acting Secretary of State (tel.)</i> Request that public announcement be postponed until after January 1 to avert possible adverse effect in Buenos Aires.	516
Dec. 24 (44)	<i>To the Chargé in Ecuador (tel.)</i> Readiness to make public announcement of intention to negotiate on January 2 or shortly thereafter, if agreeable to Ecuador.	516
Dec. 29 (63)	<i>From the Chargé in Ecuador (tel.)</i> Advice that Foreign Office is agreeable to proposed announcement.	517

REPRESENTATIONS REGARDING THE REIMPOSITION BY ECUADOR OF EXCHANGE AND IMPORT CONTROLS

1936 Aug. 1 (469)	<i>From the Minister in Ecuador</i> Advice of decree dated July 30, establishing control over all exchange operations, except those of mining companies, and providing that only the Central Bank of Ecuador may purchase, sell, and hold foreign currencies; reasons for surprise move; probable effect on American trade.	518
Aug. 6	<i>Memorandum by the Assistant Secretary of State to the Chief of the Division of Latin American Affairs</i> Advice of presentation of <i>aide-mémoire</i> to the Ecuadoran Minister (text printed), expressing regret at the step taken and hope that it will be temporary; intention of Minister to urge President Páez to reconsider policy.	520
Aug. 14 (164)	<i>To the Minister in Ecuador</i> Transmittal of copy of <i>aide-mémoire</i> given the Ecuadoran Minister.	521
Aug. 26 (502)	<i>From the Minister in Ecuador</i> Apprehensiveness of importers of American merchandise regarding interpretation of exchange regulation since administrative body has authority to refuse licences not of urgent necessity; possibility that American companies will have to liquidate accumulated balances at a loss; request for instructions.	522
Sept. 12 (173)	<i>To the Minister in Ecuador</i> Instructions to confine action to reporting important developments, especially those relating to classification of imports and remittance of funds accumulated by American interests.	523
Sept. 25 (540)	<i>From the Minister in Ecuador</i> French Minister's protest, in anticipation of unfavorable effect on French trade, demanding exemption of 70% of French exports to Ecuador from import licensing system; Foreign Minister's opinion that measure could not be used against country with trade balance favorable to Ecuador.	524

ECUADOR

REPRESENTATIONS REGARDING THE REIMPOSITION BY ECUADOR OF EXCHANGE AND IMPORT CONTROLS—Continued

Date and number	Subject	Page
1936 Nov. 6 (328)	<p data-bbox="248 343 636 366"><i>From the Consul General at Guayaquil</i></p> <p data-bbox="248 366 894 453">Information from reliable source that no important change will be made in present system of control; summary of effect of system on American trade, and reference to position of American tourists.</p> <p data-bbox="248 453 894 499">(Footnote: Revocation of principal features of control decree, July 31, 1937.)</p>	526

EXPRESSION OF CONCERN BY THE UNITED STATES GOVERNMENT REGARDING ECUADORAN FISHING REGULATIONS PURPORTING TO EXTEND THE TERRITORIAL WATERS OF ECUADOR BEYOND THE THREE-MILE LIMIT

1936 Oct. 9 (560)	<p data-bbox="248 659 538 682"><i>From the Chargé in Ecuador</i></p> <p data-bbox="248 682 894 770">Transmittal of Foreign Office note relative to operations of American fishing vessels in the territorial waters and marginal seas of Ecuador, with request that fishing companies be warned. Detailed comments thereon.</p>	527
Oct. 23 (182)	<p data-bbox="248 786 511 808"><i>To the Chargé in Ecuador</i></p> <p data-bbox="248 808 894 918">Instructions to acknowledge note and include certain observations referring to previous correspondence in which the right of Ecuador to apply its fishing regulations beyond belt of three miles from low water lines was questioned, and to points raised in connection with specific case of the <i>Seaboy</i>.</p>	529
Nov. 7 (590)	<p data-bbox="248 933 511 956"><i>To the Chargé in Ecuador</i></p> <p data-bbox="248 956 894 1065">Two notes (texts printed), one acknowledging Ecuadoran note and the other explaining U. S. observance of the three-mile limit in connection with treaties relative to smuggling of intoxicating liquors, a subject previously referred to by the Foreign Minister.</p>	530
Dec. 2 (624)	<p data-bbox="248 1081 538 1104"><i>From the Chargé in Ecuador</i></p> <p data-bbox="248 1104 894 1196">Foreign Office information that the Legal Adviser is completing a voluminous report concerning Ecuadoran territorial waters and marginal seas; belief that report will support present Ecuadoran position.</p>	532

ENGAGEMENT OF AMERICAN NAVAL OFFICERS BY THE ECUADORAN GOVERNMENT TO SERVE AS ADVISERS AND INSTRUCTORS IN THE ECUADORAN NAVAL SCHOOL

1936 Jan. 13 (228)	<p data-bbox="248 1322 554 1345"><i>From the Minister in Ecuador</i></p> <p data-bbox="248 1345 894 1459">Desire of Ministry of National Defense to contract unofficially for services of two American Navy officers as instructors in Ecuadoran Navy thereby preparing for adequate maritime patrol service; strong recommendation for favorable attention.</p>	533
Feb. 14 (99)	<p data-bbox="248 1475 511 1498"><i>To the Chargé in Ecuador</i></p> <p data-bbox="248 1498 894 1536">Advice that Navy Department will give favorable consideration to Ecuadoran request.</p>	534

ECUADOR

ENGAGEMENT OF AMERICAN NAVAL OFFICERS BY THE ECUADORAN GOVERNMENT
TO SERVE AS ADVISERS AND INSTRUCTORS IN THE ECUADORAN NAVAL SCHOOL—
Continued

Date and number	Subject	Page
1936 Aug. 17 (27)	<i>From the Ecuadoran Minister</i> Request that appropriate steps be taken to secure from the proper Department authorization and permission for two Navy officers to serve as instructors at Naval School of Ecuador.	535
Aug. 27	<i>To the Ecuadoran Minister</i> Information from Navy Department that contracts with two Navy officers were signed August 19.	535

GOOD OFFICES OF THE UNITED STATES RESPECTING A SETTLEMENT OF THE FIRST
MORTGAGE BONDS OF THE GUAYAQUIL AND QUITO RAILWAY

1936 June 22 (411)	<i>From the Minister in Ecuador</i> Comments on information from Finance Minister concerning debt settlement of Quito Railway, which will be declared bankrupt, sold at public auction, adjudicated to the state, and whose bondholders will be given 20% of their bonds and coupons in new bonds.	536
July 3	<i>From the Executive Vice President and Secretary of the Foreign Bondholders Protective Council, Inc. to the Chief of the Division of Latin American Affairs</i> Protest on behalf of the Council against possible settlement of the First Mortgage Bonds of the Guayaquil and Quito Railroad without consulting the American bondholders concerned.	541
July 7 (23)	<i>To the Minister in Ecuador (tel.)</i> Instructions to inform Foreign Minister of U. S. policy relative to American holders of foreign securities, with a concise statement of that policy.	542
July 10 (29)	<i>From the Minister in Ecuador (tel.)</i> Recognition by Foreign Minister of reasonableness of U. S. position, and his referral of the matter to the Minister of Public Works.	543
July 10 (30)	<i>From the Minister in Ecuador (tel.)</i> Information from the President that he telegraphed Sherwell of the Manufacturers Trust Company to confer with the Council and suspend proceedings pending consultation; President's unabated determination to dispose of question on basis of Ecuador's financial capacity.	543
July 16 (446)	<i>From the Minister in Ecuador</i> Press report relative to further steps taken against the Quito Railway; interview with <i>Jefe Supremo</i> concerning such action before consultation with Council, and his promise to direct the suspension of proceedings pending consultation.	544
July 27 (27)	<i>To the Minister in Ecuador (tel.)</i> Conversation with Ecuadoran Minister and Mr. Sherwell, who said he had received word from Ecuador of U. S. protest against proposed settlement of Quito Railway bonded indebtedness, and reply that Department was unaware of such action.	545

ECUADOR

GOOD OFFICES OF THE UNITED STATES RESPECTING A SETTLEMENT OF THE FIRST MORTGAGE BONDS OF THE GUAYAQUIL AND QUITO RAILWAY—Continued

Date and number	Subject	Page
1936 July 28 (457)	<i>From the Minister in Ecuador</i> Denial that protest was lodged; explanation of step taken.	545
July 29 (37)	<i>From the Minister in Ecuador (tel.)</i> Receipt of formal notice of President's orders to continue suit against railway, with information from him of Ecuadoran Minister's report that the Department of State perceived no objection to its continuance; Attorney General's opinion that legal proceedings would void claims of bondholders not parties to suit.	546
July 31 (38)	<i>From the Minister in Ecuador (tel.)</i> Information from Minister of Public Works that he is withholding continuation of suit pending word from the U. S. Minister.	547
Aug. 1 (28)	<i>To the Minister in Ecuador (tel.)</i> Conversation with the Ecuadoran Minister relative to the desirability of consultation with the Council prior to any proposal for settlement of the Railway default.	547
Aug. 4 (29)	<i>To the Minister in Ecuador (tel.)</i> Note from the Council to Ecuadoran authorities (text printed), indicating that it has no one in Ecuador whom it might appoint as representative, and suggesting that Ecuador designate someone in the United States to carry on negotiations.	548
Aug. 4 (472)	<i>From the Minister in Ecuador</i> Transmittal of memorandum shown to the Minister of Public Works pointing out that a situation might develop if suit continued which would be incompatible with friendly consultation with the Council.	549
Aug. 4 (473)	<i>From the Minister in Ecuador</i> Delivery of note based on Department's No. 29 of August 4. Information from Minister of Public Works that letters from the Ecuadoran Minister in Washington concerning various conversations relative to the Railway bonds have encouraged the President in his determination to continue suit.	550
Aug. 5 (40)	<i>From the Minister in Ecuador (tel.)</i> Opinion that Council's message will receive unfavorable action; reasons for President's belief that the only solution of the matter is bankruptcy proceedings.	551
Aug. 6	<i>Memorandum of Conversation, by the Chief of the Division of Latin American Affairs</i> Discussion with Ecuadoran Minister who seemingly subscribed to the viewpoint that the Council should be consulted prior to any action in the bankruptcy proceedings but requested delay in naming Avilés representative until definite assurances have been received from Ecuador.	552
Aug. 12 (476)	<i>From the Minister in Ecuador</i> Advice that no further steps appear to have been taken by the President to continue bankruptcy proceedings, and suggestion of possible reasons therefor; British representations to the Ecuadoran Government urging that the British Bondholders Council be consulted.	553

ECUADOR

GOOD OFFICES OF THE UNITED STATES RESPECTING A SETTLEMENT OF THE FIRST MORTGAGE BONDS OF THE GUAYAQUIL AND QUITO RAILWAY—Continued

Date and number	Subject	Page
1936 Aug. 26 (171)	<i>To the Minister in Ecuador</i> Instructions to aid the bondholders' representative, Mr. Merritt, by arranging contacts which will provide complete and accurate information in the bond case under consideration.	554
Sept. 2 (514)	<i>From the Minister in Ecuador</i> Advice of efforts to insure negotiations between the Ecuadoran representative and American as well as British bondholders.	555
Nov. 26 (610)	<i>From the Chargé in Ecuador</i> Information from the Minister of Public Works that the matter of the Railway is now entirely in the hands of the President.	556
Dec. 18 (639)	<i>From the Chargé in Ecuador</i> Temporary suspension of the suit against the Railroad, with speculation as to the reasons therefor. (Footnote: No participation by Department in subsequent negotiations.)	556

EL SALVADOR

NEGOTIATIONS RESPECTING A RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND EL SALVADOR

1936 Feb. 27 (201)	<i>To the Minister in El Salvador</i> Request for opinion as to whether negotiations for a trade agreement with Salvador would be facilitated by submission of a note listing concessions which would accrue to El Salvador by virtue of generalization from other treaties, concessions which for policy reasons cannot be included in Schedule II.	558
Mar. 4 (615)	<i>From the Minister in El Salvador</i> Status of trade agreement negotiations, and attitude of the Under Secretary of Finance thereon; belief that submission of note mentioned would facilitate the securing of important concessions on American products.	559
Mar. 26 (637)	<i>From the Minister in El Salvador</i> Conversation with the President, who accepted certain further concessions, subject to reference to Finance Ministry, and explained inability to grant others; general comment on negotiations.	560
Apr. 20 (654)	<i>From the Minister in El Salvador</i> Request for and promise of Presidential assistance in bringing negotiations to an early conclusion.	563
May 1 (217)	<i>To the Minister in El Salvador</i> Commendation for work thus far, but opinion that efforts should be continued to secure some duty reduction on lard, flower and lumber, with other suggestions for further negotiations.	563
Sept. 30 (45)	<i>From the Minister in El Salvador (tel.)</i> Foreign Office acceptance, with modifications, of U. S. proposed trade agreement; comment on concessions.	565

EL SALVADOR

NEGOTIATIONS RESPECTING A RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND EL SALVADOR—Continued

Date and number	Subject	Page
1936 Nov. 7 (29)	<i>To the Chargé in El Salvador (tel.)</i> Trade Agreement Committee's acceptance of modified agreement; desirability that document be signed before adjournment of Buenos Aires Conference.	565
Nov. 12 (855)	<i>From the Chargé in El Salvador</i> Willingness of Salvadoran authorities to bring agreement to a speedy conclusion, with steps taken and planned to that end.	566
Nov. 16 (258)	<i>To the Chargé in El Salvador</i> Amplification of comments on the Salvadoran proposals looking toward the completion of a trade agreement, with special attention to the omission of henequen from the free list.	567
Dec. 10 (82)	<i>From the Chargé in El Salvador</i> Salvadoran acceptance of certain parts of the proposed agreement, with suggestion of changes in other provisions.	568
Dec. 17 (266)	<i>To the Chargé in El Salvador</i> Transmittal of a tentatively final draft of agreement, with a memorandum noting most important changes made in Spanish text, and comment thereon.	569
Dec. 28 (60)	<i>From the Chargé in El Salvador (tel.)</i> Salvadoran acceptance of latest U. S. proposals with certain changes.	570
Dec. 30 (61)	<i>From the Chargé in El Salvador</i> Delivery of Salvadoran note accepting draft of trade agreement enclosed with Department's note of December 17, with certain changes in the Spanish text.	571
	(Note: Citation to text of agreement signed February 19, 1937.)	572

INFORMAL ASSISTANCE BY THE DEPARTMENT OF STATE TO REPRESENTATIVES OF THE HOLDERS OF THE SALVADORAN BONDS UNDER THE LOAN CONTRACT OF JUNE 24, 1922

1936 Jan. 10 (1)	<i>To the Minister in El Salvador (tel.)</i> Explanation to Fred Lavis of the Bondholders Protective Committee that settlement regarding "C" scrip with El Salvador was a matter for negotiation between holders and that country; authorization to inform Salvadoran authorities of U.S. pleasure at progress in external debt settlement.	572
Jan. 16 (555)	<i>From the Minister in El Salvador</i> Detailed review of present stage of negotiations relative to the external debt, based on information supplied confidentially by Douglas Bradford, Secretary of Bondholders Protective Committee.	572
Feb. 8 (579)	<i>From the Minister in El Salvador</i> Cabinet approval of bases for agreement amending Loan Contract of 1922, providing for complete condonation of outstanding scrip; suggestion by Bradford of conversations in New York with Subsecretary of Finance.	574

EL SALVADOR

INFORMAL ASSISTANCE BY THE DEPARTMENT OF STATE TO REPRESENTATIVES OF THE HOLDERS OF THE SALVADORAN BONDS UNDER THE LOAN CONTRACT OF JUNE 24, 1922—Continued

Date and number	Subject	Page
1936 Feb. 15 (590)	<i>From the Minister in El Salvador</i> Detailed discussion of agreement revising External Loan Contract, submitted by Bradford.	575
Mar. 26	<i>Memorandum of Conversation, by the Chief of the Division of Latin American Affairs</i> Conversation with Lavis, who reported a satisfactory culmination of the Salvadoran external debt negotiations.	578
Apr. 3 (640)	<i>From the Minister in El Salvador</i> Information from Bradford that Minister of Hacienda has confirmed Government's acceptance of debt payment bases agreed upon, which remain substantially same as given in No. 590 of February 15; comments on Legation approach toward debt matter in 1922 and at present.	579
Apr. 30	<i>Memorandum of Conversation, by the Chief of the Division of Latin American Affairs</i> Presentation of a copy of the agreement between the Bondholders Protective Committee and El Salvador by Lavis, who called attention to certain of its provisions.	582

GUATEMALA

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND GUATEMALA, SIGNED APRIL 24, 1936

1936 Jan. 15 (866)	<i>From the Minister in Guatemala</i> Transmittal of revised Spanish text of trade agreement containing certain changes and additions to English version; suggestion that Department modify English text as far as admissible to conform with Spanish version.	584
Feb. 4 (2)	<i>To the Minister in Guatemala (tel.)</i> Advice that most of discrepancies between the two texts are of a minor nature, and instructions for representations relative to several important discrepancies.	585
Feb. 6 (266)	<i>To the Minister in Guatemala</i> Transmittal of memorandum of changes which the Department believes should be made for greater accuracy, and advice that final texts must await replies on changes suggested.	586
Feb. 12 (885)	<i>From the Chargé in Guatemala</i> Note from the Minister of Hacienda and Public Credit (text printed), in which is explained in detail the Guatemalan position on articles 8 and 9 and on notes 1 and 2 of the agreement.	587
Feb. 25 (10)	<i>To the Chargé in Guatemala (tel.)</i> Instructions to suggest certain changes to meet Guatemalan objections, with comments relative to notes 1 and 2.	589
Mar. 10 (21)	<i>From the Chargé in Guatemala (tel.)</i> Guatemalan agreement to all "grammatical changes" in memorandum and to certain others, but suggestion of changes in respect to notes 1 and 2.	590

GUATEMALA

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND GUATEMALA,
SIGNED APRIL 24, 1936—Continued

Date and number	Subject	Page
1936 Mar. 11 (910)	<i>From the Chargé in Guatemala</i> Note concerning chicle sent to the Foreign Minister (text printed), who indicated the matter might be allowed to lapse since chicle could not be included in the agreement.	591
Mar. 17 (14)	<i>To the Chargé in Guatemala (tel.)</i> Instructions relative to changes desired by Guatemala, especially in regard to notes 1 and 2, the settlement of which would expedite matters.	592
Mar. 18 (917)	<i>From the Chargé in Guatemala</i> Advice of conversations with Minister of Hacienda, resulting in changes in wording of notes 1 and 2, and article 13.	593
Mar. 18 (23)	<i>From the Chargé in Guatemala (tel.)</i> Minister of Hacienda's informal acceptance of article 13 and notes 1 and 2 upon incorporation of suggested changes.	594
Mar. 21 (24)	<i>From the Chargé in Guatemala (tel.)</i> Text of a paragraph for article 13 insisted upon by Minister of Hacienda.	594
Mar. 21 (16)	<i>To the Chargé in Guatemala (tel.)</i> Suggestion of change for article 13 following receipt of No. 23 of March 18.	595
Mar. 23 (25)	<i>From the Chargé in Guatemala (tel.)</i> Agreement of Minister of Hacienda to slight change in wording for article 13 as given in No. 24 of March 21, and concurrence with suggested revisions in notes 1 and 2.	595
Mar. 23 (924)	<i>From the Chargé in Guatemala</i> Conversation with the Minister of Hacienda who agreed to the several proposed changes in article 13.	595
Mar. 25 (931)	<i>From the Chargé in Guatemala</i> Note from the Minister of Hacienda (text printed) relative to notes 1 and 2 and article 13 of the proposed agreement.	596
Mar. 26 (19)	<i>To the Chargé in Guatemala (tel.)</i> Proposed text for the first paragraph of article 13, taking into account suggestions exchanged.	597
Mar. 27 (28)	<i>From the Chargé in Guatemala (tel.)</i> Request for authorization to substitute literal translation (text printed) of one phrase in article 13.	597
Mar. 28 (22)	<i>To the Chargé in Guatemala (tel.)</i> Advice that Spanish text of article 13 is apparently satisfactory, and that English text will be changed to conform to literal translation of Spanish text.	598
Apr. 13 (284)	<i>To the Chargé in Guatemala</i> Transmittal of English and Spanish texts of agreement. (Note: Citation to text of agreement, signed April 24, 1936.)	598

HAITI

NEGOTIATIONS RESPECTING THE TERMINATION OF FINANCIAL CONTROL EXERCISED
IN HAITI UNDER THE AGREEMENT OF AUGUST 7, 1933

Date and number	Subject	Page
1936 Feb. 4 (360)	<i>To the Minister in Haiti</i> Comment on Haitian loan, with instructions to consult with Fiscal Representative Sidney de la Rue, and to report on feasibility of a year's extension of agreement of August 7, 1933.	599
Apr. 3 (18)	<i>From the Minister in Haiti (tel.)</i> Conversation with Foreign Minister, who inquired as to possibilities of signing new treaty terminating financial control and indicated political importance to President of announcing total liberation.	600
Apr. 3 (194)	<i>From the Minister in Haiti</i> Amplification of report on conversation with the Foreign Minister, who was told that at the present time, when Haiti is seeking an American loan, it would be advisable to leave question of control termination in abeyance.	601
Apr. 16 (388)	<i>To the Minister in Haiti</i> Comment on Haitian loan, which would stand a better chance if Haiti in present year gave practical demonstration of living within its budget; undesirability of giving impression of indefinite continuance of controls.	603
May 4 (10)	<i>To the Minister in Haiti (tel.)</i> From Welles: Advice that Haitian Minister has been told that the United States is ready to sign a treaty terminating controls, but that such a treaty might have an adverse effect on securing a loan; instructions to stress importance of satisfactory management of Haitian finances.	605
May 5 (220)	<i>From the Minister in Haiti</i> Conversation with President about agreement termination and its relation to possible American loan; opinion that he may wish to announce termination at inaugural on May 15. (Footnote: Information that apparently Haiti did not again approach Legation on matter until it became evident loan negotiations would not be successful.)	606
Oct. 27 (46)	<i>From the Minister in Haiti (tel.)</i> Conversation with Foreign Minister Léger, who indicated that President Vincent would announce, on November 4, the cessation of foreign financial control and that efforts to conclude an American loan would be continued.	607
Oct. 28 (23)	<i>To the Minister in Haiti (tel.)</i> Advice of Haitian Minister's approach to Department concerning Haitian desire to proceed with negotiations to terminate present financial arrangement; and of dispatch of instruction containing suggested texts of protocol and annexed note and procedure for negotiating protocol.	609
Nov. 9 (51)	<i>From the Minister in Haiti (tel.)</i> Information regarding Léger's communication to the Haitian bank relative to its responsibilities following reorganization of financial control; suggestion of desirability that Haitian officials take no active steps until negotiations are concluded.	609

HAITI

NEGOTIATIONS RESPECTING THE TERMINATION OF FINANCIAL CONTROL EXERCISED
IN HAITI UNDER THE AGREEMENT OF AUGUST 7, 1933—Continued

Date and number	Subject	Page
1936 Nov. 11 (52)	<i>From the Minister in Haiti (tel.)</i> Importance of forestalling submission of draft agreement by Léger, with comments on lack of information of Haitian authorities relating to agreement worked out two years ago; advice of appointment with Léger November 12.	611
Nov. 11 (28)	<i>To the Minister in Haiti (tel.)</i> Instructions, in case appointment cannot be postponed, to explain to Léger draft agreement of 1934, and to indicate that Department is now bringing it up to date and will submit a draft protocol with annexed note soon.	613
Nov. 12 (29)	<i>To the Minister in Haiti (tel.)</i> Instructions to submit drafts to Léger.	614
Nov. 13 (344)	<i>From the Minister in Haiti</i> Two memorandums (texts printed) of conversations with Foreign Minister; Haitian <i>aide-mémoire</i> (text printed); and comment on changed attitude of President Vincent toward commitments of 1934.	614
Nov. 14 (55)	<i>From the Minister in Haiti (tel.)</i> Belief that drafts should be submitted to Léger under cover of a formal written note rather than accompanied by oral communications, with suggestion of three points to be included therein.	620
Nov. 16 (32)	<i>To the Minister in Haiti (tel.)</i> Department's belief that general purpose of suggestion might be accomplished by personal delivery of drafts with simple note of transmission, oral communication on the three points, and a separate <i>aide-mémoire</i> covering each.	620
Nov. 18 (346)	<i>From the Minister in Haiti</i> Copies of draft protocol and draft note (texts printed), effecting termination of American financial control, delivered to the Foreign Minister together with a separate <i>aide-mémoire</i> covering each of the three points suggested in No. 55 of November 14, and oral statements thereon.	621
Nov. 28 (350)	<i>From the Minister in Haiti</i> Ten documents (texts printed) constituting a Haitian counterproposal relative to the transfer of financial controls; Léger's belief that draft legislation provides effectively for protection of 1922 bondholders.	626
Dec. 9 (61)	<i>From the Minister in Haiti (tel.)</i> Léger's opinion that it would now be impossible to negotiate loan before bank plan is put into operation. Hope that de la Rue will not return until a satisfactory plan is completed for transferring his office to the bank.	644
Dec. 11 (62)	<i>From the Minister in Haiti (tel.)</i> Critical appraisal of the Haitian Bank plan, in reply to inquiry by Léger, emphasizing that the draft legislation would not give 1922 bondholders protection they now hold; opinion that strong presentations would be advisable.	644

HAITI

NEGOTIATIONS RESPECTING THE TERMINATION OF FINANCIAL CONTROL EXERCISED
IN HAITI UNDER THE AGREEMENT OF AUGUST 7, 1933—Continued

Date and number	Subject	Page
1936 Dec. 16 (438)	<i>To the Minister in Haiti</i> Comments on Haitian counterproposal and instructions relative thereto, including a reply for the Foreign Minister (text printed) consisting of a note with enclosed memorandum pertaining to organization of the bank and five <i>aide-mémoires</i> .	646
Dec. 21 (65)	<i>From the Minister in Haiti (tel.)</i> Explanation of situation in respect to salaries of fiscal representative and deputy fiscal representative, and suggestion of change in phraseology.	665
Dec. 21 (66)	<i>From the Minister in Haiti (tel.)</i> Suggestions for changes in memorandum pertaining to organization of the bank.	666
Dec. 22 (39)	<i>To the Minister in Haiti (tel.)</i> Approval of certain change in phraseology recommended in No. 65 of December 21, and authorization for oral representations in respect to salaries of fiscal representative and of deputy fiscal representative.	666
Dec. 22 (40)	<i>To the Minister in Haiti (tel.)</i> Approval of changes requested in No. 66 of December 21, with suggestion of another change.	667
Dec. 23 (67)	<i>From the Minister in Haiti (tel.)</i> Submittal of documents to the Foreign Minister, with oral outline of Department's objections to proposed Haitian legislation.	667
Dec. 28 (371)	<i>From the Minister in Haiti</i> Informal conversation with the Foreign Minister during which conflicts in Haitian and U. S. points of view were discussed, and the Foreign Minister promised to go over the matter most carefully with the President.	667

SUPPORT BY THE UNITED STATES OF HAITIAN REFUSAL TO ARBITRATE WITH
FRANCE THE QUESTION OF PAYING INTEREST IN GOLD FRANCS ON LOAN OF
1910

1936 Mar. 3 (6)	<i>From the Minister in Haiti (tel.)</i> Text of message from Haitian Minister Mayard in France, reporting to Foreign Minister that France has given Haiti until March 6 to present precise proposals on settlement of 1910 loan, and that failure to do so would lead to denunciation of commercial treaty of 1930.	670
Mar. 7 (9)	<i>From the Minister in Haiti (tel.)</i> Advice from Foreign Minister of information from Haitian Minister Blanchet in Washington that Department has instructed American Embassy in Paris to make representations that no ground exists for connecting commercial treaty and 1910 claim.	671

HAITI

SUPPORT BY THE UNITED STATES OF HAITIAN REFUSAL TO ARBITRATE WITH FRANCE THE QUESTION OF PAYING INTEREST IN GOLD FRANCS ON LOAN OF 1910—Continued

Date and number	Subject	Page
1936 Mar. 9 (373)	<i>To the Minister in Haiti</i> Quotation from report of American Embassy in Paris of Foreign Office explanation of confidential understanding connecting treaty and loan, and willingness to accept Haitian offer of arbitration of loan matter as fulfilling understanding.	671
Mar. 10 (11)	<i>From the Minister in Haiti (tel.)</i> Haitian Government's refusal to submit proposal to France without consulting Department.	673
Mar. 12 (12)	<i>From the Minister in Haiti (tel.)</i> Advice of telegram from Mayard reporting that France declines conversations which do not contain precise proposals.	673
Mar. 19 (15)	<i>From the Minister in Haiti (tel.)</i> Mayard's report of French denunciation of commercial treaty on March 18, effective April 18; Haitian desire to develop coffee market in the United States by creation of a coffee syndicate.	673
Mar. 25 (17)	<i>From the Minister in Haiti (tel.)</i> Information that coffee on high seas April 18 cannot enter France under old duties; suggestion of Rixley, Deputy Fiscal Representative to de la Rue, Fiscal Representative, for quick diversion of coffee trade to the United States.	674
Mar. 26	<i>Memorandum of Telephone Conversation by the Chief of the Division of Latin American Affairs</i> Steps taken by de la Rue to divert coffee trade to the United States.	674
May 13 (22)	<i>From the Minister in Haiti (tel.)</i> Information from the Foreign Minister indicating Haiti's intention to refuse to submit the 1910 loan question to the International Court in the event of French Foreign Office approach in the matter.	675
May 25 (25)	<i>From the Minister in Haiti (tel.)</i> Conversation with the Foreign Minister, who told of Mayard's communication to the President, indicating French willingness to renew commercial treaty if Haiti will only promise to go before Permanent Court; Foreign Minister's position and his request for Department's view of matter.	675
May 26 (13)	<i>To the Minister in Haiti (tel.)</i> Department's view that Haiti is not obligated to pay interest on loan of 1910 in gold francs, and disposition not to advise Haiti to submit matter to Permanent Court.	676
June 4 (27)	<i>From the Minister in Haiti (tel.)</i> Information from Foreign Office that President Vincent refuted allegations that he intends to submit 1910 bond question to arbitration or the Permanent Court, and that he is losing interest in U. S. coffee market, and intends to declare moratorium on 1922 loan.	676

HAITI

SUPPORT BY THE UNITED STATES OF HAITIAN REFUSAL TO ARBITRATE WITH FRANCE THE QUESTION OF PAYING INTEREST IN GOLD FRANCS ON LOAN OF 1910—Continued

Date and number	Subject	Page
1936 June 8 (243)	<i>From the Minister in Haiti</i> Conversation with the President, who spoke of failure to receive a loan from a Chicago group, and repeated denials reported June 4, with comments on the related coffee problem; information from Foreign Minister of French willingness to restore commercial <i>status quo</i> if 1910 matter is submitted to Permanent Court.	677
Oct. 27 (46)	<i>From the Minister in Haiti (tel.)</i> Continued Haitian concern over the French situation; Foreign Minister's inquiry as to possible U. S. assistance in the present difficulties and his assurance that Haiti was determined not to submit controversy to arbitration or to the Permanent Court.	680
Oct. 28 (24)	<i>To the Minister in Haiti (tel.)</i> Department's interest in possibility of French proposal of a new commercial agreement with Haiti, and inability to promise to aid Haiti until informed of concessions Haiti might be asked to make to France. (Footnote: Citation to text of provisional commercial agreement signed April 28, 1937, and advice that negotiations for a commercial convention continued.)	681

HONDURAS

EXTENSION OF THE TERM OF OFFICE OF THE PRESIDENT OF HONDURAS THROUGH A REVISION OF THE POLITICAL CONSTITUTION

1936 Apr. 1 (34)	<i>From the Minister in Honduras (tel.)</i> Receipt of formal note from the Foreign Minister reporting meeting of Constitutional Assembly, signing of new constitution, and extension of term of President to January 1, 1943, with indication of desire of President to maintain and consolidate friendly relations with the United States; suggestions for formulating acknowledgment.	682
Apr. 3 (106)	<i>From the Minister in Nicaragua (tel.)</i> President Sacasa's receipt of letter from the President of Honduras announcing his reelection; Foreign Minister's desire for indication of President Roosevelt's reply to announcement.	682
Apr. 3 (16)	<i>To the Minister in Honduras (tel.)</i> Instructions to acknowledge Foreign Minister's note as suggested in No. 34 of April 1, omitting any reference to the "Conservative Party."	683
Apr. 7 (61)	<i>To the Minister in Nicaragua (tel.)</i> Advice, in reply to No. 106 of April 3, that as yet no auto-graphed letter from the President of Honduras has been received, but that usual reply will be made by President Roosevelt.	683
Apr. 20	<i>From President Carias to President Roosevelt</i> Formal notification of revision of the Constitution of 1924 and extension of his term to January 1, 1943.	683

HONDURAS

EXTENSION OF THE TERM OF OFFICE OF THE PRESIDENT OF HONDURAS THROUGH
A REVISION OF THE POLITICAL CONSTITUTION—Continued

Date and number	Subject	Page
1936 May —	<i>From President Roosevelt to President Carias</i> Formal acknowledgment of letter of April 20.	684

ATTITUDE OF THE UNITED STATES IN THE EVENT OF CIVIL STRIFE IN HONDURAS

1936 Apr. 3 (36)	<i>From the Minister in Honduras (tel.)</i> Indication to the Foreign Minister that it would be highly undesirable to use American aviators in military operations, in view of his stated intention to bomb two American vessels suspected of revolutionary activity. (Footnote: Receipt by Department at various times in 1936 of reports of revolutionary activity, although no serious disturbance aroused.)	685
Apr. 4 (17)	<i>To the Minister in Honduras (tel.)</i> Advice of transmittal of information, relative to vessels, to Navy Department, with request that Naval vessel or vessels be sent to keep suspected vessels under surveillance.	685
Apr. 8	<i>From the Acting Secretary of the Navy</i> Advice of dispatch of S. S. <i>Manley</i> , and of points involving international law by which the vessel will normally be guided.	686
Apr. 10	<i>To the Secretary of the Navy</i> Withdrawal of April 4 request since the Department of Justice after protracted investigation has failed to disclose to the State Department evidence pointing to violation of American law.	687
Apr. 10 (21)	<i>To the Minister in Honduras (tel.)</i> Explanation of withdrawal of request made to the Navy, and instructions to advise the President informally, with reference to telegram No. 36 of April 3, that the Department assumes Honduras would not utilize American aviators in military operations suggested.	688
Apr. 11 (39)	<i>From the Minister in Honduras (tel.)</i> Advice of assurances from the President relative to use of American aviators; advisability of having some naval vessel cruising in vicinity of Honduras.	689
Apr. 14 (22)	<i>To the Minister in Honduras (tel.)</i> Department's decision, after consideration of the Honduran situation, not to request the Navy to send a cruiser to Honduran waters.	689
Apr. 15 (41)	<i>From the Minister in Honduras (tel.)</i> Explanation that request for Naval vessel was based on belief that the moral effect would be good in case of an outbreak.	690

MEXICO

REPRESENTATIONS AGAINST FURTHER EXPROPRIATION BY THE MEXICAN GOVERNMENT OF LANDS OWNED BY AMERICAN CITIZENS UNTIL AUTHORIZATION FOR PAYMENT BE MADE

Date and number	Subject	Page
1936 Feb. 13 (3289)	<i>From the Chargé in Mexico</i> Information from Foreign Office Under Secretary Ceniceros that Secretary of Hacienda Suarez was still studying the matter of compensation to Americans for expropriated land; press reports of petitions to the President from both <i>compesino</i> federation and from <i>hacendados</i> .	691
Apr. 16 (3483)	<i>From the Ambassador in Mexico</i> Note sent to Foreign Minister (text printed), following oral representations, reviewing the situation relative to expropriated lands of American citizens with insistence that arrangements for payment therefor be made, and that in the future no American lands be appropriated without payment of prompt and adequate compensation.	692
Aug. 8 (1182)	<i>To the Ambassador in Mexico</i> Review of representations relative to land expropriated from the Cunningham Investment Company, and instructions for further representations, in view of nonreceipt of reply to those reported in No. 3483 of April 16.	694
Sept. 17 (3939)	<i>From the Ambassador in Mexico</i> Renewed representations, written (text printed) and oral, to the Foreign Office, with a review of the land question and previous negotiations relative thereto, and emphasis on desire for an early reply; comment on probable political cause for delay in matter.	695
Sept. 21 (276)	<i>From the Vice Consul at Guaymas</i> Discussion of the land problem in Yaqui Valley and its general economic implications.	698
Sept. 25 (3965)	<i>From the Ambassador in Mexico</i> Transmittal of a report bringing up to date the 1930 survey of the agrarian situation, with comment on consular activity in connection with the study.	700
Sept. 29 (167)	<i>To the Ambassador in Mexico (tel.)</i> Instructions, in event expropriation of lands in Yaqui Valley seems imminent, to insist expropriation proceedings be deferred pending arrangement with American owners.	701
Oct. 1 (171)	<i>From the Ambassador in Mexico (tel.)</i> Advice of request for further information from Vice Consul at Guaymas so that instructions of September 29 might be complied with.	702
Oct. 3	<i>From the Consul at Torreón (tel.)</i> Reply to Department's inquiry relative to extent and nature of American interests in lands that may be affected by agrarian dotations.	702
Oct. 9 (3998)	<i>From the Ambassador in Mexico</i> Conversation with British Ambassador, during which it was decided not to make joint representations respecting dotation of lands in Laguna District of Torreón. Foreign Minister's confirmation of press report of their dotation and indication that recourse of Americans would be to file claims for losses.	702

MEXICO

REPRESENTATIONS AGAINST FURTHER EXPROPRIATION BY THE MEXICAN GOVERNMENT OF LANDS OWNED BY AMERICAN CITIZENS UNTIL AUTHORIZATION FOR PAYMENT BE MADE—Continued

Date and number	Subject	Page
1936 Oct. 10	<i>From the Vice Consul at Guaymas (tel.)</i> Request for authorization to help American landowners with a new land plan which would be advantageous for all, but chiefly for Americans.	703
Oct. 14 (176)	<i>To the Ambassador in Mexico (tel.)</i> Authorization for Vice Consul at Guaymas to act in unofficial and personal capacity.	704
Oct. 17 (4023)	<i>From the Ambassador in Mexico</i> Memorandum by the Counselor of Embassy (text printed), reporting conversation regarding the Yaqui Valley situation with the Under Secretary for Foreign Affairs, who spoke of the President's approval of a system of compensation for future expropriations.	704
Oct. 20 (4025)	<i>From the Ambassador in Mexico</i> Conversation with officials at the Foreign Office, who told of plans for compensating American landholders and said that President Cárdenas was confident he could make arrangements satisfactory to the landowners.	707
Nov. 19 (201)	<i>From the Ambassador in Mexico (tel.)</i> Advice of two-week extension to American landowners near Guaymas for submittal of plan of compensation; discussion of President's power to reverse previous presidential decree relative to the Yaqui Valley colonization status.	708
Nov. 20 (200)	<i>To the Ambassador in Mexico (tel.)</i> Information that consular despatches from Yaqui Valley indicate possible precipitate action which would have unfortunate U. S. repercussions; instructions to make vigorous representations if settlement is not reached or there is likelihood of overhasty action.	709
Dec. 12 (217)	<i>To the Ambassador in Mexico (tel.)</i> Authorization to discuss Yaqui Valley situation in forthcoming conference with the President.	709
Dec. 16 (4171)	<i>From the Ambassador in Mexico</i> Detailed memorandum (extracts printed) prepared by the Counselor of Embassy, of Ambassador's conference with the President on the land matter, particularly in respect to land in the Yaqui Valley.	709

REPRESENTATIONS AGAINST THE MEXICAN EXPROPRIATION LAW OF
NOVEMBER 23, 1936

1936 Oct. 9 (4002)	<i>From the Ambassador in Mexico</i> Detailed account of a conversation with the President concerning compensation for expropriated American lands, the religious situation, and American industrial investments in Mexico, with mention of expropriation measure pending in Mexican Congress.	715
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MEXICO

REPRESENTATIONS AGAINST THE MEXICAN EXPROPRIATION LAW OF
NOVEMBER 23, 1936—Continued

Date and number	Subject	Page
1936 Nov. 7 (4074)	<i>From the Ambassador in Mexico</i> Federal Law of Expropriation on Grounds of Public Welfare (text printed) as passed by Chamber of Deputies, November 3, 1936; comments thereon and transmittal of official's statement that new bill merely brings an old law of the Diaz regime in accord with Constitution of 1917.	719
Nov. 23 (1285)	<i>To the Ambassador in Mexico</i> Evaluation of articles 1, 10, and 20 of the new expropriation law; discretionary instructions to make informal protest and to express hope steps will not be taken to apply law to American nationals, in absence of adequate method for determining and paying compensation at time property is taken.	723
Nov. 28 (4128)	<i>From the Ambassador in Mexico</i> Advice that instructions could not be carried out owing to absence of President; and reasons for request that instructions be reconsidered by Department.	725
Nov. 30 (50)	<i>From the Acting Secretary of State to the Secretary of State (tel.)</i> Brief report on Mexican situation, with indication that a strike in the oil fields has been postponed, and that a copy of the Ambassador's report on the expropriation act will be sent the Secretary upon its receipt. (Footnote: Information that Secretary was at the Inter-American Conference at Buenos Aires.)	728
Dec. 3	<i>From the Acting Secretary of State to the Secretary of State</i> Discussion of the Mexican situation, with suggestion that Ambassador in Mexico take up the matter informally with President Cárdenas; advice of precedent in similar situations.	728
Dec. 10 (210)	<i>To the Ambassador in Mexico (tel.)</i> Telegram from the Secretary (text printed), agreeing with Department's suggestion that the Ambassador present matter to Cárdenas, and making a further suggestion that Ambassador take up recent agrarian expropriations at same time.	730

ARRANGEMENT BETWEEN THE UNITED STATES AND MEXICO FOR DISPOSING OF
CLAIMS NOT MEMORIALIZED ON THEIR MERITS TO THE GENERAL CLAIMS
COMMISSION

1936 May 29 (1109)	<i>To the Ambassador in Mexico</i> Instructions to submit a note, along lines of a draft (text printed), to the Foreign Office, suggesting agreement on omnibus memorial covering claims not previously memorialized.	731
June 5 (3652)	<i>From the Chargé in Mexico</i> Delivery of note, as instructed, to the Foreign Minister, who promised to take it under consideration immediately so desired arrangements could be made before June 30.	734
June 12 (97)	<i>To the Chargé in Mexico (tel.)</i> Instructions to request prompt acceptance of proposal, thereby avoiding possibility of delay by the raising of unacceptable counterproposals.	734

MEXICO

ARRANGEMENT BETWEEN THE UNITED STATES AND MEXICO FOR DISPOSING OF CLAIMS NOT MEMORIALIZED ON THEIR MERITS TO THE GENERAL CLAIMS COMMISSION—Continued

Date and number	Subject	Page
1936 Undated [Rec'd June 16] (93)	<i>From the Chargé in Mexico (tel.)</i> Request for views for Foreign Office inquiry relative to the permanent dismissal of unmemorialized claims.	734
June 17 (100)	<i>To the Chargé in Mexico (tel.)</i> Explanation that Department's proposal contemplates one blanket memorial of unmemorialized claims to be "heard and decided" under the General Claims Convention of 1923, involving no investigations or procedure of any kind except decisions by the Commission.	735
June 17 (3690)	<i>From the Chargé in Mexico</i> Memorandum (text printed) of conversations at the Foreign Office relative to reply to U. S. proposal, during which an official said that Mexico favored memorializing the unmemorialized claims if submittal would really be just the legalization of their rejection.	735
June 18 (95)	<i>From the Chargé in Mexico (tel.)</i> Expectation of Foreign Office reply on June 19; further comment on Mexican position.	737
June 19 (97)	<i>From the Chargé in Mexico (tel.)</i> Receipt of Foreign Office reply, June 18, making clear Mexico's opposition to having unmemorialized claims "heard and decided" by the Commission and enclosing a proposed convention between the two agents to be ratified by the Commission.	738
June 19 (3701)	<i>From the Chargé in Mexico</i> Foreign Office reply of June 18 to U. S. proposal, enclosing a proposed convention (both printed).	738
June 20 (104)	<i>To the Chargé in Mexico (tel.)</i> Instructions to explain to Foreign Office that under Convention of 1923 the only means of barring claims for the future is by having them "heard and decided" upon evidence placed before Commissioners, and that the Department desires agreement to a procedure to dispose of all claims.	743
June 23 (105)	<i>From the Chargé in Mexico (tel.)</i> Execution of instructions; indication that the Foreign Office may be willing to revert to procedure outlined in Department's No. 1109, May 29, but meanwhile wishes to have U. S. specific objections to procedure set forth in Chargé's No. 3701, June 19.	744
June 24 (114)	<i>To the Chargé in Mexico (tel.)</i> Preference for procedure outlined in Department's No. 1109, May 29; objections to procedure set forth in Chargé's No. 3701, June 19.	744
June 24 (107)	<i>From the Chargé in Mexico (tel.)</i> Suggestion by Foreign Office officials of means whereby agreement relative to the claims matter might be reached.	745
June 25 (115)	<i>To the Chargé in Mexico (tel.)</i> Instructions relative to note to be sent to the Foreign Office, with text of proposed procedure.	746

MEXICO

ARRANGEMENT BETWEEN THE UNITED STATES AND MEXICO FOR DISPOSING OF CLAIMS NOT MEMORIALIZED ON THEIR MERITS TO THE GENERAL CLAIMS COMMISSION—Continued

Date and number	Subject	Page
1936 June 26 (111)	<i>From the Chargé in Mexico (tel.)</i> Compliance with instructions in No. 115 of June 25, and Foreign Office assurance that proposed procedure will be accepted.	747
June 27 (3726)	<i>From the Chargé in Mexico</i> Foreign Office note (text printed), stating that Mexico has no objection to adoption by the two Governments of course of action outlined in Chargé's note.	748
June 29 (122)	<i>To the Chargé in Mexico (tel.)</i> Instructions pertaining to reception of memorials by the Embassy.	749

TERMINATION OF INFORMAL DISCUSSIONS WITH A VIEW TO THE SETTLEMENT OF AMERICAN AGRARIAN CLAIMS AGAINST MEXICO PENDING BEFORE THE GENERAL CLAIMS COMMISSION

1936 Jan. 9 (974)	<i>To the Chargé in Mexico</i> Transmittal of memorandum pertaining to agrarian claims, with suggestion that portions thereof be employed in conversation with Sierra, Foreign Office official, who should also be told that filing of memorials cannot be postponed beyond February 1.	749
Jan. 21 (3232)	<i>From the Ambassador in Mexico</i> Discussion with Sierra, who was told that if an agreement were not reached by February 1 the American agent would have to file memorials under protocol of 1934, and was given a memorandum (text printed) based on Department's instructions.	750
Jan. 23 (3233)	<i>From the Ambassador in Mexico</i> Discussion of the importance of the agrarian claims with Foreign Minister Hay, who said it would be impossible for him to reach a decision on the claims prior to February 1.	754
Jan. 29 (15)	<i>To the Ambassador in Mexico (tel.)</i> Request for information relative to any additional communications to or from the Foreign Office on agrarian claims, and instruction to telegraph on February 1 as to whether agreement has been reached.	755
Jan. 31 (15)	<i>From the Ambassador in Mexico (tel.)</i> Foreign Minister's reiteration of impossibility of reply to representations before February 1, or before a study by lawyers, newly authorized, is completed.	755
Feb. 1 (17)	<i>From the Ambassador in Mexico (tel.)</i> Advice of no developments respecting the agrarian claims matter, except for an oral inquiry from Sierra as to whether filing of memorials by the American Agent would constitute a termination of negotiations.	756

MEXICO

TERMINATION OF INFORMAL DISCUSSIONS WITH A VIEW TO THE SETTLEMENT OF AMERICAN AGRARIAN CLAIMS AGAINST MEXICO PENDING BEFORE THE GENERAL CLAIMS COMMISSION—Continued

Date and number	Subject	Page
1936 Feb. 4 (23)	<i>To the Ambassador in Mexico (tel.)</i> Advice that the Department regards the negotiations terminated as of February 1, and that memorials will be filed so that cases may be proceeded with under terms of the Protocol of 1934 and Convention of 1923 so extended.	756
Feb. 6 (3271)	<i>From the Ambassador in Mexico</i> Note to the Foreign Office (text printed), terminating informal discussion of agrarian claims.	757

RESERVATION BY THE UNITED STATES OF ITS RIGHTS PERTAINING TO COMMERCE AS AFFECTED BY THE MEXICAN DECREE OF AUGUST 29, 1935, EXTENDING THE TERRITORIAL WATERS OF MEXICO

1936 Jan. 11 (975)	<i>To the Chargé in Mexico</i> Instructions to advise Foreign Office that United States reserves all rights for protection of American commerce from enforcement of decree extending Mexican territorial waters from 3 to 9 nautical miles.	758
Mar. 9 (3374)	<i>From the Ambassador in Mexico</i> Advice of execution of instructions; note addressed to the Foreign Office (text printed).	759
May 6 (4002)	<i>From the Mexican Minister for Foreign Affairs to the American Ambassador in Mexico</i> Reply to the Embassy's note concerning territorial waters, in which the Foreign Minister states that in issuing the decree in question the Government adhered strictly to provisions of article 5 of the Treaty of February 2, 1848 with the United States, and discusses past interpretations of that treaty.	760
May 23 (1110)	<i>To the Ambassador in Mexico</i> Explanation, with reference to the 1848 treaty and related correspondence, that a provision relating to a boundary line at one place furnishes no authority for application to all Mexican territorial waters; instructions to so inform Foreign Office.	762
June 3 (3646)	<i>From the Chargé in Mexico</i> Transmittal of copy of note sent to the Foreign Office.	764
July 14 (3765)	<i>From the Ambassador in Mexico</i> Foreign Office reply (text printed) to Embassy's note reviewing the history of the subject of territorial waters in international law, and concluding that there is no basis for maintaining that U. S. and Mexican territorial waters should have an extension of three miles in the Pacific Ocean.	764
Aug. 19 (1189)	<i>To the Ambassador in Mexico</i> Comment on Mexican note, and instructions to reiterate reservation previously made, and to make clear U. S. non-acceptance of Mexican conclusions in note transmitted with No. 3765 of July 14.	768

MEXICO

RESERVATION BY THE UNITED STATES OF ITS RIGHTS PERTAINING TO COMMERCE AS AFFECTED BY THE MEXICAN DECREE OF AUGUST 29, 1935, EXTENDING THE TERRITORIAL WATERS OF MEXICO—Continued

Date and number	Subject	Page
1936 Aug. 25 (3869)	<i>From the Ambassador in Mexico</i> Transmittal of note addressed to the Foreign Office (text printed) in conformity with Department's instructions.	769

REFUSAL OF THE DEPARTMENT OF STATE TO RECOGNIZE RIGHT OF AN AMERICAN CITIZEN TO DIVEST HIS GOVERNMENT OF ITS RIGHT TO EXTEND TO HIM ITS PROTECTION ABROAD

1936 Feb. 4 (3260)	<i>From the Ambassador in Mexico</i> Intention to seek proper way of lending good offices to American company doing business in Mexico, whose existence is threatened by labor troubles but which has agreed to abide by decisions of the Mexican authorities and not to call upon the U. S. Government.	770
Feb. 19 (1021)	<i>To the Chargé in Mexico</i> Advice that the United States has uniformly held that an American citizen cannot, by entering into an agreement of the sort involved, divest his Government of its right to extend to him its protection abroad.	772

ATTITUDE OF THE GOVERNMENT OF THE UNITED STATES WITH RESPECT TO THE RELIGIOUS SITUATION IN MEXICO

1936 Mar. 19 (54)	<i>To the Ambassador in Mexico (tel.)</i> Reference to press report of recent decrees by seven Mexican governors to ameliorate the religious situation; request for report on developments.	773
Mar. 20 (53)	<i>From the Ambassador in Mexico (tel.)</i> Comment on possible source of unverified press report, and information that high church officials indicate no change in Government policy.	773
Mar. 28 (56)	<i>To the Ambassador in Mexico (tel.)</i> Instructions to report promptly all developments tending to indicate relaxation in religious situation.	774
Mar. 28 (56)	<i>From the Ambassador in Mexico (tel.)</i> Press report of opening of some churches in eight states; conference with the President who indicated that the moderating tendency in respect to religion was not a new policy but the carrying out of his original plans.	774
May 25	<i>To Representative John J. Cochran</i> Acknowledgment of receipt of a forwarded resolution by the Missouri State Council of the Knights of Columbus, and explanation that the United States is without authority to determine or affect situation in Mexico.	775
Aug. 4	<i>To Senator Henry W. Keyes</i> Comment upon a forwarded resolution, with quotation from the Convention on Rights and Duties of States, signed at Montevideo in 1933, stating that no state has the right to intervene in the internal or external affairs of another.	775

MEXICO

ATTITUDE OF THE GOVERNMENT OF THE UNITED STATES WITH RESPECT TO THE
RELIGIOUS SITUATION IN MEXICO—Continued

Date and number	Subject	Page
1936 Sept. 30	<i>To Mr. K. E. Blomquist</i> Information, in reply to a letter, that the Department has received no report of any American citizen having been killed in connection with the religious situation in Mexico during the past four years.	776
Oct. 23	<i>To Mr. Joseph W. Murphy</i> Detailed explanation of U. S. position of nonintervention in the Mexican religious situation, including an excerpt from a speech of President Roosevelt to illustrate that nonintervention should not be construed as indifference, and emphasizing nondiscriminatory nature of administration of the Mexican religious law.	776
	(Note: Citation to related despatch and memorandum.)	778

ATTITUDE OF THE UNITED STATES TOWARD THE ADMISSION INTO THE UNITED
STATES OF MEXICAN NATIONALS EXPELLED BY MEXICO

1936 Aug. 11 (141)	<i>From the Ambassador in Mexico (tel.)</i> Recommendation that General Nicolas Rodriguez, leader of the Gold Shirt movement, who is being expelled from Mexico as undesirable, be allowed to enter the United States in compliance with an informal request by Mexican military authorities.	778
Aug. 11	<i>From the Vice Consul at Ciudad Juarez (tel.)</i> Advice that Rodriguez crossed the International Bridge at Ciudad Juarez and was admitted by U. S. immigration authorities.	779
Aug. 15 (1188)	<i>To the Ambassador in Mexico</i> Advice of receipt of telegram from Vice Consul at Ciudad Juarez reporting admission of Rodriguez into the United States, and giving detailed observations on the political refugee problem, especially in reference to expelled Mexican refugees.	779

CONVENTION BETWEEN THE UNITED STATES AND MEXICO FOR THE RECOVERY
AND RETURN OF STOLEN OR EMBEZZLED MOTOR VEHICLES, TRAILERS, AIR-
PLANES, OR COMPONENT PARTS OF ANY OF THEM, SIGNED OCTOBER 6, 1936

	(Note: Citation to text of convention, signed at Mexico City.)	781
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CONVENTION BETWEEN THE UNITED STATES AND MEXICO PROVIDING FOR THE
PROTECTION OF MIGRATORY BIRDS AND GAME MAMMALS, SIGNED FEBRUARY
7, 1936

	(Note: Citation to text of treaty, signed at Mexico City.)	781
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NICARAGUA

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA,
SIGNED MARCH 11, 1936

Date and number	Subject	Page
1936 Jan. 6 (3)	<i>From the Minister in Nicaragua (tel.)</i> Request for telegraphed instructions regarding trade agreement; President's promise to do everything possible to conclude agreement within a month.	782
Jan. 10 (2)	<i>To the Minister in Nicaragua (tel.)</i> Itemized reply to points listed in Minister's No. 1081 of October 3, 1935, relative to a trade agreement.	782
Jan. 22 (390)	<i>To the Minister in Nicaragua</i> Transmittal of draft copy of general provisions and of Schedule I of trade agreement, with instructions. (Footnote: Description of Schedule I.)	783
Jan. 25 (6)	<i>From the Minister in Nicaragua (tel.)</i> Information concerning Nicaraguan counter draft of Spanish text of general provisions.	784
Jan. 25 (7)	<i>From the Minister in Nicaragua (tel.)</i> Observations and recommendations in respect to Nicaraguan counterproposal.	786
Jan. 28 (8)	<i>From the Minister in Nicaragua (tel.)</i> Request for instructions relative to submitting copy of Schedule I to the Nicaraguan Government.	787
Jan. 31 (5)	<i>To the Minister in Nicaragua (tel.)</i> Advice that Department perceives no particular reason for further delay in a written presentation of U. S. desiderata.	787
Feb. 7 (6)	<i>To the Minister in Nicaragua (tel.)</i> Reply to Minister's Nos. 6 and 7 of January 25, giving Department's position relative to the Nicaraguan counterproposal.	788
Feb. 19 (28)	<i>From the Minister in Nicaragua (tel.)</i> Progress report in relation to negotiations, with presentation of certain changes in article 9 desired by Nicaragua.	789
Feb. 19 (29)	<i>From the Minister in Nicaragua (tel.)</i> Further report on progress in negotiations.	790
Feb. 19 (30)	<i>From the Minister in Nicaragua (tel.)</i> Reasons for urging early conclusion of agreement, with request for full powers.	791
Feb. 21 (13)	<i>To the Minister in Nicaragua (tel.)</i> Comments and suggestions relative to Nicaraguan counterproposals.	791
Feb. 22 (14)	<i>To the Minister in Nicaragua (tel.)</i> Elaboration of points discussed in No. 13 of February 21, and assurance that proposed agreement provides concession safeguards identical with or closely similar to those either negotiated or in process of consideration with other Central American countries.	793
Feb. 23 (34)	<i>From the Minister in Nicaragua (tel.)</i> Nicaraguan agreement to one of the debated points and acceptance of draft of article 13.	795

NICARAGUA

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA,
SIGNED MARCH 11, 1936—Continued

Date and number	Subject	Page
1936 Feb. 24 (35)	<i>From the Minister in Nicaragua (tel.)</i> Text of translation of Schedule II supplied by Minister of Hacienda. (Footnote: Explanation that Schedule II is list of tariff concessions to be made by United States on imports from Nicaragua.)	795
Feb. 24 (36)	<i>From the Minister in Nicaragua (tel.)</i> Résumé of standing of negotiations as of evening of February 24, and request for further instructions.	796
Feb. 24 (38)	<i>From the Minister in Nicaragua (tel.)</i> Advice of progress in afternoon's conference.	797
Feb. 24 (15)	<i>To the Minister in Nicaragua (tel.)</i> Reasons for importance of Nicaraguan acceptance of article 5 dealing with "previous representative period".	798
Feb. 24 (16)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to indicate U.S. regret that Nicaragua has apparently decided to denounce most-favored-nation agreements with other countries; text of informal memorandum, explaining purpose of article 5, to be handed to appropriate official on understanding Nicaragua will accept article as drafted.	798
Feb. 25 (41)	<i>From the Minister in Nicaragua (tel.)</i> Request for instructions concerning concession on deposit on drawback sugar; conditions under which one of the negotiators would agree to general provisions.	799
Feb. 25 (17)	<i>To the Minister in Nicaragua (tel.)</i> Further suggestions for use in the negotiations.	800
Feb. 25 (39)	<i>From the Minister in Nicaragua (tel.)</i> Advice that Nicaragua will accept certain stipulations in the agreement negotiations.	801
Feb. 26 (18)	<i>To the Minister in Nicaragua (tel.)</i> Nonreceipt of Schedule I; advice that interdepartmental committees are considering Schedule II.	802
Feb. 27 (44)	<i>From the Minister in Nicaragua (tel.)</i> Request for confirmation of expressed understanding relative to status of articles 5, 7, and text of proposed addition to article 11.	802
Feb. 27 (407)	<i>To the Minister in Nicaragua</i> Request for opinion as to effect on negotiations of note indicating concessions which cannot for reasons of policy be included in Schedule II, but which Nicaragua would enjoy by virtue of generalization of concessions in other U.S. trade agreements.	802
Feb. 27 (410)	<i>To the Minister in Nicaragua</i> Transmittal of English text of Schedule II as approved by Trade Agreements Committee, with Spanish translation.	803
Feb. 28 (20)	<i>To the Minister in Nicaragua (tel.)</i> Desire for changes relative to articles 5 and 7; acceptance of addition to article 11.	804

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RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA,
SIGNED MARCH 11, 1936—Continued

Date and number	Subject	Page
1936 Feb. 29 (46)	<i>From the Minister in Nicaragua (tel.)</i> Advice of Nicaraguan understanding with respect to articles 5 and 7.	805
Mar. 2 (21)	<i>To the Minister in Nicaragua (tel.)</i> Present status of negotiations, with approval of position on article 7, only article 5 at issue; doubt relative to Nicaraguan agreement as to Schedule I and readiness to send full powers.	805
Mar. 2 (23)	<i>To the Minister in Nicaragua (tel.)</i> Authorization for agreement on article 7, in view of information in No. 46 of February 29.	806
Mar. 3 (48)	<i>From the Minister in Nicaragua (tel.)</i> Clarification of Nicaraguan position on articles 5 and 7; advice of presentation and discussion of Schedule II.	806
Mar. 4 (50)	<i>From the Minister in Nicaragua (tel.)</i> Discussion of Schedule I with indication of Nicaraguan concessions; effect of uncertain political situation on negotiations.	808
Mar. 5 (51)	<i>From the Minister in Nicaragua (tel.)</i> Further discussions on the two schedules; opinion, in response to No. 407 of February 27, that it would be helpful to include in exchange of notes those concessions of interest to Nicaragua selected from other trade agreements which cannot be written into Schedule II.	808
Mar. 5 (28)	<i>To the Minister in Nicaragua (tel.)</i> Request for fuller information concerning Nicaraguan tariff.	809
Mar. 5 (1307)	<i>From the Minister in Nicaragua</i> Information that U. S. attitude toward Nicaraguan proposed denouncement of its most-favored-nation agreements with other countries was made known to the Nicaraguan negotiators.	809
Mar. 6 (29)	<i>To the Minister in Nicaragua (tel.)</i> Discussion of concessions desired from Nicaragua in Schedule I, with reference to Costa Rican and Honduran negotiations, and instructions relative to Schedule II.	810
Mar. 7 (57)	<i>From the Minister in Nicaragua (tel.)</i> Favorable effect of reference to Costa Rican and Guatemalan negotiations.	811
Mar. 7 (33)	<i>To the Minister in Nicaragua (tel.)</i> List of articles, in which Nicaragua is interested, on which concessions will be generalized to her from other trade agreements; instructions for informal presentation of list.	811
Mar. 7 (58)	<i>From the Minister in Nicaragua (tel.)</i> Summary of Nicaraguan counterproposals on Schedule I, subject to certain conditions.	812
Mar. 7 (59)	<i>From the Minister in Nicaragua (tel.)</i> Conditions governing newly submitted counterproposals.	812

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RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA,
SIGNED MARCH 11, 1936—Continued

Date and number	Subject	Page
1936 Mar. 8 (34)	<i>To the Minister in Nicaragua (tel.)</i> Advice that counterproposals seem satisfactory, with comment on conditions.	813
Mar. 9 (66)	<i>From the Minister in Nicaragua (tel.)</i> Advice that attacks on agreement by sugar interests are mainly political, with suggestion of wording for a note to be sent the Foreign Minister containing assurances relative to sugar quota.	813
Mar. 10 (74)	<i>From the Minister in Nicaragua (tel.)</i> Advice of accord on all points in the agreement, but desire for affirmative reply to suggestion of March 9 notwithstanding.	814
Mar. 10 (40)	<i>To the Minister in Nicaragua (tel.)</i> Text of memorandum to be given to the Foreign Minister as suggested on March 9.	814
	(Note: Citation to text of trade agreement, signed March 11.)	815

REVOLUTION IN NICARAGUA

1936 Feb. 11 (18)	<i>From the Minister in Nicaragua (tel.)</i> Outbreak of rioting resulting from a chauffeurs' strike; President Sacasa's order to Somoza, commander of the Nicaraguan Guardia Nacional, to use force if necessary to disperse mob; advice that Americans do not appear to be in danger.	815
Feb. 11 (19)	<i>From the Minister in Nicaragua (tel.)</i> Conversations, in the interest of maintenance of order, with the President, who complained that Somoza was not following instructions; and with Somoza, who said he had given adequate orders to maintain order and promised to take no step against the Government.	816
Feb. 11 (20)	<i>From the Minister in Nicaragua (tel.)</i> Confirmation of a telephone conversation reporting on representations, with view to averting bloodshed and civil war, and advice that steps were approved by the Diplomatic Corps.	817
Mar. 28 (57)	<i>To the Minister in Nicaragua (tel.)</i> Recapitulation of U. S. policy toward Nicaragua, stressing the necessity of avoiding expression of opinions or giving of advice with reference to internal politics.	817
Mar. 30 (103)	<i>From the Minister in Nicaragua (tel.)</i> Evidence of increasing revolt against the Loma (Presidential Palace); Minister's presence, by Sacasa's urgent request, at a conference between the President, Somoza, and the latter's father-in-law, Dr. DeBayle; understanding that recent differences would be harmoniously settled.	818
May 5	<i>Memorandum by the Secretary of State</i> Conversation with Nicaraguan Chargé, whose request for a statement regarding Nicaraguan political affairs was parried by referring to doctrine of noninterference with domestic affairs.	819

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REVOLUTION IN NICARAGUA—Continued

Date and number	Subject	Page
1936 May 8 (118)	<i>From the Minister in Nicaragua (tel.)</i> Belief of Salvadoran Minister that his country might give Sacasa aid provided such action would not meet with U. S. disapproval, and his request that Department be so advised.	820
May 8 (66)	<i>To the Minister in Nicaragua (tel.)</i> Advice that although sharing other Governments' hopes for a continuing Nicaraguan peace, United States cannot make or authorize any statement with reference to the internal political situation.	821
May 9 (68)	<i>To the Minister in Nicaragua (tel.)</i> Instruction to inform Salvadoran Minister that United States is not in a position to express any opinion relative to Salvadoran policy.	821
May 19	<i>To the Minister in Nicaragua</i> Information relative to position taken in conversations with the Nicaraguan Chargé and the Salvadoran Minister.	821
May 28 (138)	<i>From the Minister in Nicaragua (tel.)</i> Sacasa's request that a small naval vessel be sent temporarily to the east coast, and description of the situation there.	822
May 29 (141)	<i>From the Minister in Nicaragua (tel.)</i> Information relative to bipartisan negotiations with Somoza and President's request for Minister's opinion, which he declined to give.	823
May 29 (72)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to indicate that the United States could not take responsibility for maintaining order by sending a naval vessel as requested, but that, if there is belief that arms and ammunition are being smuggled from the United States, information thereon would be appreciated.	824
May 29	<i>From the President of Nicaragua</i> Review of U. S. relations with Nicaragua and the setting up of the National Guard, with request for joint action of friendly cooperation with Mexico, Guatemala, El Salvador, Honduras, and Costa Rica.	825
May 30 (152)	<i>From the Minister in Nicaragua (tel.)</i> Meeting of Diplomatic Corps in response to Foreign Minister's note requesting good offices and mediation to prevent civil war, with information that members are requesting instructions from their Governments.	827
May 30 (153)	<i>From the Minister in Nicaragua (tel.)</i> Information that President Sacasa and General Chamorro have no knowledge of arms smuggling from the United States.	827
May 31	<i>Memorandum by the Chief of the Division of Latin American Affairs</i> Advice from Minister to Nicaragua of outbreak of fighting in León, of Government's request that Diplomatic Corps send note to Somoza advocating prevention of bloodshed and peaceful settlement, and views of various countries thereon.	828
May 31 (154)	<i>From the Minister in Nicaragua (tel.)</i> Developments in situation.	828

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REVOLUTION IN NICARAGUA—Continued

Date and number	Subject	Page
1936 May 31 (74)	<i>To the Minister in Nicaragua (tel.)</i> Department's reasons for unwillingness to offer good offices or to participate in the proposed note to Somoza, and instructions to inform both Sacasa and Somoza that United States expects Nicaragua to provide adequate protection to life and property of U. S. citizens.	829
June 1	<i>Memorandum by the Secretary of State</i> Delivery of President Sacasa's letter, dated May 29, by the Nicaraguan Chargé, who was informed of U. S. intention to preserve intact its policy of nonintervention and noninterference with internal affairs of other countries.	830
June 2 (54)	<i>From the Minister in Guatemala (tel.)</i> Advice from the Acting Foreign Minister that Salvadoran Minister had proposed that an invitation should be extended to the United States to cooperate with four neutral Central American States to effect peaceful settlement of Nicaraguan situation.	830
June 2 (55)	<i>From the Minister in Guatemala (tel.)</i> Information from the Acting Foreign Minister concerning views of various countries on the subject of intervention in Nicaragua.	831
June 2	<i>From the Chilean Embassy</i> Expression of surprise over reported request of President Sacasa that the United States intervene in the domestic difficulties of Nicaragua, and Chilean protest against the request.	832
June 3	<i>From the Chilean Ambassador</i> Assurance, following conversation with the Assistant Secretary, that Chilean protest was directed solely against the initiative of Nicaragua contrary to the Montevideo Agreement.	833
June 3 (40)	<i>To the Minister in Guatemala (tel.)</i> Instructions to inform the Acting Foreign Minister of U. S. views relative to joining other American Republics in tendering joint good offices.	833
June 4	<i>To the Chilean Ambassador</i> Reasons for issuance of a statement to the press; regret that Chile had not inquired as to U. S. policy.	834
June 4	<i>From the Peruvian Embassy</i> Memorandum stating that Peru is certain the United States is not contemplating intervention in Nicaragua, and that Peru adheres to Montevideo principle of nonintervention.	835
June 4	<i>To the Peruvian Ambassador</i> Reasons for issuance of statement to press and regret that Peru had not inquired as to U. S. policy.	835
June 4	<i>Statement by the Secretary of State</i> Detailed discussion of U. S.-Nicaraguan relations with reference to notes from Chile and Peru which were based on erroneous impression that the United States had received a request from Nicaragua to intervene in affairs of that Republic.	836
June 4	<i>From the Chilean Minister for Foreign Affairs (tel.)</i> Expression of regret for scope and significance attached to Chilean memorandum, and explanation that desire was to cooperate with the United States.	837

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REVOLUTION IN NICARAGUA—Continued

Date and number	Subject	Page
1936 June 5	<i>To the Chilean Minister for Foreign Affairs (tel.)</i> Assurance of appreciation for Foreign Minister's letter, and of desire to cooperate with Chile in upholding policy of nonintervention.	837
June 5 (34)	<i>To the Ambassador in Chile (tel.)</i> Information relative to communications from Chile and Peru and U. S. replies; advice of Ecuadoran unwillingness to make representations similar to those of Chile.	838
June 8 (162)	<i>From the Minister in Nicaragua (tel.)</i> Conversation with General Somoza, who spoke of departure of the Vice President, affirmed his desire to conduct an honest government, asked U. S. intimation as to which of two courses open to him was better, and was reminded of U. S. policy of noninterference.	838
June 9 (79)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to inform Somoza that it would not be in conformity with U. S. policy to give advice asked; and to report on steps taken in the succession to the Presidency, with citation to pertinent constitutional provisions.	840
June 9 (165)	<i>From the Minister in Nicaragua (tel.)</i> Résumé of events, including resignations of President Sacasa and Vice President Espinosa, with opinion that succession of Dr. Brenes Jarquin to the Presidency is apparently legal, unless causes impelling resignations of President and Vice President are examined.	840
June 11 (80)	<i>To the Minister in Nicaragua (tel.)</i> Instructions relative to recognition of present Government.	841
June 11 (170)	<i>From the Minister in Nicaragua (tel.)</i> Receipt of note from the Foreign Minister stating the facts regarding the change of government; text of planned reply.	841
June 12 (81)	<i>To the Minister in Nicaragua (tel.)</i> Advice that proposed reply is satisfactory.	842
June 12 (172)	<i>From the Minister in Nicaragua (tel.)</i> Developments including: delivery of note, reliable reports that Somoza has decided to reach power by an election in December without a constitutional convention, and evidence of friction between Somoza and former President Moncada.	842
Aug. 27 (109)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to leave a note (text printed) with the Foreign Minister in reference to a letter written by Rear Admiral J. Meyers to General Somoza; reiteration that the United States is pledged to a policy of noninterference.	842
Oct. 22	<i>Memorandum by the Chief of the Division of Latin American Affairs</i> Assistant Secretary's conversation with former President Sacasa, who believed the United States had a continuing responsibility for Nicaraguan welfare, but was told that special relationship ended with withdrawal of Marines in 1933; Assistant Secretary's arrangement to receive Nicaraguan ex-Presidents Chamorro and Diaz.	843

NICARAGUA

REVOLUTION IN NICARAGUA—Continued

Date and number	Subject	Page
1936 Nov. 24 (233)	<i>From the Chargé in Nicaragua (tel.)</i> Advice of committee action virtually withdrawing Argüello-Espinosa ticket thereby leaving Somoza as sole presidential candidate.	844
Nov. 30	<i>From Señores Juan B. Sacasa, Emiliano Chamorro, and Adolfo Diaz</i> * Review of the Nicaraguan situation, giving special attention to the role of the Guardia and U. S. relation to the organization thereof; also request for the disinterested moral cooperation of U. S. Government in favor of the Nicaraguan people.	844
Dec. 14 (358)	<i>From the Minister in Nicaragua</i> Election of Somoza as President and Navarro as Vice President, and general opinion that all Senators and Deputies elected are supporters of Somoza.	847
Dec. 15 (241)	<i>From the Minister in Nicaragua (tel.)</i> Suggestion that Department invite President Roosevelt's attention to sending telegram of congratulations to Somoza.	848
Dec. 19 (137)	<i>To the Minister in Nicaragua (tel.)</i> Instructions to attend inaugural ceremonies; and information that the President does not customarily send congratulatory telegrams to Presidents-elect.	849
Dec. 22	<i>To Former President Sacasa of Nicaragua</i> Reasons why the United States cannot give favorable consideration to the request of November 30.	849
Dec. 24 (139)	<i>To the Minister in Nicaragua (tel.)</i> Advice that Minister has been named by President Roosevelt as his Special Representative at the inauguration of President Somoza.	850
Dec. 24	<i>To the Nicaraguan Acting Minister for Foreign Affairs (tel.)</i> Notification of the designation of the Chargé in Nicaragua as Special Representative of the President, with rank of Ambassador, at inauguration of President-elect Somoza.	850
Dec. 24	<i>From the Nicaraguan Acting Minister for Foreign Affairs (tel.)</i> Acknowledgment of notification of Chargé's designation as Special Representative of the President at inauguration ceremonies.	851
1937 Jan. 1 (1)	<i>From the Minister in Nicaragua (tel.)</i> Inauguration of President and Vice President without incident.	851

ATTITUDE OF THE UNITED STATES TOWARD THE FORMATION OF A DEFENSIVE ALLIANCE AGAINST COMMUNISM IN CENTRAL AMERICA AND POSSIBLE FOREIGN INTERVENTION IN NICARAGUA AS A RESULT THEREOF

1936 Nov. 26 (344)	<i>From the Chargé in Nicaragua</i> Memorandum from the Foreign Minister (text printed), telling of the initiation by General Somoza, candidate for President, of an organization against communism in Central America, and requesting Department's opinion thereon and its attitude in case Nicaragua were attacked in consequence thereof.	851
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NICARAGUA

ATTITUDE OF THE UNITED STATES TOWARD THE FORMATION OF A DEFENSIVE ALLIANCE AGAINST COMMUNISM IN CENTRAL AMERICA AND POSSIBLE FOREIGN INTERVENTION IN NICARAGUA AS A RESULT THEREOF—Continued

Date and number	Subject	Page
1936 Nov. 27 (132)	<i>To the Chargé in Nicaragua (tel.)</i> Instructions to withhold reply to Nicaraguan communication until receipt of Department's instructions.	853
Dec. 5 (31)	<i>From the Secretary of State to the Acting Secretary of State (tel.)</i> Approval of text of memorandum (<i>infra</i>), with instructions to make it clear to the Nicaraguan Chargé that step contemplated is one Nicaragua will have to determine, that the United States has no comment to make but assumes that Nicaragua realizes gravity of step considered. (Footnote: Information that Secretary was attending Inter-American Conference at Buenos Aires.)	853
Dec. 8 (134)	<i>To the Minister in Nicaragua (tel.)</i> Memorandum to be submitted to the Foreign Minister (text printed), and instructions for oral remarks upon its delivery.	853

PANAMA

UNPERFECTED CONVENTION BETWEEN THE UNITED STATES AND PANAMA PROVIDING FOR THE REGULATION OF RADIOCOMMUNICATIONS IN THE REPUBLIC OF PANAMA AND THE CANAL ZONE, ACCOMPANIED BY THREE SUPPLEMENTARY EXCHANGES OF NOTES, SIGNED MARCH 2, 1936

	(Note: Citation to text of convention and information that in 1947 the President expressed his desire to withdraw the convention from the Senate, and that the Senate directed it to be returned to him.)	855
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GENERAL TREATY OF FRIENDSHIP AND COOPERATION BETWEEN THE UNITED STATES AND PANAMA AND EXCHANGES OF NOTES, SIGNED MARCH 2, 1936

	(Note: Citation to text of treaty and notes, signed at Washington in 1936, and to texts of notes exchanged in 1939 clarifying certain provisions of the General Treaty.)	855
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UNPERFECTED CONVENTION BETWEEN THE UNITED STATES AND PANAMA PROVIDING FOR THE TRANSFER TO PANAMA OF TWO NAVAL RADIO STATIONS, SIGNED MARCH 2, 1936

	(Note: Citation to text of convention and information that the convention was approved by the Senate in 1940 but was never ratified.)	855
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CONVENTION BETWEEN THE UNITED STATES AND PANAMA FOR A TRANS-ISTHMIAN HIGHWAY, SIGNED MARCH 2, 1936

	(Note: Citation to text of convention signed at Washington.)	855
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PANAMA

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

Date and number	Subject	Page
1936		
Feb. 17	<i>To the Secretary of the Treasury</i> Transmittal of \$250,000 certificate in favor of Nelson Cromwell, Fiscal Agent of Panama, for liquidation of annual payment to that country.	856
Feb. 26	<i>To the Fiscal Agent of the Republic of Panama</i> Transmittal of check for annual payment to Panama, with request for signature of receipt enclosed.	856
Feb. 28	<i>From the Fiscal Agent of the Republic of Panama</i> Return of check with comment on form of receipt, which states that check is "in full payment of the annuity due the Republic of Panama February 1936"; advice that Panama maintains the annuity should be paid in gold coin like that existing in 1904.	857

PARAGUAY

REVOLUTION IN PARAGUAY

1936		
Feb. 17 (15)	<i>From the Minister in Paraguay (tel.)</i> Revolutionary outbreak, with intermittent firing in Asunción, and rumor of troops marching on the city.	858
Feb. 17 (16)	<i>From the Minister in Paraguay (tel.)</i> Continuation of fighting in center of city, and reliable reports that General Estigarribia and Foreign Minister Riart are prisoners of insurgents.	858
Feb. 17 (17)	<i>From the Minister in Paraguay (tel.)</i> Advice that President and most of cabinet are holding out on gunboat; claim of victory by revolutionists.	858
Feb. 18 (18)	<i>From the Minister in Paraguay (tel.)</i> Cessation of fighting, with insurgents in control; expectation of early arrival of Colonel Franco to assume charge.	859
Feb. 19 (21)	<i>From the Minister in Paraguay (tel.)</i> Arrival of Franco; probability of early efforts to form a provisional government.	859
Feb. 19 (13)	<i>From the Minister in Uruguay (tel.)</i> Belief of a prominent Foreign Office official that recognition of new Paraguayan government by mediating countries in Chaco dispute should be made conditional on Paraguay's acceptance of recent international pacts it has ratified.	859
Feb. 19 (43)	<i>From the Ambassador in Argentina (tel.)</i> From Braden: Support by several countries of opinion of Saavedra Lamas, President of Chaco Peace Conference and Chairman of the Argentine delegation, that recognition by the neutral delegates of new Paraguayan regime should be withheld until assurance that regime will honor Buenos Aires protocols.	860
Feb. 20 (22)	<i>To the Ambassador in Argentina (tel.)</i> Instructions to inform Saavedra that the Department shares his opinion and will welcome consultation with the neutral governments.	860

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REVOLUTION IN PARAGUAY—Continued

Date and number	Subject	Page
1936 Feb. 20 (23)	<i>From the Minister in Paraguay (tel.)</i> Foreign Office advice of installation of General Franco as Provisional President, and of the names of the new cabinet members; notification of Foreign Minister's audience to receive diplomats on February 21; observations on the general situation.	860
Feb. 20 (24)	<i>From the Minister in Paraguay (tel.)</i> Decision of colleagues, with uncertain exception of Argentine Chargé, to call at Foreign Office on February 21, the Mexican representative the only one who regards that action as recognition; request for instructions, with further observations on situation.	862
Feb. 21 (25)	<i>From the Minister in Paraguay (tel.)</i> Advice of nonattendance at audience in Foreign Office.	863
Feb. 21 (2)	<i>To the Minister in Paraguay (tel.)</i> Approval of Minister's nonattendance in absence of instructions, and discussion of the situation, with mention of obligation undertaken to consult with other American Republics in the matter of recognition.	863
Feb. 21 (3308)	<i>From the Ambassador in Mexico</i> Advice of instructions to Mexican Minister at Asunción to carry out mission as usual, in accordance with "Estrada Doctrine", constituting <i>ipso facto</i> recognition of the Franco regime.	864
Feb. 25 (27)	<i>From the Minister in Paraguay (tel.)</i> Information that Brazilian, British, and U. S. representatives were again invited to call at Foreign Office; declination by Brazilian and U. S. representatives.	864
Feb. 26 (28)	<i>From the Minister in Paraguay (tel.)</i> Partial text of statements to the press by the Foreign Minister in regard to Paraguay's diplomatic relations, and concerning interest of the provisional government in accelerating execution of agreements concerning repatriation of prisoners of war.	865
Feb. 26 (29)	<i>From the Minister in Paraguay (tel.)</i> Information regarding "declarations" of Provisional President Franco, which stress support of existing international pacts, deny that provisional government might be inspired by doctrines of the left, and indicate need for foreign confidence in the government; report of Foreign Minister's interviews with diplomats.	866
Feb. 27 (23)	<i>To the Ambassador in Argentina (tel.)</i> Request for any views expressed by the Foreign Minister relative to Paraguayan developments, and for Argentine views as to stability of new regime in Paraguay.	867
Feb. 27 (46)	<i>To the Ambassador in Brazil (tel.)</i> Request for any views expressed by the Foreign Minister relative to Paraguayan developments, and for Brazilian views as to the stability of the new regime in Paraguay.	867

PARAGUAY

REVOLUTION IN PARAGUAY—Continued

Date and number	Subject	Page
1936 Feb. 27 (30)	<i>From the Minister in Paraguay (tel.)</i> Detailed views relative to new regime in Paraguay, its popular support, ability to maintain itself and to carry out functions of a stable government, and intention to comply with international obligations.	868
Feb. 27 (132)	<i>From the American Delegate to the Chaco Peace Conference</i> Information in regard to the discussion in the Conference Executive Committee of matters pertaining to the new regime in Paraguay, with text of resolution adopted.	870
Feb. 28 (82)	<i>From the Ambassador in Brazil (tel.)</i> Belief of President Vargas that no recognition should be accorded until satisfactory guarantees are given by the new Paraguayan government in respect to commitments at the Chaco Peace Conference.	872
Feb. 28 (47)	<i>From the Ambassador in Argentina (tel.)</i> Information that the Foreign Minister has reached no definite conclusion as yet on developments in Paraguay, but urges caution.	872
Feb. 29 (32)	<i>From the Minister in Paraguay (tel.)</i> Attitude of France, Spain, and Argentina toward recognition of Paraguay.	873
Mar. 1 (33)	<i>From the Minister in Paraguay (tel.)</i> Informal conversation with Stefanich, Foreign Minister of the <i>de facto</i> government, who pointed out the practically normal conditions in the country and his government's attitude toward international obligations, and asked for opinion as to best procedure to secure recognition.	874
Mar. 2 (85)	<i>From the Ambassador in Brazil (tel.)</i> Receipt by Italian Minister of information from the Italian Minister in Asunción recounting Foreign Minister's appeal for Italian recognition, pointing to foreign policy, and indicating intention at more favorable time to combat Communist activities.	875
Mar. 3 (4)	<i>To the Minister in Paraguay (tel.)</i> Evaluation of reports from various countries pertaining to recognition, with instructions to tell Foreign Minister that formal and satisfactory assurances in respect to the Chaco agreements would promote favorable reaction on governments represented at the Chaco Conference.	875
Mar. 4 (39)	<i>From the Minister in Paraguay (tel.)</i> Discussion of the governmental situation, with conclusion that the present government is as satisfactory as may be looked forward to in Paraguay for immediate future and is the only agency, at present, through which accomplishments of the Chaco mediation can be made effective.	876
Mar. 5	<i>From Colonel Rafael Franco to President Roosevelt (tel.)</i> Assurances of stability of Paraguayan government and of intention to carry out international obligations, but fear that, since official relations have not been reestablished, time periods agreed upon in connection with peace pacts will expire without possibility of fulfillment of undertakings.	878

PARAGUAY

REVOLUTION IN PARAGUAY—Continued

Date and number	Subject	Page
1936 Mar. 7 (91)	<i>From the Ambassador in Brazil (tel.)</i> Information from Italian Ambassador that Italian Minister at Asunción has been instructed to say recognition would be withheld until after favorable action by mediatory powers.	879
Mar. 10 (29)	<i>To the Ambassador in Argentina (tel.)</i> For Braden: Instructions to cable nature of Argentine reply to Colonel Franco, and of replies of other mediatory powers to his identic telegrams of March 5.	880
Mar. 10 (93)	<i>From the Ambassador in Brazil (tel.)</i> Advice that the Brazilian Ambassador at Washington has informed Foreign Office of U. S. intention to recognize Paraguayan government on basis of reports of U. S. Minister at Asunción.	880
Mar. 10 (57)	<i>From the Ambassador in Argentina (tel.)</i> For Braden: Conference Executive Committee's recommendation of a procedure to recognize Paraguayan government, including presentation of a joint note (text printed) specifying understanding of position of that government, to be accepted by the Foreign Minister; suggestion of identic notes instead.	880
Mar. 10 (58)	<i>From the Ambassador in Argentina (tel.)</i> For Braden: Advice that President of Uruguay acknowledged Franco's telegram; proposal of colleagues that respective representatives in Asunción advise Foreign Minister that reply would be delayed pending action of Peace Conference.	882
Mar. 11 (43)	<i>From the Minister in Paraguay (tel.)</i> Summary of Decree of March 10, which specifies that the state and revolution are identic, and makes provision against certain organizations of a partisan or syndicalist nature.	882
Mar. 11 (30)	<i>To the Ambassador in Argentina (tel.)</i> For Braden: Instructions to advise other delegates of Department's preference for identic notes simultaneously delivered, and transmittal of a form of a draft note (text printed) more satisfactory to the United States than one given in No. 57 of March 10.	883
Mar. 11 (60)	<i>From the Ambassador in Argentina (tel.)</i> For Braden: Advice that Paraguayan Foreign Minister has agreed to procedure as outlined in No. 57 of March 10.	884
Mar. 12 (31)	<i>To the Ambassador in Argentina (tel.)</i> Suggestion relative to one paragraph of note transmitted in No. 57 of March 10, in view of Decree of same date.	885
Mar. 12 (61)	<i>From the Ambassador in Argentina (tel.)</i> For Braden: Advice that opinion favors joint note, with reasons for that position; alternative suggestions relative to text and procedure for Department's consideration.	885
Mar. 13 (32)	<i>To the Ambassador in Argentina (tel.)</i> For Braden: Nonacquiescence to joint note, with comment on proposed alternatives, and indication that note of recognition which the American Minister will deliver at Asunción will adhere to text sent in No. 30, of March 11, except for the omission of one paragraph.	886

PARAGUAY

REVOLUTION IN PARAGUAY—Continued

Date and number	Subject	Page
1936 Mar. 13 (9)	<i>To the Minister in Paraguay (tel.)</i> Information relative to procedure of recognition, and advice of notes as nearly identic as possible, to be delivered, it is understood, at noon March 14, together with text of U. S. note to be presented.	888
Mar. 13 (63)	<i>From the Ambassador in Argentina (tel.)</i> From Braden: Advice of telegram to Asunción on arrangements for simultaneous presentation of notes at 6 p. m., March 14, and for acknowledgment of each by the Foreign Minister; information that Argentine President will reply to Franco's telegram thereafter.	889
Mar. 13 (45)	<i>From the Minister in Paraguay (tel.)</i> Colonel Franco's statement to press pertaining to the Decree of March 10, indicating its emergency nature stating that the Paraguayan State will be neither Communist nor Fascist and that its program will be determined by a constituent convention.	890
Mar. 14 (46)	<i>From the Minister in Paraguay (tel.)</i> Evaluation of political situation and attempt to gauge consequence of recent "revolution-state" decree.	890
Mar. 14	<i>From President Roosevelt to the Provisional President of Paraguay (tel.)</i> Reply to communication of March 5, and indication of satisfaction with its assurances.	891
Mar. 14 (47)	<i>From the Minister in Paraguay (tel.)</i> Delivery of recognition notes as planned; Foreign Minister's promise of prompt replies, with information regarding decree about to be promulgated terminating state of war with Bolivia.	892
Mar. 16 (49)	<i>From the Minister in Paraguay (tel.)</i> Note from the Foreign Minister (text printed), acknowledging recognition note; and note from Foreign Office transmitting a copy of the decree mentioned on March 14.	892

PERU

REPRESENTATIONS BY PERU REGARDING THE SUGAR IMPORT QUOTA ALLOWED UNDER THE JONES-COSTIGAN ACT

1936 Aug. 31 (4695)	<i>From the Chargé in Peru</i> Discussion of Peruvian sugar situation with the Foreign Minister, who emphasized pressure on the Government by agrarian interests and Peruvian desire for a commercial treaty, and suggested Cuba be induced to accept a smaller quota than was allotted under the Jones-Costigan Act, making possible a larger quota for Peru.	893
Sept. 16 (4726)	<i>From the Chargé in Peru</i> Discussion of Foreign Minister's memorandum (<i>infra</i>) on the sugar question, which indicated probable retaliation if a larger sugar quota is not granted Peruvian sugar growers; comment on the strength of the National Agrarian Society.	894

PERU

REPRESENTATIONS BY PERU REGARDING THE SUGAR IMPORT QUOTA ALLOWED UNDER THE JONES-COSTIGAN ACT—Continued

Date and number	Subject	Page
1936 Oct. 6	<i>From the Peruvian Ambassador</i> Memorandum from his Government (text printed) on the grave crisis through which the Peruvian sugar industry is passing.	896
Oct. 29	<i>To the Peruvian Embassy</i> Detailed discussion of sugar question and reasons for denial of Peruvian request for a larger quota, with expression of hope that Peru will defer action in the matter at least until after forthcoming Inter-American Conference at Buenos Aires.	898
Nov. 14 (4811)	<i>From the Ambassador in Peru</i> Efforts to keep sugar situation from becoming more serious; figures brought forth by Commercial Attaché and believed more convincing than those of Department's memorandum (<i>supra</i>), with inquiry as to changes in and postponement of its presentation to the Foreign Minister.	903
Nov. 30 (51)	<i>To the Ambassador in Peru (tel.)</i> Authority to postpone presentation of memorandum if convinced that Foreign Office has received memorandum as handed to the Peruvian Ambassador in Washington; opposition to any changes therein.	905
Dec. 21 (4865)	<i>From the Ambassador in Peru</i> Renewal of interest in sugar question, resulting from press accounts of U. S. import quotas for 1937; continued pressure on Foreign Office by sugar interests; suggestions for memorandum giving careful exposition of situation.	905
Dec. 28 (4874)	<i>From the Ambassador in Peru</i> Delivery of Department's memorandum of October 29, <i>mutatis mutandis</i> , to the Foreign Minister.	908

REPRESENTATIONS TO THE PERUVIAN GOVERNMENT RESPECTING THE ANGLO-PERUVIAN COMMERCIAL AGREEMENT OF OCTOBER 6, 1936

1936 Jan. 14 (4)	<i>From the Ambassador in Peru (tel.)</i> Information relative to Finance Minister's confidential decree of January 8 suspending higher duties on British woolen and textiles pending completion of British commercial treaty; opinion that decree is discriminatory.	908
Jan. 21 (4)	<i>To the Ambassador in Peru (tel.)</i> Request for reply to three specific questions concerning the decree of January 8.	909
Jan. 22 (4383)	<i>From the Ambassador in Peru</i> Submission of information requested, including a résumé of Anglo-Peruvian trade relations; belief that concessions will not be extended to the United States, and advice of transmittal of text of decree.	909

PERU

REPRESENTATIONS TO THE PERUVIAN GOVERNMENT RESPECTING THE ANGLO-PERUVIAN COMMERCIAL AGREEMENT OF OCTOBER 6, 1936—Continued

Date and number	Subject	Page
1936 June 19 (36)	<i>From the Ambassador in Peru (tel.)</i> Provisions of Anglo-Peruvian commercial agreement to be signed soon, and effect of apparent discrimination against U. S. trade; request for opinion as to advisability of undertaking preliminary conversations for U. S.-Peruvian trade agreement.	911
June 23 (28)	<i>To the Ambassador in Peru (tel.)</i> Instructions to ascertain correctness of report relative to assignment of exclusive preferences to Great Britain in the pending Anglo-Peruvian treaty, and if found correct, to make oral representations as specified.	912
June 25 (4615)	<i>From the Ambassador in Peru</i> Account of execution of Department's instructions, with comment that the representations give the Foreign Minister an opportunity to straighten situation out before conclusion of Anglo-Peruvian agreement.	913
July 1 (4624)	<i>From the Ambassador in Peru</i> Foreign Minister's observations relative to U. S. position on Anglo-Peruvian negotiations, indicating Peruvian desire for a larger sugar quota and belief that Jones-Costigan Act is discriminatory.	914
Aug. 4 (919)	<i>To the Chargé in Peru</i> Instructions to make oral representations concerning the sugar quota and the nondiscriminatory nature of the Jones-Costigan Act, and to inform the Foreign Minister that the Department is communicating with the Peruvian Ambassador on this matter.	915
Aug. 12	<i>To the Peruvian Embassy</i> Memorandum expressing hope that Peru will take no action counter to policy of equality of treatment, adopted at Montevideo Conference, until after the forthcoming Inter-American Peace Conference.	917
Aug. 21 (4682)	<i>From the Chargé in Peru</i> Detailed account of conversation with the Foreign Minister pertaining to the Anglo-Peruvian agreement, with particular attention to sugar exports to the United States and further mention of the commercial and tariff policy adopted jointly at the Montevideo Conference.	917
Oct. 8 (4954)	<i>From the Chargé in Peru</i> Transmittal of copies of text of Anglo-Peruvian Agreement Relating to Commerce and Navigation, signed October 6, 1936.	920
Oct. 23 (46)	<i>To the Ambassador in Peru (tel.)</i> Request for information pertaining to Peruvian concessions prior to ratification of agreement.	921
Oct. 26 (57)	<i>From the Ambassador in Peru (tel.)</i> Advice that articles IV and V of agreement became effective October 9, and that tariff advantages accorded Great Britain are not being extended to merchandise from United States or from any other country.	921

PERU

REPRESENTATIONS TO THE PERUVIAN GOVERNMENT RESPECTING THE ANGLO-PERUVIAN COMMERCIAL AGREEMENT OF OCTOBER 6, 1936—Continued

Date and number	Subject	Page
1936 Nov. 6	<i>From the Peruvian Ambassador</i> Reply to Department's memorandum of August 12, detailing reasons for belief that the Anglo-Peruvian agreement does not infringe any commitment made by Peru in subscribing to the Economic Resolution of the Montevideo Conference.	922
Nov. 11 (946)	<i>To the Ambassador in Peru</i> Draft note for Peruvian Government (text printed), indicating assumption that American goods will be granted same benefits as British, otherwise operation of agreement will be regarded as discriminatory. Inquiry whether secret supplementary agreements discussed during negotiations are in force.	924
Nov. 19 (4822)	<i>From the Ambassador in Peru</i> Advice of dispatch of note to the Foreign Office, of unsuccessful attempt to secure answer to Department's inquiry as to secret supplementary agreements, and information from the Foreign Office regarding reason why the agreement will probably not be ratified.	925
1937 Feb. 25	<i>To the Peruvian Ambassador</i> Comments on Ambassador's note of November 6, and explanation of the operation of the U. S. reciprocal trade program from which Peru, as well as other countries, has received benefits through generalized concessions.	926

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND PERU

1936 Jan. 10 (4360)	<i>From the Ambassador in Peru</i> Discussion of possibility of a trade agreement with the Foreign Minister, who at first thought it useless to proceed with exploratory conversations due to the sugar problem, but later agreed to consider matter.	928
May 18 (4559)	<i>From the Ambassador in Peru</i> Willingness of new Foreign Minister to have informal talk on trade arrangements following conclusion of British agreement; comments on the matter of sugar with reference to attitude of the President of W. R. Grace and Company.	929
June 9 (4592)	<i>From the Ambassador in Peru</i> Discussion of trade matters with the President, who thought exploratory conversations would be advantageous, and to whom later was sent further information on the trade matter; Foreign Minister's readiness to undertake exploratory conversations. (Footnote: Information that discussions were continued the following year.)	930

URUGUAY

EFFORTS TO SECURE EQUITABLE TREATMENT FOR AMERICAN CREDITORS IN THE
SERVICING OF URUGUAYAN NATIONAL AND MUNICIPAL DEBTS

Date and number	Subject	Page
1936 Feb. 27 (14)	<i>From the Minister in Uruguay (tel.)</i> Finance Minister's plan for adjustment of Uruguay's national and municipal indebtedness, and his request for Foreign Bondholders Protective Council's views as to whether the plan could serve as sufficient basis to warrant his return from the Geneva Labor Conference via New York for negotiations with the Council.	934
Mar. 6 (10)	<i>To the Minister in Uruguay (tel.)</i> Reply of the Foreign Bondholders Protective Council (text printed), including inquiry regarding two unclarified points.	935
Mar. 13 (16)	<i>From the Minister in Uruguay (tel.)</i> Finance Minister's verbal clarification of points queried by the Foreign Bondholders Protective Council; opinion that without encouragement the Minister will not make the contemplated visit to New York.	935
Mar. 24 (11)	<i>To the Minister in Uruguay (tel.)</i> Council's communication for the Finance Minister (text printed) requesting full details of proposed plan and urging a conference in New York; instructions to support Council's suggestion that Finance Minister go to New York for conference.	936
Apr. 1 (210)	<i>From the Minister in Uruguay</i> Compliance with instructions in No. 11 of March 24. (Footnote: Conclusion from brief conversation with President Terra, that the Finance Minister would not be available for a conference in New York.)	937
May 14 (74)	<i>To the Minister in Uruguay</i> Authorization to inform Uruguay that the Council suggests that some other official be sent to New York, or that some official in the United States be designated to confer with the Council.	938
June 4 (255)	<i>From the Minister in Uruguay</i> Attempt to persuade Uruguay to send a representative to New York for negotiations, with mention of West, President of the Bank of the Republic, as a possible choice.	938
June 11 (264)	<i>From the Minister in Uruguay</i> Information from the Acting Finance Minister that West would be unable to undertake assignment suggested.	939
July 21	<i>From the President of the Foreign Bondholders Protective Council</i> Transmittal of copy of a cable to the Uruguayan Minister of Finance in attempt to clear up misunderstanding in respect to Uruguayan bonds in default.	940
Sept. 2 (314)	<i>From the Minister in Uruguay</i> Conversation with the Finance Minister, who said he would submit a brief outline of proposals for consideration when he visits New York in January.	941

URUGUAY

REPRESENTATIONS RESPECTING CUSTOMS DISCRIMINATIONS AGAINST AMERICAN IMPORTATIONS INTO URUGUAY

Date and number	Subject	Page
1936 Jan. 9 (148)	<i>From the Minister in Uruguay</i> Comments on Foreign Office reply to U. S. representations respecting customs discriminations against American importations into Uruguay; transmittal of draft of a further note and request for authorization to present it.	942
Feb. 12 (54)	<i>To the Minister in Uruguay</i> Suggestions relative to content of draft note submitted with No. 148 of January 9; substitute draft note for the Foreign Minister (text printed).	943
Mar. 6 (190)	<i>From the Minister in Uruguay</i> Observations relative to the Department's draft note, with suggestion that reference to treatment of Brazilian pine be omitted as coming within the category of privileges to limitrophe countries.	945
Apr. 18 (70)	<i>To the Minister in Uruguay</i> Reasons for Department's opinion that protest should mention the matter of Brazilian pine, with comment on equality of treatment and its relationship to trade agreement program.	945
June 26 (269)	<i>From the Minister in Uruguay</i> Execution of Department's instructions and receipt of Uruguayan reply (text printed), which fails to deal with matter of discrimination but indicates willingness to consider equality of treatment when a trade agreement is discussed.	947
July 10 (277)	<i>From the Minister in Uruguay</i> Note from Foreign Minister (text printed), quoting a report from the Bank of the Republic, which still fails to satisfy Legation's complaint against customs discrimination.	948
July 31 (287)	<i>From the Minister in Uruguay</i> Note addressed to Foreign Minister (text printed) in attempt to discover basis on which Uruguay granted privileged treatment to French sardines and tuna.	949
Aug. 13 (297)	<i>From the Minister in Uruguay</i> Advice that Uruguayan firm is requesting an increase in duties on galvanized iron sheets; request for authorization to point out that such increase does not seem to accord with a resolution adopted at Montevideo in 1933.	951
Sept. 30 (93)	<i>To the Minister in Uruguay</i> Authorization for informal representations if it appears likely that request for increase will be favorably considered by the Government.	952
Oct. 9 (359)	<i>From the Chargé in Uruguay</i> Advice that request for increase in duty has been rejected, since special legislation would be required, but that a bill has been introduced in the Chamber of Deputies to make such action possible.	952
Nov. 5 (397)	<i>From the Minister in Uruguay</i> Review of steps leading to a decree granting the same benefits of customs treatment to American sardines and tuna fish as those granted to Spain by a trade agreement with Uruguay.	953

VENEZUELA

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND VENEZUELA

Date and number	Subject	Page
1936 May 7 (271)	<i>From the Minister in Venezuela</i> Foreign Minister's indication of Venezuelan readiness to negotiate a trade agreement with the United States, and his reference to certain pending U. S. oil legislation which might affect oil royalties received by his Government.	955
June 9 (73)	<i>To the Minister in Venezuela</i> Instructions to inform Foreign Minister that Department is following closely course of oil legislation with full realization of its bearing on U. S. trade with Venezuela; also to inform him that matter of a trade agreement is receiving careful consideration.	956
Dec. 3 (82)	<i>From the Chargé in Venezuela (tel.)</i> Foreign Minister's continued interest in the negotiation of a trade agreement; request for instructions.	957
Dec. 5 (52)	<i>To the Chargé in Venezuela (tel.)</i> Promise of instructions in a few days; request for information relative to likelihood of obtaining substantial general concessions without some U. S. concession on petroleum.	958
Dec. 7 (83)	<i>From the Chargé in Venezuela (tel.)</i> Difficulty in estimating extent of possible concessions, but belief that Foreign Minister's prime desire is to remedy lack of treaty relations between the United States and Venezuela.	958
Dec. 19 (54)	<i>To the Chargé in Venezuela (tel.)</i> Instructions to deliver note (text printed) pertaining to most-favored-nation treatment and to state orally that the United States is giving consideration to initiating trade agreement negotiations. Request for interpretative information on Franco-Venezuelan commercial treaty.	959
Dec. 22 (549)	<i>From the Chargé in Venezuela</i> Note presented to Foreign Minister (text printed); Foreign Minister's explanation of his Government's position, and his desire to speed the initiation of trade agreement negotiations.	960
Dec. 31 (57)	<i>To the Chargé in Venezuela (tel.)</i> Instructions to inform the Foreign Minister orally and informally of U. S. readiness to enter into preliminary trade agreement conversations as soon as Venezuela removes existing discrimination against American commerce.	963

REPRESENTATIONS TO THE GOVERNMENT OF VENEZUELA REGARDING INCREASES IN ITS CUSTOMS TARIFF

1936 June 18 (323)	<i>From the Minister in Venezuela</i> Advice of inquiry at the Foreign Office in respect to protest of Venezuelan firm of Capriles Hermanos, local representatives of Chesterfield cigarettes, against bill in Congress providing for an increase in tariff on cigarettes.	963
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VENEZUELA

REPRESENTATIONS TO THE GOVERNMENT OF VENEZUELA REGARDING INCREASES
IN ITS CUSTOMS TARIFF—Continued

Date and number	Subject	Page
1936 June 26 (337)	<i>From the Minister in Venezuela</i> Foreign Minister's assurances that law under consideration is designed to protect national industry and to combat smuggling, and is not directed against cigarettes of any particular country. Opinion that Venezuela is reserving matter of cigarette tariff as bargaining point in trade agreement negotiations.	965
Aug. 21 (424)	<i>From the Minister in Venezuela</i> Memorandum (text printed) of a conversation with the Foreign Minister relative to a measure for increase of import duties, particularly on automobiles, which, while not affirmably discriminatory, would fall heavily on U. S. products.	966
Aug. 22 (426)	<i>From the Minister in Venezuela</i> Advice of probability that tax on cigarettes will be set at 20 bolivars per kilogram as compared to 25 bolivars originally proposed.	969
Sept. 22 (44)	<i>To the Minister in Venezuela (tel.)</i> Instructions to present memorandum containing representations against imposition of higher duties and expressing the hope that legislation will be suspended until after the Inter-American Peace Conference; also to indicate orally that in trade agreement negotiations concessions are based on tariff rates in effect prior to negotiations.	969
Sept. 24 (66)	<i>From the Minister in Venezuela (tel.)</i> Presentation of memorandum, but advice that tariff bill has made such progress that it is doubtful whether legislation can be postponed until after Inter-American Peace Conference.	971
Sept. 25 (45)	<i>To the Minister in Venezuela (tel.)</i> Department's hope that decisive increases on typical U. S. products will be omitted if legislation is passed; instructions regarding further representations.	971
Oct. 1 (67)	<i>From the Minister in Venezuela (tel.)</i> Expectation of Foreign Minister's early reply to representations; approval by Chamber of Deputies of proposed high duties on passenger cars.	972
Oct. 2 (480)	<i>From the Minister in Venezuela</i> Report on conversation of October 1 with the Foreign Minister, who appeared to be genuinely concerned as to effects of legislation, and is endeavoring to meet U. S. views; belief that duties on passenger cars may be reduced.	972
Oct. 5 (46)	<i>To the Minister in Venezuela (tel.)</i> Instructions for forceful representations to officials, with exposition of U. S. trade policy and information that proposed tariff might preclude negotiations for a trade agreement and might lead Congress to increase duties on Venezuelan products.	974
Oct. 6 (68)	<i>From the Minister in Venezuela (tel.)</i> Representations to the Foreign Minister as instructed, but belief that various political aspects make results problematical.	976
Oct. 16 (490)	<i>From the Minister in Venezuela</i> Information relative to passage of tariff measure on October 13.	976

PRELIMINARIES TO THE EIGHTH INTERNATIONAL CONFERENCE OF AMERICAN STATES TO BE HELD AT LIMA IN 1938

710.H/3

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

WASHINGTON, January 10, 1936.

MY DEAR MR. SECRETARY: I beg to send you herewith a copy of the Report of the Subcommittee on Program of the Eighth International Conference of American States, approved at the session of the Governing Board held on January 8th.¹ Attached to the report is a list of topics which may be considered for possible inclusion in the program of the Eighth Conference.

As you will observe, the report requests that the Governments send to the Pan American Union an expression of their opinion on the program prior to June first.

I beg to remain [etc.]

L. S. ROWE

710.H/7

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

WASHINGTON, June 2, 1936.

MY DEAR DOCTOR ROWE: With further reference to your letter dated January 10, 1936, and my reply of January 17, 1936,² concerning the report of the subcommittee on the program of the Eighth International Conference of American States, I wish to say that in view of the approaching inter-American conference which is to be held in Buenos Aires, it would seem advisable to postpone the formulation of the definitive agenda of the Eighth Conference, and hence this Government desires to postpone the submission of comments until a later date.

¹ Eighth International Conference of American States, Lima, Peru, *Report of the Subcommittee on Program with a list of topics for possible inclusion in the Agenda, Approved by the Governing Board of the Pan American Union at the Session of January 8, 1936* (Washington, Pan American Union [1936]).

² Reply not printed.

This Government has always placed great importance upon the periodic conferences and has always endeavored to do everything within its power to make them successful. It is the hope of this Government that the Buenos Aires Conference may contribute materially toward the success of the periodic conference and increase the opportunities for practical accomplishments as well as facilitate the labors of that meeting. It is with this in mind that this Government deems it preferable to postpone for the time being the presentation of its suggestions for the program of the Eighth Conference.

I shall be glad to be informed of the situation and, should it be decided to proceed at this time with the formulation of the agenda for the Lima conference, to be afforded an opportunity to present the views of this Government.

Sincerely yours,

CORDELL HULL

INTER-AMERICAN CONFERENCE FOR THE MAINTENANCE OF PEACE HELD AT BUENOS AIRES, DECEMBER 1-23, 1936¹

PRELIMINARIES

[BIBLIOGRAPHICAL NOTE :

Diario de la Conferencia Interamericana de Consolidación de la Paz; Final Act of the Inter-American Conference for the Maintenance of Peace, Buenos Aires, December 1-23, 1936 [Buenos Aires, 1937]. Two prints of this text, the title pages of which are indistinguishable one from the other, were issued. The (probably) later text contains resolutions LXIII and LXIV which do not appear in the other text.

Special Handbook for the Use of Delegates (Washington, Pan American Union, 1936).

Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936 (Washington, Government Printing Office, 1937).

Addresses and Statements by the Honorable Cordell Hull, Secretary of State of the United States of America, in Connection with His Trip to South America to attend the Inter-American Conference for the Maintenance of Peace held at Buenos Aires, Argentina, December 1-23, 1936 (Washington, Government Printing Office, 1937).]

710.Peace/12

*President Roosevelt to the President of Argentina (Justo)*²

WASHINGTON, January 30, 1936.

MY DEAR MR. PRESIDENT: The agreement by the Governments of Bolivia and Paraguay upon the peace protocols recently negotiated at Buenos Aires³ has afforded the Government and people of the

¹ Continued from *Foreign Relations*, 1935, vol. iv, pp. 1-6.

² The same, *mutatis mutandis*, January 30, to the Presidents of the other American Republics. For replies from the Presidents of certain of the American Republics, see Department of State, *Press Releases*, April 18, 1936, pp. 313-340.

³ At the Chaco Peace Conference. For correspondence concerning the Conference, see *Foreign Relations*, 1935, vol. iv, pp. 91 ff., and *post*, pp. 35 ff. For text of protocolized act, signed January 21, 1936, see p. 36.

United States the deepest gratification, since it has led them to hope that there is now every prospect of a permanent and equitable solution of this tragic controversy, which has continued for so long a period; which has caused the sacrifice of so many lives; and which has placed so crushing a burden of expenditure upon the citizens of the two belligerent nations. I know well with what intimate concern the Government and people of Argentina have followed the course of these hostilities, and their happiness at the termination of the conflict is fully shared by the Government and people of the United States.

I cherish the sincere conviction that the moment has now arrived when the American Republics, through their designated representatives seated at a common council table, should seize this altogether favorable opportunity to consider their joint responsibility and their common need of rendering less likely in the future the outbreak or the continuation of hostilities between them, and by so doing, serve in an eminently practical manner the cause of permanent peace on this Western Continent. If the tragedy of the Chaco can be considered as having served any useful end, I believe such end will lie in our joint willingness to profit from the experience learned and to exert our common endeavors in guarding against the repetition of such American disasters.

It has seemed to me that the American Governments might for these reasons view favorably the suggestion that an extraordinary inter-American conference be summoned to assemble at an early date, at Buenos Aires, should the Government of the Argentine Republic so desire, or, if not, at some other capital of this Continent, to determine how the maintenance of peace among the American Republics may best be safeguarded—whether, perhaps, through the prompt ratification of all the inter-American peace instruments already negotiated; whether through the amendment of existing peace instruments in such manner as experience has demonstrated to be most necessary; or perhaps through the creation by common accord of new instruments of peace additional to those already formulated.

These steps, furthermore, would advance the cause of world peace, inasmuch as the agreements which might be reached would supplement and reinforce the efforts of the League of Nations and of all other existing or future peace agencies in seeking to prevent war.

With the conclusion of the Chaco War and with the reestablishment of peace throughout this Continent, there would appear to be offered an opportunity for helpful counsel among our respective governments which may not soon again be presented. Your Excellency's devotion to the maintenance of peace between the American Republics is well known, and I would therefore deeply appreciate such views as Your Excellency may care to express to me, as I would likewise value highly Your Excellency's opinion whether such a special inter-American

conference of the American Republics would not in fact prove most beneficial.

I am addressing myself thus personally to Your Excellency, instead of through the usual diplomatic channels, because of my thought that the questions at issue are of such vital concern to the people of this Continent as to warrant a personal interchange of views between the Presidents of the American Republics.

With the expression [etc.]

Faithfully yours,

FRANKLIN D. ROOSEVELT

710.Peace/11 : Telegram

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

BUENOS AIRES, February 6, 1936—7 p. m.

[Received 8:45 p. m.]

22. For Welles⁴ from Braden.⁵

1. Saavedra Lamas⁶ today showed me exchanges of cables with Espil⁷ last July, August, October and since January 21st relative to President Roosevelt's letters to the Presidents of the principal Latin-American Republics suggesting an inter-American conference to develop machinery for the preservation of peace on this hemisphere.

2. The Minister explained his opposition last July and August on the score that at that time the mere hint of a general conference of this character would have led to Paraguayan desertion of the Chaco Peace Conference, an event which of itself would have destroyed any possible success for President Roosevelt's plans.

3. The Minister in view of (a), January 21st protocolized act; (b), improved spirit of Pan-Americanism throughout the continent; (c), chaotic conditions in Europe, believes time is propitious now for holding conference such as suggested by President Roosevelt.

4. He cabled Espil January 28 that he now accepted both the idea of the conference and its being held in Buenos Aires.

5. The Minister further states that it would be [a] catastrophe were the conference to fail because of lack of adequate preparation and particularly urged careful study of, (a), various peace pacts and ratifications thereof (he stated that Kellogg-Briand Pact⁸ had not been ratified by Argentina because of opposition of Senator Sanchez Sorondo who was influenced by purely internal political reasons but assured me he could obtain its ratification promptly when Congress

⁴ Sumner Welles, Assistant Secretary of State.

⁵ Spruille Braden, American delegate to the Chaco Peace Conference.

⁶ Carlos Saavedra Lamas, Argentine Minister for Foreign Affairs.

⁷ Felipe A. Espil, Argentine Minister in the United States.

⁸ *Foreign Relations*, 1928, vol. I, p. 153.

reconvened); (b), neutrality legislation now being considered in the United States; (c), certain proposals of President Hoover regarding blockades; (d), proposals of his own relating to naval matters, rights of neutrals, etc.; (e), other subjects looking to establishment of complete and effective machinery for peace throughout America; (f), but above all he emphasized establishment of a system of neutral mediation such as "has proved so eminently successful in the Chaco".

6. He stated he was cabling Espil urging this careful preparation and suggesting advantage be taken of my presence in order that he and I might pursue conversations, study and preparatory work jointly.

7. He asked whether I was familiar with the subject. I replied that you had spoken very briefly about it to me before I sailed in October but that I had received no information since then.

8. The Minister's remarks made it clear he fully expected conference to be held here but presented no opening for me to suggest or even discuss its locale except inferentially by indicating that an essential part of the careful preparation would be to assure ourselves of the whole-hearted adhesion of other leading foreign offices.

9. I agreed with him it would be preferable if existing boundary disputes in America not be excluded from consideration in the conference as was insisted upon by President Benavides⁹ who had in mind the difficulties between Peru and Ecuador.

10. My only other comment was with reference to one of his last cables to Espil in August in which he opposed the conference and gave as one reason that if the Sanitary Convention¹⁰ were not ratified entire Argentine attitude on Pan-Americanism would change. I remarked: "You do not mean that in any way. Why did you say it?" He replied that of course he did not mean it but had merely used it as a clinching argument at that time to obtain postponement of the conference.

11. Please advise whether you desire me to pursue these conversations any further. If so, would appreciate your full instructions. [Braden.]

WEDDELL

710.Peace/32 : Telegram

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

WASHINGTON, February 8, 1936—4 p. m.

19. For Braden. Your 22, February 6, 7 p. m. The views advanced by Dr. Saavedra Lamas and the information conveyed are extremely valuable to the Department.

⁹ Oscar R. Benavides, President of Peru.

¹⁰ Unperfected Sanitary Convention between the United States and Argentina, signed May 24, 1935, *Foreign Relations*, 1935, vol. iv, p. 296.

For the time being, I feel you had better limit yourself to advising the Foreign Minister that the President will necessarily await the receipt from the Presidents of the American Republics of their replies to his recent communication inasmuch as he is confident that many helpful suggestions will be contained in those replies. As soon as these replies are received and time has been afforded for study of the suggestions which they contain, this Government will avail itself of the privilege of exchanging views with regard thereto with the Argentine Minister of Foreign Affairs.

For your strictly confidential information. Should the response to the President's communication be satisfactory, the Department will create a special committee here to undertake the preparation of such plans or formula as this Government may desire to submit for consideration at the proposed conference.

With reference to your paragraph 6 for the reason above indicated, it would be preferable to have any concrete suggestions which Dr. Saavedra Lamas may care to advance for our consideration submitted to the Department by the Argentine Ambassador at Washington. This, of course, however, does not imply that you should not report to the Department any conversations you may have with the Foreign Minister bearing upon these topics and which, in your judgment, would be of value to your Government in the formulation of our own plans.

HULL.

710.Peace/99 : Telegram

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

BUENOS AIRES, February 18, 1936—4 p. m.

[Received 5:50 p. m.]

38. In conversation with the Minister for Foreign Affairs today he expressed the warm approval of his Government of the proposed extraordinary conference and said that he hoped to have ready by the end of the week for President Justo's signature a reply to President Roosevelt's letter in this sense; presumably to be sent by Saturday's air mail.

He said he had yesterday telegraphed to Ambassador Espil at length his ideas concerning the program of the conference. In conversation with Mr. Braden, Dr. Saavedra Lamas referred briefly to the recommendations as to the various subjects which he felt should be considered in the conference and which evidently are in amplification of comments made to Mr. Braden (see his cable No. 22 of February 6, 7 p. m.) including, however, a few related economic subjects which he thought perhaps might be worked in appropriately. While he

gave us both clearly to understand that he would not insist upon the inclusion of these, he pointed out that some of these economic subjects might be called pressing and might well be considered by the extraordinary conference since otherwise they could not be treated until the Eighth International Conference¹¹ which will not take place for 2 years.

The Minister also said that he was delighted with the idea of holding the conference in Buenos Aires and emphasized the tremendous good which he thought it might do.

He added further that he had received visits from the Ministers of Chile, Mexico, Ecuador and Colombia all of whom voiced warm approval of President Roosevelt's plan.

WEDDELL

710.Peace/168 : Telegram

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

MEXICO, February 26, 1936—6 p. m.

[Received February 27—2 a. m.]

35. The Under Secretary of Foreign Affairs expresses the hope that to avoid possible unfavorable press greater publicity be given to all current developments of proposed peace conference and suggests the importance of early consultation among the governments as to a publicity program designed to offset divergent conjectures and sustain public interest. The representatives of several Latin American countries have expressed to him the fear that the issues of the conference might affect their commitments as members of the League of Nations and European diplomatic representatives have stated their belief that the purpose of the United States in calling the conference was to establish a Pan-American neutrality system as regards the rest of the world.

In connection with the suggested publicity campaign I called the Under Secretary's attention to recent speeches by Secretary Hull¹² and Mr. Phillips¹³ and to the Secretary's radio address scheduled for Friday the 28th.¹⁴

¹¹ See pp. 1 ff.

¹² For text of address on "Trade and Peace," broadcast from Washington over the network of the National Broadcasting Company, February 14, 1936, at 10 p. m., see Department of State, *Press Releases*, February 15, 1936, p. 158.

¹³ Department of State, *The United States in World Affairs, Address by the Honorable William Phillips, Under Secretary of State, which was delivered before the Chicago Council on Foreign Relations, at Chicago, on February 15, 1936* (Washington, Government Printing Office, 1936).

¹⁴ For text of address on "Relations between the United States and Latin America," broadcast over the network of the National Broadcasting Company, February 28, 1936, at 10:45 p. m., see Department of State, *Press Releases*, February 29, 1936, p. 189.

Ceniceros said that the Mexican Government wished to collaborate fully, that the Minister of Foreign Affairs would develop Mexico's program, and that President Cardenas would expect a well-defined program before public interest could be enlisted.

DANIELS

710.Peace/187 : Telegram

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

WASHINGTON, February 27, 1936—2 p. m.

40. Your 35, February 26, 6 p. m. In your next conversation at the Foreign Office, it would be helpful for you to state that your Government has given the most attentive thought to the views advanced by the Mexican Under Secretary for Foreign Affairs. It would seem, however, very difficult at this time to undertake any publicity program regarding the proposed inter-American conference in view of the fact that President Roosevelt has not as yet received all of the replies which have been addressed to him by the presidents of the American republics. These replies in some instances, this Government is advised, contain rather specific and detailed suggestions which will warrant somewhat protracted study.

With regard to the fears referred to in the latter part of the first paragraph of your telegram under reference, the text of President Roosevelt's letter makes it entirely clear that the suggestion of the President contains no intimation whatever that he would favor the taking of any steps by the American republics prejudicial to the commitments of those American republics which are members of the League of Nations, but on the contrary, that he believes the improvement of peace machinery on the American continent would supplement and reinforce the efforts for peace of the League of Nations and all other peace agencies.

Finally, you may say that the Mexican Ambassador in Washington and you yourself will be kept fully advised of the nature of the suggestions communicated to President Roosevelt by the presidents of the other American republics in the belief that a continuing exchange of views on these problems during these next weeks between all of the American republics will be essential in order that a program for the Conference may be formulated with the approval of all. In the same manner unanimous agreement will be sought as to the steps which may appropriately be taken in order to insure continuing public interest and beneficial publicity.

HULL

710.Peace/265 : Telegram

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

BUENOS AIRES, March 18, 1936—7 p. m.
[Received 7:40 p. m.]

67. The Minister for Foreign Affairs on whom I called this afternoon at his request, told me that he felt it was of vital importance that the meeting of the proposed peace conference should not be delayed too long, first because of the situation in Europe on which a successful conference might have a helpful repercussion, again because of the moral effect on the Chaco belligerents, further because a meeting say in June would be more convenient to the host, the Argentine Government, and lastly for a personal reason, that his plans contemplated his departure for Geneva to attend sessions of the League of Nations in July.

Since, as stated, Buenos Aires is to be the seat of the conference I feel that the views of the Argentine Government as to the date thereof should receive every consideration.

WEDDELL

710.Peace/272 : Telegram

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

WASHINGTON, March 19, 1936—5 p. m.

36. Your 67, March 18, 7 p. m. The Argentine Ambassador in Washington has already made similar representations to the Department by instruction of the Minister for Foreign Affairs. I have informed the Ambassador that this Government fully shares the feeling of the Argentine Government that the proposed inter-American conference should be held at the earliest possible moment for all of the reasons mentioned in your telegram under reference. However, as Dr. Saavedra Lamas will well understand, in view of the tremendous importance of the conference, it would seem highly undesirable to fix any date until all of the participating governments are assured both of unanimous agreement upon the program as well as on the inclusion in the program of all of the projects which warrant consideration by the conference. It is the hope of this Government that within the next 2 or 3 weeks it can be ascertained what the views of the participating governments may be as to the agenda and as soon as that stage is reached it will then be feasible, in my judgment, to fix a date for the conference. It would now seem to be probable that the conference could be held with reasonable assurances of success not later than the

15th of July, but, as I have indicated to the Ambassador, when the time required for the formulation of the program is taken into account and the time required for the journey of the respective delegations to Buenos Aires, any date before the middle of July would seem to be unlikely of attainment.

PHILLIPS

710.Peace/67

Memorandum by the Assistant Secretary of State (Welles) to the Under Secretary of State (Phillips)

[WASHINGTON,] March 19, 1936.

Any proposal to bring the Canadian Government into the Pan American Union or to have the Canadian Government participate in the proposed inter-American Conference would meet with very strenuous objection on the part of some of the American republics, notably the Government of Brazil.

Furthermore, I have discussed this matter with the President and, as I have written Norman Armour¹⁵ in a personal letter, the President feels there is no reason why the Canadian Government should be invited to participate. As a component part of the British Empire there is no logical reason why Canada should enter into any political or quasi-political conventions which may be agreed upon by the independent American republics. As the President expressed his feelings to me, there is no more logical reason why Canada should be represented than Jamaica or, for that matter, than British, French, or Dutch Guiana.

S[UMNER] W[ELLES]

710.Peace/284 : Telegram

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

BUENOS AIRES, March 24, 1936—6 p. m.

[Received 6:20 p. m.]

72. The Foreign Minister informed me this afternoon that he hoped to forward his suggestions for the peace conference program by air mail on the 28th to Ambassador Espil for delivery to the Department. I shall telegraph a detailed summary as soon as I secure a copy.

The Minister also told me that he had talked with the President concerning the date of the conference and that July 15 would be en-

¹⁵ Minister in Canada.

tirely agreeable to his Government. I thereupon communicated to him the pertinent portions of your telegram 36, March 19, 5 p. m., emphasizing the inadvisability of endeavoring just now to fix a positive date for this opening, adding, however, that perhaps the date he mentioned might be one to aim at. His reply to this was to repeat his previous statement.

WEDDELL

710.Peace/332 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, April 1, 1936—1 p. m.

[Received 1:45 p. m.]

106. The Minister for Foreign Affairs¹⁶ has set up three separate commissions in the Foreign Office to prepare data and make preliminary studies of various subjects in connection with the coming peace conference. These studies cover a wide variety of subjects and the Minister states that a great deal of duplication is obviated and the work given a more useful focus if he could be given as soon as possible an idea of the basic agenda of the conference as you now foresee it. He expressed the apprehension that if the agenda is not received in the very near future it will be difficult to do any systematic preparation for a conference to be held earlier than September; he understands it is your desire that it should take place at an earlier date.

As matters now stand the Minister does not intend to go to Buenos Aires with the Brazilian delegation. He has succeeded thus far in maintaining excellent relations with Saavedra Lamas and feels that he stands a better chance of keeping these intact and being able to use them for the purposes of the conference if he remains in Rio. He expressed deep regret that when the President's first letter was received the question of holding the conference in Buenos Aires had already become so generally known that it was impossible to offer any objection without creating serious difficulties. He feels that . . . it is essential that so far as possible Brazil and the United States be in full previous agreement on fundamental matters in order that they may put forward an effective effort and that so far as possible other American States should be similarly lined up in order to meet the machinations which will inevitably be encountered.

GIBSON

¹⁶ José Carlos de Macedo Soares.

710.Peace/342: Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, April 2, 1936—6 p. m.

59. Your 106, April 1, 1 p. m. I have been having informal conversations with the diplomatic representatives of the other American republics during the past few days in order to ascertain what the views of their respective governments may be as to the most agreeable and practical manner of handling the formulation of the program for the conference. I have indicated in all of these conversations the belief of this Government that full and ample opportunity must be given to each one of the governments attending the conference to present such projects as it may desire for the consideration of the other governments. I have expressed the opinion that the conference could only be successful if it was generally recognized that every one of the twenty-one governments had had an equal share in the determination of the agenda.

Some of the Diplomatic Representatives have suggested that the formulation of the program might be entrusted to the Governing Board of the Pan American Union. Others, and especially the Brazilian Ambassador, have voiced the opinion that the Governing Board should not be entrusted with any jurisdiction over political questions and that it would be preferable that the diplomatic representatives in Washington of the American republics together with a representative of the United States constitute themselves a committee to consider all projects advanced. This latter suggestion would probably be the most efficacious method of expediting the work involved and of avoiding the impression that a small group of the major powers of the continent are determining in advance what the program shall be.

If this proposal meets with the approval of all of the participating governments, (and I wish you would cable the Department the opinion of the Minister for Foreign Affairs concerning this suggestion), the matter will probably be broached by the Secretary of State immediately after the conclusion of the next meeting of the Governing Board of the Pan American Union on April 8.

This Government will present for the consideration of the other participating governments various suggestions which may be divided into four categories:

A. Suggestions relating to amendments of existing peace instruments and projects for new peace instruments;

B. Suggestions relative to the supplementing of existing rules regarding rights and duties of neutrals and belligerents with particular reference to matters of trade and commerce;

C. Suggestions relative to economic matters; and

D. Suggestions relative to cultural questions.

I am informed that the Mexican, Colombian, Venezuelan, Peruvian, and Chilean Governments are now formulating projects and suggestions for transmission to their representatives here. You have presumably been advised that the Argentine Government has already transmitted a series of projects to the Argentine Ambassador in Washington and that further projects will be transmitted shortly. The Government of Guatemala has already submitted its formulated suggestions, but it seems improbable at this time that the other Central American or Caribbean countries will undertake to suggest any projects.

You may express to the Minister for Foreign Affairs the pleasure and interest with which this Government has learned of the studies now being undertaken by the Brazilian Foreign Office and of its hope that the specific proposals which may result from these studies may be transmitted for the consideration of this government and of the other participating governments at an early moment.

HULL

710.Peace/358 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, April 6, 1936—6 p. m.

[Received April 6—5 p. m.]

111. Macedo Soares having returned to Rio today, I took occasion to discuss with him the subject of the Department's 59, April 2, 6 p. m.

He is in full agreement with the suggestion as to formulating the program of the conference.

Macedo Soares stated that the more he studied the problems of the conference the more he was convinced of the wisdom of seeking to limit the objectives to a few simple and essential aims leaving secondary matters for subsequent treatment. What he has principally in mind is the formulation of machinery and procedure for averting conflicts which the parties obligate themselves in advance to accept; and as a second point a joint agreement that any attack upon countries in this hemisphere by non-American powers will be looked upon as the common concern of all American nations. He adds that if we can achieve this it will be one of the major achievements of modern times.

GIBSON

710.Peace/430 : Telegram

The Secretary of State to the Minister in Paraguay (Howard)

WASHINGTON, April 21, 1936—2 p. m.

19. There was constituted last week an Inter-American Committee composed of the diplomatic representatives in Washington, of all of the American republics participating in the approaching Inter-American Conference for the purpose of cooperating in a practical manner in the consideration of the agenda.¹⁷ A subcommittee to compile the projects and suggestions for the program received from each of the participating governments for subsequent submission to all of the latter was further empowered to request all of the participating governments to submit such proposals or suggestions if possible before May 4th next.

In view of the absence here of a diplomatic representative of the Government of Paraguay, the subcommittee has requested this Government to act as the channel of communication in order that the above-mentioned request might be received by the Government of Paraguay as soon as possible. You are therefore instructed to communicate immediately to the Minister for Foreign Affairs the request emanating from the subcommittee and further to state that should the Government of Paraguay find it convenient, you will be pleased to transmit to the Department of State for the information of the Inter-American Committee sitting in Washington such proposals or suggestions for inclusion in the program of the Inter-American Conference as the Government of Paraguay may desire to advance.

Should the Government of Paraguay avail itself of this offer, you are instructed to cable a summary of such proposals and send the full text immediately by air mail.

HULL

710.Peace/450

The Minister in El Salvador (Corrigan) to the Secretary of State

No. 655

SAN SALVADOR, April 21, 1936.

[Received April 27.]

SIR: I have the honor to convey to the Department a suggestion made by President Maximiliano H. Martínez that mutual action for defense of the Americas be considered at the proposed Inter American Conference. President Martínez said that he had entertained this

¹⁷ See *Special Handbook for the Use of Delegates*, p. 2.

idea for sometime but had never written it out. He believes that the time has come for joint agreement between the American Republics on a plan of co-operative defense against aggression from any quarter. He observed that whatever may have been true in the past there is today "no American nation with imperialistic ambitions—a condition certainly not true in the rest of the world." "The present plight of Ethiopia¹⁸ presents an object lesson worthy of notice of all small nations." "Ethiopia's fate shows what could happen if Europe dominated by three or four strong governments which could easily reach an understanding among themselves should decide to embark on a campaign of conquest."

President Martínez believes that a plan of joint action for American defense should be considered at the proposed conference. The campaign for the conquest of Ethiopia by Italy has evidently made a powerful impression and brought home to him the helplessness of a small country like his in the event of attack by an aggressive powerful nation.

I submit this interview and the suggestion of President Martínez in the belief that the Department may be interested in whatever thoughts have been aroused in the minds of Chiefs of States as they consider possible agenda for the Conference program.

Respectfully yours,

FRANK P. CORRIGAN

710.Peace/479

The Secretary of State to the Argentine Ambassador (Espil)

WASHINGTON, May 2, 1936.

EXCELLENCY: I have pleasure in transmitting herewith to the members of the Sub-Committee created by resolution of the Inter-American Committee on April 15 last a list of the subjects which the Government of the United States will be happy to have included in the preliminary draft of the program of the Inter-American Conference to be held in Buenos Aires.¹⁹

I should like at the same time to advise you that this Government may desire to present further suggestions and proposals for inclusion in the program of the Conference for the consideration of the participating Governments, and that should this be the case, such suggestions or proposals will be transmitted at an early date.

Accept, [etc.]

CORDELL HULL

¹⁸ See vol. III, pp. 34 ff.

¹⁹ For the program of the Conference, see *Special Handbook for the Use of Delegates*, p. 4.

[Annex]

List of Subjects Transmitted to the Subcommittee

[WASHINGTON,] May 1, 1936.

- I A. Perfection of existing Inter-American Peace Treaties.
 - B. New Peace Treaties.
- II Rules regarding Rights and Duties of Neutrals and Belligerents.
 - A. Conclusion of a Convention open to all nations supplementing and clarifying existing rules concerning Rights and Duties of Neutrals with reference to certain classes of Trade and Commerce.
 - B. Consideration of steps looking to a more comprehensive re-statement of International Law pertaining to Neutral and Belligerent Rights and Duties.
- III Improvement of communications between the American Republics.
 - A. Steamship communication.
 - B. Pan American Highway.
- IV Facilitation by government action of the exchange of Teachers and Students between the American Republics.
- V Inter-American Trade.
 - A. Tariff truce among the American Republics involving a pledge to create no new discriminations.
 - B. Proposals concerning principles of equality of trade opportunity, and consideration of steps looking forward to ensuring application of those principles.

710.Peace/501 : Telegram

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

BUENOS AIRES, May 8, 1936—4 p. m.

[Received 6 p. m.]

101. In conversation with the Foreign Minister he said that President Lopez of Colombia was eager to carry through the idea of a Pan American League of Nations.²⁰ The Foreign Minister added that he thought it would be a great mistake to bring this up at the impending Buenos Aires conference, that it should more properly go over for consideration by the conference of American States in Lima in 1938.

WEDDELL

²⁰ See *Special Handbook for the Use of Delegates*, pp. 31-32.

710.Peace/550

The Consul at Geneva (Everett) to the Secretary of State

No. 1688 Political

GENEVA, May 8, 1936.

[Received May 19.]

SIR: I have the honor to refer to the Consulate's despatch No. 1628 Political of March 19, 1936,²¹ on the question of reaction in Geneva to President Roosevelt's Pan-American Peace Project, in which it was indicated that although there were known to the Consulate at that time few indices on which might be based a precise estimate of Secretariat opinion, such facts as were known—that is, the nature of a memorandum prepared by a United States national in the Secretariat, the concern of Mr. Butler, Director of the International Labor Office, and the tentative plans of M. Avenol, the Secretary-General, for strengthening the relations between Geneva and Latin America—led to the tentative conclusion that the higher officials of the League were somewhat preoccupied with the possible effect of the Buenos Aires Conference on the League's position in Latin America. In fact, up to a short time ago certain minor, but responsible, officials privately expressed their concern quite freely.

Since the despatch under reference was written the Consulate has been able to obtain further information which throws more light on the attitude now adopted by the higher officials of the Secretariat and, consequently, on "official" Secretariat policy. Of interest in this connection is the change which has apparently taken place in the opinions of Señor Azcarate (Spanish), Deputy Secretary-General of the League. Señor Azcarate's views are significant in that during the past few weeks he has assumed the direct control of liaison between the Secretariat and the Latin-American States which up to that time had been largely in the hands of Señor Rodriguez (a Panamanian who is leaving the Secretariat at the expiration of his contract in the autumn), and Señor Nogueira (a Uruguayan who, it will be recalled, was present in Montevideo in December, 1933, during the Seventh Pan-American Conference).

A month ago in a private conversation with Mr. Cumming²² Señor Azcarate expressed some concern over the possibility of action being taken in the forthcoming conference at Buenos Aires which, particularly with regard to the neutrality of American States in relation to conflicts between non-American countries, might impose a dual allegiance upon the Latin-American States members of the League. Yesterday morning, however, when Mr. Cumming called on Señor

²¹ Not printed.

²² Hugh S. Cumming, Jr., Department of State officer detailed to the Consulate at Geneva.

Azcarate at the latter's request, Señor Azcarate said (without referring to the previous conversation) that in response to inquiries from the League correspondents in Bogotá, Santiago, Mexico City, and La Paz, and also because of "loose statements" which had been made by some members of the Secretariat who had not sufficiently studied the factors involved, he and M. Avenol had formulated certain observations on the forthcoming Buenos Aires Conference which might be considered as embodying the official Secretariat viewpoint. He gave Mr. Cumming a copy of this memorandum (which I enclose, together with a translation) on the understanding that he was doing so privately and unofficially. This document was prepared for internal use and will probably not be published. Señor Azcarate called particular attention to the following statement which, he said, expressed the opinion which he and M. Avenol had derived from a careful examination of President Roosevelt's letter of January 30 to the Presidents of the American Republics, Secretary Hull's speech of April 14,²³ and Assistant Secretary Sumner Welles' address of April 15:²⁴

"In the light always of these general ideas, the Secretariat of the League of Nations accordingly looks with confidence and sympathy upon this Pan-American Conference, in the conviction that, as President Roosevelt has very justly remarked, the results which it will be able to obtain for the preservation of peace among the countries of the American continent will complete and reinforce those which the League of Nations endeavors to obtain in order to preserve the peace of the world."

In the conversation which ensued Señor Azcarate volunteered the statement that while at one time the Secretariat had had under consideration certain plans to strengthen the relations between Geneva and Latin America such as the establishment of one or two League "Bureaus", (see top of page 3, Consulate's despatch No. 1628 Political, of March 19, 1936), these plans were being held in abeyance until after the September, 1936, meeting of the Assembly. He added, with reference to a rumor current in press circles in Geneva, that no definite plans had been made for his making a trip to the various American States, including the United States, but that he might do so next winter—though it was as yet undecided.

With further reference to the enclosed memorandum, I may add that although the observations contained therein undoubtedly convey the considered opinion of the higher officials of the Secretariat, a certain undercurrent of uneasiness persists, nevertheless, among cer-

²³ Department of State, *Press Releases*, April 18, 1936, p. 344.

²⁴ Address before the Maryland Federation of Women's Clubs, at Baltimore, April 15, 1936; Department of State, *The Way to Peace on the American Continent* (Washington, Government Printing Office, 1936).

tain subordinate officials in regard to the effect which the results of the Pan-American Conference may eventually have upon the relations of Latin-American States with the League.

Respectfully yours,

CURTIS T. EVERETT

[Enclosure—Translation]

Note on the Forthcoming Meeting of the Pan-American Conference for the Use of the Correspondents of the League of Nations in Bolivia, Chile, Colombia, and Mexico

Although it is impossible to determine an attitude towards the Pan-American Conference convoked by President Roosevelt before knowing its agenda, it is already possible to formulate certain general observations on the basis of the letter which President Roosevelt addressed on this subject to the Presidents of the other American Republics on January 30, 1936 as well as of the replies of the latter.

According to President Roosevelt's letter, the Conference is intended to "determine how the maintenance of peace among the American Republics can be better safeguarded." The measures which would be taken for this purpose, adds the letter, would advance the cause of world peace inasmuch as "the agreements which might be arrived at would complete and reinforce the efforts of the League of Nations and of all other 'peace agencies', present or future, with the object of preventing war."

The League of Nations has always shown towards specifically American problems the greatest understanding and has never aimed at practising with respect to them the least exclusiveness. Without having spared its efforts and without desiring to reduce its own responsibilities, it has always encouraged in the most spontaneous and sincere manner the efforts of the American countries for the settlement of disputes arising among them.

It should not be forgotten, on the other hand, that the suppleness and elasticity of the methods normally applied by the League of Nations to the settlement of international disputes has made it possible to obtain outside of every system of regional pacts advantages similar to those sought by the latter. In principle (and the disputes which have arisen between American countries constitute particularly striking although not unique examples) the League of Nations has created for each conflict a special organ consisting of a committee composed mainly of representatives of the states with respect to which the conflict contained a special interest by reason particularly of their geographical situation.

Finally, it must be recognized that the question of the compatibility between a system of continental or regional pacts or arrange-

ments and the Covenant of the League of Nations depends to a great extent on the spirit of exclusion or of collaboration in which that system is conceived. That is why it is necessary to emphasize the spirit of broad understanding which inspires the letter of President Roosevelt, a spirit which constitutes a very important guarantee of that which will prevail at the Conference itself. Since it is already considered that its results must complete and reinforce those aimed at by the League of Nations for the purpose of insuring peace, there is no reason to fear that they may contain elements incompatible with a loyal fulfilment of the Covenant of the League of Nations on the part of the states of the American continent which are members of that institution. This element of the problem should be the object of special attention if, as it has been stated in the press, the Conference were called upon to examine the question of the neutrality of the American states in relation to conflicts between non-American countries. As long as it is not known whether that question will be brought up and eventually under what form it is difficult to formulate observations on the subject.

In the light always of these general ideas, the Secretariat of the League of Nations accordingly looks with confidence and sympathy upon this Pan-American Conference, in the conviction that, as President Roosevelt has very justly remarked, the results which it will be able to obtain for the preservation of peace among the countries of the American continent will complete and reinforce those which the League of Nations endeavors to obtain in order to preserve the peace of the world.

GENEVA, April 1936.

710.Peace/606

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

No. 903

WASHINGTON, June 3, 1936.

SIR: The Department has received your despatch No. 4550, of May 13, 1936,²⁵ reporting a conversation with the Foreign Minister, during which the latter requested you to take up with the Department the question of the date for the convocation of the Inter-American Conference which is to be held in Buenos Aires, Argentina.

The Department has noted the desires of President Benavides and the Foreign Minister in favor of convening the conference at as early a date as possible and you may inform the Minister of Foreign Affairs that although it would not seem possible for practical reasons that the conference could be held in Buenos Aires until early autumn,

²⁵ Not printed.

in view of the time required for obtaining unanimity on the program and for the voyages of the respective delegations, and that while, because of the Presidential elections which will be held here, it would be highly inconvenient for this Government should the conference be held in September or October, nevertheless this Government will, of course, make every endeavor to comply with the wishes of the other participating Governments in arriving at a date most satisfactory to all.

The Department has noted that the Foreign Minister has expressed concern regarding the possible effect which the Buenos Aires conference might have upon the Eighth International Conference of American States which will probably be held in Lima during 1938, and you may assure the Foreign Minister that this Government shares the opinion of Peru that nothing should be done which might in any way influence adversely the prospects of the eighth conference. This Government has always placed great importance upon the periodic inter-American conferences and has always endeavored to do everything within its power to make them successful.

It is the understanding of this Government that the extraordinary conference at Buenos Aires will consider primarily questions relative to the maintenance of peace and that the many important questions relating to general inter-American relations, which are of very real and vital interest to the respective governments, will be considered at the Lima conference. Rather than diminishing the importance of the Lima conference, it is the hope of this Government that whatever success the Buenos Aires conference may have will materially increase the opportunities for practical accomplishments of the Lima conference and will facilitate the labors of that meeting.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

710.Peace/630

Memorandum by the Secretary of State

[WASHINGTON,] June 11, 1936.

The Spanish Ambassador²⁶ came in to inquire whether this Government would object to the presence of an observer of the Spanish Government at the coming Pan American Peace meeting.

I replied that I would like to say in the first place that I really knew of nothing which might occur at the coming peace meeting that any of us would not be quite glad to make known to the Spanish Government, and that that best illustrated my state of mind and

²⁶ Luis Calderón.

general attitude toward the Spanish Government with respect to this request. I then said that since the matter would not come up until the time of the meeting, I would in the meantime confer with and more or less defer to leading representatives of the Latin American Governments, including possibly some of the present members of the Pan American Governing Board.

I inquired of the Ambassador as to how many similar requests would or might be made by other countries represented by their own races in Latin America,—such as the Portuguese in Brazil, the French in Haiti, the Italians in several countries, and two or three others besides. The Ambassador replied that he had no information on this subject. I remarked that at the last regular meeting of the American nations at Montevideo it was my recollection that motions were adopted by two or three other European countries to have observers, after the Spanish Government was given the privilege. I finally remarked that the Ambassador of course was aware that this latter situation might again develop; that furthermore the question might be raised as to the limited nature of the Pan American organization, which related solely to the Western Hemisphere; that the 21 American nations would look to other countries to provide membership in organizations of a worldwide nature dealing with world problems, rather than Pan American problems; that there were some 50 to 60 such world organizations and about that many world conferences each year.

I remarked upon the warm relations of friendship existing between the Spanish Government and each and all of the American nations, of the special relationship between Spain and the 20 Latin American countries of this Hemisphere, and repeated my unreserved feeling that nothing would occur at the coming peace meeting which any of us would not be quite glad to make known to the Spanish Government, and that was apart from any question as to the appointment of an observer.

C[ORDELL] H[ULL]

710.Peace/704: Telegram

*The Secretary of State to the Argentine Minister for Foreign Affairs
(Saavedra Lamas)*

WASHINGTON, August 11, 1936—[4: 16 p. m. ?]

I have the honor of acknowledging the receipt of Your Excellency's telegram ²⁷ in which you advise me that Your Excellency's Government has devoted special attention to fixing the date for the holding

²⁷ Dated August 10; not printed.

of the Inter-American Conference for the Maintenance of Peace convoked at the suggestion of the President of the United States so that the date fixed would be one which would best suit the representatives of the participating Governments and would at the same time be the date most opportune for the Argentine Government to welcome the visiting delegations. Your Excellency advises me that you have reached the conclusion that the first of next December will be the only suitable date and expresses the hope that the fixing of the time mentioned will be convenient to this Government.

In expressing my particular appreciation of Your Excellency's most courteous and friendly message, it gives me great pleasure to state that the first of next December will be a date eminently agreeable to this Government.

I assure [etc.]

CORDELL HULL

710.Peace/761

The Minister in Nicaragua (Long) to the Secretary of State

No. 255

MANAGUA, September 10, 1936.

[Received September 15.]

SIR: With reference to the forthcoming Conference at Buenos Aires, I have the honor to report that in an informal conversation with a member of my staff yesterday, the Nicaraguan Minister for Foreign Affairs stated that a few days ago the Foreign Minister of Costa Rica telephoned to invite him to a preliminary meeting of the Foreign Ministers of the Central American Republics at San José, Costa Rica, to discuss and formulate plans for the Conference at Buenos Aires.²⁸ Dr. Debayle said he had accepted in principle but had requested the Costa Rican Foreign Minister to send him a written communication on the subject. He added that as yet he had heard nothing further in that connection.

Referring to the Buenos Aires Conference, Dr. Debayle said he was in full sympathy with the aims of the United States and was particularly anxious to cooperate in every way. He said that it is, of course, needless to state that Nicaragua desires peace in the Western Hemisphere. He pointed out, however, that insofar as Nicaragua itself is concerned the paramount question is not that of maintaining international peace but of preventing internal strife.²⁹

Dr. Debayle said he had intimated to the Costa Rican Minister for Foreign Affairs that if he attended a preliminary conference he would

²⁸ In his despatch No. 1273, October 16, 1936, the Chargé in Costa Rica reported that the project for a preliminary meeting of the representatives of the Central American Republics had been abandoned (710.Peace/834).

²⁹ See section entitled "Revolution in Nicaragua," pp. 815 ff.

be primarily interested in formulating some plan for preventing revolutions in Nicaragua and the other Central American Republics. He referred to the possibility of a court of arbitration and a new agreement among the various Republics not to recognize any government which came into power by armed rebellion, and suggested that it might be practicable to have all the countries agree to render assistance to the Constitutional Government in the event of a revolution. Dr. Debayle further developed his idea by adding that it might be a good plan if such a policy on non-recognition could be adopted by all the American Republics, that is to say, the United States and the other nations represented at Buenos Aires would sign a pact not to recognize any government in the signatory countries which might come into power by overthrowing the Constitutional Government through force of arms.

Dr. Debayle apparently still hopes to go to Washington about November and sail from New York with the American delegation.

The above observations on the part of Dr. Debayle were made casually, but they are transmitted as being of probable interest because of the fact that he is expected to head the Nicaraguan delegation to Buenos Aires.

Respectfully yours,

BOAZ LONG

710.Peace Personnel/99: Telegram (part air)

The Consul at Geneva (Gilbert) to the Secretary of State

GENEVA, October 26, 1936—11 a. m.
[Received October 27—2:20 p. m.]

441. The political section of the League Secretariat is now charged with such consideration as the League may give to the Inter-American Conference. The section is in general engaged in studying all documentation relating to the Conference and obtaining collateral information from League "correspondents" in Latin America. A member of the section tells me that definite consideration is at present being given to the possibility of the League sending an observer to the Conference. It is entirely accepted that such action is dependent on an invitation. A repetition of the "Nogueira incident"⁸⁰ of the Montevideo Conference of 1933 will be avoided. The question hinges on whether an invitation will be forthcoming from the Conference after it convenes with preoccupations as to the time element in the sending of an observer from Geneva should an invitation be received. The possibility of an invitation derives chiefly from intimations given to that effect by Saavedra Lamas when he was in Geneva. Re-

⁸⁰ See *Foreign Relations*, 1933, vol. iv, pp. 36-165, *passim*.

specting the time element the original plan of having Azcarate pay a visit to South American capitals and thus render easy his proceeding to Buenos Aires if desired, fell through on Azcarate's resigning from the Secretariat. Whether another official of the Secretariat could at this date be similarly sent to Latin America involves aspects of a rebuff being presented should no invitation be issued. It is felt to be wise however, provisionally to select an official for pertinent duty in possible contingencies. Certain North and South American nationals in the Secretariat are candidates; but the sending of a national of any main party to the Conference is felt to be undesirable and for various political reasons the nationality of certain other members of the Secretariat renders their choice inappropriate. Very largely by elimination Aghanides³¹ seems at present to be chiefly considered.

It is felt that decisions of some sort will have to be reached early in November and it is hoped that guiding advices may by that time be received through the Argentine delegation here.

2. I am told that Childs of the ILO³² is planning to leave shortly for Latin America with the possibility in view of his attending the Buenos Aires Conference.

GILBERT

710. Peace Agenda/143

The Minister in Colombia (Dawson) to the Secretary of State

No. 1072

BOGORÁ, November 5, 1936.

[Received November 9.]

SIR: In a conversation last evening the Argentine Minister, Señor Alberto M. Candiotti, told me that the Colombians claim for their proposal looking to the formation of a League of American Nations the support of a majority of the American countries. He said that they feel sure of the five Central American Republics, Venezuela, Paraguay, and Bolivia; that they anticipate a favorable attitude in the case of Ecuador, Cuba, and Uruguay; and that they hope for assistance from Mexico. His statements regarding the extent to which Colombia counts on some of the countries mentioned were rather vague and he was indefinite as respects the source of his information. He gave me to understand that he had discussed the matter with the President and the Minister of Foreign Relations and remarked that he had found the President ready to talk but that the Minister of Foreign Relations was very reserved. (With respect to the attitude of his own country towards the Colombian proposals, Señor Candiotti said that, while he

³¹ Thanassis Aghnides, Director, Disarmament Section, League of Nations.

³² International Labor Office.

had received no instructions, he inferred that Argentina would not support them).

The Minister told me that it had been impressed upon him in his conversations here that Colombia resents the tendency on the part of certain powers to dominate international gatherings and will insist on the observance of a true equality for all nations (see my despatch No. 584 of February 12, 1936).³³ He added that Colombia is very sensitive on this point and that he has recommended to his Government that the Colombian delegation be afforded ample opportunity to place its views before the Conference. He expressed the opinion that for a country which plans to present a major proposal and desires to play a leading role, Colombia's preparation for the Conference is wholly inadequate.

Señor Candiotti stated also that, according to his information, the Colombian delegation will, as indicated in the Colombian program of last May, oppose any recommendations for "customs truces".

Respectfully yours,

WILLIAM DAWSON

710. Peace Agenda/144: Telegram

*The Chairman of the American Delegation to the Inter-American Conference for the Maintenance of Peace (Hull)*³⁴ to the Acting Secretary of State

S. S. "AMERICAN LEGION," November 11, 1936—6 p. m.
[Received November 12—4: 05 a. m.³⁵]

3. For Mr. Duggan.³⁶ I am turning over in my mind the possibility of supporting at the Conference, preferably in conjunction with Argentina which originally broached the idea, some form of a proposal for a truce against any new obstacles to trade and any new discriminations in trade among the American Republics.³⁷ Following any understanding among ourselves in the determination of the exact form of any such proposal I should naturally be much guided by the attitudes and opinions of the representatives of the other countries. But on the basis of various preliminary drafts which I believe you have seen, the proposal as I grasp it, shapes up somewhat as follows: A truce against new barriers and new discriminations with the proviso that such truce shall apply only to products of which the American Republics which may abdicate [*adhere to the*] truce are suppliers to the extent of say 60 per cent of the total imports of that commodity by any adhering member of the truce.

³³ Not printed.

³⁴ Mr. Hull sailed from New York on November 7.

³⁵ Telegram in three sections.

³⁶ Laurence Duggan, Chief of the Division of Latin American Affairs.

³⁷ See *Special Handbook for the Use of Delegates*, p. 58.

For some such moderate action as this designed to keep the way open for the growth of trade among the American Republics I believe the time to be ready; and not to make some significant gesture at this time might be to dissipate the very considerable sense of common interest which has been created among those Republics. The rough statistical analysis that has been made by the Economic Adviser's office of the trade aspects of this truce indicates the list of American imports on what basis we should be giving up our liberty of actions subject to the reservations and limitations to the truce which is in our minds. White, of the Economic Adviser's Office, can supply a copy of this statistical analysis. Secretary Wallace, I am advised, has studied the proposal on the basis of this list and believes the proposal sound and beneficial. On the other hand I understand that Secretaries Roper and Draper of the Department of Commerce have doubts as to its soundness from the American point of view and that the Tariff Commission through Ryder and also Wayne Taylor of the Treasury share these doubts. What is sought is the considered opinion of these Departments after full consideration of all the circumstances and facts. Particularly this is based upon reports and the impression that the shortness of time available to these three Departments made it difficult for them to appreciate fully the many safeguards and reservations which I have in mind.

Therefore, will you please see Secretary Wallace at once and after reading the above explanation and statement to him ask him whether he would kindly talk with the Department of Commerce and the Tariff Commission and the Treasury and place the whole question thus fully before them explaining in particular the many ways in which our interests have been protected and our determination [*right*] reserved to take essential action. The draft seems to indicate an important step forward and when assimilated [*adopted*] would be an important expression of the common wish to develop trade while protecting each country against serious disturbance in its economic life and development.

For Secretary Wallace's guidance it may be useful to summarize some of the more important reservations and limitations embodied in the draft.

1. The truce commitment would apply only to commodities of which participating countries supply to each other at least 50 per cent (alternately 60 per cent) of their imports of these commodities in the base period. This limits our commitment on the whole to products which we have purchased almost exclusively from Latin America—though in the case of a few commodities there is important outside competition in supplying the American market. Even if the commitment is based on the 50 per cent formula only additional 2 to 3 per cent of our total imports from the world as a whole would be affected over and

above those included in the truce itself. Furthermore, it might be possible, although at this moment I am not sure it would be either necessary or desirable to include a clause similar to the third country clause in our trade agreements.

2. Statistical memoranda showing trade volume that might be affected by the truce show the maximum on the assumption that all American Republics participated in the truce. It is hence our maximum possible commitment.

3. Under a 50 per cent formula this country would be taking new action on somewhat less than 25 per cent of our total imports from Latin America.

4. A broad reservation has been drafted which provides for the right to modify the tariff treatment of any commodity if careful investigation shows a marked increase of imports injuring an established and efficient domestic industry. This important reservation draws upon the language of section 3-E of the N. I. R. A.³⁸ and section 337 of the Tariff Act.³⁹ It is believed that this reservation, among other things, safeguards our right to go forward in justified cases under section 336 of the Tariff Act; virtually all recent cases of importance under section 336 would fall in that class. Ascertainment of all the pertinent facts would be handled by the Tariff Commission as the best equipped and most competent agency of the Government for this purpose presumably [in cooperation] with other Departments of the Government.

5. There is a specific reservation which states that the truce shall not prohibit the imposition by the Government of any of the participating countries of any restrictions in conjunction with governmental measures which might regulate or control the domestic production in [market] supply or prices of like domestic articles provided the quantitative restriction be calculated to maintain the previous relative place of imported and domestic supplies in the market.

6. The right to impose new tariffs offsetting any new or additional internal taxes is reserved.

7. Our right to take action under our antidumping and countervailing duty legislation is reserved.

8. The usual reservations as regard restrictions instituted on moral and humanitarian grounds designed to protect human, animal or plant life [and] relating to prison-made goods [and] to the enforcement of police [,] revenue or neutrality laws are included.

9. Similarly there is a reservation for action "necessitated by serious national emergencies."

Since I am advised to my satisfaction that Secretary Wallace favors this proposal I shall be grateful if he will undertake to clear this through the three Departments above mentioned as promptly as possible. Please assist him in every way and call upon the other branches of the Department to do likewise. Keep me fully advised by cable of progress.

HULL

³⁸ National Industrial Recovery Act, approved June 16, 1933; 48 Stat. 196.

³⁹ Tariff Act of 1930, approved June 17, 1930; 46 Stat. 590, 703.

710.Peace/976

*The Secretary of War (Woodring) to President Roosevelt*⁴⁰

WASHINGTON, November 12, 1936.

DEAR MR. PRESIDENT: The following message for you from the President of the Philippines was included in a radiogram, dated November 11, 1936, received in this Department from the Acting High Commissioner to the Philippine Islands:

"For the President of the United States: I am informed an agreement will be entered into between the North Central and South American Republics binding one another not to wage war among themselves without first submitting matter to arbitration. Such an agreement naturally involves the Philippines for the period that it is under the American Flag. We fully approve of this pact and it is my earnest hope that in view of the present relation between the United States and the Philippines and the former commercial and official relation between Mexico and the Islands during a part of the Spanish regime that in the pact a clause may be inserted giving the government of the Philippines, once it has become independent, the right to sign this pact. Quezon."

Respectfully yours,

HARRY H. WOODRING

710.Peace Agenda/165½

Memorandum by the Secretary to the Chairman of the American Delegation (Reed) to the Chairman (Hull), November 13, 1936

Dr. Castro Ramirez, Salvadoran delegate told me this morning that it was his very earnest hope that some way might be found at the conference in Buenos Aires to ameliorate certain social problems which were confronting his and other Latin American Governments. He said that he had categorical instructions from his own Government to endeavor to obtain some action at the conference looking to the exclusion of communism from the American continent. He understood that the Guatemalan Delegation had similar instructions.

Dr. Castro Ramirez wished to consult the views of Secretary Hull in order that he might ascertain whether the Secretary felt that it would be possible to find at Buenos Aires a formula to achieve the purpose indicated, or whether he thought it might be preferable to leave to each individual country the problem of combatting communism within its own territory. He intimated that he hoped the Secretary would favor the first mentioned procedure, that is, some form of concerted or collective action against communism, but that if the Secretary deemed it unwise or impracticable to have anything

⁴⁰Received from the White House on November 16 with a request from the President that it be forwarded to the Secretary of State by air mail.

along these lines attempted at Buenos Aires, he, Dr. Castro Ramirez, did not feel that there was much use in going ahead with it there.

EDWARD L. REED

710. Peace Agenda/154 : Telegram

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

WASHINGTON, November 14, 1936—4 p. m.

14. Personal for the Secretary. Am mailing you at Rio Duggan's four reports⁴¹ of his conference with officials of other Departments about proposed trade truce. Wallace favors, and thinks only opposition of agricultural interests would result from binding rates on molasses, canned meats and possibly certain fruits and vegetables but that this opposition could be met because of advantage to agriculture as a whole. He doubts concerning the ratification by the Senate, but believes this would be possible with the President's unreserved support. As he was leaving for the West he requested Duggan to see the others. Taylor of Treasury is in accord with purpose and objective of proposal, but thinks extension of Tariff Act more important, and raises question as to whether ratification of convention would interfere with that. Draper of Commerce definitely against any legislation or treaty that might prove complicating factor in effort to renew Tariff Act. Appears to be very much against proposal, as evidenced by fact he telephoned this Department after he had seen Duggan. Ryder of Tariff Commission makes many points that should be considered but says his doubts might be dispelled by further detailed study. Duggan has read this.

MOORE

710. Peace Personnel/279 : Telegram

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

WASHINGTON, November 14, 1936—5 p. m.

15. The American Consul at Geneva reported on November 10 that he was told by the Argentine representative at Geneva that the latter had taken up with the Secretariat the possibility of a League observer attending the Conference. The Argentine representative had received information that Sweetser⁴² was a candidate and he felt that

⁴¹ None printed.

⁴² Arthur Sweetser, attached to the office of the Secretary-General, League of Nations, with rank of director.

he should suggest that Sweetser would not be entirely acceptable to Argentina.

The Argentine representative confirmed to the American Consul that although the Argentine delegation, during the Assembly, had generally favored the sending of a League observer to the Conference, it was now the impression that Buenos Aires would not take the initiative in such a development.

The American Consul has been authoritatively advised that Avenol⁴⁸ informed the political section of the Secretariat of his decision not to take any action with respect to sending an observer to Buenos Aires unless a formal invitation in that sense is received by the League.

MOORE

710.Peace/930 : Telegram

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

WASHINGTON, November 15, 1936—1 p. m.

16. The following is the substance of a telegram just received from the American Ambassador at Berlin, a copy of which has been sent to the White House:

Argentine Ambassador to Berlin appears deeply interested in Buenos Aires Conference. He states that officials in Berlin are also much concerned and that they even have stated that the President should not attend. Latin American representatives in Berlin have during the last few days been sounded out by secret German agents, and on November 13 Messrs. Schlotterer and Sattler, a member of the Economics Ministry and a director of the Reichsbank respectively, sailed by zeppelin for Rio de Janeiro and Buenos Aires in order to negotiate again with Argentine. According to the Argentine Ambassador, these men are most capable but perhaps are specialists. According to my information a great international effect would be produced by a visit of the President to the Conference.

MOORE

710.Peace/988

The Acting Secretary of State to the Secretary of War (Woodring)

WASHINGTON, November 20, 1936.

MY DEAR MR. SECRETARY: I have received, by reference from the White House, your letter of November 12, 1936, in which you quoted a message for the President from the President of the Philippines.

⁴⁸ Joseph A. Avenol, Secretary-General, League of Nations.

At the request of the President, a copy of your letter has been forwarded to the Secretary of State at Buenos Aires. Will you be good enough to advise the President of the Philippines of the action that has been taken? You may wish to state further in your reply to him that this Department is confident that his message to President Roosevelt will receive the sympathetic consideration of the Secretary of State, in the event that any agreement of the nature of the one mentioned in that message comes before the conference at Buenos Aires.

Sincerely yours,

R. WALTON MOORE

710.Peace/989

The Acting Secretary of State to the Chairman of the American Delegation (Hull) ⁴⁴

WASHINGTON, November 20, 1936.

SIR: At the request of the President, I transmit herewith a copy of a letter dated November 12, 1936,⁴⁵ addressed to the President by the Secretary of War, in which is quoted a message from the President of the Philippines. A copy of the Department's reply⁴⁶ to the Secretary of War is also enclosed.

It is obvious, of course, that if any pact signed at the Inter-American Conference for the maintenance of Peace is to be open for adherence of nations other than the American republics, the Philippines, once it has become independent, naturally will have the same privilege of action as that open to the other countries. It appears unlikely, however, that the Philippines, as an independent nation, would be considered as one of the Latin American republics or that the Government of the United States would care to suggest or support any movement to give the Philippines a special status in connection with Inter-American relations.

Very truly yours,

R. WALTON MOORE

LIST OF TREATIES

[The Conference adopted two treaties, eight conventions, and one protocol. Of these, signed December 23, 1936, the United States signed and ratified the following:

Convention for the Maintenance, Preservation and Reestablishment of Peace, Department of State, Treaty Series No. 922, or 51 Stat. 15;

⁴⁴This communication was sent to Buenos Aires. Mr. Hull was then at Rio de Janeiro.

⁴⁵*Ante*, p. 30.

⁴⁶*Supra*.

Additional Protocol Relative to Non-Intervention, Treaty Series No. 923, or 51 Stat. 41;

Treaty on the Prevention of Controversies, Treaty Series No. 924, or 51 Stat. 65;

Inter-American Treaty on Good Offices and Mediation, Treaty Series No. 925, or 51 Stat. 90;

Convention to Coordinate, Extend and Assure the Fulfillment of the Existing Treaties Between the American States, Treaty Series No. 926, or 51 Stat. 116;

Convention on the Pan American Highway, Treaty Series No. 927, or 51 Stat. 152;

Convention for the Promotion of Inter-American Cultural Relations, Treaty Series No. 928, or 51 Stat. 178;

Convention Concerning Artistic Exhibitions, Treaty Series No. 929, or 51 Stat. 206;

Convention on Interchange of Publications, Treaty Series No. 954, or 54 Stat. 1715.

The texts of the above are also printed in *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936*, pages 116-190. For texts of the two conventions not signed by the American delegation, see *ibid.*, pages 191 and 198.]

PROCEEDINGS

[No systematic reporting of the proceedings for the Department's files appears to have been made. The files of the delegation are in The National Archives. For the proceedings, see *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936*.]

CHACO DISPUTE BETWEEN BOLIVIA AND PARAGUAY: THE CHACO PEACE CONFERENCE¹

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

724.34119/353

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

No. 104

Buenos Aires, January 21, 1936.

[Received January 30.]

SIR: I have the honor to refer to my telegram No. 8 of January 21, 8 p. m.,² reporting (1) the adoption on that date by the Chaco Peace Conference of a resolution recommending that Bolivia and Paraguay agree on the maintenance of the security measures contained in the Protocol of June 12, 1935,³ take steps for the return of all prisoners of war and renew diplomatic relations, (2) the signature by the representatives of Bolivia and Paraguay of a Protocolized Act putting into effect the Conference recommendations, and (3) the exchange between the Chairmen of the Bolivian and Paraguayan delegations of identic notes in regard to the submission of the Protocolized Act to their respective Congresses for legislative approval.

Copies, in Spanish text and English translation, of these three documents, as adopted and signed, are enclosed.

Respectfully yours,

SPRUILLE BRADEN

¹ For previous correspondence concerning the Chaco dispute, see *Foreign Relations*, 1935, vol. iv, pp. 7 ff.

² Not printed.

³ See telegram No. 71, June 9, 1935, noon, from the Ambassador in Argentina, *Foreign Relations*, 1935, vol. iv, p. 73.

[Enclosure 1—Translation ⁴]*Declaration*

[BUENOS AIRES,] January 21, 1936.

WHEREAS: The Governments of the Republics of Bolivia and Paraguay, in accordance with the stipulations of the peace protocol of June 12, 1935, have effected the definite cessation of hostilities and the demobilization of their armies:

Both states, in friendly collaboration with the mediatory countries, maintain their agreement to fulfil the stipulations contained in the protocol of June 12, 1935 and are now in a position to settle in a just and equitable manner some of the pending questions;

In accordance with the protocol of June 12, 1935 it is indispensable to maintain in its entirety the system of securities established by that instrument:

The Peace Conference,

With the noble purpose of consolidating a propitious atmosphere, in keeping with the spirit of sound understanding and reciprocal co-operation which should exist between neighboring countries,

RECOMMENDS TO THE PARTIES

That, on the basis of reaffirming the stipulations of the protocol of June 12, 1935, they agree on the maintenance of the security measures provided in the said protocol;

That they enact as soon as possible the necessary measures for the complete return of prisoners; and

That they agree on the renewal of diplomatic relations between the two countries.

All of which, carried out under the auspices and the moral guaranty of the Conference, cannot but contribute greatly toward strengthening peace and harmony on the continent.

[Enclosure 2—Translation ⁵]*Protocolized Act*

In Buenos Aires, on the twenty-first day of January, 1936, meeting in the residence of the President of the Republic, the Plenipotentiary Delegates of the Republic of Bolivia, Dr. Tomás M. Elío, Minister of Foreign Affairs, and Dr. Carlos Calvo, and the Plenipotentiary Delegates of the Republic of Paraguay, Dr. Gerónimo Zubizarreta and Dr. Vicente Rivarola, having in mind the conciliatory affirmations and suggestions received from the Peace Conference, and under the auspices and the moral guaranty of said Conference, in a desire

⁴ Translation supplied from *The Chaco Peace Conference*, p. 82.

⁵ Translation supplied from *ibid.*, p. 83.

promptly to reach a definitive settlement of their differences, agree to the following:

Article I. The contracting parties confirm the obligations deriving from the protocol of June 12, 1935 and, consequently, reiterate their willingness to continue to honor as they have hitherto honored:

(1) The stipulations relating to the Peace Conference convoked by His Excellency the President of the Argentine Republic, to the ends established in article I of the protocol of June 12, 1935 (clauses 2, 3, 5, 6 and 7), with the exception of clause 1, which has already been fulfilled by said Conference's resolution of July 1, 1935, and of clause 4, when article IV and the subsequent articles of the present convention have been executed;

(2) The stipulations relating to the definitive cessation of hostilities on the basis of the positions of the then belligerent armies, as has been determined by the Neutral Military Commission in the manner provided by clauses (a), (b), (c) and (d) of article II of the protocol of June 12, 1935;

(3) The stipulations relating to the measures of security adopted in clauses 2, 3 and 4 of article III of the protocol of June 12, 1935;

(4) The recognition of the declaration of August 3, 1932 on the acquisition of territory, as set forth in article IV of the protocol of June 12, 1935.

Article II. The measures of security appearing in clauses 2, 3 and 4 of article III of the protocol of June 12, 1935, as well as that deriving from clause 2 of article I of the present convention, shall be maintained until the provisions of article I, clause 3, of said agreement of June 12 are carried out in their entirety.

Article III. The Peace Conference shall decide the practical questions which may arise in putting the measures of security into effect in accordance with the provisions of article I, clause 2, of the mentioned protocol, for which purpose the contracting parties hereby authorize the Conference to designate one or more special commissions subordinate to it.

Article IV. The parties shall proceed to the reciprocal return of prisoners of war, beginning the return within thirty days of the date of the last legislative approval of the present document, undertaking to continue it without interruption until complete liberation of the prisoners, in accordance with the time-limits and rules which may be fixed by the Peace Conference, or the Executive Committee set up by it in case it temporarily suspends its labors, bearing in mind the exigencies of the organization and effecting of transportation which it deems should be taken into consideration. Concentration of the prisoners and preparations for their return shall be begun as soon as this document has been signed.

Prisoners on the sick list who cannot be immediately transferred will nevertheless be freed and their transfer will be accomplished as soon as possible.

Article V. Both parties hereby request the Peace Conference to depute a special commission to deal with everything concerned with the return of the prisoners, in accord with the authorities of the respective countries. Such special commission shall be subject to the Peace Conference, or to the Executive Committee acting for it during any period of temporary suspension of its labors.

Article VI. In case it should be necessary or advisable to utilize means of communication in neighboring states to facilitate repatriation, the Governments of Bolivia and Paraguay (Paraguay and Bolivia) shall request, sufficiently in advance, the necessary authorization from the governments of those states.

Transportation shall be effected in accordance with the measures and conditions agreed upon by the mentioned states on the basis of traffic needs, local security, sanitary requirements, or other factors not foreseen.

Article VII. Expenses incurred in the transportation of prisoners through the territory of a third state shall be borne by the country of which they are nationals.

Article VIII. The contracting parties, taking into consideration the number of prisoners and considering the expenses incurred, hereby agree to compromise the matter, stipulating that the Government of Bolivia shall refund to the Government of Paraguay the equivalent of two million eight hundred thousand (2,800,000) pesos, Argentine legal tender, in pounds sterling at the closing rate on the twentieth day of January, one thousand nine hundred and thirty-six, that is, one hundred and fifty-four thousand two hundred and sixty-nine pounds, nineteen shillings, five pence (£154, 269/19/5), and the Government of Paraguay shall refund to the Government of Bolivia the equivalent of four hundred thousand (400,000) pesos Argentine legal tender, in pounds sterling at the same rate, that is, the sum of twenty-two thousand and thirty-eight pounds, eleven shillings, four pence (£22,038/11/4) the resulting balance of one hundred and thirty-two thousand two hundred and thirty-one pounds, eight shillings, one pence (£132,231/8/1) in sight drafts on London, equivalent to two million four hundred thousand (2,400,000) pesos Argentine legal tender, at the rate mentioned, to be paid, thus terminating all present or future differences on the matter.

This balance shall be deposited in the Central Bank of the Argentine Republic, within thirty days from the date of the last legislative approval of this agreement, to the order of the Minister of Foreign Affairs of the Argentine Republic and the Chairman of the Peace Conference who will place it to the order and disposal of the Government to which it is due as soon as the special committee informs the said Minister that the stipulations of this document have been fully

complied with as regards the reciprocal liberation of the prisoners of war.

Article IX. The parties agree to renew their diplomatic relations as soon as possible.

Article X. The present protocolized act shall be subject to the legislative approval of the respective Congresses in accordance with constitutional provisions in effect.

By virtue of which they subscribe, in three copies and by mutual agreement, jointly with the representatives of the mediatory states, to the present protocolized act, which they sign and seal on the date and in the place indicated above.⁶

TOMÁS M. ELÍO
 CARLOS CALVO
 GERÓNIMO ZUBIZARRETA
 VICENTE RIVAROLA
 CARLOS SAAVEDRA LAMAS
 JOSÉ DE PAULA RODRIGUES ALVES
 FÉLIX NIETO DEL RÍO
 SPRUILLE BRADEN
 FELIPE BARREDA LAOS
 EUGENIO MARTÍNEZ THÉDY

[Enclosure 3—Translation ']

Identical Notes Exchanged Between Chairmen of Bolivian and Paraguayan Delegations

[BUENOS AIRES,] January 21, 1936.

Whereas the Protocolized Act which has just been signed provides that it must be submitted to legislative approval, and desiring that said accord go into effect without delay, I discharge the pleasant duty of informing Your Excellency that my Government will urge upon the National Congress that it consider this subject within twenty days of today's date.

It is understood that the present note shall be considered an integral part of the Protocolized Act.

724.34119/344 : Telegram

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

BUENOS AIRES, January 23, 1936—1 p. m.

[Received 4 p. m.]

9. From Braden. Under present plans Conference will not take recess until after legislative approval of the protocolized act of

⁶ Signatures do not appear on the file copy; supplied from *The Chaco Peace Conference*, p. 85.

⁷ File translation revised by the editors.

January 21, although several delegates including the Chairmen of the Bolivian and Paraguayan delegations are leaving within the next few days.

Organization and supervision of early stages of exchange of prisoners and clearing up of other pending details will probably take 4 to 6 weeks, and I feel I should remain here until they are disposed of. Thereafter, I hope to make my contemplated trip to Bolivia via Chile accompanied by Nieto del Río⁸ for the purpose of much needed exploratory conversations on the fundamental question. My plan would be to return to Buenos Aires after the La Paz trip and then proceed to Asunción, probably with Rodrigues Alves⁹ and possibly Manini Ríos¹⁰ for similar conversations.

I believe it would be of assistance if Dawson¹¹ could be ordered to Washington for consultation so as to give you a first hand picture of recent developments and present conditions and receive your instructions as to our future course. If you approve, he could leave here by a foreign vessel February 1, spend a week with Gibson¹² in Rio de Janeiro for consultation, and proceed by American vessel arriving at New York, February 25. Use of an American vessel for entire trip would prevent him from stopping off in Rio or delay his arrival at New York 2 weeks. It is my idea that after consultation in Washington, Dawson would return and join me in Santiago or La Paz.

Conference will probably not reconvene before May after elections in Paraguay and Bolivia. Until my departure present staff of delegation will be required. During my absence Hill¹³ and clerk detailed from Consulate General should remain on duty to provide necessary liaison between the Conference Secretariat and Gibson and me.

Repeated to Rio de Janeiro by air mail. [Braden.]

WEDDELL

724.34119/344 : Telegram

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

WASHINGTON, January 24, 1936—7 p. m.

7. For Braden. Your telegram No. 9, January 23, 1 p. m. With reference to paragraph 1, the Legations at La Paz and Asunción are being instructed to telegraph the Department and to repeat to you all developments regarding Congressional ratification of the agreement.

⁸ Félix Nieto del Río, Chilean delegate.

⁹ José de Paula Rodrigues Alves, Brazilian first delegate.

¹⁰ Pedro Manini Ríos, Uruguayan delegate.

¹¹ Allen Dawson, assistant to the American delegate until June 1936.

¹² Hugh Gibson, Ambassador in Brazil; delegate from July to November 1935.

¹³ Hayward G. Hill, secretary of the delegation.

The Department approves the general plan outlined in paragraph 2. You will please telegraph details and dates as they become known.

Referring to paragraph 3, the Department, after careful consideration, is of the opinion that, in view of your absence from Buenos Aires and of Dawson's familiarity with the entire situation, it is desirable to have him remain there where his services will be immediately available for whatever duties most require them.

With reference to paragraph 4, please inform the Department if Hill would be needed for delegation work after your departure and while Dawson is in Buenos Aires.

HULL

724.34119/372 : Telegram

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

BUENOS AIRES, February 7, 1936—4 p. m.

[Received 5:20 p. m.]

23. From Braden. By resolution adopted February 3, special repatriation commission of one officer from each mediatory nation is being set up to supervise repatriation of prisoners under terms of January 21st agreement. Request authorization for designation of Sharp¹⁴ as American member. Duties should be completed within 3 months. [Braden.]

WEDDELL

724.34119/373 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 7, 1936—8 p. m.

[Received 10:25 p. m.]

11. My 10, Feb. 6, 8 p. m.¹⁵ The agreement was approved by the Chamber of Deputies this evening. This constitutes final action by the Paraguayan Congress.

Repeated to Buenos Aires.

HOWARD

724.34119/372 : Telegram

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

WASHINGTON, February 8, 1936—2 p. m.

17. For Braden. Your 23, February 7, 4 p. m. The War Department authorizes the designation of Captain Sharp with the under-

¹⁴ Captain Frederick Dent Sharp, Military Attaché in Argentina.

¹⁵ Not printed.

standing that his work on the commission shall not interfere with his departure from Buenos Aires upon the termination of his duties as Military Attaché.

HULL

724.34119/374 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, February 8, 1936—8 p. m.

[Received 9 p. m.]

4. Bolivian Congress has just approved Buenos Aires protocol by joint Senate, Chamber of Deputies unanimous vote. Repeated to Buenos Aires.

MUCCIO

724.34119/394 : Telegram

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

BUENOS AIRES, February 18, 1936—8 p. m.

[Received February 18—6:40 p. m.]

41. From Braden. It will not be possible to judge complete effect of Paraguayan revolution¹⁶ upon Chaco negotiations until situation clarifies, but the following comment seems pertinent:

While Paraguayan revolution will probably make it impossible for repatriation of prisoners to begin by March 9, as stipulated by the January 26 [21] protocol,¹⁷ it seems probable that the new regime in Paraguay will honor that instrument since (a) unanimous ratification thereof by Paraguayan Congress indicates general popular support and (b) it will undoubtedly be in urgent need of funds which Bolivia is to pay to Paraguay through Argentine Minister for Foreign Affairs for expenses of maintaining prisoners and which have already been remitted to Buenos Aires. [Braden.]

WEDDELL

¹⁶ See pp. 858 ff.

¹⁷ "Article IV. The parties shall proceed to the reciprocal return of prisoners of war, beginning the return within thirty days of the date of the last legislative approval of the present document. . . ." Paraguay approved on February 7, and Bolivia on February 8.

724.34119/416

The American Delegate (Braden) to the Secretary of State

No. 131

BUENOS AIRES, February 28, 1936.

[Received March 7.]

SIR: I have the honor to refer to my despatch No. 112 of February 4, 1936,¹⁸ in which I explained that the Neutral Delegates to the Peace Conference had agreed that a military observer should be maintained in the vicinity of the lines of separation between Bolivian and Paraguayan occupation, and that the duty should be shared by the six mediatory nations in turn, officers being detailed for the purpose in shifts of two months each (reported in Acta No. 23 of the Peace Conference, transmitted with my despatch No. 113 of February 5, 1936);¹⁹ under the order of rotation established by lot, an American officer should undertake the duty from April 15th to June 15th. I pointed out in the despatch cited that Major John A. Weeks, Military Attaché to the Embassy in Santiago, who acted as senior member of the Neutral Military Commission, was obviously the American officer indicated for the task, but that he had recently undergone an operation. In my despatch No. 122 of February 12, 1936,¹⁸ I stated that I was awaiting definite information as to the state of Major Weeks' health before making any recommendations as to the American officer to take up the position of observer for the April 15 to June 15 period.

I have now been informed by Mr. Theodore Scott, First Secretary of the Embassy in Santiago, who is passing through Buenos Aires en route to the United States, that Major Weeks has recovered practically entirely from his operation and by April will be in better physical condition than when he was in the Chaco last July and August.

Major Weeks, by reason of his experience on the Neutral Military Commission, has an extensive first-hand knowledge of the problems which might arise in connection with the duties of the military observer in the vicinity of the lines of separation between the two belligerents, and as in addition I have confidence in his discretion and ability should any incidents occur requiring decisive action, I respectfully recommend to the Department that he be detailed as the American officer to serve as observer in the capacity and for the period mentioned (April 15th to June 15th).

The Uruguayan and Brazilian officers have made their headquarters in Yacuiba and doubtless Major Weeks would desire to do likewise.

¹⁸ Not printed.

¹⁹ Despatch No. 113 not printed. Acta 23, was entitled "Conferencia de Paz. Acta No. 23, Sesión del día 22 de enero de 1936 (Acta resumida)."

Should this request be approved it would be desirable for Major Weeks to have a day or two with me in which to discuss the situation; therefore he should be instructed to proceed to Yacuiba via Buenos Aires sufficiently in advance of April 15th so that he can make the proper connections.

Respectfully yours,

SPRUILLE BRADEN

724.34119/415 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, March 6, 1936—1 p. m.

[Received 1:45 p. m.]

40. The Minister for Foreign Affairs of the Provisional Government²¹ this morning handed to the Dean of the Diplomatic Corps (the Peruvian Minister) an authenticated copy of the telegram sent last night by Colonel Franco to the presidents of the states participating in the Chaco mediation.²²

In an informal conversation last night Dr. Stefanich told me that the Provisional Government planned to convey the formal assurances of the present regime to respect the Chaco engagements. While the communication is badly drafted in that it merely cites earlier declarations in this sense it would seem that it is intended to be an official tender of such formal assurances.

Dr. Stefanich also mentioned the readiness of Paraguay to deliver immediately a few Bolivian officers but said he felt, to satisfy public opinion, that assurances should be given that Bolivia would simultaneously do likewise.

I believe that the Franco regime is desirous of commencing the repatriation of prisoners under the terms of and within the time limits fixed in the protocol, and very possibly would welcome an indication of a means of doing so.

Repeated to Buenos Aires.

HOWARD

724.34119/429a : Telegram

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

WASHINGTON, March 24, 1936—7 p. m.

39. For Braden. The Bolivian Minister has today by instruction of his Government expressed concern by reason of the fact that there

²¹ Juan Stefanich.

²² See telegram from Colonel Rafael Franco, Provisional President of Paraguay, to President Roosevelt, March 5, 10:45 p. m., p. 878.

appears to have been some delay in the resumption of its duties by the Special Repatriation Commission. The Bolivian Government appears to apprehend the danger that the present Government of Paraguay may take steps to change the existing status unless active vigilance is exercised by the Commission.

Please cable the present situation with regard to the activities of the Special Repatriation Commission, the neutral military observer in the Chaco, and any other factors affecting the security measures mentioned in the January 21st Protocol.

HULL

724.34119/416: Telegram

The Secretary of State to the American Delegate (Braden)

WASHINGTON, March 26, 1936—6 p. m.

41. Your despatch No. 131, February 28. Major Weeks has been designated Military Observer and instructed by telegram to proceed Chaco via Buenos Aires. An estimate of the cost of his traveling expenses and per diem allowance should be submitted to the Department for inclusion in an additional allotment needed for Chaco Conference subsequent to March 31.

HULL

724.34119/439

The American Delegate (Braden) to the Secretary of State

No. 146

BUENOS AIRES, March 27, 1936.

[Received April 4.]

SIR: I have the honor to refer to my despatch No. 128 of February 20, 1936,²³ to request authorization for the designation of Lieutenant Colonel Lester D. Baker, the newly assigned military attaché to the Embassy at Buenos Aires, as the American member of the Special Repatriation Commission to supervise the exchange of prisoners between Bolivia and Paraguay, replacing his predecessor, Captain Frederick Dent Sharp, as soon after his arrival as may be practicable.

It is understood that Lieutenant Colonel Baker will arrive in Buenos Aires on April 29, 1936, and that Captain Sharp intends to depart for the United States on May 13, 1936. As stated in my despatch No. 144 of March 23, 1936,²³ it is unlikely that the Special Repatriation Commission will divide into two groups to go to Bolivia and Paraguay

²³ Not printed.

before April 15 and such action may be delayed even longer. Consequently, it will probably not be practicable for Captain Sharp to go to Asunción with the Paraguayan group of the Special Repatriation Commission as originally contemplated. In this event it would seem advisable for Lieutenant Colonel Baker to proceed to Asunción to join the group as soon after his arrival as he has familiarized himself with the Chaco situation and the duties of the Special Repatriation Commission.

Respectfully yours,

SPRUILLE BRADEN

724.34119/454

The American Delegate (Braden) to the Secretary of State

No. 160

BUENOS AIRES, April 16, 1936.

[Received April 27.]

SIR: Referring to the Department's telegram No. 41 of March 26, 6 p. m., designating Major John A. Weeks as military observer in the Chaco for the Peace Conference for the period April 15 to June 15, 1936, I have the honor to report that Major Weeks arrived in Buenos Aires from Santiago, Chile, on April 3 and departed for the Chaco via Formosa, Embarcación, Aguaray and Yacuiba on April 7. Major Weeks expected to arrive at Yacuiba to join his predecessor, Major Alves Bastos,²⁵ Brazilian Army, about April 14.

In view of the probability that at least a portion of the repatriation of prisoners will be carried out through Villa Montes and that the Boyuibe-Villa Montes road will be used for the transportation of Bolivian prisoners returning to the Department of Santa Cruz, the Peace Conference has decided that Major Alves Bastos should remain on duty in the Chaco until May 15, supplementing the services of Major Weeks. On May 15 a Chilean officer will replace Major Alves Bastos so that during the entire period of two months for which Major Weeks has been designated as an observer he will have a colleague.

It is probable that Major Weeks will set up his quarters at Villa Montes or Camatindi in order to be in close proximity to the lines of separation between the Bolivian and Paraguayan armies and the portion of the Boyuibe-Villa Montes road in Paraguayan possession, and that Major Alves Bastos will move from Yacuiba in order to join him.

Respectfully yours,

SPRUILLE BRADEN

²⁵ Military Attaché to the Brazilian delegation.

724.34119/455

The American Delegate (Braden) to the Secretary of State

No. 162

BUENOS AIRES, April 17, 1936.

[Received May 2.]

SIR: With reference to previous despatches concerning the Special Repatriation Commission charged with supervising the exchange of prisoners between Bolivia and Paraguay, I have the honor to report that this Commission has actively continued preparatory work.

Plans have been worked out for the transportation of prisoners within Argentine territory and arrangements made with the authorities of the Argentine State Railways for the furnishing of transportation facilities. Two routes are still under consideration: Formosa-Embarcación-Jujuy-La Quiaca and Formosa-Embarcación-Aguaray. All Paraguayan prisoners will be repatriated by the first route by one train a week carrying five or six hundred men going from La Quiaca to Formosa. For the repatriation of Bolivian prisoners, it is probable that two trains a week carrying one thousand men each will go from Formosa to Aguaray and one train a week carrying seven hundred men from Formosa to La Quiaca. The alternative plan is for three trains a week from Formosa to La Quiaca each carrying six to seven hundred men and the abandonment of the Aguaray route.

Sanitary arrangements are also being advanced. Prisoners are to be examined and inoculated before leaving the countries in which they are held, will be disinfected on entering Argentine territory and will be given medical care and attention by Argentine physicians during their stay therein. A commission of Argentine and Bolivian doctors has already arrived in Asunción to begin the examination of Paraguayan prisoners. A Paraguayan doctor left Buenos Aires for Bolivia on April 14; he will be joined en route at Jujuy by Argentine doctors, and the medical commission thus formed will function in an analogous manner in Bolivia.

Sub-committees to supervise the concentration of prisoners in Paraguay and Bolivia have been designated. The committee in Paraguay is to be composed of Major Pery C. Bevilacqua, Brazilian Military Attaché at Asunción and member of the Special Repatriation Commission, and Lieutenant Colonel José Rivera, Bolivian representative on the Special Repatriation Commission; that in Bolivia will be composed of Lieutenant Colonel José M. Santa Cruz, Chilean Military Attaché at La Paz and member of the Special Repatriation Commission, and Lieutenant Colonel Eduardo Torreani V., Paraguayan representative on the Special Repatriation Commission. The two neutral members of these sub-committees were already on duty at their posts when designated, while Lieutenant Colonel Rivera and a Boliv-

ian assistant have arrived in Asunción. Lieutenant Colonel Torreani expects to leave Buenos Aires on April 22, proceeding first to La Paz to join Lieutenant Colonel Santa Cruz, then to the prison camps in the south Yungas Valley and at Potosí and Cochabamba, and finally to Villazón, which is to be the concentration point for Paraguayan prisoners in Bolivia.

The sub-committees of the Special Repatriation Commission in Paraguay and Bolivia will undoubtedly have to be increased later by the addition of further neutral members. Should this be done, it is probable that Lieutenant Colonel Lester D. Baker, United States Army, who will replace Captain Frederick D. Sharp as the American member of the Special Repatriation Commission on his arrival April 29, will be a member of the sub-committee in Paraguay. The Special Repatriation Commission hopes to be able to begin active repatriation between April 25 and April 30, but it is likely to be further delayed a few days.

Various difficulties have arisen in connection with the preparations made for repatriation. The most important of these has been in regard to the route by which Bolivian prisoners in Paraguay are to be repatriated. The Bolivians desire to receive 2,000 men a week at Villa Montes via Aguaray and 700 a week at La Quiaca, whereas the Paraguayan representatives on the Special Repatriation Commission have insisted that all repatriation be through La Quiaca. The Bolivian stand appears to be based on the following considerations: (1) receipt of the bulk of the prisoners at Villa Montes, where the headquarters of the Bolivian army are temporarily established, will enable the army authorities to control the propaganda to which the returning prisoners are subjected on first entering the country, whereas in the La Quiaca and Villazón region, where civilian authorities are in control, there is alleged to be considerable radical influence; (2) barracks, hospital facilities, et cetera, are available at Villa Montes, remaining from the period of Chaco hostilities, whereas at La Quiaca such facilities do not exist; and (3) transportation by highway from Villa Montes to the interior of Bolivia will be considerably less expensive than the round-about rail trip from Embarcación to La Quiaca. The opposition of the Paraguayans to any repatriation through Villa Montes seems to be caused by the fear that returning prisoners might be incorporated in the Bolivian army there and used for military operations against them. It is probable that the Paraguayan objection can be satisfactorily met by provisions that each contingent should be cleared from Villa Montes for the interior of Bolivia before the arrival of the next, that in no case should more than 1,500 men be present, that the operations be subject to the control and supervision of the neutral military observers in the Chaco, et cetera. However, it has been impossible as yet to reach a decision on

this point because of the fact that the new Paraguayan delegate to the Peace Conference, Dr. Miguel A. Soler, is not yet authorized to represent his country in a plenipotentiary capacity in deliberations with the Executive Committee of the Conference. It is hoped that this matter will be satisfactorily arranged within the next few days.

Upon the arrival in Asunción of Lieutenant Colonel Rivera and the Bolivian doctors mentioned above, the Paraguayan authorities placed obstacles in their way, alleging that no official advice concerning the missions of the Bolivians had been received and that in any event it was not understood why any Bolivian officials should come to Paraguay in connection with repatriation. This difficulty is typical of the rather haphazard manner in which the new Paraguayan Government is functioning, since the sending of Bolivian and Paraguayan officers and doctors to Paraguay and Bolivia respectively had been decided upon by the Special Repatriation Commission with the full concurrence of the Bolivian and Paraguayan representatives on that Commission. Steps have been taken to point out to the Paraguayan Government that its representatives, Lieutenant Colonel Torreani and a Paraguayan doctor, are going to Bolivia in similar capacities to those of Lieutenant Colonel Rivera and the Bolivian doctors. No further difficulty is expected on this score.

The question of prisoners who might not desire to return to their countries also presented possibilities of trouble for a time. The Bolivians insist that all prisoners should be sent to neutral territory and that any desiring not to return to their country should make a declaration to that effect there in the presence of representatives of their own nationality and of the neutrals so as to avoid all possibility of coercion by Paraguayan authorities. The Executive Committee of the Conference yesterday adopted a resolution providing for procedure satisfactory to the Bolivians.

A further difficulty may arise due to the fact that it now seems probable that the number of Bolivian prisoners in Paraguay will not exceed 15,000 instead of being 18,000 as estimated by the Paraguayans up to the time of the signature of the January 21st Protocol. The Bolivian delegate to the Peace Conference has suggested to me informally that his Government may feel it necessary to attempt to secure a reduction in the amount to be paid by Bolivia to Paraguay for upkeep of prisoners under the Protocol (already deposited with the Chairman of the Peace Conference), if the number of returned prisoners falls appreciably below the original estimates. It would appear, however, that any such endeavor would be unsuccessful, even if morally justified, in view of the fact that the language of the Protocol provides for a definite lump sum payment without mentioning the number of prisoners.

Respectfully yours,

SPRUILLE BRADEN

724.34119/458

The American Delegate (Braden) to the Secretary of State

No. 166

BUENOS AIRES, April 25, 1936.

[Received May 9.]

SIR: I have the honor to refer to my despatch No. 162 of April 17, 1936, and previous correspondence concerning plans for the repatriation of Bolivian and Paraguayan prisoners of war.

On April 23 Dr. Miguel A. Soler, Paraguayan delegate to the Peace Conference, finally received instructions from his government authorizing him to agree to the repatriation of the greater part of the Bolivian prisoners via Villa Montes, in accordance with Bolivian desires, instead of having them repatriated entirely via La Quiaca, as the Paraguayans at first insisted. There are enclosed herewith copies, in Spanish text and English translation, of a resolution²⁶ which was adopted as a consequence, by the Executive Committee of the Chaco Peace Conference on April 24. The resolution fixes the routes to be used for repatriation and establishes certain rules as to the manner in which evacuation through Villa Montes shall be accomplished.

The Special Repatriation Commission has practically completed plans for the transportation of the ex-prisoners and has worked out railroad schedules, etc. It is now planned to have the first regular contingents of repatriated prisoners start back to their respective countries on May 13, 1936. An endeavor will be made to have a few Bolivian ex-prisoners begin their homeward journey sooner in order to satisfy sentiment in Bolivia.

In order to insure adequate control and supervision of repatriation operations, the sub-committees of the Special Repatriation Commission at La Paz and Asunción are being enlarged. Lieutenant Colonel Lester D. Baker, United States Army, who is arriving on April 29 and who will replace Captain Frederick D. Sharp as the American member of the Special Repatriation Commission, has been designated a member of the sub-committee in Paraguay. He and those of his colleagues not already in Asunción are scheduled to leave Buenos Aires on May 2. It is intended that, after completing the necessary preparatory work in Asunción, Lieutenant Colonel Baker and some of his colleagues will proceed to Formosa, Argentina, where Bolivian prisoners brought from Paraguay by river boat will entrain for Bolivia.

One problem of some importance in connection with repatriation has not yet been solved. It has been the general understanding that Paraguay would meet the costs of transporting prisoners, both Bolivian and Paraguayan, between Asunción and Formosa. Recently, how-

²⁶ Not printed; for Spanish text, see *La Conferencia de Paz del Chaco*, p. 204.

ever, the Paraguayan representatives on the Peace Conference and the Special Repatriation Commission have insisted that Bolivia should meet the costs of transporting Bolivian prisoners between Clorinda, the Argentine town at the mouth of the Pilcomayo river just below Asunción, and Formosa. Their stand is based on the claim that once the Bolivian prisoners have reached Clorinda they will be out of Paraguayan territory and that it has been agreed that all costs of transportation in neutral countries shall be met by the government of which the prisoners are nationals. Since, however, the prisoners are to be transported as far as Formosa by river boat and the Paraná river forms the boundary between Paraguay at Formosa as well as Clorinda, the Paraguayan stand would appear to be a mere quibble in an endeavor to save expenses. Actually, despite the smaller number of Paraguayan prisoners, it is probable that the cost to the Bolivian Government of transporting Paraguayan prisoners by rail from the interior of Bolivia, where they are now held, to La Quiaca, on the Argentine-Bolivian boundary, will be higher than would be the cost to the Paraguayan Government of transporting the Bolivian prisoners from Asunción to Formosa. It is hoped that the matter will be satisfactorily settled within the next few days.

Respectfully yours,

SPRUILLE BRADEN

724.34119/515

The Minister in Paraguay (Howard) to the Secretary of State

No. 196

ASUNCIÓN, June 18, 1936.

[Received July 6.]

SIR: In a conversation with Dr. Stefanich, Minister for Foreign Affairs and *ad interim* Minister of War and Marine this morning, he stated that during his recent visit here, Lieutenant Colonel Oscar Moscoso, representing the Bolivian Government in the exchange of prisoners, requested an interview with President Franco. Dr. Stefanich stated that he inquired the purpose of the interview and was informed that it was very confidential going on to explain that Colonel Moscoso suggested that the new Government in Bolivia desired to acquire prestige with the populace of that country and suggested that the international road leading north from Villa Montes to Santa Cruz and now under Paraguayan control be placed under Bolivian control, thus giving the new government the desired prestige. Dr. Stefanich stated that the Government here in Paraguay was in somewhat the same situation as the new Government in Bolivia and was not desirous of losing any prestige and could not therefore consider the suggestion. He stated however that orders were given, and Colonel

Moscoso informed thereof, to the effect that the best and most tactful officers and troops would be utilized in the control of said road so as to facilitate Bolivian use thereof and avoid any annoyances or cause of complaint.

Speaking of Paraguayan troops in the Chaco, he stated that these forces comprised between 1,000 and 1,100 men.

Dr. Stefanich also stated that Colonel Caballero Alvarez in command of the Paraguayan forces in the Chaco is now here and had brought an invitation from General Peñaranda for President Franco to meet President Toro of Bolivia at Villa Montes to discuss all matters pending between the two countries. He stated that upon the return to the Chaco of Colonel Caballero Alvarez he would deliver a reply to General Peñaranda, that the reply had been drafted and would be to the effect that Paraguay received the suggestion in the most cordial spirit but that the ground should be properly prepared for such an interview, that the subject matter of the interview should be clearly defined and the interview only held with the knowledge and approval of the Peace Conference.

Dr. Stefanich also stated that Colonel Moscoso had made vague and veiled references to the possibility that the payment to be made to Paraguay on the completion of the exchange of prisoners might be delayed. He stated that he has informed Colonel Moscoso that Paraguay was scrupulously complying with the Protocol with reference to the exchange of prisoners and that he could see no possible grounds for Bolivia to protest such payment.

Respectfully yours,

FINDLEY HOWARD

724.34119/508

The American Delegate (Braden) to the Secretary of State

No. 198

BUENOS AIRES, June 23, 1936.

[Received July 6.]

SIR: I have the honor to transmit herewith copy of letter received from Major John A. Weeks, under date of June 17,²⁷ in which he replies to certain questions contained in my June 2nd letter to him.

As previously reported, Major Weeks' observations in the Chaco uniformly have proven correct and I have a high regard for his judgment, therefore, the attached letter is of interest in that it demonstrates the desirability for a prompt adjustment of the control of the Villa Montes-Boyuibe road (see sketch attached to despatch No. 197²⁸).

That this will not be accomplished readily is shown by the fact that

²⁷ Not printed.

²⁸ Dated June 23, 1936; not printed.

Dr. Stefanich already has refused to relinquish control of the road, also it may be recalled that the Peace Conference early in its deliberations suggested the creation of a neutral military police force within the zone comprehended by the lines of separation. This proposal was rejected categorically by President Ayala²⁹ and Dr. Zubizarreta.³⁰ So far as we can determine the new Paraguayan régime will no less positively refuse such a measure. Discussions on this topic will be initiated with the Paraguayan Delegation in the near future and before the 2,400,000 peso repatriation payment has been delivered to them by the Conference.

Major Weeks' letter confirms my several communications respecting the seriousness of the situation relating to the control of the Villa Montes-Boyuibe road and the excess of troops maintained in the Chaco by the ex-belligerents. Without in any degree minimizing the potential dangers involved it should be kept in mind that both governments repeatedly have expressed their faith in, respect for, and intention to abide by the provisions of the June 12th and January 21st Protocols. Furthermore, insofar as a renewal of hostilities is concerned, the peoples of Bolivia and Paraguay still retain vivid memories of the suffering and sacrifices of the Chaco War and I am disposed to believe that both governments would encounter difficulties were they to attempt a renewal of that war on a comparable scale of operations.

However, the occurrence of some more or less serious incident along the lines of separation is a definite possibility. For this reason I have for some time past insisted with my colleagues in the Conference that if possible the control of the Villa Montes-Boyuibe road be adjusted and also that we induce the Bolivian and Paraguayan governments substantially to reduce their effectives in the Chaco. While no official action by the Conference has been taken the delegates of Brazil and Chile, together with the undersigned, have made informal representations to the Bolivian and Paraguayan delegates and it may be assumed that the reduction in effectives mentioned in the postscript of Major Weeks' letter has resulted from these efforts.

Several times Messrs. Elío and Calvo of the Bolivian delegation have given us to understand that they would accept the territorial division proposed by the Conference on October 15 (see despatch No. 75, October 15, 1935).³¹ That the Toro régime is not similarly inclined perhaps is indicated by Major Weeks' remark that the Bolivians "might resort to force again if they do not receive a considerable

²⁹ Eusebio Ayala, ex-President of Paraguay.

³⁰ Gerónimo Zubizarreta, former Paraguayan delegate.

³¹ Not printed; see telegram No. 26, October 17, 1935, 2 p. m., to the Chargé in Bolivia, *Foreign Relations*, 1935, vol. iv, p. 161.

part of the Chaco in the final award". However, I believe Colonel Toro and his colleagues in the Junta could be dissuaded from such a course.

Respectfully yours,

SPRUILLE BRADEN

724.34119/519

The American Delegate (Braden) to the Secretary of State

No. 209

BUENOS AIRES, July 3, 1936.

[Received July 11.]

SIR: I have the honor to report that the last regular contingent of Bolivian prisoners will be despatched from Asunción on July 4 and will consist of 1,440 men.

The last regular contingent of Paraguayan prisoners arrived in Asunción on June 13. However, Colonel Florit, President of the Special Repatriation Commission advises us that there still remain in Bolivia 23 Paraguayan ex-prisoners. Their whereabouts is now being investigated by the Special Repatriation Commission's Executive Committee in Bolivia.

Colonel Florit likewise informs us that a great many Bolivian prisoners recently have appeared before the Special Repatriation Commission representatives in Asunción, claiming that they hitherto had been prevented from presenting themselves for repatriation. It is Colonel Florit's opinion, confirmed from other sources, that many more, perhaps several thousand, Bolivian prisoners still remain in Paraguay. Under the provisions of Article IV of the January 21st Protocolized Act repatriation must proceed until the "total liberation" of prisoners has been effected. Therefore all remaining prisoners must be found, concentrated in camps and repatriated unless upon arrival in Formosa they formally signify a desire to return to Paraguay.

Until recently the Paraguayan authorities have maintained that all prisoners had been brought into concentration camps. Now, however, they admit that many prisoners are either hidden or in hiding throughout the country and according to Asunción June 25 press despatch the Minister of War has ordered all prisoners to present themselves and has established certain penalties against those Paraguayans who might aid or abet in the nonappearance of Bolivian ex-prisoners. In order to insure the prompt appearance and concentration of all remaining prisoners Colonel Florit, in his capacity as President of the Special Repatriation Commission, has forwarded telegrams to the several Executive Committees of the Commission cautioning them; (1) to adhere strictly to the regulations laid down

by the Conference respecting repatriation; (2) to make no declarations other than those provided for in the regulations, thus leaving ineffective declaration made by Executive Committee No. 4, as reported in my despatch No. 195;³² (3) to include in their reports the lists of prisoners, which were to have been presented by both Bolivian and Paraguayan authorities upon the initiation of repatriation; (4) to report upon the number of prisoners escaped; (5) to give special importance to determining the number of prisoners who remain unrepatiated; and (6) to exercise particular care to be entirely impartial in all their reports and statements, since upon these documents and findings the Peace Conference will have to base its final decision with respect to declaring repatriation completed.

Respectfully yours,

SPRUILLE BRADEN

724.34119/551

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 603

LA PAZ, July 29, 1936.
[Received August 11.]

SIR: I have the honor to transmit copy, and translation, of Memorandum No. 276, dated July 27, 1936, from the Ministry of Foreign Relations³³ explaining Bolivia's objectives in the Chaco Peace Conference. The Memorandum reiterates that Bolivia's aim is the strict execution and faithful fulfillment of the June, 1935, Protocol; that the Bolivian delegation has instructions to put aside all dilatory matters or pretexts that may cause an impasse in reaching a direct accord; and that the Conference must try to liquidate the old and complicated Chaco controversy, failing which the matter should be submitted to arbitration.

Point four in the Memorandum again calls attention to the necessity of readjusting the present dangerous situation with respect to the control of the Villa Montes-Boyube Road. (See Despatch No. 595, dated June 27, 1936).³³ Last week there were repeated rumors circulating in La Paz that clashes had occurred there between Paraguayan and Bolivian patrols. All of the La Paz papers of July 23rd published an "Official Communication", translation of which follows:

"Various rumors circulated yesterday, whose origin is not known, to the effect that clashes had taken place in the Chaco Central Zone, between Bolivian and Paraguayan troops. Such rumors having no foundation, the President's Secretariat last night issued the following:

³² Dated June 17, 1936; not printed.

³³ Not printed.

OFFICIAL COMMUNICATION

"The rumours circulating in recent days to the effect that clashes had taken place in the central zone of the present lines of occupation of the Bolivian and Paraguayan armies, are categorically denied. The situation is absolutely normal in the Chaco."

LA PAZ, July 22, 1936.

Private Secretariat of the Republic"

Respectfully yours,

JOHN J. MUCCIO

724.34119/535 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, August 7, 1936—9 p. m.

[Received 10:40 p. m.]

157. From Braden. My 147, July 26, 1 p. m.³⁴

1. The Conference has secured the verbal agreement of the Bolivian and Paraguayan delegations who state that their respective Governments unquestionably will approve the following, which we expect to formalize next week as soon as the necessary documents may be drafted:

(a) The Conference will declare repatriation virtually (or an equivalent adverb) terminated³⁵ and will deliver the 2,400,000 pesos to Paraguay.³⁶

(b) Two subcommissions of the Special Repatriation Commission to be located in La Paz and Asunción and each to be composed of one Bolivian and one Paraguayan officer, plus the mediatory nations' Military Attachés in those capitals, will be instructed by the Conference to continue the concentration and repatriation of any prisoners who still may remain in either country. The Paraguayan Government will give the Asunción subcommission every cooperation and full freedom to search for prisoners throughout Paraguay. It is impossible to estimate accurately how many Bolivians remain in Paraguay, but the number is probably somewhere between 100 and 1000. Only eight Paraguayans remain in Bolivia. This measure is necessary in order to assure the Bolivian Government and public that nothing will be left undone to effect the total repatriation of all prisoners and at the same time to satisfy the urgent desires of the Paraguayan Government for the money wherewith to meet its pressing financial requirements.

(c) Simultaneously with (a) and (b) an appropriate Conference act will be signed by both parties and the mediators stipulating that: (1) the neutral zone comprehended within the lines of separation, including the Villa Montes road, and the policing of the neutral zone will be placed under the sole and absolute control of the Conference;

³⁴ Not printed.

³⁵ See *The Chaco Peace Conference*, p. 102; or *La Conferencia de Paz del Chaco*, p. 212.

³⁶ See *La Conferencia de Paz del Chaco*, p. 213.

(2) no armed forces whatsoever will be permitted to enter the neutral zone; (3) the armed forces in the areas adjacent to the neutral zone will be reduced to the lowest practicable minimum; (4) the total armed forces in each country shall be reduced within the 5,000 limit established in the June 12 and January 21 protocols. Also this Conference act will fix an early date for the renewal of diplomatic relations.

2. Furthermore, we will endeavor to include in this agreement a protocol eliminating any further consideration of the responsibilities question referred to in article I, paragraph 7 of the June 12 protocol. If we are successful in this we will have disposed of all the most pressing, irritating and dangerous problems leaving as the only major issue the fundamental territorial question which then may be pursued under the improved atmosphere which should be created by this agreement.

3. The Paraguayan delegates categorically have reiterated the complete confidence of their Government in the mediators and its determination to reach a definite settlement of the territorial question through the continuous orderly deliberations of the Conference, but they request that these discussions should not be unduly hurried in order that their Government may have time in which to form a public opinion favorable to a final territorial settlement.

[Braden]
Cox

724.34119/535 : Telegram

The Secretary of State to the Chargé in Argentina (Cox)

WASHINGTON, August 8, 1936—noon.

103. For Braden. Your 157, August 7, 9 p. m. The Department approves the procedure outlined in your telegram under reference.

HULL

724.34119/552 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, August 12, 1936—2 p. m.

[Received 2:05 p. m.]

159. From Braden. My 157, August 7, 9 p. m.

1. Drafts of two resolutions and a Conference act covering verbal agreements described in my telegram under reference were approved by Elío³⁷ and cabled by him to La Paz for final approval. Soler³⁸

³⁷ Tomás Manuel Elío, Bolivian delegate to the Chaco Peace Conference.

³⁸ Miguel Angel Soler, Paraguayan delegate.

likewise entirely approved. Ramírez,³⁹ however, while approving measures for repatriation and renewal of diplomatic relations denied having agreed to other provisions despite unanimous testimony of ten mediatory delegates and his own colleague. Ramírez' reversal makes it clear Paraguayan Government will not readily consent to Conference assuming control of the neutral zone.

2. Undoubtedly the principal reason for Paraguayan resistance on this point is that they hope to retain control of the Villa Montes Road as a trading element in the final territorial negotiations. We are endeavoring to convince the Paraguayans of the unwisdom and danger involved in such a policy but it may become desirable for the Conference to consider the passage by the mediatory delegates of a resolution whereby it would assume sole control of the neutral zone, basing this action on the pertinent provisions of the two protocols. [Braden.]
Cox

724.34119/556 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, August 20, 1936—midnight.

[Received August 21—3:05 a. m.]

169. From Braden. My 159, August 12, 2 p. m.

I. Neutral delegates have agreed with the approval of both ex-belligerent delegations to sign on August 21st a conference resolution comprehending terms outlined in my 157, August 7, 9 p. m. paragraph No. 1 (a) and (b) and to deliver money to Paraguayan Government probably on August 22nd or 24th. The two subcommissions referred to will continue activities for such time as the Conference may deem prudent.

II. Also on August 21st the following identic notes signed by Saavedra Lamas, President of the Peace Conference, will be delivered to each of ex-belligerent delegations:

“Honorable Delegate of Paraguay (or Bolivia): I have the honor to advise you, and through you the Government which Your Excellency represents, that the Peace Conference in the session held on August 20, 1936, in the presence of the delegates of Argentina, Brazil, Chile, United States of America, Peru and Uruguay, under the Presidency of His Excellency the Minister of Foreign Affairs of the Argentine Republic, Dr. Carlos Saavedra Lamas, resolved in accordance with the dispositions of articles I, II and III of the January 22 [21], 1936 protocolized act, to reassume the police functions and control which pertain to it within the lines of separation between the armies drawn by the Neutral Military Commission and which are accorded it by the June 12 protocol and the afore-cited act.

³⁹ J. Isidro Ramírez, Paraguayan delegate.

"The Peace Conference, upon adopting this resolution, had no other purpose than to avoid any misunderstanding between Paraguayans and Bolivians which might prejudice the cordial atmosphere maintained until now and which must be consolidated in the future with the desired definitive solution of the fundamental question which still separates them.

"We have addressed to our observers in the Chaco the instructions within which they should orient their conduct and which were approved unanimously by this Conference in accordance with the communication made to Your Excellency by note of August 5.

"We trust your Government will find this resolution inspired in noble and elevated sentiments.

"Opportunely and in accord with the respective military commands the regulations of the observers' functions will be completed.

"Will that Government please give the necessary instructions for the police forces of Paraguay (or Bolivia) to place themselves under the orders of our military observers?"

III. Both the Paraguayan Government and delegation have agreed to a renewal of diplomatic relations.⁴⁰ The Bolivian delegate likewise agrees and expects to receive his Government's telegraphic approval shortly; therefore, we hope that probably upon Finot's⁴¹ arrival, but before Saavedra Lamas' departure, both ex-belligerents will sign a Conference act witnessed by the mediators declaring diplomatic relations renewed and agreeing to accredit their respective ministers plenipotentiary without further delay (text of this Conference act is enclosure 6 to my despatch No. 236 airmailed August 14 [19?]).⁴² It also being understood informally that the ex-belligerents' Presidents immediately after signature of the aforesaid Conference act will exchange cordial telegrams referring to this act and testifying to the fact that diplomatic relations have been reestablished. Furthermore, it is understood that ministers plenipotentiary probably will not be accredited for another 2 to 3 months, that is to say, after Saavedra Lamas' return from Europe and I hope prior to Inter-American Peace Conference.

IV. I am dissatisfied with the action outlined under paragraph II above because:

(a) It does not have the concurrence of the Paraguayans who interpret article II (*d*) of June 12 protocol as limiting Conference control to "the lines of separation" and not as including the zone between these lines, the latter being the interpretation given this clause by the mediators and Bolivia;

(b) It leaves an opening for the Paraguayans to present objections involving lengthy discussions of the Conference authority under the

⁴⁰ See *The Chaco Peace Conference*, p. 104; or *La Conferencia de Paz del Chaco*, p. 294.

⁴¹ Enrique Finot, Bolivian Minister for Foreign Affairs.

⁴² Not printed.

protocols to control the policing of the area within the lines of separation and especially of the Villa Montes Road;

(c) Also it leaves pending matters referred to in my telegram No. 157 of August 7, 9 p. m., paragraph 1 (c), (2), (3) and (4) and paragraph 2 first sentence;

(d) The non-adjustment of the questions under (c) above might lead to some incident or serious disagreement entailing a rupture of diplomatic relations.

V. However, I believe any rupture may be avoided by due Conference precaution and the delay in accrediting ministers plenipotentiary. Furthermore, the atmosphere surrounding our negotiations should be improved by this renewal of diplomatic relations, also except for Rodriques Alves, my colleagues believe that Paraguay in practice will place their police under Conference control thus largely minimizing the danger of some incident occurring along the Villa Montes Road. In any event, the above described resolutions and with [*resolutions offer?*] the best solution which could be obtained at this time after lengthy discussions, particularly in the face of (a) Saavedra Lamas' anxiety to have resolved before his departure the termination of repatriation, the renewal of diplomatic relations and the control between the lines of separation even in this incomplete and unsatisfactory form; (b) the *intransigence* . . . of Ramírez; (c) Finot's impending arrival and (d) Bolivian objections to procedure outlined in first paragraph this telegram unless control of policing within the lines of separation were reassumed by the Conference. [Braden.]

Cox

724.84119/557 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, August 21, 1936—9 p. m.

[Received 10:50 p. m.]

172. From Braden. My 169, August 20, midnight.

1. Documents described in paragraphs 1 and 2 of my telegram under reference formally executed at plenary session this afternoon with inconsequential changes in wording of latter resolution.

2. Ex-belligerent delegations initialed draft Conference act (in same form transmitted in my despatch number 231⁴⁸) declaring diplomatic relations reestablished and stated they would be authorized to sign definitive act next week.

⁴⁸ Dated August 13, 1936; not printed.

3. In reply to note quoted in paragraph 2 of telegram under reference Ramírez delivered formal note confirming his verbal statement of yesterday to the Conference that his Government intended rigidly to adhere to the provisions of the protocols. This note from the Paraguayan delegate was to be anticipated in accordance with paragraph IV (a) and (b) of telegram cited. [Braden.]

Cox

724.34119/571

The American Delegate (Braden) to the Secretary of State

[Extract]

No. 240

BUENOS AIRES, August 21, 1936.

[Received August 28.]

SIR: I have the honor to report that on September 15, 1936, it will again become the turn of the United States to appoint a Conference military observer in the Chaco, and I respectfully request that Major John A. Weeks, Military Attaché to the Embassy in Santiago, Chile, be designated for this task. . . .

In view of the foregoing explanation, it is hoped that Major Weeks will be appointed for the September 15–November 15 period of duty as military observer in the Chaco. It would be preferable for him to proceed to his post via Buenos Aires so that he might discuss with Conference officials and with me certain matters relating to his work. To this end he should arrive here not later than September 7 in order to relieve his predecessor at Villa Montes, Bolivia, by September 15.

I would appreciate your cabling to me regarding Major Weeks' appointment as soon as possible after the receipt of this despatch.

Respectfully yours,

SPRUILLE BRADEN

724.34119/571 : Telegram

The Secretary of State to the Chargé in Argentina (Cox)

WASHINGTON, August 31, 1936—5 p. m.

115. For Braden. Your despatch 240, August 21. Major Weeks authorized to act as observer. Submit estimate in accordance with the Department's instruction 417, July 17, 1936,⁴⁴ and inform Department if necessary drafts will be drawn at Santiago or Buenos Aires.

HULL

⁴⁴ Not printed.

724.34119/614

The Minister in Paraguay (Howard) to the Secretary of State

No. 258

ASUNCIÓN, September 10, 1936.

[Received September 25.]

SIR: I have the honor to refer to the fund of 2,400,000 Argentine pesos paid by the Bolivian Government to the Paraguayan Government which is now on deposit in Buenos Aires, having been turned over to that latter Government in connection with the termination of the repatriation of prisoners, and to inform the Department that in a conversation with Dr. Stefanich, the Minister for Foreign Affairs, this morning, he stated that this sum would be placed in the Banco de la Republica to be used for conversion and for stabilizing the Paraguayan paper peso.

Respectfully yours,

FINDLEY HOWARD

724.34119/608 : Telegram

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

BUENOS AIRES, September 12, 1936—1 p. m.

[Received 1:05 p. m.]

192. From Braden. Paraguayan delegation yesterday afternoon delivered long note protesting Conference control between lines of separation and of Villa Montes road. This has precipitated extremely delicate situation. Because of Major Weeks' experience on Neutral Military Commission and as military observer Conference requests that he be retained in Buenos Aires instead of leaving for Chaco as planned. Therefore unless I am instructed to the contrary he will remain here temporarily. [Braden.]

WEDDELL

724.34119/607 : Telegram

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

BUENOS AIRES, September 13, 1936—2 a. m.

[Received 9:55 a. m.]

193. From Braden. My 169 August 20, midnight.

1. As contemplated in paragraph IV of my telegram under reference the Paraguayan delegates on the afternoon of September 11 delivered to the Peace Conference a long note with an extended annex thereto.⁴⁵ This document presents a few reasonable arguments but for the

⁴⁵ For Spanish text, see *La Conferencia de Paz del Chaco*, p. 316.

most part it is captious, illogical, trivial, self contradictory and frequently discourteous. It alleges that "there is only one line or lines of separation which is the line of Hitos" and that the Conference under the protocols is only empowered to maintain control and vigilance over this line or "military frontier". The conclusions of the note are as follows:

"In synthesis the Paraguayan delegation complying with its graceful [*Government's*] instructions, expresses to the Conference:

(a) That Paraguay retains and preserves the positions its armies reached on the date of the termination of war, accepts no innovation nor alteration in the system of policing or control exercised until now on the line of separation fixed by the Neutral Military Commission. Consequently the Paraguayan police forces will continue exercising their own functions in the referred to region as they have done to date, subordinate solely to Paraguayan authorities.

(b) Paraguay does not recognize the existence of a neutral zone.

(c) Paraguay in principle does not accept the general instructions which the Peace Conference without its consent or knowledge issued to the military observers in the Chaco (my despatch 232 August 13).⁴⁶

(d) Paraguay reserves integrally its rights of vigilance, control and security on the road called 'international' without admitting any change or innovation in its management (*régimen*), possession or dominion.

(e) Paraguay reiterates its respect for the protocols signed and its purpose to collaborate loyally with the Peace Conference in order to reach the pacific solution of the differences with Bolivia.

(f) Paraguay accepts that the Conference designate military observers who should watch the line of separation of the two armies fixed by the Neutral Military Commission as long as circumstances may require in order that there shall be no violation of the line and that the non-aggression pact be observed.

(g) Paraguay is ready to accredit immediately a consul in Bolivia and to accept the similar designation of a Bolivian consul in Asunción as the beginning of the reestablishment of relations between both countries until the respective legations are organized."

(h) consists of a polite expression of thanks to the Conference and of hopes for a satisfactory solution.

2. As recited for months past in my many communications the Bolivians regard the freeing of the Villa Montes road from Paraguayan control as vital to them. The immediate danger resulting from the presentation of this note is that the Bolivian Government or the army command in the Chaco upon learning its substance might seize the highway and thus renew hostilities. In an attempt to avert this contingency we have cautioned Elío in general terms that Bolivia should not become excited by any untoward announcements or publications emanating from Asunción and that his country's interests will best be served by a policy of tranquility, patience and continued con-

⁴⁶ Not printed.

fidence in the Conference. Also this evening I despatched the following telegram to Howard in Asunción.

"September 11, 2 p. m. From Braden. Paraguayan delegates afternoon September 11 presented note to the Conference rejecting the August 21 resolution regarding control and vigilance between the lines of separation. This rejection is drafted in a manner with which presumably Asunción Foreign Office is unacquainted.

"The President of the Peace Conference⁴⁷ as soon as he received the said note urgently requested Dr. Ramírez in the name of all the mediatory delegations to request his Government under no circumstances to give publicity to the said document since to do so might have the gravest consequences. I consider its publication so dangerous that I would appreciate as an act of friendship for the Government of Paraguay that you inform Minister Stefanich tonight or at latest tomorrow morning of my anxiety, informing him that in my opinion the contents and language of the note of Señor Ramírez may create a crisis having unpredictable repercussions".

3. Ramírez explains the presentation of the note at the time as being necessary because of efforts to discredit the Franco regime whose opponents have propagandized and widely distributed pamphlets in Paraguay accusing the present Government of treacherously sacrificing the national sovereignty and of having sold the territorial conquests of the war for the 2,400,000 pesos. I am disposed to believe that the uncertain Paraguayan political situation had a bearing on the presentation of the note but that Ramírez himself is largely to blame.

4. It is too early as yet to formulate any definite plan as to the best methods of procedure excepting for the steps described in paragraph 2 above to guard against impetuous action by Bolivia. However, we have several alternative plans under consideration.

[Braden]
WEDDELL

724.34119/610 : Telegram

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

BUENOS AIRES, September 19, 1936—noon.

[Received 1:40 p. m.]

194. From Braden. My 193, September 13, 2 a. m.

1. Both the publication of the Paraguayan note and the danger of any impetuous action by Bolivia in the near future appear to have been removed thus relieving the tension of the last week.

⁴⁷José de Paula Rodrigues Alves, Acting President of the Conference; also Brazilian first delegate.

2. As a result of the intensive study occasioned by the presentation of the Paraguayan note the Conference is absolutely satisfied that it has the right and obligation under the protocols to reassume control (command of police forces) between the "lines of separation" in accordance with our August 20 resolution, my 169, August 20, 12 p. m. paragraph No. II. Both for the purpose of the record and in order to get an accurate statement of facts and an exact unified expression of Conference opinion there will be set forth in the Conference minutes a detailed account of the developments, application, and interpretation of the protocols by the Conference, the parties and the Neutral Military Commission. I believe this account will be conclusive although the Paraguayans may not admit it.

3. Our deliberations will be handicapped by the considerations referred to in paragraph number III and IV of my telegram under reference.

4. What reply if any will be made to the note is undecided. Ramírez refused requests by Argentine, Brazilian and Uruguayan delegation that he withdraw his note but now is considering Rodriques Alves' suggestion that he substitute therefor a more conciliatory memorandum. Such a procedure would enable the Conference in collaboration with the ex-belligerent commands to draft a mutually satisfactory regimentation [*reglementation*] for the Conference control between the "lines" which would obtain the practical ends sought while avoiding an acrimonious discussion on the principle involved.

5. I have proposed that we counter Ramírez' note by insisting upon the immediate consideration of the territorial question and that should we not reach an agreement promptly we demand the drafting of an arbitral compromise. My colleagues feel that this procedure is too precipitous and I am not insisting upon it at present.

6. My 192, September 12, 1 p. m. Weeks leaving for Chaco today. [Braden.]

WEDELL

724.34119/620 : Telegram

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

WASHINGTON, September 27, 1936—2 p. m.

[Received 5:05 p. m.]

197. From Braden. My 194, September 19, noon.

1. At the request of the Argentine and Peruvian delegation Ramírez, subject to the approval by the Paraguayan Government, has

agreed to alter or to remove the more discourteous portions of his September 11 note. I regard this action as unimportant.

3. Nieto will return from Santiago on Monday and during the next week the account referred to in paragraph 2 of my telegram under reference should be in such shape that definite action may be decided upon. Meanwhile we have been continuously working on Ramírez who now agrees that: (a) the Conference both has the right and the obligation to control and supervise between the "lines of separation" which he calls "lines of withdrawal;" (b) that relementation be drafted as described in the last sentence of paragraph 4 of my telegram under reference. Because of Ramírez' frequent repudiation of his verbal agreements, I still question whether the Paraguayans will readily concede to the Conference such an effective control and supervision of their police forces as to prevent any incident occurring along the Villa Montes road and therefore in order to obtain adequate Paraguayan compliance with our August 21 note in this respect it may be necessary for the Conference to issue a strong declaration or note to the parties refuting the Paraguayan arguments and reaffirming the Conference rights and obligations under the protocols. To draft this document will take some time since it must be done most carefully.

The Paraguayans could accept such a Conference decision as a clarification since it would reiterate Paraguayan fundamental rights as per opening sentence of article II June 12 protocol. Its simultaneous publication [with?] the September 11 note might ease their political difficulties and appease Ramírez who ardently desires to see his note in print. Any ill effect resulting from the publication of the Paraguayan note would be offset by the publication of the Conference statement. [Braden.]

WEDDELL

724.34119/620 : Telegram

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

WASHINGTON, September 28, 1936—5 p. m.

126. For Braden. Your 197, September 27, 2 p. m. Please cable the Department the draft of any declaration or note which may be formulated by the Conference as forecast in the latter portion of paragraph 3 of your cable under reference before you indicate to the Conference your intention to sign such declaration or note.

HULL

724.34119/622 : Telegram

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

BUENOS AIRES, September 29, 1936—noon.

[Received 12:33 p. m.]

201. From Braden. Your 126, September 28, 5 p. m. Stefanich yesterday telegraphed Ramírez to advise the Conference President that the propaganda against the Paraguayan Government continues so great that he may have to retract his promise not to publish the September 11 note. Rodrigues Alves urged that the note be not published since the Conference then would have to make a detailed reply along the lines described in paragraph 3 of my telegram 197, September 27, 2 p. m. He suggested as an alternative that Stefanich make a public statement to the effect that a note has been presented to the Conference and that the matter is under consideration. This procedure still would permit us to settle the matter through regimentation [*reglementation*]. [Braden.]

WEDELLE

724.34119/652 : Telegram

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

BUENOS AIRES, October 10, 1936—5 p. m.

[Received 5:30 p. m.]

216. From Braden.

1. As contemplated in paragraph 2, my 206, October 3, 2 p. m.,⁴⁸ Paraguayan September 11 note was not altered and accordingly at plenary session yesterday afternoon it was accepted officially. At this same meeting Ramírez delivered and read an amplifying statement which largely was a repetition of his previous note plus a few additional puerile arguments. However, the statement was courteous and conciliatory in tone. It indicated that the differences which had arisen between the Conference and Paraguay were of form rather than substance; it hinted at some "compensation" for the road but left the door open for a settlement of our present difficulties through the *reglementation* to be drafted (see paragraph 3 (b), my 197, September 27, 2 p. m.). Press despatch today from Asunción admits the same solution as possible.

2. Account referred to in paragraph 2 of my 194, September 19, noon, is not yet concluded, but the opinion of the mediators is sufficiently crystalized so that in view of the improved Paraguayan atti-

⁴⁸ Not printed.

tude, we are now drafting notes to the parties which will not emphasize contentious points but will request the parties "in accordance with Conference's August 20 resolution" each to appoint two military officers to a reglementation commission. We are hopeful that the road situation may be adjusted in this manner. Text of Conference notes will be telegraphed to the Department before they are delivered.

[Braden]
WEDDELL

724.34119/654 : Telegram

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

BUENOS AIRES, October 13, 1936—4 p. m.

[Received 7 p. m.]

218. From Braden. My 216, October 10, 5 p. m.

1. The following is translation of draft Conference note to be delivered to the President of the Paraguayan delegation :

"I have the honor to acknowledge the receipt of Your Excellency's note of September 11 with its complimentary annexes in which Your Excellency, following instructions from your Government, answers the note of this Conference dated August 21 last past.

After long deliberations the Conference acted by virtue of faculties conferred upon it by the peace protocols of June 12, 1935 and January 21, 1936. Its note directed to the delegations of Paraguay and Bolivia on August 21 last past had no other intent than to insure the collaboration of the parties to the exercise of the right pertaining to the Conference to exercise the control and vigilance referred to in the said peace protocols.

This resolution of August 20 does not involve in any way a diminution of the contractual dispositions of article No. II paragraph No. 1 [3?] of the protocol of June 12, 1935 reaffirmed by the protocolized act of January 21, 1936 and with it the Conference proposes to insure the application of the security measures until the solution is obtained of the differences between Paraguay and Bolivia.

The Peace Conference because it is charged to decide the practical questions which arise in the execution of the security measures considers that it is urgent to complete the regulation of the faculties of control and vigilance which it must exercise in order to insure the continued observance of the pact of non-aggression and to define its scope.

By virtue of the above, in accordance with the note of August 21, last past, through me Your Excellency's Government is invited to name two military delegates who together with the two named by Bolivia and thereby to be designated for the same purpose by the Conference will proceed to complete the said reglementation.

I have the honor to be, Sir et cetera"

2. In order to avoid protracted discussion with Ramírez it seems best not to consult him before delivering this note. It gives him no opportunity for argument except that he might dispute the accuracy of the opening sentence of paragraph 2; Rodrigues Alves and I will endeavor to induce our colleagues to eliminate this sentence. I would appreciate your instructions before three tomorrow afternoon at which time a session is scheduled to approve the note.

3. Note to Bolivia will be an acknowledgement of their acceptance of Conference August 21 note plus the closing paragraph of the note. Romero will be given in confidence a copy of the note to Paraguay.

4. Uruguayan delegate and I have opposed the Conference publication of our note; other delegates favor doing so.

5. Each mediatory Government will be requested to appoint one member to the relementation commission which will probably meet in Villa Montes. Because of Major Weeks' ability and unique experience I shall subsequently request that he be assigned to this duty. [Braden.]

WEDDELL

724.34119/654 : Telegram

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

WASHINGTON, October 14, 1936—4 p. m.

136. Your 218, October 13, 4 p. m. For Braden. The proposed note is satisfactory although Department agrees that it would be preferable were the opening sentence of paragraph 2 to be eliminated.

HULL

724.34119/655 : Telegram

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

BUENOS AIRES, October 14, 1936—6 p. m.

[Received 7:11 p. m.]

222. From Braden. My 218, October 13, 4 p. m.; your 136, October 14, 4 p. m. Note will be delivered tomorrow morning with the following changes: second paragraph, substitute "proceeded within" for "acted by virtue of"; second sentence same, substitute "consolidate" for "insure"; first word third paragraph, substitute "the" for "this"; fourth paragraph, substitute "guarantee" for "insure". [Braden.]

WEDDELL

724.34119/665 : Telegram

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

BUENOS AIRES, October 19, 1936—11 p. m.

[Received October 19—10:52 p. m.]

228. From Braden. My 218, October 13, 4 p. m.

1. Wide publicity given Paraguayan September 11 note and Finot declarations has been reflected by increasing nervousness in both the Chaco commands and in the tension existing there already because of arbitrary Paraguayan control of the Villa Montes road and Bolivian excess of effort. Today, strictly confidential, President cabled Finot and Stefanich requesting a more conciliatory attitude. Ramírez and Romero⁴⁹ were similarly cautioned in a formal session. To help keep the situation in hand we expect to send Martínez Pita⁵⁰ and an aide to the Chaco this week.

2. Ramírez has expressed his entire satisfaction with the Conference's October 15 note but must await his Government's decision which cannot be taken before the 21st when they will receive his mailed despatch. We requested him today to hurry appointment of Paraguayan officers to reglementation commission. Bolivia has made her appointments. [Braden.]

WEDDELL

724.34119/667 : Telegram

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

BUENOS AIRES, October 22, 1936—11 a. m.

[Received 11:25 a. m.]

230. From Braden. My 228, October 19, 11 p. m. Stefanich reply poorly drafted but acceptable. Finot reply satisfactory. Yesterday Conference again stressed to Paraguayan delegation urgency for their prompt appointments to reglementation commission, which they state will be made this week unless there is some unlooked for obstacle raised in Asunción.

I request authority to appoint Major Weeks to this commission. This will probably entail extension of his stay in Chaco beyond November 15 when his tour as military observer ends. [Braden.]

WEDDELL

⁴⁹ Carlos Romero, Bolivian delegate to the Chaco Peace Conference.

⁵⁰ General of Brigade Rodolfo Martínez Pita, Argentine member of the Neutral Military Commission.

724.34119/667 : Telegram

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

WASHINGTON, October 26, 1936—4 p. m.

142. For Braden. Your 230, October 22, 11 a. m. The War Department authorizes the appointment of Major Weeks. Please submit estimate of additional expenses. At the request of the War Department, please report by despatch the probable date of termination of Major Weeks' services in connection with the Chaco Peace Conference. He is due to be relieved as Military Attaché next May.

HULL

724.34119/675 : Telegram

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

BUENOS AIRES, October 27, 1936—midnight.

[Received October 28—2 a. m.]

240. From Braden. My 230, October 22, 11 a. m.

1. Despite press despatches from Asunción that present impasse would soon be settled cordially and despite Ramírez' promises to Rodrigues Alves that reply to Conference October 15 note would be short and would name without comment two Paraguayan officers to regimentation [*reglementation*] commission, late yesterday he presented an unsatisfactory note to the Conference which reiterates thesis of Paraguayan September 11 note, proposes to restrict Conference control to the intermediary line only, presumes to dictate the method of the commission's constitution and its procedure, pretends to wait until the Paraguayan suggestions in this particular are adopted before appointing their members and states regimentation [*reglementation*] must be approved by Bolivian and Paraguayan Governments before final acceptance. Full translation air mailed today.

2. The contradictory and irresponsible attitude of the Paraguayan delegation plus the necessity for retaining Bolivian confidence in the Conference make it advisable for the Conference to act promptly and firmly. Therefore it is proposed to deliver to the Paraguayan delegation the following note at a formal session Thursday morning:

"The Conference over which I have the honor to preside in acknowledging Your Excellencies' note October 26, deplors that the Paraguayan delegation should not have given the proper interpretation to the communication of October 15 in which the Peace Conference in accordance with existing protocols invited the Government which Your Excellencies represent to designate its military delegates to the

special commission which should draft the regimentation [*reglementation*] of the functions of control and vigilance which are incumbent upon it.

In view of the urgency and the imperative necessity to reestablish and to insure in the Chaco an atmosphere capable of preventing the reoccurrence of incidents which have already taken place, concerning which Your Excellencies have repeatedly been informed, and without entering into the consideration of the statements and suggestions which Your Excellencies make in the aforesaid note, some being considered inopportune and others improper, the Conference believes it its duty to insist that the Paraguayan delegates be named this week for the purposes sought in the note of the 15th instant; since in any case, in accordance with the obligations assumed by virtue of the peace protocols, the Conference will be obliged to proceed without further delay to the accomplishment of the obligations which devolve upon it; especially as article III of the protocolized act of January 21 of the present year expressly authorizes it to name special commissions to resolve the practical questions which arise in the execution of the security measures.

I have the honor to be Sir,"

3. The above note was drafted by all the mediatory delegates this afternoon and adopted subject to the approval of our respective governments. I would appreciate receiving your instructions during Wednesday.

4. If Paraguay after delivery of this note still refuses, as we anticipate, to appoint delegates to the commission the Conference will then (a) increase number of military observers in Chaco so that each mediatory nation will be represented thus materially helping to prevent occurrence of any serious incident. Telegram received yesterday from military observers indicates, however, that nervousness in Chaco has abated somewhat. (b) Insist upon consideration of the territorial question as per paragraph 5 of telegram No. 194 September 19, noon.

5. . . . there is a possibility that not being accurately informed . . . the Paraguayan Government is unaware of the Conference attitude. Therefore my colleagues wish Howard to present on behalf of the Conference to Stefanich a copy of our reply and to set forth our viewpoint when doing so. Do you approve of this procedure?

6. In order to forestall impetuous action Femiot [*Finot?*], Bolivian delegate, has been given in strict confidence copy of Paraguayan note, informed of Conference stand, and promised copy of our reply when delivered. [Braden.]

WEDDELL

724.34119/677 : Telegram

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

BUENOS AIRES, October 28, 1936—11 a. m.

[Received 12: 15 p. m.]

241. From Braden. My 240, October 27, midnight. If Paraguay does not appoint delegates then prior to taking action contemplated in paragraph 4 (b) my telegram under reference the Conference will probably organize the commission to consist of mediatory officers only. This commission in consultation with the two commissioners may conceivably be able to draft a mutually satisfactory reglementation but if Paraguay continues resistance to any reasonable accommodation of this matter the Conference at least would have exhausted every recourse before forcing issue on the territorial question. [Braden.]

WEDDELL

724.34119/675 : Telegram

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

WASHINGTON, October 28, 1936—7 p. m.

148. For Braden. Your 240, October 27, midnight. You are authorized to give the approval of this Government to the proposed note provided that in the second paragraph the phrase "some being considered inopportune and others improper" is omitted and that the word "insist" is replaced by "urge strongly."

There is no objection to Minister Howard delivering to the Paraguayan Government a copy of the reply of the Conference. The Department is telegraphing Howard directly that he is to make it clear in delivering a copy of the note that he is not acting as a representative of the Conference but is taking the opportunity, entirely informally, to make available a copy of the reply. He is also being instructed that his comment should be limited to an expression of hope that the Paraguayan Government will give its very earnest consideration to the Conference note.

HULL

724.34119/678 : Telegram

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

BUENOS AIRES, October 29, 1936—7 p. m.

[Received 9 p. m.]

246. From Braden. Your 148, October 28, 7 p. m. Reply delivered this afternoon with following changes in second paragraph. Your

emendations made. The words "the urgency and" omitted. For the words "this week" substitute "by Monday, November 2".

I have telegraphed Howard text of the Conference reply for delivery to Stefanich with the following comments:

"The Conference begins to feel that the Paraguayan Government has not and is not now displaying the confidence in it which they have so often reiterated. Such a want of faith is disturbing to the work of pacification and would make difficult the attainment of the high end sought. So anxious is the Conference to have Dr. Stefanich understand its sentiments and wishing to reenforce the reports which the Paraguayan delegation has subsequently made the Conference deems it wise to transmit this message through your kind offices to His Excellency. The Conference would under no circumstances without the express accord of both parties consent to any alteration no matter how slight in the provisions of the protocol. In view of the many incidents which have occurred in the Chaco the Conference feels that it is absolutely essential that the obligations it has of "control" and "vigilance" should be effectively regulated. In spite of the fact that the Conference could take this step on its own initiative yet in keeping with the spirit and practice of its deliberations it has requested both Paraguay and Bolivia each to name two officers to a special relementation commission.

The Conference, when suggesting that this practical question be handled in this manner, had two ideas in mind; first, that the best interests of Paraguay and of Bolivia would be thus served; second, the Conference having great confidence in the abilities and experience of the military officers feels that it is peculiarly fitting that the solution of the matter be submitted to them. In reference to belief the Conference expects that the special commission will be able to arrive at a mutually satisfactory relementation which will bring about a reduction of the military establishments in both countries and insure the effectiveness of the security measures and of the non-aggression pact which were specifically renewed in the January 21 protocolized act at the instance of the Paraguayan Government and delegation.

Therefore the Conference earnestly hopes that the Paraguayan Government will appoint forthwith their two delegates which as an immediate consequence will lead to the restoration of the cordial atmosphere so essential to the tranquil prosecution of its labors."

[Braden]
WEDDELL

724.34119/688 : Telegram

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

BUENOS AIRES, November 2, 1936—midnight.

[Received November 4—12:30 a. m.]

250. From Braden. My 246, October 29, 7 p. m.

1. Paraguay did not name military delegates, therefore this afternoon the Conference constituted Special Military Commission as per

my 241, October 28, 11 a. m., charging it with drafting the regulations of control and vigilance. It will meet in Buenos Aires and will probably make trips to Chaco.

2. To guard against occurrence of any serious incidents in Chaco the Conference will increase the number of military observers there to six, one for each mediatory country. [Braden.]

WEDDELL

724.34119/705 : Telegram

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

WASHINGTON, November 23, 1936—6 p. m.

177. For Braden. The following information has been furnished to the Department by the Bolivian Minister with the comment that a similar statement is being submitted by Bolivian Legations to the Foreign Offices of the other mediatory countries.

“Repeated reports worthy of credit have been brought to the attention of the Bolivian Government that Paraguay has concentrated 5,000 men in Concepción and 500 in Bahía Negra and that Puerto Casado is under a military regime identical to that of the war period. The reports add that Paraguay appears to be awaiting the termination of its preparations in order to precipitate belligerent actions. The Bolivian delegation at the Peace Conference has been instructed to advise the Conference that the national Government will be obliged to decree general mobilization in the event that the mediating body does not give ample guaranties that hostilities will not be renewed by Paraguay and that the said body shall assume all of the responsibilities arising from the Buenos Aires Protocol.”

MOORE

724.34119/706 : Telegram

*The Ambassador in Argentina (Weddell) to the Acting Secretary
of State*⁵¹

BUENOS AIRES, November 24, 1936—1 p. m.

[Received 2 : 21 p. m.]

274. From Braden. Your 177, November 23, 6 p. m.

1. The President of the Bolivian delegation has not yet made any formal representations to the Conference but yesterday he spoke con-

⁵¹ Repeated as Department's No. 36, November 24, 8 p. m., to the Secretary of State, then aboard the S. S. *American Legion* en route to Buenos Aires.

fidentially to Rodrigues Alves and me separately regarding a telegram he had received from his Foreign Office similar to statement made to the Department by the Bolivian Minister.

2. Rodrigues Alves advised him and I confirmed R. A.'s statements that our reports were that the Concepción concentration was in connection with railroad construction work, that we believed Puerto Casado concentration was for similar purposes, that we doubted any activity in Bahía Negra and therefore felt there was no basis for Bolivian concern. The Bolivian delegate appeared to be satisfied and stated that he would cable his Government the sense of our conversations.

3. R. A. is instructing the Brazilian Military Attaché in Paraguay to check the facts and we will endeavor to obtain the use of an Argentine army airplane immediately in order that one of our military observers may visit Bahía Negra and possibly Puerto Casado. [Braden.]

WEDDELL

724.34119/707: Telegram

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

BUENOS AIRES, November 24, 1936—7 p. m.

[Received 7:32 p. m.]

275. From Braden. My 274, November 24, 1 p. m.

1. Sending military observers by airplane has been deferred until we obtain further information. Brazilian army post at Corumba has been requested to investigate concentration at Bahía Negra and Argentine Foreign Office is requesting Argentine firm of Casado Brothers with offices in Puerto Casado and Concepción to report on any military activity in those localities. Argentine and Peruvian delegations and I have requested our Legations in Asunción to report any available information.

2. Alvestegui⁵² stated to us this afternoon that he cabled President Toro this morning reporting yesterday's conversations, also recommending that Bolivia should continue confidence in the Conference which possesses the means to check the facts and if confirmed to take appropriate action. [Braden.]

WEDDELL

⁵² David Alvestegui, recently appointed Bolivian delegate and President of the delegation replacing Tomás Manuel Elfo.

724.84119/715

The American Delegate (Braden) to the Secretary of State

No. 327

BUENOS AIRES, December 11, 1936.

[Received December 18.]

SIR: I have the honor to report activity in the Chaco negotiations in memoranda which I have delivered to Assistant Secretary of State Welles.

I transmit herewith copies of my two memoranda of December 4, one of December 8, three of December 10, and one of December 11, 1936.⁵³

Respectfully yours,

SPRUILLE BRADEN

[Enclosure 1]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 4, 1936.

During a two hour talk at a luncheon today to which I invited Messrs. Ramírez and Soler of Paraguay, the former spent much time expounding upon the assured titles which Paraguay had to the Chaco. Hitherto he has always insisted that his country was entitled to all of the area included within the Paraguay, Pilcomayo and Parapiti rivers, in other words, practically their present occupation with a slight addition in the northwest, and has suggested that Paraguay only would submit to arbitration territory to the north and west of these limits. Today he at least conceded that Paraguay might even submit to arbitration some of the points held within the afore-described area.

I steered the conversation into a discussion of (1) President Roosevelt's speech⁵⁴ which both my guests previously had praised; (2) the all prevailing will throughout America for a definitive peace. I declared that the opportunity was unique for Paraguay to recover the position of favor in the public eye of America which she had formerly occupied and I counselled that the Paraguayan government give their very serious consideration to "striking while the iron was hot" and making some move which would guarantee beyond peradventure that within a reasonable time the Chaco territorial dispute would be adjusted. I indicated that Paraguay had an opportunity to accom-

⁵³ One memorandum of December 4 and one of December 10 not printed.

⁵⁴ Address of President Roosevelt at the opening session of the Inter-American Conference for the Maintenance of Peace, December 1, 1936; for text, see *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936* (Washington, Government Printing Office, 1937), p. 77. For correspondence concerning the Conference, see pp. 3 ff.

plish this in various ways: (1) by an immediate adjustment of the Villa Montes road question; (2) by Paraguay rather than the mediators suggesting that if within a reasonable time neither a direct agreement nor an arbitral compromise had been drafted, as per the Protocols, that then the delimitation of the territory to be arbitrated be established by the Chaco Peace Conference mediators. Messrs. Ramírez and Soler, of course, had a good deal to say about Bolivian failure to accept a double or successive arbitration as suggested by the Mendoza Conference⁵⁵ but maintained that while Paraguay at that time had been amenable to such a plan subsequent events must be taken into consideration. I assured them that at least I, as one of the mediators, if left to delimit the territory to be arbitrated, would take into consideration all of the many angles; that I would particularly give importance to the practical considerations but would not neglect historical and geographical antecedents and the "situations of fact" which existed as a result of the war; that since we were all in accord that Paraguay desired peace a move such as I suggested by Paraguay would win the sympathy of all, force Bolivia to accept and since the Paraguayans were so completely confident of the strength of their case they had nothing to fear in the ultimate result; and that furthermore, in making such a spectacular move for continental peace they would completely disarm their political opponents who would not dare stand up against continental opinion in a matter of this gravity. I assured them that all the time necessary for the presentation of their complete case would be afforded them, but that under the surroundings and circumstances resulting from President Roosevelt's visit and the Maintenance of Peace Conference it was essential that this hemisphere be assured that no renewal of hostilities possibly could occur in the Chaco, but that instead a final settlement could be foreseen definitely even though the exact provisions of that settlement could not yet be determined.

During this part of the conversation Ramírez inquired as to whether I had discussed the Chaco Conference and problems with President Roosevelt and Secretary Hull. I replied that I had, although not in great detail. Ramírez then inquired what Secretary Hull thought about Dr. Stefanich not coming to Buenos Aires. I told him that the Secretary was profoundly disappointed by his non-appearance, that he was most anxious to meet and talk with the Minister and that the latter's absence had created a bad impression. Ramírez, with some nervousness, asked whether I thought this feeling was general. I replied that it was and that Paraguay had sacrificed the favored position which she had previously occupied in the public opinion of

⁵⁵ See telegram No. 22, February 3, 1933, 5 p. m., from the Ambassador in Chile, *Foreign Relations*, 1933, vol. IV, p. 268.

America, that Stefanich's non-appearance was widely criticised, that in talking with some of the incoming delegates to the Maintenance of Peace Conference I had endeavored to explain his absence on the score of the recent railroad strike but that these delegates were unwilling to accept any such excuse and that even President Franco's letter to President Roosevelt and the dinner given by Dr. Stefanich celebrating the inauguration of the Maintenance of Peace Conference had been interpreted generally as further examples of Paraguayan evasion.

Previously during the conversation I had told Messrs. Ramírez and Soler that the mediatory nations were opposed to the consideration of the Chaco situation in the Maintenance of Peace Conference excepting for some general expression of confidence. I added that Bolivia wanted it considered and there always was the danger, which could not be avoided, that some ambitious orator would provoke the issue, as long as Paraguay remained under a cloud by reason of Stefanich's non-appearance. Ramírez reverted to my previous remarks and asked whether I could assure him that if Dr. Stefanich were to come to Buenos Aires for a few days that the Chaco problem would not be actively considered in the big conference. I told him that I could do so, that we were most anxious to have Minister Stefanich come to Buenos Aires, that his visit would greatly redound to the benefit of Paraguay, not merely in public opinion but in other ways, and that I was authorized to state to him that if Dr. Stefanich made the visit the Chaco would not be taken up in the Maintenance of Peace Conference excepting that a resolution might be passed expressing appreciation and approval of the work done to date by the (Chaco) Peace Conference, confidence in it and a desire that the parties should continue in their earnest collaboration to bring about an early settlement. I added that the only Chaco discussions which Dr. Stefanich need have in Buenos Aires would be those with Secretaries Hull and Welles, Macedo Soares, Cruchaga Tocornal with some of the rest of us and that these would be private conversations held in my house in such a manner that neither the press nor anyone else other than those participating would be informed of them.

Both Ramírez and Soler agreed that Paraguay's prestige had suffered recently and said they thought that on the basis I outlined they could induce Dr. Stefanich to come to Buenos Aires at least for two or three days. I urged them to take the matter up with him immediately and they have promised to cable him.

Also Ramírez suggested that he would like to argue the territorial question face to face with Alvéstegui and said that he did not think that the present method of holding meetings in the Foreign Office was productive. I agreed with him in his latter statement but said

that I thought that rather than having the personal meetings with Alvéstegui, for the time being, it would be preferable to carry on our work as we did in the prisoners committee, with daily sessions, morning, afternoon and frequently in the evening, and that this was one of the details which might be adjusted during Dr. Stefanich's stay in Buenos Aires.

Ramírez was exercised about a statement issued to the press by Dr. Finot which declared that President Toro made the adjustment of the Villa Montes road question a condition precedent to the interchange of consuls. He pointed to this as a violation of the August 25 agreement renewing diplomatic relations. Other than the remark that the Conference had no official knowledge of Dr. Finot's declaration I did not discuss his protest.

Ramírez also was somewhat irked because he had left cards upon Alvéstegui, Finot and other members of the Bolivian delegation to the Maintenance of Peace Conference but as yet had received no cards in return.

Ramírez had called upon Macedo Soares at the latter's request but said the conversation touched on nothing of importance.

My impression from the afore-described conversation is that both Paraguayan delegates are fearful that under the auspicious surroundings of the Maintenance of Peace Conference their cause may suffer unless they adopt a more conciliatory attitude. They are nervous and the exertion of some pressure on them, and if possible Stefanich, at this time may prove beneficial.

[Enclosure 2]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 8, 1936.

1. The Chaco Peace Conference met at the Foreign Office this morning at 11:30 under the presidency of Dr. Saavedra Lamas. Those attending were Foreign Ministers José Carlos de Macedo Soares and Cruchaga Tocornal; delegates José Roberto de Macedo Soares (Brazil); Manini Rios, Martinez Thédy (Uruguay); Marros Borgoño, Nieto del Rio (Chile); Barreda Laos (Peru); Bunge⁵⁶ (Argentina) and myself. José Roberto de Macedo Soares explained that during the M. of P. Conference⁵⁷ he would replace Ambassador Rodrigues Alves as president of the Brazilian delegation.

2. Dr. Bunge read a short statement summarizing Conference work since August 21 to date.

⁵⁶ Secretary General of the Conference.

⁵⁷ The Inter-American Conference for the Maintenance of Peace.

3. Dr. Bunge reported the constitution of the Special Military Commission under the presidency of General Martínez Pita, the first session having been held yesterday afternoon.

4. Dr. Bunge read a note addressed to the Conference by Dr. Ramírez, president of the Paraguayan delegation, which principally reaffirmed statements made to the Conference in the Paraguayan note of October 9 last; but also claimed that in a note dated November 5, 1935, Dr. Elfo, as president of the Bolivian delegation, had accepted the thesis that there was only one line of separation.

5. Dr. Saavedra Lamas took approximately twenty or twenty-five minutes to review and praise the "patient work of the Chaco Peace Conference" and to counsel against the Chaco being permitted to come up for discussion in the big Conference. He stated that the presence of several Foreign Ministers in Buenos Aires should be helpful but that their efforts in connection with the Chaco should be within the Chaco Peace Conference and not the M. of P. Conference. Dr. Saavedra Lamas' speech was conciliatory and reasonable.

6. Minister Cruchaga repeated over several times his absolute faith in the Chaco Peace Conference and admiration for its patient labors. He then concluded by suggesting that January 1, or at the latest January 5, should be declared by the Conference as the final date for the conclusion of the direct agreement on the territorial question and that if by either of those dates a settlement had not been arrived at then the parties should be summoned to draft the arbitral compromise.

7. Dr. Manini Rios then said that he felt that the Peace Conference had done all that it could in connection with direct negotiation and therefore should forthwith declare that it was useless to attempt any further direct negotiation and to summon the parties immediately to the drafting of the arbitral compromise.

8. Ambassadors Nieto of Chile, Barreda Laos of Peru and I pointed out that the proposition made by the Conference to the parties on October 15, 1935, looking to a territorial settlement had been described at the time as of a preliminary nature and that it was understood by all concerned that no real work had been done by the Chaco Peace Conference as yet on the fundamental question. Therefore, we must explore the possibilities of reaching a direct agreement and that it would be counter-productive to place any time limit on our efforts in this particular, and that we must continue to exercise the same patience which had advanced the Chaco Peace Conference to the present stage. This procedure was approved.

9. It was suggested that any M. of P. Conference resolution on the Chaco should only be passed after some concrete action had been taken by the Chaco Peace Conference. After discussion it was de-

cided that as of today we would summon the parties to negotiate on the fundamental question. The exact form of this resolution will be submitted to us tomorrow afternoon for approval.

10. Press announcement of today's meeting of the Chaco Peace Conference will state that it was held in the presence of the attending Foreign Ministers who had unanimously expressed their categorical approval of everything done to date by the Chaco Peace Conference.

11. In order to explore possibilities for direct settlement of the territorial question and a satisfactory adjustment of the Villa Montes road and the excess of effectives questions it was decided to have another session tomorrow with the Foreign Ministers present; this meeting is called at six o'clock, Foreign Minister Finot invited to attend at 6:30 and Dr. Ramírez at 7:00 p. m.

Yesterday at luncheon Ambassador Rodrigues advised me that he had had most encouraging conversations with Drs. Finot and Ramírez yesterday morning which led him to believe that a satisfactory adjustment of the Villa Montes road and the excess of effectives matters could be readily made at this time. I spoke with Dr. Ramírez last night and today lunched with him, Dr. Soler and Dr. Laconich (Secretary of the Paraguayan delegation) and it is my opinion that Ambassador Rodrigues Alves is mistaken. I found that the nervousness of the Paraguayans (reported in my memorandum of December 4) has apparently worn off and they are again in the same intransigent, stubborn mood that has characterized them for some months past. They informed me that Dr. Stefanich says he cannot leave Asunción now but might come to Buenos Aires later on, providing that he were advised in advance of exactly what concrete proposition was to be submitted for his consideration. During our meeting this morning I suggested that "by some stroke of genius of the Foreign Ministers present in Buenos Aires a solution to our entire problem might be arrived at providing Dr. Stefanich were induced to come to Buenos Aires", but Messrs. Saavedra Lamas and Macedo Soares were convinced that he would not come and that it was futile to make any further requests of him in this connection.

As you are aware, Ramírez has more or less continuously protested the Bolivian excess of effectives. Today at luncheon he again brought up the subject, claiming that Paraguay should not have to make any concession in connection with the road since according to the official report of the Argentine Military Attaché in La Paz, Bolivia now has over 11,000 men in her army. I replied that we had received an official declaration from the Bolivian delegation to the effect that that country had only 5,000 effectives, but that Dr. Finot had twice offered to have the Conference Military Observers go anywhere in Bolivia any time and themselves check the exact number of effectives.

And I added that since we could follow this procedure with Bolivia we should do the same with Paraguay and the whole question of effectives would be settled. Ramírez immediately objected and said that since Paraguay had formally stated to the Conference that they had only 4,300 effectives the Conference should accept that declaration and that it would be an infringement of Paraguay's sovereignty for us to check in the method I suggested. I made the obvious rejoinder that if Paraguay objected to such a check then they must accept Bolivia's word and that the question of effectives therefore might be considered as settled. Since Dr. Ramírez is accustomed to regard such personal conversations as of no official weight I will endeavor to have this conversation repeated during our session tomorrow if an appropriate opportunity presents itself.

[Enclosure 3]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 10, 1936.

1. At 3 p. m. today our committee of three met (Macedo Soares, Cruchaga Tocornal and myself) with José Roberto de Macedo Soares present.

2. . . . Macedo Soares' formula is as follows:

"Bolivian and Paraguayan public opinion must be satisfied in order to obtain a lasting agreement.

"Paraguayan public opinion would be satisfied if they did not have to give Bolivia a port on the Paraguay river.

"Bolivian opinion would be satisfied if they obtained control of the Villa Montes-Boyuibe road.

"While Bolivia wanted a sovereign port on the river most of the Bolivian public would not know the difference between a sovereign port and a free port, therefore Paraguay should give Bolivia a free port which would satisfy both public opinions and all practical needs.

"These proposals are to be submitted respectively to the parties with the further request that they each draw up their own proposition regarding a permanent boundary across the Chaco."

Macedo Soares believes that with the combined pressure of the ABC powers,⁵⁸ supported by the United States, Bolivian and Paraguayan acceptance finally will be forthcoming.

3. In reply to my query regarding how the political situations in the two countries would be handled, and especially in Paraguay where the government was afraid to take any stand for fear that they would be upset through the criticism of their opponents, Macedo

⁵⁸ Argentina, Brazil, and Chile.

Soares said that he had arranged an interview for the three of us with President Justo, as he was the only man who could do this job, and that we would get Justo to call in Ayala, Zubizaretta, Estigarribia, etc., submit the general terms of the plan to them, at the same time telling them that Argentina, Brazil and Chile would not brook any political activity on their part if the Franco government were to accept this plan and that were they to make any adverse moves their asylum in Argentina would be withdrawn and they could not obtain asylum in either Chile or Brazil.

Macedo Soares added that this approach to Justo also had the advantage that the President could give us able advice and assistance and that it would liquidate (eliminate) Saavedra Lamas from the Chaco picture so that he could not interfere with our labors.

4. We called on President Justo at approximately 4:30 and he agreed to give us every assistance. He did not specifically agree to call in the Paraguayan deportees but gave us to understand that word of his interest in the matter would be conveyed effectively to them and to the Paraguayan delegates. President Justo was not so confident of the success of this program as were Macedo Soares and Cruchaga.

5. Finot is to meet with us at Macedo Soares' residence at 7:30 p. m. Later we shall see Ramírez.

6. President Justo doubted whether the Paraguayans would be willing to give Bolivia a free port, however, I have discussed this subject with both the present and former Paraguayan delegations and they always have expressed their willingness to do so. I think that Paraguay would be delighted to make a deal whereby they would relinquish the road to Bolivia, providing the latter dropped all claims for a port. While Finot admits that a port would be of no practical use to Bolivia he has always held out for the "psychological port" and Alvéstegui has insisted on a sovereign port.

7. The general terms of this formula have been discussed frequently in the past, both as a whole and in sections, without our receiving any encouragement from the parties, however, the Macedo Soares program should be tried: (a) President Justo may be able to control the liberal deportees and to convince the present Paraguayan government that they will suffer no political repercussions from their acceptance of this or a modified plan; (b) the united pressure of Justo, Macedo Soares and Cruchaga may induce both sides to accept terms which they would not under other circumstances; (c) Macedo Soares agrees with me that if we are to get anywhere it must be by dint of staying in almost continuous session with the Bolivians and Paraguayans in order to wear them down. I have urged such a course previously with Saavedra Lamas and my other colleagues but have never been able to induce them to give this concentrated effort to the matter, excepting when, as president of the prisoners committee, I was in a

position to call meetings myself at will; (*d*) excepting for the irritation which may be aroused in Dr. Saavedra Lamas I do not see that any harm can come from making the attempt; and (*e*) if we are unsuccessful in getting the territorial settlement at this time we may at least, as a compromise, be able to adjust satisfactorily the control and vigilance question.

8. I urged that we must periodically inform our Peruvian, Uruguayan and Argentine colleagues of our progress. Macedo Soares assented to our advising them of the program as soon as we had submitted it to Finot and Ramírez.

9. We shall probably see President Justo again tomorrow or the next day and as frequently thereafter as appears necessary.

[Enclosure 4]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 10, 1936.

1. The (Chaco) Peace Conference met yesterday afternoon at 5:30. Those in attendance were the same as on December 8 with the addition of Minister Cisneros of Peru⁵⁹ and Secretary Hull,⁶⁰ who attended for a few minutes and stated his approval of the work of the Conference under Dr. Saavedra Lamas.

2. Bunge, Nieto and I had prepared a project of resolution summoning the parties to direct negotiation (see paragraph 9 of my December 8 memorandum). It was felt by Foreign Ministers Cruchaga and Macedo Soares that this resolution, if published, would show definite progress in our negotiations, thus justifying the passage of an appropriate resolution by the M. of P. Conference commending the work of the (Chaco) Peace Conference. In the preamble of our draft resolution there was included a recitation of the (Chaco) Peace Conference accomplishments to date. After some minor corrections were made in this draft resolution the Bolivian delegates, Messrs. Finot, Alvéstegui and Romero, were received. Finot denounced Paraguay for not proceeding in good faith or at least in not cooperating as wholeheartedly with the Conference as had Bolivia. When the subject of the proposed resolution was mentioned he insisted that Bolivia could not consider the fundamental problem or any other matter until the control and vigilance question had been adjusted in accordance with the Conference resolution of August 20, and he referred to a public statement to this effect made by President Toro. After some discussion Finot finally consented to the passage of the

⁵⁹ Luis Fernán Cisneros, Peruvian Minister in Uruguay and Peruvian delegate to the Chaco Peace Conference.

⁶⁰ Cordell Hull, then at Buenos Aires as Chairman of the American delegation to the Inter-American Conference for the Maintenance of Peace.

resolution providing it contained a definite statement that "the Conference had not been able to enforce the security measures". When there seemed to be some disposition to meet Dr. Finot in this particular I objected twice, insisting that as per the Protocols we had obtained the practical compliance with the security measures and that I thought Dr. Finot's denunciation of Paraguayan concentration of troops and of incidents occurring in the Chaco were very much exaggerated if not entirely based upon rumors without foundation, as had frequently happened with both sides in the past; that our August 20 resolution was an administrative act of the Conference and was being put into effect through the Special Military Commission and by other Conference measures. I held that as an administrative act it even could be rescinded by the Conference and that actually the parties could not refuse to comply with provisions of the Protocols simply because an administrative measure was not being put into effect as promptly as they desired, and that under no circumstances could or should the Conference assert that it had failed to comply with any provisions of the Protocols. As a result of my insistence we finally decided that there should be no formal resolution of the Conference but that the minutes would show that the mediatory delegations had requested those of the ex-belligerent nations (with the intervention of the Conference) to enter into negotiations looking to the settlement of the territorial question.

Dr. Finot agreed that he would endeavor to induce President Toro not to insist upon his above expressed stand and that instead he would permit the negotiation of the fundamental question to proceed.

3. Following the departure of the Bolivian delegation the Paraguayan delegates, Drs. Ramírez and Soler, arrived. Ramírez in an involved self-contradictory argumentation held at first that the fundamental question could not yet be discussed but he concluded by promising Paraguay's fullest cooperation in any such negotiation.

4. Several times during the meeting Dr. Saavedra Lamas tried to leave on the excuse that he had to attend the reception at the American Embassy but was prevented from departing by Minister Macedo Soares and Dr. Bunge.

5. It having been agreed by all concerned that discussions of the fundamental question were to be undertaken and actively pursued during the presence in Buenos Aires of Secretary Hull and Foreign Ministers Macedo Soares and Cruchaga, Saavedra Lamas suggested that these discussions should be carried forward by a small committee of the Conference. This proposal having been accepted Foreign Minister Macedo Soares said that as a tribute to Paraguay and the Paraguayans he volunteered to serve on the committee. Cruchaga immediately followed suit and the Brazilian Minister suggested that perhaps the committee should consist only of the two. Dr. Manini

Rios and some of the other delegates immediately suggested that I be named as a third member of the committee, a move which Saavedra Lamas warmly welcomed. Our first meeting is scheduled for three p. m. today.

6. Appreciating that Saavedra Lamas would be greatly disturbed to have the matter left in the hands of the two Foreign Ministers whom he jealously regards as dangerous rivals who are attempting to filch the Chaco leadership from him, I took occasion to tell the Argentine Foreign Minister as soon as I could speak to him at the American Embassy that it would be necessary for me to have entrée to him at any time that I deemed it necessary in order to keep in intimate contact with him, our chief, on Chaco matters. He told me he would receive me at any time, day or night, I desired. This arrangement has the further advantage of giving me ready access to him on other than Chaco affairs.

7. Saavedra Lamas on his arrival at the Embassy expressed a desire to speak to Secretary Hull with me. He urged that the Secretary should become more active in Chaco affairs, calling attention to the fact that "Brazil recently had negotiated a treaty on petroleum with Bolivia, that Chile, like Brazil, was moved not so much by a desire for peace as by reason of special interests which they had with the ex-belligerent nations, and it therefore was essential that the balance be preserved through the disinterested and just intervention of the United States". Translating for Secretary Hull I told Saavedra Lamas that the Secretary desired "me to do the actual work although whenever it seemed essential for him to intervene I would advise him so that he could do so", and that, of course, I would keep them both informed as to developments.

8. Even in the face of my assurances to Saavedra Lamas he probably will be extremely suspicious regarding the activities of this committee of three and we may expect some difficulty with him unless he is carefully handled.

9. Macedo Soares promises this afternoon to outline to Cruchaga and myself a formula which he is "absolutely satisfied will settle the entire Chaco question" and on which he has felt out, in a preliminary way, both of the ex-belligerent delegations.

[Enclosure 5]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 11, 1936.

1. The committee of three met at Macedo Soares' house at 7:30 p. m. yesterday with Messrs. Finot and Alvéstegui. Others present were José Roberto de Macedo Soares and the Brazilian Ministers in Asunción and La Paz.

2. Cruchaga outlined the bases upon which the committee hoped that an accord could be reached. The Bolivian delegates instead of indignantly rejecting the proposal took it calmly, although Finot stated that prior to his departure from La Paz the Junta had voted unanimously that Bolivia could consider no proposition which did not give that country a sovereign port on the Paraguay river. They also said that the control of the road was not a sufficient compensation for the relinquishment of a sovereign port. The Bolivian delegates stressed the practical reasons which required their having a sovereign port rather than a free port. The mediators pointed out that for all practical purposes a free port would be just as valuable as the sovereign port. The "Macedo Soares plan" therefore has been accepted by the Bolivians as at least offering a starting point in the discussion.

3. Saavedra Lamas apparently is somewhat nervous over the activities of the committee of three, as demonstrated by the fact that he has called a (Chaco) Peace Conference session for five o'clock this afternoon. Bunge advises me that there is no special word from the Chaco, La Paz or Asunción but that the Foreign Minister says he has something of particular importance to convey to the Conference.

724.34119/720

The American Delegate (Braden) to the Secretary of State

No. 331

BUENOS AIRES, December 18, 1936.

[Received December 28.]

SIR: I have the honor to report activity in the Chaco negotiations in memoranda which I have delivered to Assistant Secretary of State Welles.

I transmit herewith, as a matter of record, copies of my memoranda under the following dates: One of December 11, 1936. Two of December 12, 1936. Two of December 14, 1936. One of December 15, 1936. One of December 16, 1936. One of December 17, 1936.⁶¹

Respectfully yours,

SPRUILLE BRADEN

[Enclosure 1]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 12, 1936.

1. The Committee of Three met with the Paraguayan delegates at 12:30 today (postponed from 10:00 a. m.). There were also present

⁶¹ Memorandum of December 11, one of December 12, and one of December 14 not printed.

the Brazilian Minister in Asunción, José Roberto de Macedo Soares, Major Bastos (one of the Military Attachés to the Brazilian delegation), Murtinho (Secretary of the Bolivian delegation), and Dr. Bunge (Argentine delegate and Secretary General of the Conference).

2. Dr. Soler said that he had talked on the telephone to Foreign Minister Stefanich, who had sent his regards to the Committee and requested that we make our proposals more concrete. It was pointed out to Dr. Soler that the quickest way to arrive at more definite plans would be to have Dr. Stefanich present, otherwise we remained in something of a vicious circle. Dr. Soler said that he still had hopes that Dr. Stefanich could come to Buenos Aires. (Apparently Macedo Soares has practically decided to visit Santiago; he and Cruchaga therefore feel that Stefanich's trip need not be hurried since he can make it any time before Macedo Soares' return to Rio. Of course, were they to ask the Paraguayan Foreign Minister to meet with them in Santiago Dr. Saavedra Lamas would be enraged.)

3. There was considerable discussion of a "puerto libre" (free port), (as typified by the Peruvian use of Arica) versus a "puerto franco" (as typified by the Bolivian use of Antofagasta). We told the Paraguayan delegates that under any circumstances maximum port privileges should be accorded the Bolivians since we will have the greatest difficulty in getting them to desist from their ambitions for a sovereign port.

Macedo Soares and Cruchaga feel that we have made a definite advance and, as the former says, "are in the second stage of our negotiations since it is evident that the Paraguayans will be willing to concede either a 'puerto libre' or 'puerto franco'". I cannot share their enthusiasm on this point since the Paraguayans always have accepted this solution. During the conversation Soler made the flat statement that Paraguay would never be willing even to talk about a "sovereign port".

4. In order to arrive at a proper method for fixing a permanent boundary Cruchaga suggested that the authorized geographical societies of the six mediatory countries be instructed to study the geographical, historical and economical antecedents of the Chaco, their findings to be transmitted to The Hague Court who would not make a decision but merely give an opinion, which in turn would be transmitted to the Chaco Peace Conference in order for that body to make the final decision. This suggestion was not rejected by the Paraguayans but did not meet with any enthusiasm on their part.

Cruchaga and Ramírez held forth on the great wealth in the Chaco, which I contested as inaccurate and because our negotiations will not be eased by the propagation of such beliefs.

5. By this time it was nearly two o'clock and it was agreed that the Committee would submit to the Paraguayans a more concrete defini-

tion of a "free port" and a plan showing our suggestion for a permanent boundary.

The (Chaco) Peace Conference met this afternoon at four o'clock with the Bolivian delegates. Finot stated that Bolivia would not press her project (attached to this morning's memorandum) providing he and his government were satisfied that definite steps, looking to the settlement of the control and vigilance (policing) question, were being taken by the (Chaco) Peace Conference, and that, in particular, the Special Military Commission as soon as possible should proceed to the Chaco to adjust these questions. The matter was left on this basis, which is not entirely satisfactory since it will be physically impossible for the Special Military Commission to reach any concrete results prior to the closing of the M. of P. Conference. Thus a door will be left open for Finot to reverse his present position and insist upon the submission of his project. However, it seemed inexpedient to call this fact to the attention of the Bolivian delegates and we may hope that our negotiations in the Committee of Three will progress sufficiently or that a further understanding with Finot may be reached so that he will not insist again upon the presentation of his project.

1. Saavedra Lamas called me into his office alone before the afternoon session and told me that yesterday afternoon, with an Argentine engineer present, he had discussed a possible boundary line with the Paraguayan delegates and that he would like to have me meet with him, the Paraguayans and the engineer in his home at 9:30 tomorrow morning. When Macedo Soares and Cruchaga arrived he likewise invited them. Macedo Soares was perturbed because he felt, with some reasons, that Saavedra Lamas was trying to force the negotiations back into his own hands and to eliminate the Committee of Three. He and Cruchaga therefore insisted that the Paraguayans must not be present at tomorrow's meeting, to which Saavedra Lamas assented.

2. Saavedra Lamas' nervousness over the Committee of Three is also demonstrated by the fact that he complained to Macedo Soares that he was not informed as to what was being done by the Committee and requested that Bunge be permitted to attend its meetings as an observer.

[Enclosure 2]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 14, 1936.

1. Macedo Soares is determined, alone or through the Committee of Three, to conclude a final Chaco peace treaty within the next few weeks. Saavedra Lamas resents the intervention of the Brazilian

and Chilean Chancellors and is bound that he will keep his hand in the negotiations. Cruchaga is confused on the whole situation but prefers any leadership other than that of Saavedra Lamas. My concern of the moment is to avert, if possible, a serious clash between Macedo Soares and Saavedra Lamas. Our negotiations are hampered by the parties being told one thing in their discussions with the Committee of Three and another by Saavedra Lamas. Of the three chancellors Macedo Soares has the clearest vision of the situation but even he is handicapped by an ignorance of many of the details.

The Paraguayans continue to procrastinate and are capitalizing to some extent on the latent dissension between the Foreign Ministers. The Bolivians would like to conclude the whole question promptly but above all insist that the "control and vigilance" be settled before the end of the M. of P. Conference . . .

2. With reference to page 4 of my December 12 memorandum, that same evening I urged upon Macedo Soares that he and Cruchaga not attend the Sunday morning meeting at Saavedra Lamas' house even though Saavedra Lamas had promised not to have Ramírez present. Therefore, at 9:30 yesterday morning I was the only member of the Committee to meet with Saavedra Lamas and his engineer, Dr. Revuelto. Saavedra Lamas "complied" with his promise not to have Ramírez present by having him arrive an hour later at 10:30.

3. The Minister first agreed with Ramírez that the large area lying to the north of the intermediary line "should also be considered in our deliberations". (Hitherto the Paraguayans have shown little or no desire to obtain possession of this territory nor even to include it in an arbitration.) Saavedra Lamas further delighted Ramírez with the assertion that "Paraguay had shed her blood and the lives of thirty thousand men to reach the intermediary line and that, in effect, she was therefore entitled to retain that line as a permanent frontier unless she acquired additional territory through the arbitration on the above-mentioned area to the north". I objected that the mediators as signatories to the Saavedra Lamas Anti-War Pact⁶² (and, incidentally, to the August 3 declaration⁶³) could not accept any such thesis. Saavedra Lamas tried to brush my remarks aside. I insisted that if the area to the north were to be arbitrated then a large portion of the Chaco lying to the south and east of the intermediary line also should be submitted to arbitration, adding that the Paraguayans should not object to this procedure since Ramírez had just held forth at length on how confident he was that their titles would be recognized by any court.

4. Ramírez remarked that he had drafted a "reglementation" respecting "control and vigilance" but that he had not yet received his

⁶² See *Foreign Relations*, 1933, vol. iv, pp. 288 ff., and *ibid.*, 1934, vol. iv, pp. 1 ff.

⁶³ *Ibid.*, 1932, vol. v, p. 159.

government's approval thereto. I urged that he obtain this approval immediately, if necessary flying to Asunción to get it since I was sure the Argentine government would lend him an airplane for this purpose, to which Saavedra Lamas agreed.

Ramírez said he would hurry matters and, as usual, promised that a *modus vivendi* along the Villa Montes road and covering the control and vigilance question would be arrived at within a few days. In my opinion his promises must be largely discounted.

5. If we can satisfy the Argentine Foreign Minister that the Committee of Three is not likely to succeed he will interfere less with its efforts. I therefore told him I was pessimistic about a solution being reached rapidly and implied that he was the only "genius" capable of such an accomplishment.

6. Saavedra Lamas said that he had been summoned by President Justo who said: "What is the matter? You are my Foreign Minister and should be handling the Chaco business; nevertheless, the Brazilian and Chilean Foreign Ministers came to see me." Saavedra said he had explained that he was very busy with foreign relations in general and the M. of P. Conference in particular, but promised that "he would collaborate with the Committee of Three," hence our meeting with Ramírez. For Macedo Soares to enlist President Justo's assistance in order to influence the parties and better to control Paraguayan deportees in Argentina is sound. But for Macedo Soares merely to appeal to the President in an attempt to keep Saavedra Lamas out of the negotiations may prove counter productive and perhaps cause trouble.

7. . . . Also last night Macedo Soares said he wished Cruchaga and me to accompany him in an interview with President Justo today. I suggested that an interview now was perhaps premature and that we should save our influence with the President until it was more needed. However, I am now informed that he has made an appointment to see President Justo alone tomorrow at three p. m.

8. Macedo Soares wisely has discussed the boundary settlement with Estigarribia and hopes that at a given moment the General may be induced to approve same, thus helping to force acceptance from the Franco government. Macedo Soares also summoned Elfo but the latter's influence will count for very little presently.

9. We have had a little difficulty in despatching the Special Military Commission to the Chaco as per our bargain with Finot since General Martínez Pita felt that he should have been consulted before this trade had been made with the Bolivian chancellor and also was anxious himself to negotiate on the fundamental question. In a meeting this morning at 11:15 we finally persuaded the General that (1) he and other members of the Commission should leave by airplane for the Chaco tomorrow; (2) under no circumstances should he dis-

cuss the fundamental question with anyone; and (3) if he found it necessary to go to Asunción or La Paz he should first obtain the approval of the Conference.

General Martínez Pita and Bunge were informed last night by Finot that if the Special Military Commission did not leave immediately for the Chaco he personally would withdraw from the M. of P. Conference and return to Bolivia.

10. Our Military Observers state that there have been no recent complaints from the Bolivians with respect to treatment accorded them by the Paraguayan police stationed along the Villa Montes road. Rumors of Paraguayan concentrations of troops continue and the Military Observers are unanimous in their belief that they should be supplied with a neutral airplane in order that they may adequately supervise both the Bolivians and Paraguayans, particularly as the former claim, with some justice, that the Observers have almost exclusively exercised a control over their forces.

[Enclosure 3—Extract]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 15, 1936.

2. Macedo Soares and I went over various Chaco plans and possible boundary lines that have been discussed hitherto. As a result Major Bastos, Military Attaché to the Brazilian delegation, was instructed to prepare two maps, one to be submitted to the Bolivians and the other to the Paraguayans:

The map for the Bolivians will show the maximum Paraguayan claims and a "suggested boundary line" approximately coinciding with the present intermediary line excepting that it will run through Capirenda, Carandaiti and Mandeyapeuca, thus placing the Villa Montes road within prospective Bolivian territory. The small area thereby acquired by Bolivia will be offset by locating the Paraguayan boundary along the Parapiti river. Also from the Parapiti river the boundary will run somewhat to the south of the present intermediary line and will cut the Paraguay river at Bahía Negra, 50 to 60 kms. south of where the intermediary line now intercepts it.

The map for the Paraguayans will show the approximate line of forts held by Bolivia in the Chaco prior to the war and will offer a permanent boundary running from Bahía Negra on the Paraguay river to Linares on the Pilcomayo river, i. e. the line previously suggested by General Peñaranda and Colonel Toro. Linares is located on the Pilcomayo river approximately 200 kms. to the southeast of

D'Orbigny, which was the terminal point for the boundary proposed on October 15, 1935, by the (Chaco) Peace Conference.

Both parties will indignantly reject these respective proposals, which are offered merely as bases for subsequent conversations. Although it is Macedo Soares' hope that the parties might be induced to accept the two proposed boundary lines as definite delimitations of their respective territories, leaving the area comprehended between these lines for arbitration either by The Hague Court or in the manner suggested by Cruchaga (see paragraph 4 of my memorandum dated December 12, 1936). I am not as optimistic as the Brazilian Foreign Minister with respect to the willingness of the parties (especially Paraguay) to arbitrate this afore-mentioned area. Also, I still feel that in the final analysis the Paraguayan fear of internal political repercussions will only be outweighed by a cash consideration.

3. The Committee of Three is scheduled to meet this afternoon at 5:00 o'clock, the Bolivians to be called in at 5:30 and the Paraguayans at 6:00.

4. The Paraguayan delegation yesterday informed the (Chaco) Peace Conference that Colonel Irrázabal, Military Attaché in Buenos Aires, had been named as the representative of the Paraguayan government to treat with General Martínez Pita and the S. M. C.⁶⁴ in the Chaco. Accordingly, it was arranged for Colonel Irrázabal to accompany General Martínez Pita in the airplane today. Ramírez stated that the Colonel had full instructions; however, this morning the airplane was supposed to leave at 8:00 a. m. but Colonel Irrázabal did not show up until 10:00 a. m. when he informed General Martínez Pita that he was not going but that Colonel Paredes (Commander of Paraguayan forces in the Chaco) would carry on the conversations with him. I anticipate that General Martínez Pita will have to visit Franco and Stefanich in Asunción if he is to meet with any success in his mission.

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[Enclosure 4]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 16, 1936.

1. The meeting of the Committee of Three at 5:00 p. m. yesterday afternoon was attended by José Roberto de Macedo Soares, the Brazilian Minister in Asunción, and Colonel Bastos. The maps showing "suggested boundaries" were submitted respectively to Messrs. Ramírez and Soler at 5:30 p. m. and Messrs. Finot, Alvéstegui and

⁶⁴ Special Military Commission.

Romero at 6:30 p. m. The map for the Bolivians had been altered so that the proposed boundary did not intercept the Paraguay river at Bahía Negra but instead terminated on the Brazilian frontier near Fortín Galpón. It was explained to each of the ex-belligerent delegations that the Committee's proposals were purely preliminary, made in order to initiate the negotiations in the hope that the parties would frankly express their views thereon and make counter suggestions. The proposals were not rejected as violently as had been expected. Both delegations stated that they would not dare transmit our suggestions to their governments, to which we replied that we had not expected them to do so until our conversations had advanced to a point where the Bolivian and Paraguayan aspirations were in closer approximation to each other.

2. Ramírez expressed his astonishment that we should even suggest a boundary which so completely ignored Paraguayan rights and the results of the war, and he argued that the mediators instead of attempting to negotiate a boundary line should devote themselves for some months to an exhaustive study of all the historical, geographical and juridical antecedents of the case and thereafter arrive at a "continental solution". Two or three times when we tried to commit the Paraguayans to a definite statement that our proposals were "unacceptable" Ramírez emphasized that "he did not say they were unacceptable but that he merely thought them so preposterous that he could not communicate them to his government".

3. The Bolivians, on the other hand, flatly rejected our proposal, Finot saying that Bolivia would rather have another war than permit a Paraguayan frontier on the Parapiti river and with reason he pointed out that our present indication was not as good as the October 15, 1935, Conference suggestion which had been rejected. I told him this rejection had been made purely because Paraguay likewise had refused to consider the Conference proposal but, based on conversations with Bolivia's former delegations, I had reported to the State Department that the La Paz government would accept our October 15, 1935, proposal. Alvéstegui contended that I erred in this statement but Finot said I was "more or less right" and admitted that he had been consulted at the time and had recommended acceptance.

4. Macedo Soares injudiciously told the Bolivians that Saavedra Lamas and the Argentine Government advised the acceptance of the suggested line. Finot expressed his surprise saying that he had gathered from his discussions with Carrillo⁶⁵ in La Paz that Argentina considered the Villa Montes-Santa Cruz highway important for Argentine-Bolivian trade and also planned to finance and construct a railroad from Yacuiba to Santa Cruz (through Villa Montes), there-

⁶⁵ Horacio Carrillo, Argentine confidential agent to Bolivia.

fore, if Bolivia did not forcibly eject the Paraguayans from their occupation in proximity to these lines of communication, then Argentina would do so.

5. The Bolivian delegation said their prime consideration was a port on the Paraguay river and that when we had suggested their having a free port instead of a sovereign port they had expected to receive in compensation a much larger slice of the Chaco.

6. Finot said that at an appropriate moment Bolivia would protest to the (Chaco) Peace Conference the Paraguayan fortifications constructed in Capirenda and Carandaiti. I remarked that they had put in plantations, built roads and some other public works but to the best of our knowledge not fortifications. Alvístegui said: "They are not what you would call fortifications but they nevertheless would be of service in the event of hostilities."

7. The Bolivian delegation also was disturbed by the receipt of a note yesterday morning signed by General Martínez Pita stating that he was leaving for the Chaco "to carry on conversations" with respect to the control and vigilance problem. I replied that strictly speaking the General should not have directed a note to them, in addition to the official communication by the Secretary General of the Conference and I added that the General had definite instructions: (a) The S. M. C. should prepare as rapidly as possible a recommendation covering the control and vigilance question which would serve as a basis for a Conference resolution in the particular. (b) Under no circumstances was the General to discuss the fundamental territorial question. At this juncture a copy of the following telegram received by the Secretary General arrived and was unwisely shown to the Bolivians by Macedo Soares:

"Situación inalterable. Debido mal estado caminos estación actual nuestra observación limitóse inmediaciones Villa Montes durante semana pasada. Coronel Valenzuela."⁶⁸

Finot and Alvístegui immediately seized upon this telegram as evidence that the Military Observers were supervising only the Bolivians and not the Paraguayans. I explained to them that it was merely a question of transportation, pointed out that they had been unable to supply the Military Observers with adequate facilities, that the Argentine automobile was old and in need of repair, that I had urged several times that the Conference (i. e. mediatory nations) purchase an automobile for our Observers and consider the acquisition of an airplane, but due to the fact that Dr. Saavedra Lamas and all the other delegates, excepting myself, had been occupied since the

⁶⁸ Translation: "Situation inalterable. Due to the bad state of the roads at this season our observation has been limited to the vicinity of Villa Montes during the past week."

first of the month with the M. of P. Conference we simply had been unable to attend to details of this nature.

8. The Committee of Three is to meet with the ex-belligerent delegations this afternoon.

[Enclosure 5]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 17, 1936.

1. The Committee of Three held a four and a half hour session yesterday afternoon which was attended by José Roberto de Macedo Soares, Major Bastos and the Brazilian Minister in Asunción.

2. Foreign Ministers Macedo Soares and Cruchaga finally are convinced that (a) it is well nigh impossible to negotiate successfully with Ramírez; (b) the only way in which we may hope to reach a final peace treaty is by means of a cash consideration.

At yesterday's session Ramírez was . . . intransigent and there were several fairly violent exchanges between him and Macedo Soares. On the other hand, Finot, without any prompting, stated that in his personal opinion the easiest and wisest way to obtain a final settlement was through a cash payment by Bolivia to Paraguay.

3. Since Sunday there has been no evidence of any further activity on the part of Saavedra Lamas with regard to the Chaco. If this condition continues to prevail then the following steps seem desirable: (a) endeavor to induce Stefanich's presence in our discussions and to eliminate Ramírez; (b) through the combined pressure of President Justo and Macedo Soares to force the Paraguayan deportees to adhere to any peace treaty which we may negotiate and not to make a political issue of the Chaco; (c) to explore further the question of a cash consideration.

4. Yesterday's session may be summarized as follows:

(a) Ramírez made his usual speeches about Paraguayan "loyalty" and "generosity" but insisted that the manner in which the Committee of Three was approaching the situation was utterly wrong, that the Chaco must be considered as a geographical unit and that the only hope for success lay in following one of two procedures: (1) carefully to review and study all of the historical, geographical and juridical antecedents of the Chaco problem, thus more or less automatically uncovering a solution; (2) to arrive at a final treaty through a method of mutual compensations.

(b) We suggested that the two ex-belligerent nations definitely agree now that Bolivia's sovereignty be recognized in all territory lying to the west and north of the intermediary line, the location of that line being slightly changed so as to leave the Villa Montes road

definitely within Bolivian territory but giving Paraguayan occupation access to the Parapiti river; and that Paraguay's sovereignty be definitely recognized in all territory lying to the south and east of a line drawn from Bahía Negra to Linares and that the ownership of the remaining occupied area be determined through direct negotiation or by arbitration; if by arbitration then Macedo Soares suggested that three of the mediatory nations undertake to act as arbitrators and that the other three assume the administration of the area under discussion. Ramírez attempted to argue that the lack of constitutional government in both countries prevented the acceptance of any such plan. We told him that on the contrary it made it more feasible. Ramírez then said that he "did not reject" but "simply refused to consider" our formula. . . .

(d) We then submitted to the Bolivian delegation the same proposal made to the Paraguayans excepting that we substituted the line from Bahía Negra to D'Orbigny for the Bahía Negra-Linares line, also observing that this proposal had been definitely rejected by the Paraguayans. Finot suggested that the definite delimitation of Paraguayan territory should be no further west than the Bahía Negra-Linares line and then remarked "that in the final analysis he thought the best and wisest procedure would be for Bolivia to make a cash payment to Paraguay in return for a port on the river and a better territorial settlement". Finot added that he had not consulted with his colleagues and suspected that Alvéstegui did not favor the cash payment. The latter said that Finot had taken him by surprise, but, in fact, he did not like the idea. I then said that I had for months past continuously insisted that the only solution to the problem would come through the cash payment. Finot said that he knew I liked the idea since it was practicable and therefore would appeal to an American.

(e) Finot said that he did not like to leave any territory subject to discussion because that meant dealing with the Paraguayans and he did not want to have any traffic with them whatsoever. We then discussed the cash payment further. Finot, in reply to a question of mine, said that Argentina and Bolivia had signed a protocol whereby the former government would guarantee the construction (and presumably, operating) company which would build the railroad from Yacuiba to Santa Cruz. He also said that the Paraguayans had told President Justo that they were delaying the negotiations because the present Bolivian government was expected to fall shortly, hence it was futile to negotiate with it.

(f) Elío has agreed with Macedo Soares that he will not oppose nor openly criticize any peace treaty we may negotiate with the Toro government.

(g) Due to the absence of Cruchaga in Montevideo our next meeting is scheduled for 7:30 tomorrow afternoon.

(h) I recommend that, taking advantage of Dr. Feis's⁶⁷ presence in Buenos Aires, we consider a possible program looking to the smelting and refining of Bolivian tin ores in the United States. Any progress which might be made along this line might be helpful in inducing Bolivia to make a cash payment.

724.34/24a

The Acting Secretary of State to the American Delegate (Braden)

WASHINGTON, December 19, 1936.

SIR: The Department has noted two or three references in editorials, although not in the larger newspapers, to the effect that diplomatic relations between Bolivia and Paraguay have been resumed. While the Department is convinced that these references are based upon inaccurate information, you will please report upon any recent developments regarding the resumption of diplomatic relations between the two countries.

Very truly yours,

For the Acting Secretary of State:
FRANCIS B. SAYRE

724.34119/721

The American Delegate (Braden) to the Secretary of State

No. 332

BUENOS AIRES, December 24, 1936.

[Received January 4, 1937.]

SIR: I have the honor to report activity in the Chaco negotiations in memoranda which I have delivered to Assistant Secretary of State Welles.

I transmit herewith, as a matter of record, copies of my memoranda under the following dates: Two of December 18, 1936. Two of December 21, 1936. Two of December 22, 1936. Two of December 23, 1936.⁶⁸

Respectfully yours,

SPRUILLE BRADEN

⁶⁷ Herbert Feis, Economic Adviser in the Department of State, and Special Adviser, Inter-American Conference for the Maintenance of Peace.

⁶⁸ Memoranda of December 18, one of December 21, and one of December 23 not printed.

[Enclosure 1—Extract]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 21, 1936.

Several times since his arrival in Buenos Aires Castillo Nájera⁶⁹ has endeavored to sound me out on the Chaco situation. At first I spoke frankly with him but his insistence induced me to be more reserved of late. Therefore, I was interested on Saturday when Finot informed us that shortly after he arrived in Buenos Aires the Mexican Ambassador suggested that his government could bring about a final settlement of the Chaco. Finot replied that he welcomed any assistance but first must be offered a basis for negotiations. Castillo Nájera said he would cable to Mexico City and obtain a satisfactory basis. As a result, on the 18th instant he advised Finot that the Mexican government had consulted with the Paraguayan Minister, Jover Peralta . . . and that Paraguay exacted as a basis for negotiations Bolivia's acknowledgement of Paraguayan ownership of the entire occupied area. Finot rejected this proposal and thus terminated the Mexican attempts at mediation.

[Enclosure 2]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 22, 1936.

Rodrigues Alves will deliver to me this morning his draft "Chaco Resolution" for presentation at the closing session of the M. of P. Conference on Wednesday. His draft will be revised by Nieto and by me before presentation. Brazil undertakes to get a non-mediatory nation, probably Panama, to present the resolution (Cuba was not chosen because of internal difficulties; also, Rodrigues Alves and Macedo Soares thought that to have the Resolution signed by all delegations would appear to be exerting too much pressure).

Macedo Soares called a joint meeting of the Bolivian and Paraguayan delegations with the Committee of Three this morning but this idea was abandoned since in a talk which Cruchaga and I had with Ramírez yesterday afternoon it was evident that no useful purpose would be served by bringing the two ex-belligerent delegations together until we were more certain of our ground. Ramírez showed

⁶⁹ Francisco Castillo Nájera, Chairman of the Mexican delegation to the Inter-American Conference for the Maintenance of Peace; Mexican Ambassador in the United States.

that he had not receded from his previous intransigent attitude despite the favorable report we had received of his conversation with Macedo Soares on Sunday morning. Cruchaga remarked that "he was certain Stefanich would not come to Buenos Aires" and Ramírez concurred with him, at which point the following dialogue took place:

During the above conversation Cruchaga remarked that it would be a great concession and compensation were we to obtain from Bolivia the acceptance of a free port and the relinquishment of all idea of a sovereign port. Ramírez replied that could not be considered as a concession since if there were one thing upon which Paraguay was adamant it was that Bolivia should have no port on the river and that when he, Dr. Ramírez, had said "No" he did not know how to express himself any more definitely on the subject.

Late yesterday afternoon when Drs. Ramírez and Soler again doubted Stefanich coming to Buenos Aires I told them "that as a friend of Paraguay I considered it would be regrettable were he not to make the trip since Finot was on record as having come all the way from Bolivia not for the M. of P. Conference but almost exclusively to discuss the Chaco so that Stefanich's refusal would appear in a very unfortunate light and be interpreted in the history of the negotiations as unwarranted intransigence. Paraguay should not permit such a black mark to remain on the record".

The two Paraguayans said they had not thought of that aspect and would communicate my thought to their Foreign Minister.

[Enclosure 3]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 22, 1936.

The Peace Conference met this morning, Saavedra Lamas presiding, with the following delegates present: Foreign Ministers Macedo Soares⁷⁰ and Cruchaga,⁷¹ Ruiz Moreno,⁷² Bunge,⁷³ José Roberto de Macedo Soares,⁷⁴ Barros Borgoño,⁷⁵ Nieto del Río,⁷⁶ Barreda Laos,⁷⁷ Manini Ríos,⁷⁸ Martínez Thédý⁷⁹ and myself.

⁷⁰ José Carlos de Macedo Soares, Brazilian Minister for Foreign Affairs.

⁷¹ Miguel Cruchaga Tocornal, Chilean Minister for Foreign Affairs.

⁷² Isidoro Ruiz Moreno, Argentine delegate.

⁷³ Ricardo Bunge, Argentine delegate.

⁷⁴ Brazilian Third Delegate.

⁷⁵ Luis Barros Borgoño, Chilean delegate.

⁷⁶ Félix Nieto del Río, Chilean delegate.

⁷⁷ Felipe Barreda Laos, Chairman of the Peruvian delegation.

⁷⁸ Pedro Manini Ríos, Uruguayan delegate.

⁷⁹ Eugenio Martínez Thédý, Uruguayan delegate.

1. Telegrams respectively from the Argentine and Brazilian Ministers in Asunción were read advising that Stefanich, together with his wife and secretary, would fly to Buenos Aires tomorrow.

2. Cruchaga Tocornal made an excellent report on the Committee of Three negotiations to date.

3. Nieto del Río stated that Ramírez had told him last night Paraguay would be willing to consider a territorial settlement which gave Bolivia a free port on the river, definite possession of the territory to the north and west of the intermediary line providing the location of that line should be altered to a position 5 kms. east of its present position in the western Chaco, and be made to run along the Parapiti, thus giving the Paraguayans access to the water from that river. I pointed out that the Bolivians never would accept a Paraguayan frontier along the Parapiti and that 5 kms. was not a sufficient distance from the road and the projected Argentine-Bolivian railroad, but that the new frontier should be located at least from 50 to 100 kms. to the east of the present intermediary line.

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6. The projected "Chaco Resolution" prepared by Rodrigues Alves and another draft I had made were discussed and merged in one; the final form is now being polished up by Rodrigues Alves. José Roberto de Macedo Soares for some reason insisted that Venezuela should present this Resolution. Without making a point of it I stated that it seemed somewhat preferable that it be done by a smaller country such as Panama. Later on Rodrigues Alves, who had not been at the meeting, told me that he would endeavor to have Arias present the proposal.

I lunched today with Manini Ríos and Martínez Thédý; among the guests were Zubizarreta, Rivarola and General Estigarribia. The General confirmed to me his conversation with Macedo Soares and appears entirely reconciled to the advisability of an agreement being made at this time, even by the Franco government.

Zubizarreta maintained the present régime did not properly represent the Paraguayan people, therefore, any agreement entered into would later be disauthorized. I had quite a little discussion with him but he finally agreed that it would be perfectly all right to give Bolivia a free port but insisted Paraguay should retain the present occupied territory. I naturally did not mention the cash consideration to him. Rivarola, following Zubizarreta's lead, reversed what he had told me last Friday with respect to the deportees not making a political issue of the Chaco. Zubizarreta expressed his surprise at what he characterized as "Stefanich's serious blunder" in coming to Buenos Aires, saying that the Foreign Minister could not afford

to go home without some sort of an agreement, and since any agreement made would involve a sacrifice for Paraguay it would be unsatisfactory to the mass of the people and might even involve the fall of the Franco government.

Zubizarreta considered it unwise of the Conference to rush through an agreement now, but did admit that it would be unpatriotic of him to oppose a "fair" settlement even if consummated by his political enemies.

At the request of the Bolivian delegation the Committee of Three is meeting with them at 6:00 o'clock this afternoon.

[Enclosure 4]

Memorandum by the American Delegate (Braden)

BUENOS AIRES, December 23, 1936.

Pursuant to Finot's request for a meeting with Macedo Soares and me we met with him, Alvéstequi, Romero and Ostria Gutiérrez (former Bolivian Minister in Lima, now transferred to Rio) yesterday afternoon.

1. Finot commenced the conversation by saying that Secretary Welles had told him that the "Chaco Resolution" would be presented by Panama and that I could show it to him. Accordingly, we read to him our project of resolution which he approved excepting for a statement in Article I: "that the six American states had established a security system capable of avoiding a repetition of the painful tragedy". Previously I had suggested the elimination of this phrase but Macedo Soares preferred to have it remain unless the Bolivians objected. Finot was willing to leave it in providing we added certain qualifying expressions. We therefore compromised on its elimination and the draft was approved by him, as per attached copy.⁸⁰ Finot said this Resolution would satisfy public opinion in Bolivia and convince everyone that the M. of P. Conference had given adequate consideration to the Chaco.

2. Finot inquired whether press reports were correct in saying that Stefanich had been offered certain bases for discussion. Macedo Soares replied that the bases established for Stefanich comprehended a free port, Bolivian control of the road, and absolute sovereignty north of the intermediary line—the location of a boundary across

⁸⁰ For text, approved by the Inter-American Conference for the Maintenance of Peace on December 23, see *Report of the Delegation of the United States of America to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, Argentina, December 1-23, 1936*, p. 255.

the Chaco being left open for discussion, and that these bases had been made as a Conference and not a Bolivian proposal.

3. José Roberto de Macedo Soares reported that he and Bunge had requested Arias of Panama to submit the "Chaco Resolution". Arias inquired who had suggested his name and when told I had done so was elated to learn that the suggestion originated with the United States delegation.

4. President Justo last night made it a point to reassure me once again that we could count absolutely upon his wholehearted support and that we should not hesitate to call upon him in any way that we thought he might be useful.

5. I met Stefanich at the airport today and requested him to meet with the Committee of Three this afternoon. He apparently was perfectly well and Lafayette reported a smooth trip, but so far no time has been fixed, Ramírez advising that the Minister has not recovered from his air-sickness. I made the appropriate remarks on behalf of Secretary Hull. (Dr. and Sra. Stefanich are at the Plaza Hotel.)

A plenary session of the Conference is scheduled for 11:30 tomorrow in order to receive Stefanich.

P. S. The Committee of Three will meet at 9:30 a. m. tomorrow and receive Stefanich at 10:00 a. m.

724.34/25

The American Delegate (Braden) to the Secretary of State

No. 334

BUENOS AIRES, December 28, 1936.

[Received January 5, 1937.]

SIR: I have the honor to refer to the Department's instruction of December 19, 1936, inquiring regarding the renewal of diplomatic relations between Bolivia and Paraguay.

Diplomatic relations were renewed on August 21, 1936, but as reported in my telegram No. 169, August 20, 12 midnight, paragraph III, it was understood that diplomatic representatives would not be accredited for two or three months. With the differences between Paraguay and the Peace Conference regarding control and vigilance of the zone of separation between the ex-belligerent armies, the appointments making the renewal of relations effective have been delayed. Up to the present no consuls or diplomatic representatives have been appointed, though the Peace Conference is endeavoring to bring about these appointments as soon as possible.

Respectfully yours,

SPRUILLE BRADEN

724.34119/722 : Telegram

*The Ambassador in Argentina (Weddell) to the Consul at Santos
(Parsloe)*⁸¹

[BUENOS AIRES,] December 28, 1936—5 p. m.

For Welles from Braden. Saturday afternoon Finot stated to Conference he appreciated that the Paraguayan political situation made a definite territorial agreement impossible at this time. My impression is that Finot also is not averse to the delay. Upon his initiative the following signed statement was issued to the public:

"The Ministers of Foreign Relations of Paraguay and Bolivia before returning to their respective countries consider it opportune to manifest that the first personal interview which took place developed with great cordiality and they hope with reason that it will result in acts which will increase this good spirit.

"They also state that they exchanged ideas in order reciprocally to make known their viewpoints on the possible solution of the pending differences between the two countries.

"The Chancellors of Bolivia and Paraguay took advantage of this opportunity to reiterate their confidence in and to give well-deserved recognition to the Peace Conference and especially to its President, Dr. Saavedra Lamas, and to the subcommittee composed of the Chancellors of Brazil, Chile and the United States, the latter represented by Ambassador Braden, who have contributed to create this cordial and beneficial meeting."

I expressed my chagrin at this small accomplishment in view of the auspicious circumstances surrounding our recent negotiations but accepted it because of declarations by Finot and Stefanich that they both believed a final territorial settlement possible within a reasonable period. Both parties understand that if direct agreement is not reached within a reasonable period of two or three months the Conference will then declare direct negotiations terminated. I doubt whether even without Saavedra Lamas' meddling Stefanich in view of Paraguayan political uncertainty would have had the courage to reach definite agreement now.

The ex-belligerent viewpoints have at least been clarified, both Foreign Ministers contemplate a cash consideration, Finot has discussed a free instead of a sovereign port and Stefanich a permanent frontier within the present occupied area. We agreed this morning to continue territorial discussions with Stefanich during next few days. Also despite his statement to Finot that Paraguay would not remove police from the road I shall press before he departs for a satisfactory adjustment of the control question which if consummated will bring about immediate exchange of diplomatic representatives. [Braden]

WEDDELL

⁸¹ Copy transmitted to the Department from Argentina without covering despatch; received January 5, 1937, 12: 47 p. m.

BOUNDARY DISPUTE BETWEEN ECUADOR AND PERU ¹

722.2315/905

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

No. 223

QUITO, January 3, 1936.

[Received January 14.]

SIR: I have the honor to refer to my despatch No. 203 of December 3, 1935,² reporting that Peru had requested Ecuador to agree to submit to the Permanent Court of International Justice at the Hague the dispute relative to the Zarumilla district, and that the Ecuadorean Government had decided to decline the invitation. I have now received from the Minister for Foreign Affairs of Ecuador ^{2a} a copy of the note addressed to the Government of Peru on this subject and I enclose herewith a copy with a suggested English translation.²

The Department will observe that Ecuador rejects the argument advanced by Peru that the Zarumilla dispute is a possessory question. The Minister for Foreign Affairs asserts that it is simply a question of whether or not the Zarumilla River, recognized by both Republics as the provisional *de facto* boundary, has abandoned its natural bed, and denies that any change could have taken place which would affect the *status quo*.

He adds that the Zarumilla dispute is but a partial and incidental question to the boundary litigation; that an obligatory procedure is already in force which must eventually result in the arbitration of the question by the President of the United States; and that therefore, it is not susceptible for decision by the Permanent Court of International Justice.

In view of the foregoing considerations he declines the invitation of Peru. However, he counteracts with an invitation that both Governments jointly request the President of the United States to appoint a commission of three American experts. This commission would determine the existence or non-existence of an old bed of the Zarumilla River and in the event of an affirmative decision, would fix the approximate period when the river abandoned its old bed. Qualification is made that the decision will not prejudice the rights or territorial aspirations of either country.

¹ For previous correspondence, see *Foreign Relations*, 1934, vol. iv, pp. 457 ff.

² Not printed.

^{2a} Angel Isaac Chiriboga.

In addition, the Foreign Minister suggests that a *modus vivendi* be concluded immediately to remove the existing animated tension and to prevent any disturbance of the cordial and serene atmosphere which is essential for the negotiation and solution of the principal controversy.

I have been unable to ascertain what action Peru will take with respect to the suggestions made by Ecuador. However, in a conversation yesterday evening with the Secretary of the Peruvian Legation in which this subject was discussed, he made a very strong assertion which appears to reflect to some degree the attitude of his Government with respect to the general boundary question. He stated that Peru has on its side both right and possession in the matter of the territory in dispute and that, therefore, it could never consent to submitting the controversy to other than *de jure* arbitration.

Respectfully yours,

ANTONIO C. GONZALEZ

722.2315/921

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

[Extract]

No. 361

QUITO, May 5, 1936.

[Received May 12.]

SIR: I have the honor to report on a few recent conversations had at the Foreign Office with the Minister of Foreign Relations and the Under Secretary on Saturday, May 2, 1936, in connection with the present status of the Ecuadorean-Peruvian Boundary dispute. You will remember that in a recent despatch sent to the Department reference was therein made to a conversation had with Doctor José Gabriel Navarro³ indicating that a change of policy had been adopted by the Ecuadorean Government. The Minister of Foreign Relations stated that Peru had requested the Ecuadorean Government to send its representatives to Lima to define the arbitration before proceeding in the boundary dispute and it was his opinion and also that of his Executive Council that if said request was made in good faith and not for the purpose of further delays that the Ecuadorean Government would have no objection in so complying, provided, that immediate arrangements thereafter should be made to proceed to Washington. That Ecuador was exceedingly anxious to submit its boundary dispute entirely on legal principles rather than upon an equitable basis as heretofore contended because in the opinion of the Ecuadorean Government it felt that Ecuador could not lose the arbitration whether submitted upon a strictly legal or equitable basis and docu-

³ Former Ecuadorean Minister for Foreign Affairs.

mentation, and that to definitely determine the procedure to be adopted by Ecuador and its reply to Peru the Ecuadorean Minister to Washington had been summoned to Quito for an expression of his views in the matter. The Minister of Foreign Relations then stated that a few days ago the Minister of Peru to Ecuador, Arturo Garcia Salazar, had called to see him and stated that he brought good news from his Government, and upon inquiry by the Minister of Foreign Relations as to the good news the Peruvian Minister stated that his Government desired to join with the Ecuadorean Government in the formulation of plans to be adopted at the coming peace conference,⁴ but that he, the Minister of Foreign Relations, had replied that his Government had already forwarded to its Minister in Washington its suggestions and that it could not now join with Peru in that matter.

Respectfully yours,

ANTONIO C. GONZALEZ

722.2315/936a

*The President of Ecuador (Paez) to President Roosevelt*⁵

[Translation]

QUITO, May 7, 1936.

MY DEAR MR. PRESIDENT: In my desire to collaborate in the strengthening of peace on the American continent and to contribute to the success of the conference which you have been so good as to advocate,—with so much wisdom and timeliness,—for liquidating the problems of America, I take the liberty of submitting to your high judgment a summary of the boundary negotiations between Ecuador and Peru during recent years.

In June 1924 Ecuador and Peru signed a diplomatic instrument which has been denominated the Ponce-Castro Oyanguren Protocol,⁶ the purpose of which was to permit the two countries to settle their boundary differences in a compromise manner.

This Protocol remained a dead letter until October 18, 1933, on which date Dr. Polo, in the name of the Peruvian Government, invited the Ecuadoran Government "to initiate without delay at this capital (Lima) the direct negotiations agreed upon in the Protocol signed at Quito on June 21, 1924, for the settlement of the boundary question pending between our respective countries."⁷

⁴ For correspondence concerning the Inter-American Conference for the Maintenance of Peace, Buenos Aires, December 1-23, see pp. 3 ff.

⁵ Handed to President Roosevelt by the Ecuadoran Minister, June 1.

⁶ See *Foreign Relations*, 1924, vol. I, pp. 304-305.

⁷ See *ibid.*, 1933, vol. IV, pp. 561 ff.

On the 21st of November, 1933, Ecuador accepted the invitation extended by Dr. Polo, Peruvian Minister of Foreign Relations. On January 8, 1934, Ecuador invited Peru to request Your Excellency's leave to appoint, in accordance with the Protocol, the Washington Commissions.

You, Excellency, were so good as to accept the joint request of Ecuador and Peru on the 12th of February 1934.⁸

On the 13th of April the Ecuadoran negotiators met with those of Peru at Lima and held a first conversation in an atmosphere of frank cordiality. At this meeting Peru's Minister of Foreign Relations, Dr. Polo, offered to prepare a Memorandum "which will contain the line which Peru will propose as the basis of the discussion". A Memorandum which was to be presented at the next meeting of the delegates. It was agreed upon, further, that in the minutes of this first meeting there would be placed on record the desire of the two Governments to effect a rapid negotiation and "the sincere purpose of putting aside useless formulisms, using effective means for achieving the strong desire of the two peoples".

On April 28, 1934, the second conference was held, at which the minutes of the 13th were approved without their being signed. Minister Polo did not present the Memorandum offered.

On May 21, Minister Polo said to the Ecuadoran Minister, Dr. Viteri, that he had ready the Memorandum with the line which they would propose to us.

On August 9, 1934, the Ecuadoran and Peruvian negotiators met again and the latter declared their desire to enter then on dealing with the negotiations with regularity, setting the days on which the sessions would be held. The Ecuadoran Minister, Dr. Viteri, asked that the minutes of the session of April be signed, to which the Peruvian Minister, Dr. Polo, replied that it was not possible, as they were not yet written.

On August 13, 1934, there was held a new meeting, which Minister Polo did not attend. And after long discussion with Peruvian negotiator, Castro Oyanguren, author of the Protocol which originated all the negotiations, declared, in the name of the Peruvian Government, that he could not maintain the offer that Peru should be the party to first present the line.

On November 11, 1935, Ecuador, because of a principle of delicacy, saw herself obliged to withdraw her special negotiator at Lima, leaving only an official representation, for in more than a year it had not been possible to obtain a single conference with the Peruvian negotiators.

⁸ See note from the Secretary of State to the Peruvian Ambassador, February 12, 1934, *Foreign Relations*, 1934, vol. IV, p. 462.

On December 26, 1935, the Minister of Ecuador at Lima, Dr. Viteri, sent an invitation to the Peruvian Government to constitute the delegations at Washington, since the negotiations could not prosper at Lima. The Peruvian Chancellor refused this in a note of March 25, 1936, alleging that it was necessary first to determine, at Lima, the character of the arbitration to which the question was going to be submitted.

The Peruvian Government has taken pains to spread the idea that Ecuador was refusing any settlement since she did not even wish to discuss the character of the arbitration. This, Excellency, is false, absolutely false. Ecuador does not refuse it, but she does refuse to do it at Lima, and that is why she has proposed to Peru to locate the negotiation at Washington, in accordance with what was agreed upon; and there at Washington, under Your Excellency's high auspices, my country is prepared to discuss even the character of the arbitration, in spite of the fact that the Ponce-Castro Oyanguren Protocol contemplates nothing of the kind.

The futility of prosecuting negotiations at Lima will not be hidden from Your Excellency's penetration,—at Lima, where, since October 18, 1933, we have hardly been able, after a thousand efforts on our part, to secure three meetings with the negotiators of the other side for the purpose of concluding a discussion which has now lasted one hundred and seven years; where Peru, after having offered to present the basic [boundary] line for discussion, withdrew that offer for reasons which I can do no less than characterize as futile.

Under these circumstances, I believe, Excellency, that any negotiation at Lima is a failure in advance. Ecuador, who desires to preserve peace in America, who does not desire to see herself obliged to defend by arms her vital interests, has recourse, through me, to Your Excellency's equity and, laying the situation bare before you, requests of Your Excellency your valued good offices to the end that the Peruvian Government, honoring her pledged word, may come where she offered to come; that is to say, to Washington, where, under the equitable and serene auspices of Your Excellency, to whom both countries together entrusted the solution of so arduous a problem, the latter may come to a happy solution.

I ask a thousand pardons of Your Excellency for having troubled you with so long a communication, but I am obliged so to trouble you by my duty as a Mandatary, my love for peace, and the sincere and deep admiration which I profess for the high merits which adorn Your Excellency, among which merits the highest is your inestimable spirit of justice.

I beg Your Excellency [etc.]

PAEZ

722.2315/923

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

No. 371

QUITO, May 12, 1936.

[Received May 19.]

SIR: With reference to my despatch No. 342 of April 28, 1936,⁹ concerning recent developments in the Ecuadorean-Peruvian boundary dispute, I have the honor to report that no decision appears to have been taken concerning any change in the policy heretofore followed by the Government with respect to this problem. I availed myself of an opportunity this afternoon to inquire of the Minister for Foreign Affairs as to the outcome of his recent conversations on this subject with Minister Viteri from Lima and Minister Alfaro from Washington. He stated quite frankly that no definite decision had been reached, except that Ecuador now is disposed, and it has so indicated to Peru, to go to Washington and, before initiating negotiations for a direct settlement of the controversy, to define the character of the arbitration on those points where a direct settlement is not feasible.

The Minister was not very convincing in his statements. It was apparent that he feels that Peru does not want to go through with a settlement at this time. He seemed to be convinced that should representatives of Ecuador even go to Lima, no less Washington, for the express purpose of defining the character of the arbitration, Peru would find some pretext to delay indefinitely the next step of constituting its delegation in Washington. He then stated that Ecuador would be willing to define the nature of the arbitration even at Lima, provided that it obtained sufficient assurances that the matter would not rest at that point.

The Minister expressed the belief that nothing will be done in the boundary question until after the forthcoming Peace Conference in Buenos Aires. He entertains a forlorn hope that in some way the controversy will come up for discussion in the Peace Conference and that Ecuador will then be afforded an opportunity to set forth its point of view. He added that such a development would undoubtedly contribute to a prompt removal of the discussions to Washington.

It is my opinion that the Ecuadorean Government is convinced that Peru, on the eve of the presidential elections, is neither willing nor able to proceed with a discussion of the controversy. In view of this circumstance the Ecuadorean Government considers that nothing can be gained by any attempt upon its part at this time to conciliate the views of Peru in the matter of defining the character of the arbitration. It may be that Ecuador has indicated to Peru its willingness to define the arbitration in Washington before proceeding with direct negotia-

⁹ Not printed.

tions and its agreement to a *de jure* arbitration. However, I cannot escape the fear that this information, if it were communicated, has been done without any commitment.

Respectfully yours,

ANTONIO C. GONZALEZ

722.2315/936a

President Roosevelt to the President of Ecuador (Paez)

WASHINGTON, June 8, 1936.

MY DEAR MR. PRESIDENT: I have had the pleasure of receiving from the hands of your Minister on June first last your letter of May seventh. After reviewing the course of the boundary negotiations which have taken place between Ecuador and Peru during recent years, Your Excellency requests my good offices to the end that the Government of Peru may dispatch duly empowered representatives to this capital, in order that negotiations between the representatives of Peru and Ecuador may be continued in Washington under the auspices of the Government of the United States.

I have given the most careful consideration to your letter, and I desire to express my interest in the information therein contained as well as my deep appreciation of the friendly confidence which Your Excellency's message demonstrates.

The abiding interest of my Government in the maintenance of peace on the American continent and in the removal of all of the causes for controversies between the American republics which may endanger the preservation of peace between them is well known. I am consequently gratified by the reference Your Excellency makes to the initiative which I took in advocating an inter-American conference to be held in the near future in order to promote those high ideals.

As you have pointed out, I had the honor, on February 12, 1934, of acceding to the request made jointly by the Governments of Ecuador and of Peru that I agree, in accordance with the first article of the Ponce-Castro Oyanguren Protocol of 1924, to the dispatch by the Governments of Ecuador and of Peru to Washington of their respective delegations in order that such delegations might "discuss amicably the question of frontiers, to the end that, if they are not successful in defining a definite line, they are to determine in common agreement the zones which are to be recognized reciprocally by each of the parties and the zone to be submitted to the arbitral decision of the President of the United States."

It is, of course, the desire of this Government that the representatives of the American republics, when they assemble at the approaching Inter-American Conference, may gather together under the most

favorable possible auspices. Accordingly, it would necessarily be my sincere wish that all existing controversies which threaten to disturb or mar the friendly relations between the several republics may already have been submitted to the processes of peaceful adjudication before the Conference takes place. But I feel confident that Your Excellency will recognize that the arbitrator of an international dispute, if he is to carry out his high duties with the complete impartiality which his position demands, must refrain from taking any action which would appear to imply the bringing of any pressure, even in the form of moral influence, upon either of the parties to the dispute. If, under the conditions attendant upon my acceptance of the duties which I have been requested to undertake by the Governments of Ecuador and Peru, I were now to take any action, even action in the nature of a friendly and informal request, which might be construed by the Government of Peru as being beyond the limits of complete judicial impartiality, the confidence of the Peruvian Government in the arbitrator might be shaken, and as a result that speedy and equitable solution of the controversy so earnestly desired by the Government of Ecuador might be prejudiced or delayed.

While it is, therefore, to my regret, impossible for me to comply specifically with the request made of me, you may nevertheless rest assured that my Government will not fail to take every appropriate step which can be taken consistently with the responsibilities which I have assumed, in order to further the cause of peace on the American continent, and in particular the final adjudication of the boundary controversy between the Governments of Ecuador and Peru in a manner satisfactory and just to both parties to the dispute.

I ask Your Excellency [etc.]

FRANKLIN D. ROOSEVELT

722.2315/941

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

No. 4622

LIMA, June 30, 1936.

[Received July 7.]

SIR: Referring to despatch No. 4594 of June 9, 1936,¹⁰ and to previous reports concerning the Peruvian-Ecuadoran boundary situation, I have the honor to report that Dr. Homero Viteri Lafronte, the Ecuadoran Minister to Peru, recently has returned to this capital from a visit to Quito. It is clear that Dr. Viteri some time back became convinced that if any progress was to be made in the boundary negotiations, it would be necessary for Ecuador to yield to Peru's

¹⁰ Not printed.

insistence that before going to Washington some previous agreement must be reached between the two governments as to the basis on which any eventual arbitration should take place, and thus also the basis for any negotiations preceding arbitration in Washington. While Dr. Carlos Concha was Minister of Foreign Affairs in October of last year, he said that Peru would continue to seek arbitration on a basis of legal rights and titles (*de derechos*), and would not consent to any transfer of negotiations to Washington until the character of the arbitration had been determined.

With this in mind, Dr. Viteri went to Quito in order to present the situation to his Government and with the intention of procuring a change of front on the part of Ecuador. Apparently he has succeeded, for he states that the Ecuadoran Government has granted authorization for the removal of the boundary negotiations from Lima to Washington, with the agreement that final arbitration of the boundary will be on the basis of legal rights and titles (as demanded by Peru). It will be recalled that the Ecuadoran Government has until now held out for discussions and arbitration on a basis of equity and existing conditions.

Immediately upon his return to this capital Dr. Viteri began his conversations with the Minister of Foreign Affairs, and he states that the Government of Peru still insists that definite agreement be reached here in Lima concerning the basis for future discussions and arbitration. However, apparently in order to save face, Dr. Viteri is now endeavoring to persuade the Peruvian Government to accept the formula that the two Governments will constitute their respective delegations in Washington where arbitration on a basis of legal titles will be agreed upon. In other words, Dr. Viteri is endeavoring to have the negotiations transferred to Washington on the promise by Ecuador that any eventual arbitration will be on the basis desired by the Government of Peru. The Minister of Foreign Affairs of Peru still is holding out for definite agreement here so that direct negotiations as well as arbitration in Washington will be upon the basis of legal claims. Dr. Viteri seems optimistic with respect to the reaching of an agreement, and it would appear that if the Government of Peru does not yield, the Government of Ecuador will, so that in any case the direct negotiations will be continued in Washington.

It will be seen that this represents a concession on the part of Ecuador, but one which the Government of Peru considers only reasonable. Dr. Viteri mentioned that the idea has gained ground in Peru that Ecuador wishes to avoid arbitration and that while he was in Quito, he found it necessary to persuade his Government that as they have faith in their contentions and their rights to the territory in dispute, they must be willing to have the matter settled on the basis of

legal titles and also to go to arbitration in case direct negotiations in Washington do not lead to complete settlement. He added that it is hardly to be expected that the two Governments can agree on the whole boundary line by direct negotiations, but that he feels sure they can agree on parts of the territory mutually recognized by each as belonging to the other, thus leaving only a portion of the boundary to be fixed by arbitration. Dr. Viteri mentioned that such feeling as existed in his country in opposition to arbitration was due to sad experience and it was necessary for him to show that element that the unsuccessful arbitration by the King of Spain was quite a different thing from what may be expected in the Republic of the United States; it being his belief that the advisers of the king in the monarchy were corrupt and subject to mercenary consideration, while this is out of the question with the Government at Washington.

Dr. Viteri mentioned that when it was supposed that President Lopez of Colombia was going to visit Quito and Lima, it had been hoped that he might lend his auspicious presence to favoring the signing of an agreement between Ecuador and Peru, but that now it hardly seems probable that President Lopez will be able to visit these countries during the present year and naturally the signing of the agreement should not be put off until next year in the expectation that he may be able to come later. Dr. Viteri seemed to feel that the agreement to take the negotiations to Washington might be reached within the next two months. He recognizes the fact that Dr. Alberto Ulloa, the present Minister of Foreign Affairs, realizes that he is in office for only a comparatively short time, since the presidential elections are scheduled to be held in Peru on Sunday, October 11, and the new president presumably will take office in December. However, he believes that Dr. Ulloa is ambitious to have as much to his credit as possible and he hopes that the two Governments may actually have their representatives in Washington and carrying on the negotiations before December of this year. For some reason which I do not quite understand, Dr. Viteri seemed to feel that the appointment of the Peruvian delegates to Washington would be of a permanent nature and not subject to replacement following the change of administration here. On the other hand, he mentioned that Dr. Concha had refused to be one of the Peruvian delegates because he wanted a more permanent position. He mentioned that he understands Peru will appoint as its three delegates, Dr. Arturo Garcia Salazar, at present Peruvian Minister at Quito, and the two present Peruvian delegates to the League of Nations, Dr. Francisco Tudela y Varela and Dr. Victor Andrés Belaúnde.

It appears that the situation along the boundary now is tranquil and the Ecuadoran members of the Mixed Commission for the pur-

pose of preparing a complete map of the Zarumilla region (see page 2 of despatch No. 4518 of April 25, 1936¹¹) now are on the ground. The Peruvian members of the Mixed Commission are scheduled to arrive there about July 3rd, and it is expected that the survey of that region will begin immediately.

Respectfully yours,

For the Ambassador,
R. M. DE LAMBERT
Secretary of Embassy

722.2315/967

*Agreement Between the Republics of Ecuador and Peru, Signed at Lima, July 6, 1936*¹²

[Translation]

The Republics of Ecuador and of Peru desirous of settling the difficulties caused until now by the divergency in their viewpoints with respect to the execution of the Protocol of June 21, 1934 [1924];

And considering that they have held throughout the long discussion of their boundary question the purpose of resolving it by peaceful means and the confidence of reaching a complete and definitive settlement of the controversy,

Have appointed their respective plenipotentiaries, namely:

His Excellency Federico Páez, In Charge of the Supreme Power of Ecuador, to His Excellency Homero Viteri Lafronte, his Envoy Extraordinary and Minister Plenipotentiary near the Government of Peru, and

His Excellency General Oscar R. Benavides, President of the Republic of Peru, to His Excellency Alberto Ulloa, his Minister for Foreign Affairs;

Who, after exchanging their respective credentials which have been found in order, have agreed as follows:

Article 1. Ecuador and Peru undertake to define that the arbitration provided for in Article 1 of the Protocol of June 21, 1924, is a *de jure* arbitration. This definition will be incorporated in the minutes of the inaugural session of the Delegations referred to in the following article.

Article 2. The Delegations established by Article 1 of the said Protocol shall be composed of three plenipotentiary delegates each and shall meet in Washington the 30th of September of the present year. The two governments shall communicate to each other in writing at this time the names of their delegates and shall notify each other opportunely of any substitutions that they may make.

¹¹ Not printed.

¹² Copy supplied by the Ecuadoran Foreign Office and transmitted to the Department by the Minister in Ecuador in his despatch No. 493, August 19; received August 28.

Article 3. Ecuador and Peru shall maintain the *status quo* of their present territorial positions until the termination of the negotiations in Washington of the arbitral proceedings without this implying recognition by one of the parties of the right of the other to the territories at present possessed.

In witness whereof the above named plenipotentiaries sign this act and affix thereon their seals, in duplicate, in the city of Lima the 6th day of July, 1936.

HOMERO VITERI L.
ALBERTO ULLOA

722.2315/945

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

No. 434

QUITO, July 7, 1936.
[Received July 15.]

SIR: I have the honor to report that the Minister of Foreign Relations has just requested me to call at his office from which I have just returned. He stated that he wanted me to have the first information that last evening at 7:30 p. m., in the city of Lima an agreement was signed by the Ecuadorean and Peruvian Governments under which it was agreed to name delegates and proceed to Washington and arbitrate before the President of the United States, and that said delegates will report to the President of the United States on September 30th next, ready to proceed with the arbitration proceeding.

That all matters in which a controversy may be had are to be decided along legal lines. The delegates named to represent Ecuador are Dr. Alejandro Ponce Borja, Dr. José Vicente Turjillo and Dr. Homero Viteri Lafronte; the Peruvian delegates are Dr. Francisco Tudela, Peruvian Minister to Washington, Mr. Arturo Garcia Salazar, the Peruvian Minister to Ecuador, and Dr. Victor Andres Belaunde. He stated further, that a few days ago and just immediately prior to the return to Peru of the Ecuadorean Minister, Doctor Viteri Lafronte, it was taken for granted that as a result of the activities of Dr. Lopez, President of Colombia, on behalf of Ecuador, matters had become so entangled that Ecuador and Peru would not be able to get together, but that Doctor Viteri Lafronte was requested, upon his return from Ecuador to Lima to make a final effort and that effort had resulted in the signing of the agreement last evening.

The Minister of Foreign Relations stated that he believed, and so did the Jefe Supremo, that the coming Pan American Peace Conference had had a great bearing in persuading Peru to enter into this agreement, since Peru did not wish to have the matter ventilated at the Conference.

The Minister of Foreign Relations stated that tomorrow he would deliver to me a memorandum setting forth further details concerning the agreement.

I then called on the Jefe Supremo to extend my congratulations and he stated that he was overjoyed with the outcome in the matter and felt that no matter how the arbitration would be settled that a settlement would be reached in the matters before the delegates left Washington, and that he would appreciate having me convey the message to the President of the United States that both he and his people had implicit confidence in him.

Respectfully yours,

ANTONIO C. GONZALEZ

722.2315/942a : Telegram

*The Secretary of State to the Chargé in Peru (Dreyfus)*¹⁸

WASHINGTON, July 9, 1936—6 p. m.

31. The President received this morning at 11 o'clock the Ambassador of Peru and the Minister of Ecuador who advised him officially of the terms of the protocol signed by the two Governments on July 6. The President expressed to the two envoys his extreme gratification at the news of this important event and made the following statement to the press:

"On February 6, 1934, I consented to serve as arbitrator in the boundary dispute between the Republic of Ecuador and the Republic of Peru in accordance with the terms of the Ponce-Castro Oyanguren Protocol concluded between those two countries in 1924, which provided that if the two Governments were unable to fix a definitive line through direct negotiation, the zone upon which they could not agree should be submitted to the arbitral decision of the President of the United States. I have been particularly glad to receive, today, the visit of the Ambassador of Peru and of the Minister of Ecuador, who have officially advised me that the nature of the arbitration has now been agreed upon by the two Governments through a further protocol signed on July 6th, last, which also provides that the Delegations of the respective countries will commence their final negotiations in Washington on September 30th, next.

This decision of these two great Republics to hasten the peaceful adjudication of this long continuing controversy will be regarded as a motive for encouragement and gratitude by all lovers of peace on the American continent. It will do much to insure the success of the deliberations of the twenty-one American Republics at the approaching Inter-American Peace Conference."

HULL

¹⁸ The same, *mutatis mutandis*, July 9, 6 p. m., to the Minister in Ecuador as telegram No. 24.

722.2315/967½

Memorandum by the Assistant Secretary of State (Welles) to the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] August 27, 1936.

The attached personal letter from Mr. Gonzalez¹⁴ is of interest. I have thought for some time that there seemed to be a lack of comprehension on the part of the Government of Ecuador of the functions of this Government up to the time when the President of the United States actually assumes jurisdiction as arbitrator. If you have the opportunity, it might be well for you to discuss this whole subject with the Minister of Ecuador. I have already indicated to him that until such time as the two Governments have complied with the terms of the protocol and have either reached an agreement on the arbitral zone or have presented to the arbitrator the two zones which they submit to the jurisdiction of the arbitrator, the role of this Government is merely that of a friendly and conciliatory host and that we have no intention of being represented during the course of the preliminary negotiations between the two delegations. In order to avoid future misunderstandings or possible controversies, perhaps you will wish to go over this aspect of the question with Mr. Hackworth¹⁵ and give the Minister of Ecuador an *aide-mémoire* setting forth our views on this subject.¹⁶

S[UMNER] W[ELLES]

722.2315/976a : Telegram

*The Secretary of State to the Minister in Ecuador (Gonzalez)*¹⁷

WASHINGTON, September 16, 1936—6 p. m.

32. Please advise the Minister for Foreign Affairs upon the next appropriate occasion offered you, that because of his particular interest in the approaching negotiations in Washington between the Peruvian and Ecuadoran delegations for the settlement of the boundary controversy between the two republics and because of his profound conviction that a successful conclusion of these negotiations will mark an important step in the cause of the maintenance of peace on the American continent, the President has arranged to have the first formal session of the two delegations take place at the White House at 3 p. m. on the afternoon of September 30 in his own presence.

¹⁴ Dated August 18; not printed.

¹⁵ Green H. Hackworth, Legal Advisor.

¹⁶ *Aide-mémoire* for the Ecuadoran Minister and the Peruvian Ambassador were drafted but not sent.

¹⁷ The same, *mutatis mutandis*, September 16, 6 p. m., to the Chargé in Peru as telegram No. 41.

It is understood that the delegations are to hold their subsequent sessions at the Pan American Union. You may express the hope of this Government that the arrangements suggested will be agreeable to the Government of Ecuador.

HULL

722.2315/1000

Press Release Issued by the Department of State, September 30, 1936

TEXT OF THE PRESIDENT'S REMARKS AT THE MEETING OF THE DELEGATES
OF ECUADOR AND PERU AT THE WHITE HOUSE, SEPTEMBER 30, 1936

YOUR EXCELLENCIES: In the agreement signed at Lima on July 6, 1936, by the Minister for Foreign Affairs of Peru and the Minister of Ecuador to Peru, for the purpose of making operative the provisions of the Protocol of June 21, 1924, it is stated that these two great Republics, throughout the course of the long discussion of their boundary controversy, have never faltered in their determination to settle this boundary question by pacific means, and have ever been confident of their ability to arrive at a complete and permanent solution of the controversy.

It is in that spirit that the Delegations of Ecuador and Peru meet in Washington today. I welcome you to the capital of my country, which shares with your countries the conviction that disputes between nations, when the will for agreement exists, can always be resolved by peaceful methods of negotiation, conciliation or arbitration.

Within the past few years, several boundary disputes in this hemisphere have been settled by peaceful means. Two other American Republics at the present time are giving clear evidence of their faith in and adherence to this procedure. These are matters for legitimate pride on the part of the nations of the new world. It is my sincere hope, which, I am confident, will be fulfilled, that another important chapter in this inspiring record may be written by the Delegations of Peru and Ecuador as a result of the friendly negotiations which are being initiated today.

The Protocol of June 21, 1924, provides for a further Protocol to embody the terms of the common agreement reached through these discussions. After the ratification of this agreement by the Congresses of your two countries, if there is a territorial zone upon which agreement has not been possible, that zone is to be submitted to the arbitral determination of the President of the United States. If that duty falls to me, I pledge to you my best endeavors to conclude successfully the work of peace which you are about to begin.

The maintenance of peace in this Western Hemisphere must be the first concern of all of our peoples and of their Governments. I am

confident that your deliberations here will furnish further encouragement and support for the practical application of the principle of the pacific settlement of disputes among nations.

So, you are doubly welcome to the United States and to this capital. You are very welcome because of your high purposes, and you are equally welcome as distinguished representatives of our two sister Republics. I wish you Godspeed in your mission of Peace.

722.2315/1014

The Second Secretary of Legation in Ecuador (Sparks) to the Chief of the Division of Latin American Affairs (Duggan)

QUITO, December 12, 1936.

[Received December 28.]

DEAR LARRY: In my conversation yesterday with the Foreign Minister relative to the proposed trade agreement, the boundary question came up. The Minister indicated that he had communicated with Albornoz¹⁸ at Buenos Aires and that the latter had had discussions with Mr. Welles¹⁹ concerning the expediency of the appointment of an observer at the negotiations in Washington. He intimated that while Mr. Welles was opposed to any participation in such capacity by the United States, he looked with favor upon another country's acting as an observer, and the name of Brazil was apparently mentioned.

He also referred to the actual negotiations in Washington and reiterated reactions already expressed with regard to Mr. García.²⁰ This time he went further in stating that his Government is almost convinced that Peru is deliberately delaying the matter until after the Buenos Aires Conference. In support thereof he cited the fact that Señor Belaunde²¹ had absented himself from Washington and is now in Cuba where his wife is ill because of which he cannot proceed to Washington. Also, the Ecuadoreans attempted to get down to business but García is reported to have declared that the Peruvian Delegation is not there to discuss principles, lines or rights, but rather to establish the Peruvian frontier. According to General Chiriboga,²² he then proceeded to outline that Peru's idea of a frontier was to follow the general lines of the territory, or better said the outposts, now occupied by both countries.

¹⁸ Humberto Albornoz, Chairman of the Ecuadoran delegation to the Inter-American Conference for the Maintenance of Peace.

¹⁹ Sumner Welles, Assistant Secretary of State, then at Buenos Aires as American delegate to the Inter-American Conference for the Maintenance of Peace.

²⁰ Arturo García Salazar, Peruvian delegate to the Washington Conference.

²¹ Victor Andres Belaunde, Peruvian delegate to the Washington Conference.

²² Angel Isaac Chiriboga, Ecuadoran Minister for Foreign Affairs.

The Foreign Minister has obviously changed his entire outlook with regard to a possible *de jure* arbitration. You will recall that several months ago I reported that Doctor José Gabriel Navarro, now at Buenos Aires, had been able to convince the Government of the advantages to Ecuador of a *de jure* arbitration. General Chiriboga is now so convinced thereof and of the insecurity of the Peruvian thesis, that he feels that this is the reason why they wish to prevent the matter coming to arbitration.

While the foregoing would appear to indicate that the Ecuadoreans are very dissatisfied with the progress being made in Washington, the Foreign Minister gave me the impression that the situation is compensated by the apparent progress being made at Buenos Aires. He, in fact, indicated that Ecuador does not now feel that it would be in a difficult situation if nothing should be accomplished in Washington before the close of the Peace Conference. He intimated that the progress of the negotiations in Washington is being communicated to the different delegates at Buenos Aires and that any resolution or action taken there for the consolidation of peace will contemplate the points involved in the boundary dispute. In fact, he seemed to be most optimistic concerning the ultimate outcome of the Washington negotiations and the Buenos Aires Conference.

Sincerely,

EDDIE

722.2315/1012a

*The Chief of the Division of Latin American Affairs (Duggan) to
the Assistant Secretary of State (Welles)*

WASHINGTON, December 21, 1936.

DEAR MR. WELLES: During the last week I have made an endeavor to familiarize myself from both the Ecuadoran and the Peruvian point of view with the boundary negotiations. Both delegations admit that little has been accomplished to date, but neither delegation is willing to take any responsibility for the situation.

The major difficulty has been to find some common point of departure. The Peruvians suggested that the principle of nationality, as Dr. Belaunde expressed it to me, the principle of self-determination, be used as a starting point. The Peruvian idea seems to be that a determination should be made, first of all, of the nationality of the inhabitants in the disputed area, and then with this information before them the delegation should proceed to draw a line. The Peruvians have emphasized to me that they do not expect that the final line would conform at every point to the division between Ecuadoran and Peruvian citizens, that they are ready to compromise and, in fact, feel that the principle of nationality could not be followed strictly without some inequity.

The Ecuadorans profess to me to be willing to discuss on any basis, including the basis of nationality, but I am inclined to feel that they are less anxious to discuss on the nationality basis than on almost any other. The fact is that there are several thousand Peruvians in the disputed area and relatively few Ecuadorans. Apparently in order not to decline entirely to discuss on the nationality basis, the Ecuadorans have maintained that it is necessary to go back to the time when the two republics won their independence. At that time it is presumed there were few Peruvians and few Ecuadorans, indeed if there were any of either nationality, in the disputed area. There have been discussions as to whether the period 1809 to 1811 should be used as dating Ecuadoran independence, or whether a later date should be used.

The Ecuadorans are in favor of carrying on the negotiations by discussing some line. The Peruvians assure me that they have not declined to negotiate on that basis but feel that since it is the Ecuadoran preference that a line be discussed, the suggested line should be proposed by Ecuador. The Ecuadorans contend that just before he died Dr. Porras informed the Ecuadoran Minister in Lima that he had a line in mind. The Ecuadorans desire that this line be used as the point of departure. Although I have not checked with the Peruvians, the Ecuadorans state that in their meetings the Peruvians have maintained that the Foreign Office has been unable to locate the line said to have been drawn by Porras,—that the line must have been on a map included with Dr. Porras's personal papers which the Peruvian Foreign Office no longer has.

The question of the basis of negotiation has been sidetracked for ten days because of a discussion regarding the *acta*. About ten days ago it was decided that it would be well to formalize discussions so far in an *acta*. Accordingly a full session of all delegates was held at which their respective points of view were set forth in detail. A subcommittee was then appointed composed of Drs. Ponce and Belaunder to prepare the *acta*, summarizing what had been said. The subcommittee met, but instead of agreeing upon the exact language of the *acta*, merely agreed upon the points the *acta* should cover. Another formal session was then held at which the two delegations read their respective minutes of the session. The minutes did not coincide and for the last five or six days the two delegations have been struggling to agree upon what was said. The Ecuadorans claim that the Peruvians are being obstructive, that they want the *acta* to be so short that it will be impossible for the points of view of the two delegations adequately to be set forth. The Peruvians think that the *acta* should be as brief as possible, inasmuch as nothing has been accomplished. Privately the Peruvians tell me that they feel that the Ecuadorans want an *acta* so that they can produce it publicly on a

later occasion to show that nothing has been accomplished as a result of direct negotiations and that the matter should be turned over to the President for arbitration.

Dr. Belaunde's boy who had pneumonia has now recovered but is in Coral Gables, together with other members of Dr. Belanunde's family. He is going down to Florida, therefore, for the holidays. The Ecuadorans point to this as just another of a series of procrastinations.

In my opinion the situation is not as hopeless as might be inferred from the above remarks. The two delegations have held a number of meetings and to a limited extent have cleared the ground for advance. Moreover, I think that both delegations and their Governments have had their eyes upon the conference at Buenos Aires. What has occurred there cannot but have impressed both countries with the interest that the American nations have in a peaceful settlement of their longstanding boundary dispute. On the other hand, it seems to me that if the discussions here are not to be interminable, ending in possible failure, a degree of assistance will be necessary. Just as the Bolivian-Paraguayan negotiations²⁴ have been assisted by the mediatory nations, so I believe the negotiations here would be facilitated by some outside and impartial person or group who would act as a friend to both countries and endeavor to keep the negotiations moving along profitable lines. Possibly a single observer could perform this function, but I doubt whether it would be advisable for such a person to be a citizen of this country in view of the possibility that the matter may, in part at least, go before the President for arbitration.

I think you will be interested in the attached speech by Secretary Wallace,²⁵ particularly from page 4 on to the end.

Sincerely yours,

[File copy not signed]

722.2315/1014

*The Chief of the Division of Latin American Affairs (Duggan)
to the Second Secretary of Legation in Ecuador (Sparks)*

WASHINGTON, December 22, 1936.

DEAR EDDIE: I found your letter of December 12 regarding the boundary negotiations of great interest. During the last few days I have made a point of trying to find out exactly what is going on in the negotiations. I find that little actual achievement is noticeable, but on the other hand certain preliminary groundwork has been accomplished. Moreover, the lack of progress may be ascribed, I think,

²⁴ See pp. 35 ff.

²⁵ Henry Wallace, Secretary of Agriculture; speech not attached to file copy of this letter.

to the tactics of both delegations. Although it is clear that the Peruvians are going to be reluctant to negotiate on any basis which does not take into consideration the fact that they are in actual possession of a large part of the disputed territory, nevertheless it is clear to me that the Ecuadorans also have their preference for the basis of negotiations and are going to stubbornly hold out for negotiation on those bases. I think that the progress made at Buenos Aires cannot but have a favorable effect on the negotiations here, and believe that when the Secretary returns it may be possible for the President or him to take some initiative that may result in more productive conversations. The idea of an observer appeals to me.

I appreciate your passing along the information that comes to you regarding the negotiations and hope you will continue to do so, as it is very helpful.

Sincerely,

LARRY

DECISION OF THE DEPARTMENT OF STATE THAT THE UNITED STATES SHOULD NO LONGER BE GUIDED BY ARTICLE II OF THE GENERAL TREATY OF PEACE AND AMITY OF 1923 IN EXTENDING OR DENYING RECOGNITION TO GOVERNMENTS IN CENTRAL AMERICA

815.00 Revolutions/465

The Minister in El Salvador (Corrigan) to the Secretary of State

[Extract]

No. 561

SAN SALVADOR, January 21, 1936.

[Received January 27.]

SIR:

The Department is aware that a social autograph from the President of the United States was recently publicized in the Costa Rican press as constituting an endorsement on the part of our government of President Ubico's action in extending his tenure of office for eight years. Powerful dictatorially inclined leaders are now taking a cynical attitude toward constitutional government, inspired by the belief that the non-intervention feature so widely heralded as part of the Good Neighbor Policy gives them a free hand in the re-establishment of the old order of rule by force. Because of the fact that military interventions, or threatened interventions, have given rise to most of the pre-existent bad feeling against the United States in their republics, it is but natural that the negative doctrine of non-intervention has been especially stressed and given paramount publicity in connection with the promulgation of the attitude of a good neighbor. It seems timely to ask the Department for an instruction which might begin to develop or clarify to this and other Missions similarly situated the positive aspects of the good neighbor policy.

The powerful influence of our Missions is an established fact which leads political elements in these countries, and the public as well, to expect either opposition or cooperation. A completely negative position is unlikely of acceptance and subject to misinterpretation. Failure of a Mission to use its influence constructively may become a sin of omission with consequences fully as grievous as the former sins of commission. It would be useful to know the Department's point of view as to possible preventive steps which might be taken in advance of the rapidly developing situation alluded to in the earlier part of this

despatch. Liberal elements, some of which have been formerly active critics of the United States and bitter opponents of intervention have indicated to me that the co-operation (by diplomatic means) of the United States is more than welcome when it seeks to retain progress, and prevent bloodshed and the establishment of autocratic régimes and actual setting up of dictatorships such as the Machado régime in Cuba¹ and the Gomez dictatorship in Venezuela. They feel that a Liberal Government like that of the United States with its immense power and moral influence should lend its aid and cooperation in every peaceful way to retain progress and ideals and to aid the evolution of these countries toward real democratic republican government such as at present exists in Costa Rica. While realizing that the problems which occupy the Department make difficult the formulation of policies in advance of actual events, I respectfully submit the foregoing information and comment for reference and study in advance of probabilities in this area and to make some small contribution to a background upon which Departmental policy might be based and should the Department consider it advisable, instructions be issued to officers in the field, particularly in the development of a positive side of the Good Neighbor Policy and to emphasize the fact that it takes more than one good neighbor to make a good neighborhood.

Respectfully yours,

FRANK P. CORRIGAN

710.11/2026

Memorandum by the Assistant Secretary of State (Welles) to the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] March 17, 1936.

I feel that this despatch² requires some acknowledgment and that if acknowledgment is made, it should be made after very careful consideration of the questions involved.

I have, for some time, been unhappy because of my realization of the existence of the facts reported by Dr. Corrigan. While, fortunately, governmental interference as such will no longer be undertaken with regard to the strictly political questions and other more domestic concerns of the Central American Republics, nevertheless, I feel it is quite true that the personal influence of the American Minister, if exerted tactfully, quietly, and without publicity, and with regard to matters that affect the general relations between the Central American Republics, and, inferentially, their individual or joint relations with the United States, should be of the utmost value. In other words,

¹ See *Foreign Relations*, 1933, vol. v, pp. 270 ff.

² *Supra.*

non-interference should not be considered as a negation of helpful and friendly advice on matters in which the Central American Republics and ourselves, as well as, in a broad sense, all of the American Republics, have a legitimate interest.

I suggest that the Division prepare a memorandum covering what is believed to be a reasonable interpretation of these views so that consideration can be given to the drafting of an instruction.

S[UMNER] W[ELLES]

710.11/2026

Memorandum by the Chief of the Division of Latin American Affairs (Duggan) to the Assistant Secretary of State (Welles)

[WASHINGTON,] March 25, 1936.

The advisability of a clarification of the basis upon which our relations with the Central American Republics are to rest appears desirable, particularly in view of the political uncertainty in certain of those countries at the present time. To assist consideration of the matter, and inasmuch as our relations have been closely related to the 1923 treaties,³ Mr. Beaulac⁴ has made the attached study⁵ of those sections of the 1923 treaties having to do with the undertaking to maintain in the constitutions of the several republics the principle of non-reelection and the undertaking not to recognize governments coming into power as the result of revolution or *coup d'état*. This memorandum treats in some detail the situation arising from the recognition of General Martínez,⁶ the prolongation of his terms of office by Ubico,⁷ and the resulting action taken by the Governments of Nicaragua and Honduras, and concludes that as a result of the "acts of Guatemala, Honduras and even of Nicaragua, described above, we are no longer warranted in invoking the Treaty as a reason for denying recognition to any regime in Central America, since obviously we (who are not even a party to the Treaty) cannot justly invoke it in the case of one violation when the parties to it themselves have both violated it and failed to invoke it in the cases of other and previous violations."

³ Adopted at the Conference on Central American Affairs; see *Foreign Relations* 1923, vol. 1, pp. 320-327, and *Conference on Central American Affairs, Washington, December 4, 1922-February 7, 1923* (Washington, Government Printing Office, 1923).

⁴ Willard L. Beaulac, Assistant Chief, Division of Latin American Affairs.

⁵ Memorandum of February 18, p. 136.

⁶ See section entitled "Recognition of the Martínez Government of El Salvador by Guatemala, Honduras, and Nicaragua, and by the United States," *Foreign Relations*, 1934, vol. v, pp. 216 ff.

⁷ See section entitled "Attitude of the United States Towards the Continuation in Office of the President of Guatemala Beyond His Constitutional Term," *ibid.*, 1935, vol. iv, pp. 614 ff.

In view of the recent action by President Carias in convoking a Constituent Assembly in order to prolong his term of office,⁸ and of the possibility of difficulties in Nicaragua, Mr. Beaulac and myself thought that it would be well at this time to make clear to our diplomatic missions in the Central American Republics the attitude of this Government respecting the 1923 treaties, and that if the attached memorandum meets with your approval it might be sent under covering instruction to our various missions.

Your memorandum of March 17, after indicating that interference by this Government will no longer be undertaken with regard to the strictly political questions and other more domestic concerns of the Central American republics, raises the question of whether our representatives in the Central American republics might not use their personal influence in a helpful and friendly way with regard to matters affecting the general relations between the Central American republics, and inferentially their individual or joint relations with the United States.

In the situations of greater or lesser importance which are continually arising between the Central American republics to impair the maintenance of friendly relations, the exercise of good offices to assist amicable settlement of sources of friction certainly is desirable. Precipitate action can often be avoided and the way charted for friendly solution. It does not seem to me desirable, however, for a broad permission to be given our diplomatic representatives to use their discretion in these matters for the following reasons:

In the first place, it is not possible to foresee the precise nature of the situations that arise so that it is not possible to give any hard and fast instructions. Many situations are so delicate and complex that no action will be better than action the precise consequences of which cannot be foreseen. In a desire to be helpful steps might be taken based upon insufficient or inaccurate information which might be prejudicial rather than beneficial. Moreover, in the midst of an active, developing situation it is sometimes difficult for our representatives to maintain an impartial attitude and not to be influenced, no matter how hard he may endeavor to be objective. In the second place, vast importance is attached in Central America to the views of the United States. The opinion of a representative of this Government, even though expressed in his personal capacity, is usually taken to mean the considered judgment of this Government, and is given great if not conclusive weight. Finally, in Central America, where so much depends upon personal relationship, the abilities and standing in the

⁸ See section entitled "Extension of the Term of Office of the President of Honduras Through a Revision of the Political Constitution," pp. 682 ff.

local communities of our representatives varies so greatly that while the Department might be willing to give certain of them some leeway it undoubtedly would not wish to do so with others. On more than one occasion inept handling of situations by our own representatives has not only served to make these situations worse but has resulted in embarrassment for and intense criticism of the United States. For these reasons the advisability of any general instruction to our Central American missions is doubted. If our representatives are to be given any latitude in order to permit the discreet use of their personal influence I believe this might better be done after discussion here or, if that is impossible, by private correspondence.

LAURENCE DUGGAN

710.11/2026

Memorandum by the Assistant Secretary of State (Welles) to the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] March 26, 1936.

In accordance with our conversation of this morning, I am returning these papers to you herewith.

I suggest that an instruction to all of our legations in Central America be prepared, drawn up along the lines of our talk this morning, namely, instructing our respective ministers that in their official relations with the governments to which they are accredited, they should conduct themselves exactly as if they were dealing with one of the great republics of the south or with any non-American power; that is to say, that they should religiously abstain from offering advice as regards any domestic question and that if they are requested to give such advice, they should refuse to take any action except upon specific instruction from the Department of State. I think they should further be told that it is assumed that they will request instructions from the Department of State whenever questions have arisen or appear to be likely to arise relating to developments which may affect the relations between the government to which they are accredited and the other Central American republics. As an example of what I have in mind in this phase of the question is the recent rumor which has come to me that the President of Salvador is inclined to encourage the opposition in Honduras whereas the present government of Honduras has the backing of the government of Guatemala. Furthermore, I think Mr. Beaulac's extremely useful memorandum should be transmitted with this proposed instruction and should be referred to in the instruction as constituting the considered policy of the Department.

Of course this instruction is entirely negative in character. I think that for some years to come, as indicated in my original memorandum to you, the personal confidence which our ministers may inspire in the officials of the republic where they are stationed should be a power for good if properly exercised, and, if properly exercised, should not constitute any detriment to the standing of this Government on the continent nor under these conditions could the exercise of such influence be construed as interference either by this Government or by its representative on his own initiative. This should not be rendered impossible, but I agree with you that in certain cases the utilization of such influence would be undesirable on account of the personality and character of our minister. Consequently, in the last analysis activities of this kind should only be undertaken when specific authorization is given by the Department in special cases. The only way to handle this, of course, is through personal conference and not through official instructions.

At the present time I would not feel inclined to relax in any way the prohibitions to be contained in this proposed instruction. The Government of Nicaragua is going to use every effort to have Mr. Long interject himself into their serious political controversy.⁹ Both for the sake of this Government, for the sake of Nicaragua, and finally, to avoid any possibility of misconception of the sincerity of our policy at the Inter-American conference,¹⁰ it is undesirable to permit Mr. Long to get embroiled in these matters. In none of the other republics at the present time is there any reason why our minister should be called upon to use his personal good offices. We will, therefore, make no exceptions to the general prohibitions until and unless we think the situation demands it and the man on the spot capable of keeping within the required limit of tact and discretion.

The proposed instruction is a very important one since to all intents and purposes it constitutes a new precedent. It would be well to word it in such a way as not to create by it the impression that this government is assuming a sterile policy of aloofness, but rather that it wishes to carry out in all sincerity a policy of constructive and effective friendship solely provided that neither this government nor its representative are drawn into any domestic concerns of any one of the Central American republics.

S[UMNER] W[ELLES]

⁹ See section entitled "Revolution in Nicaragua," pp. 815 ff.

¹⁰ For correspondence concerning the Inter-American Conference for the Maintenance of Peace, held at Buenos Aires, December 1-23, see pp. 3 ff.

710.11/2060

*Memorandum by the Assistant Chief of the Division of Latin American Affairs (Beaulac)*¹¹

[WASHINGTON,] April 21, 1936.

OUR NEW POLICY IN REFERENCE TO THE 1923 GENERAL TREATY OF PEACE AND AMITY¹²

Now that the Department has made a decision no longer to be guided by Article II of the 1923 Treaty in extending or denying recognition to new governments in Central America, the question arises as to the procedure to be followed in making that decision publicly known. Ordinarily our decision might be made known by a simple announcement of the Secretary of State. In the present case, however, such an announcement might be interpreted by General Somoza and by others in Nicaragua, and outside of Nicaragua, as an invitation to General Somoza to rebel against the Government. It is known that General Somoza's fear that we would not recognize him if he carried out a successful *coup d'état* or revolution has been a strong deterrent to him in the past. It would be particularly unfortunate from our point of view if the impression were created that we were encouraging General Somoza, since he is, of course, already considered by many to be "our man".

On the other hand, if we make no announcement at this time of our policy, there is the possibility that Somoza will take over the Government in any case. Under our new policy, if General Somoza headed a regime which effectively governed the country and fulfilled its international obligations we would extend recognition to him regardless of his eligibility to recognition under the 1923 Treaty. If we should thus recognize General Somoza without having previously given notice of a change in our announced policy, the case against us might be even stronger because it would be alleged that we altered our policy after the event in order to be able to recognize General Somoza.

Our problem would be solved if one of the three remaining parties to the Treaty should express an intention to denounce it. After denunciation by one it would cease to be in effect as regards any country. From the information we have at hand, however, there is little prospect of denunciation by any of the three countries in the near future. President Sacasa is anxious to retain the Treaty for his own protection. Presidents Ubico and Carias, although themselves violating the Treaty, have taken no steps to denounce it, and one is led to believe

¹¹ Addressed to the Chief of the Division of Latin American Affairs and to the Assistant Secretary of State.

¹² Signed at Washington, February 7, 1923, *Conference on Central American Affairs*, p. 287.

that they may wish to retain it in order to discourage revolt against their Governments.

I discussed this subject at great length with Minister Hanna before he returned to Guatemala the last time, and it was agreed that Mr. Hanna would very discreetly probe the prospects of a denunciation of the Treaty by Guatemala. I never heard from Mr. Hanna on the subject and I doubt that he had the opportunity to go into this.

It has been suggested that during the peace conference at Buenos Aires, the conference might find an opportunity to declare that, in accordance with the policy of non-intervention, special rules of recognition would not be applied to any American states. Specific reference need not be made to Central America but such a declaration could be used as a point of departure for any action we might take under our new policy.

I don't know whether this idea is a practical one at all, but it might be explored by someone who is familiar with the work the conference may be expected to do.

W[ILLARD] L. B[EAULAC]

710.11/2060

Memorandum by the Chief of the Division of Latin American Affairs (Duggan) to the Assistant Secretary of State (Welles)

[WASHINGTON,] April 23, 1936.

I do not believe it would be wise to make any official pronouncement "out of the blue" with regard to the attitude of this Government towards the recognition features of the 1923 treaty. Such action would attract undue attention and give rise to great speculation. It seems to me it would be better to wait until some favorable occasion arises. Mr. Beaulac suggests that such an occasion might arise at the proposed peace conference, although this does not seem very likely to me.

LAURENCE DUGGAN

710.11/2060

Memorandum by the Assistant Secretary of State (Welles) to the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] April 23, 1936.

I share your own conclusions with regard to the attached memorandum.

It would seem unnecessary for us to make any public pronouncement in this matter. The violation of the provisions of the Treaty by both

the present Government of Guatemala and the present Government of Honduras make the Treaty a complete dead letter and if the contingencies referred to by Mr. Beaulac should arise and we were then blamed for not having made a public announcement, it would seem to me that only a curt reference to the violation of the Treaty by both Guatemala and Honduras would be sufficient to explain a non-continuation by ourselves of our previous support of the policy embodied in the Treaty.

S[UMNER] W[ELLES]

710.11/2026

*The Secretary of State to the Minister in Honduras (Keena)*¹³

No. 103

WASHINGTON, April 30, 1936.

SIR: Since 1923 this Government has been guided in certain phases of its relations with the Central American countries, specifically with reference to the recognition of new governments, by Article II of the 1923 General Treaty of Peace and Amity. A careful study has been made of recent events in Central America which bear a relation to that Treaty, and there is enclosed for your guidance a copy of a memorandum embodying the conclusion that "the United States should no longer be guided by Article II of the General Treaty of Peace and Amity of 1923 in extending or denying recognition to Governments in Central America, nor should it endeavor to utilize that Treaty as justification for any other action it may take or fail to take".

This memorandum, and the conclusion quoted, constitute the considered policy of the Department. The memorandum is for your own confidential information and should not be quoted from or referred to, nor should any reference be made at the present time to the conclusion reached. I am considering the manner in which the policy enunciated in the memorandum will be made known to the Governments of Central America, and will give you appropriate instructions in the matter in the future.

Reports from missions in Central America indicate that it would be helpful to have some general statement of the attitude which should be taken by this Government's diplomatic representatives when they are requested, or there appears to be an opportunity, to use their influence or good offices in connection (1) with some internal political situation, or (2) with some situation which may arise between two or more states and which may threaten to disturb relations between those states. The opinion has been expressed that the friendly advice

¹³ The same, April 30, 1936, to the American Missions in Costa Rica, El Salvador, Guatemala, and Nicaragua.

or good offices of our representatives might be helpful in overcoming situations apparently prejudicial to the country or countries concerned, and that such action on the part of our representatives would constitute real assistance within the meaning of the Good Neighbor policy.

It is undoubtedly true that in the past certain of our representatives in Central America have been able to be of assistance in the sense suggested, and their efforts have resulted in advantage to the countries concerned. In other cases, however, the efforts of our representatives have been less successful, and have not only resulted in no advantage to the countries in which they resided, but have prejudiced the relations of this Government with those countries and other countries of Latin America.

Concerning the Department's attitude toward informal advice, whether solicited or not, in connection with the purely internal affairs of the Central American States, I desire to make it clear that the Department expects its diplomatic representatives in Central America to conduct themselves in their relations with the Governments to which they are accredited, and with the people of the countries, in exactly the same manner they would if they were accredited to one of the large republics of South America or with any non-American power; that is to say, they should abstain from offering advice on any domestic question, and if requested to give such advice they should decline to do so.

I am not unmindful of the fact that particularly in the absence of any tendency on the part of this Government to become involved in the internal affairs of Central America, there has existed a tendency on the part of some of those Governments, or at least on the part of important elements within the countries, to seek our advice. In many cases in the past we have yielded to the requests of those Governments or groups. It has usually developed, however, that such advice rapidly came to be considered as intervention and, in fact sometimes terminated in actual intervention. The result in a majority of cases was that at the best doubtful assistance was rendered to the Governments, and the relations of the United States with those Governments, and with other Latin American Governments, were actually prejudiced.

The Department desires to make very clear that in instructing you in this manner it is, in the fullest sense, applying the Good Neighbor policy to Central America. This Government is desirous of carrying on with the Central American republics a policy of constructive and effective friendship, based upon mutual respect for each other's rights and interests. It would obviously be incompatible with this policy to become involved in the domestic concerns of any of the Central

American republics. It has been adequately demonstrated that there is great danger that such involvement in matters which are not directly of concern to us will prejudice not only the interests of the United States in Central America, but the interests of the countries of Central America as well.

With regard to questions which have arisen, or appear to be likely to arise which may affect the relations between two or more Central American Republics, the representatives of this Government will, of course, inform the Department in detail concerning such situations, together with recommendations as to possible action by this Government, in order that the Department, after consideration of all the information available, may issue appropriate instructions if they appear to be called for.

Identical instructions are being transmitted to the missions in the other Central American countries.

Very truly yours,

CORDELL HULL

[Enclosure]

Memorandum by the Assistant Chief of the Division of Latin American Affairs (Beaulac)

[WASHINGTON,] February 18, 1936.

RECOMMENDATION THAT AMERICAN POLICY IN CENTRAL AMERICA NO LONGER BE AFFECTED BY ANY PROVISION OF THE CENTRAL AMERICAN GENERAL TREATY OF PEACE AND AMITY OF 1923

Support of the 1923 Treaty by the United States.

The Conference of Central American States, at which the 1923 General Treaty of Peace and Amity was signed, was held in Washington and sponsored by the Government of the United States. Since the signature of the treaty, it has been the announced policy of the Government of the United States to be guided by the provisions of Article II of the Treaty in extending or denying recognition to new governments in Central America.

Article II of the Treaty reads as follows:

“Desiring to make secure in the Republics of Central America the benefits which are derived from the maintenance of free institutions and to contribute at the same time toward strengthening their stability, and the prestige with which they should be surrounded, they declare that every act, disposition or measure which alters the constitutional organization in any of them is to be deemed a menace to the peace of said Republics, whether it proceed from any public power or from the private citizens.

“Consequently, the Governments of the Contracting Parties will not recognize any other Government which may come into power in any of the five Republics through a *coup d'état* or a revolution

against a recognized Government, so long as the freely elected representatives of the people thereof have not constitutionally reorganized the country. And even in such a case they obligate themselves not to acknowledge the recognition if any of the persons elected as President, Vice-President or Chief of State designate should fall under any of the following heads:

"(1) If he should be the leader or one of the leaders of a *coup d'état* or revolution, or through blood relationship or marriage, be an ascendant or descendant or brother of such leader or leaders.

"(2) If he should have been a Secretary of State or should have held some high military command during the accomplishment of the *coup d'état*, the revolution, or while the election was being carried on, or if he should have held this office or command within the six months preceding the *coup d'état*, revolution, or the election.

"Furthermore, in no case shall recognition be accorded to a government which arises from election to power of a citizen expressly and unquestionably disqualified by the Constitution of his country as eligible to election as President, Vice-President or Chief of State designate."

Announced attitude of the United States toward Treaty.

Notice of the American attitude was given in the following telegram, dated June 30, 1923, to the Legation at Tegucigalpa,¹⁴ which was instructed to transmit it to the political leaders of Honduras and to give it the widest publicity:

"The attitude of the Government of the United States with respect to the recognition of new Governments in the five Central American Republics whose representatives signed at Washington on February 7, 1923, a General Treaty of Peace and Amity, to which the United States was not a party, but with the provisions of which it is in the most hearty accord, will be consonant with the provisions of Article II thereof which stipulates that the contracting parties: 'will not recognize any other Government which may come into power in any of the five Republics through a *coup d'état* or a revolution against a recognized Government, so long as the freely elected representatives of the people thereof have not constitutionally reorganized the country. And even in such a case they obligate themselves not to acknowledge the recognition if any of the persons elected as President, Vice-president or Chief of State designate should fall under any of the following heads:

"(1) If he should be the leader or one of the leaders of a *coup d'état* or revolution, or through blood relationship or marriage, be an ascendant or descendant or brother of such leader or leaders.

"(2) If he should have been a Secretary of State or should have held some high military command during the accomplishment of the *coup d'état*, the revolution, or while the election was being carried on, or if he should have held this office or command within the six months preceding the *coup d'état*, revolution, or the election.'"

That this Government was determined to apply the principle of non-recognition set forth in Article II regardless of whether Article II or any other part of the treaty were in force with respect to a

¹⁴ *Foreign Relations*, 1923, vol. II, p. 432.

particular country, is demonstrated by the following telegram dated July 14, 1923, from the Department to the Legation at Tegucigalpa:¹⁵

"For your information. The Department's No. 26, June 30, 3 p. m., sets forth the position of this Government as regards the recognition of new governments in Central America, and any modifications of the Treaty of Peace and Amity of February 7, last, made by the congresses of any of the Central American states in ratifying that Treaty would, of course, have no effect as regards the policy of the United States, which is not even a signatory of the Treaty. As clearly set forth in the Department's telegram above mentioned, the attitude of this Government in recognizing new governments in the five Central American Republics will be consonant with the provisions of Article II of the general Treaty of Peace and Amity, as signed at Washington on February 7, 1923."

On the date this policy was announced by the United States, only one Central American country, Nicaragua, had ratified the Treaty. It had therefore not entered into effect in the case of any country, since the treaty itself provides that it "shall take effect with respect to the Parties that have ratified it, from the date of its ratification by at least three of the signatory States."

In other words, the policy announced in the telegrams quoted above was that the United States would be guided by the provisions of Article II of the 1923 Treaty in its attitude with respect to the recognition of new governments in the five Central American Republics, whether or not those governments were parties to the treaty.

Modification of American attitude.

This policy was modified later when, following the denunciation of the 1923 Treaty by the Government of El Salvador,¹⁶ the United States extended recognition to the régime of President Martínez,¹⁷ to whom recognition could not have been accorded under the provisions of Article II.

The policy of this Government, therefore, with reference to the recognition of new governments in Central America, as announced, and modified in practice, is to be guided by Article II of the 1923 General Treaty of Peace and Amity in the cases of the countries still Parties to the Treaty, and to apply the ordinary rules of recognition in the cases of the countries not Parties to the Treaty.

Parties to Treaty.

The General Treaty of Peace and Amity of 1923, originally subscribed to and ratified by all five Central American countries, is still

¹⁵ *Foreign Relations*, 1923, vol. II, p. 435.

¹⁶ For denunciation of the treaty by El Salvador and Costa Rica, see *ibid.*, 1932, vol. V, pp. 345-349.

¹⁷ See section entitled "Recognition of the Martínez Government of El Salvador by Guatemala, Honduras, and Nicaragua, and by the United States," *ibid.*, 1934, vol. V, pp. 216 ff.

in effect among Guatemala, Honduras and Nicaragua.¹⁸ El Salvador and Costa Rica are no longer parties to it.

Pertinent Provisions.

Article II has already been quoted. Its last paragraph reads as follows:

“Furthermore, in no case shall recognition be accorded to a government which arises from election to power of a citizen expressly and unquestionably disqualified by the Constitution of his country as eligible to election as President, Vice-President or Chief of State designate.”

Article V of the Treaty reads as follows:

“The Contracting Parties obligate themselves to maintain in their respective Constitutions the principle of non-re-election to the office of President and Vice President of the Republic; and those of the Contracting Parties whose Constitutions permit such re-election, obligate themselves to introduce a constitutional reform to this effect in their next legislative session after the ratification of the present Treaty.”

The provisions quoted are aimed at (1) preventing the rise to power or continuance in power of a régime disqualified by the Constitution from exercising power; and (2) preventing a President or a Vice President from perpetuating himself in office.

Furthermore, as already noted, the first paragraph of Article II provides that “every act, disposition or measure which alters the constitutional organization in any of them is to be deemed a menace to the peace of said Republics, whether it proceed from any public power or from the private citizens[”].

Extension of Term of Office of President Ubico.

On April 2, 1935, the Guatemalan Legislative Assembly, then in session, received a communication from the Minister of Government and Justice transcribing certain recommendations of President Ubico with regard to changes in the Guatemalan Constitution which the latter felt to be necessary in order to provide the Government with more ample administrative powers.

While the Assembly had this document under consideration it received numerous petitions, obviously inspired, from the municipalities of the Republic, private individuals, and organizations within the Liberal Progresista Party (President Ubico’s party), requesting the inclusion of Articles 66, 69, and 99, dealing with the succession to the presidency, among those which the Assembly had under advisement.

¹⁸ See section entitled “The Conference of Central American States,” *Foreign Relations*, 1934, vol. iv, pp. 423-456, *passim*.

Articles 66 and 99 read as follows:

“Article 66. The Presidential term shall be six non-extendable years, and he who has exercised the Presidency by popular election, cannot be reelected, except after twelve years from the date of his having ceased in the exercise of his office.”

“Article 99. The total or partial reform of the Constitution shall be decreed only by the vote of at least two-thirds parts of the total number of Deputies, who form the Legislative Assembly, which shall set forth for that purpose the article or articles which are to be reformed.

“In any case in which there is sought the total reform of the Constitution or of articles 66 and 69 and of the present, or of one or various of these three, it can be decreed only when at least two-thirds of the votes aforementioned so decree it, in two distinct and consecutive periods of the ordinary sessions of the Legislative Assembly, and even thus, the Constitutional Assembly shall not be able to meet to take cognizance of the reform in such a case, until six years have passed counted from the time it was decreed.

“The reform of the Constitution can consist: of modifying, suppressing, adding to, substituting for or adding articles.”

The Legislative Assembly agreed to all the changes proposed by the Executive.

With reference to the amendment of the articles relating to the succession to the Presidency, the Assembly stated that it felt the Constitution prohibited it from taking action, and that it would refer the question of possible changes in Articles 66, 69 and 99, together with the petitions requesting the changes, to the Constituent Assembly for its consideration and action.

In addition to the provisions of Article 99 with reference to the amendment of the Constitution, Article 100 provides further as follows:

“Article 100. When the reform is decreed, the Legislative Assembly shall call elections for a Constituent Assembly, which should be set up within sixty days following the date of the call, except in the event contemplated in the preceding article, with respect to the reform of the 66th and 69th articles or any one of them, and the whole of the Constitution; in which event the call should be made by the Legislative Assembly, which holds office the fifth year, counting from the date on which the reform has been decreed, so that the installation of the Constituent Assembly may be verified at the end of the fixed term of six years.

“The article or articles whose reform may have been decreed, shall be inserted in the call.”

Articles 66, 69, 99 and 100 of the Guatemalan Constitution were given their present form when the Constitution was amended in 1927, and it is well known that the purpose was to make it impossible for a president to succeed himself or for him to be reelected before the end of twelve years following the expiration of his term of office.

The Constituent Assembly met on May 15, 1935. President Ubico attended the inaugural session and read a message in which, with reference to the petitions the Legislature had received favoring his continuance in office beyond the six years prescribed in the Constitution, he suggested that as a preliminary step the inhabitants of the Republic, without distinction as to sex or nationality, be consulted in a plebiscite. (There is no provision in the Guatemalan Constitution for the holding of a "plebiscite". On the other hand, as already noted, there are provisions which limit the presidential term to six years, and which prohibit reelection.)

A decree of the Constituent Assembly approved by President Ubico on May 27, 1935, called for a three-day "consultation" of all inhabitants of the Republic having civil rights, without distinction of sex or nationality, in which they might express their opinion concerning the following point: "Whether, in view of external circumstances which influence the internal life of the country, the permanence of General Jorge Ubico in the Presidency of the Republic beyond March 15, 1937, for a period which shall not exceed six years, is convenient to the interests of the nation."

The "consultation" was held on June 22, 23 and 24, and resulted in the expression of 843,168 affirmative opinions as against 1,227 negative.

Basing its action on the results of the "consultation", the Constituent Assembly, on July 11, 1935, "suspended the effects" of Article 66 of the Constitution for a period to expire March 15, 1943. Article I of the Decree of the Constituent Assembly reads in translation as follows:

"Article I. The constitutional presidency of General Jorge Ubico will terminate on the 15th of March, 1943, and to this end the effects of Article 66 of the Constitution are suspended until that date."

*Circular Note of July 17.*¹⁹

On July 17, 1935, the Minister of Foreign Affairs of Guatemala addressed a circular note to the heads of the diplomatic missions in Guatemala City reviewing briefly the history of the extension of President Ubico's term of office. In this note the Minister of Foreign Affairs stated that:

"One of the principal objects of General Ubico is to work zealously for the maintenance and the consolidation of the cordial relations which happily unite Guatemala and (name of country). The Government of Guatemala, to that noble end, has the hope of counting on Your Honor's most valued cooperation".

¹⁹ *Foreign Relations*, 1935, vol. iv, p. 635.

While signed by the Minister of Foreign Affairs, it will be seen that the note had somewhat the character of an autographed letter.

Reply of American Government.

The American Chargé d'Affaires ad interim in Guatemala acknowledged the receipt of the note, and stated that he had referred it to the Department of State.

When some time passed and no communication from the Department of State with reference to the note was received, the Guatemalan Minister of Foreign Affairs expressed to the American Chargé d'Affaires his interest in obtaining some sort of reply from the Department.

Because of the apparent relation between the extension of President Ubico's term of office and Articles II and V of the General Treaty of Peace and Amity, and because the United States had followed the policy of supporting the Treaty to the extent that it had made its attitude with respect to the recognition of new governments in Central America consonant with the provisions of Article II thereof, the Department determined, before replying to the note of the Minister of Foreign Affairs of Guatemala, to ascertain what replies, if any, Honduras and Nicaragua, the other Parties to the Treaty, had made.

The American Legation at Tegucigalpa reported that the Honduran Government had instructed its Minister in Guatemala to make a reply reciprocating the cordial sentiments expressed by the Guatemalan Minister of Foreign Affairs.

The Nicaraguan Minister of Foreign Affairs informed our Minister that he had received no word regarding the receipt of the note of July 17 from the Guatemalan Minister of Foreign Affairs.

On September 10, 1935, the Department addressed a telegram to the American Chargé d'Affaires in Guatemala ²⁰ saying that it had not considered that a reply by the Department to the Minister of Foreign Affairs' note of July 17 was called for, inasmuch as that note was addressed to the Legation and not to the Department. It stated further, however, that if the Minister of Foreign Affairs expected the Department to reply it would be glad to do so provided that other Governments had made replies. The Chargé d'Affaires was instructed to ask the Minister of Foreign Affairs what replies he had received from the other Central American Governments, and to transmit copies of the replies. Copies of the replies of the Central American Governments, including those of Honduras and Nicaragua, addressed by their representatives in Guatemala City, were duly received. The Nicaraguan Chargé d'Affaires had made a very cordial reply and had stated in his note that he was acting under instructions from his Government.

²⁰ *Foreign Relations*, 1935, vol. iv, p. 637.

Reply of the United States.

On September 13, 1935, the American Chargé d'Affaires in Guatemala, under instructions from the Department,²¹ replied to the note of July 17, 1935, in the following language:

"I have the honor to refer to Your Excellency's courteous note to this Legation of July 17, 1935, a copy of which I duly transmitted to my Government. I have now been instructed to inform Your Excellency that my Government has taken note of the contents of Your Excellency's communication and warmly reciprocates the cordial sentiments contained therein."

Autographed letter of President Ubico and consultation by President of Nicaragua.

On September 20, 1935, the American Minister in Nicaragua reported²² that President Sacasa had received a letter, dated July 30, from President Ubico (presumably an autographed letter), with reference to the extension of his term of office. President Sacasa said that he was sounding out the other Central American countries regarding their replies, and expressed the hope that this Government would inform him of our reply.

The Department, on September 25, 1935, informed Minister Lane²³ of the receipt of an autographed letter dated July 30, 1935, from President Ubico,²⁴ announcing his continuance in office until March 15, 1943, and stated that the usual reply would be made by the President to this autographed letter. (Such a reply was later made.)²⁵

With the same communication the Department transmitted to the Minister a copy of the note of the Minister of Foreign Affairs of Guatemala to the American Legation at Guatemala dated July 17, 1935, and informed the Minister of the steps the Department had taken prior to instructing the Legation at Guatemala to reply in the sense already expressed. A copy of the reply of the Nicaraguan Chargé d'Affaires in Guatemala to the circular note of July 17 addressed to him was also transmitted. In addition, the language of the Department's instruction concerning the reply the American Chargé d'Affaires was to make was quoted. Minister Lane was authorized to communicate the contents of the instruction and its enclosures orally and confidentially to President Sacasa.

Minister Lane informed President Sacasa of the contents of the Department's instruction and its enclosures, and the latter, together with the Minister of Foreign Affairs, informed him that the Nica-

²¹ Contained in telegram No. 27, September 12, 1935, 4 p. m., *Foreign Relations*, 1935, vol. iv, p. 638.

²² In telegram No. 77, *ibid.*, p. 638.

²³ In despatch No. 337, *ibid.*, p. 639.

²⁴ For translation see *ibid.*, p. 636.

²⁵ September 26, 1935, *ibid.*, p. 639.

raguan Chargé d'Affaires at Guatemala had had no instructions to address his note of July 24 to the Guatemalan Government. President Sacasa said that the text of the Chargé d'Affaires' note was especially distasteful to him because of his belief that the extension of President Ubico's term of office was a violation of the General Treaty of Peace and Amity of 1923 to which Guatemala was still a party. He stated, however, that his reply to President Ubico's autographed letter of July 30 would be along the lines of the reply the Department authorized the Chargé d'Affaires in Guatemala to make to the Minister of Foreign Affairs' note of July 17.

Recently, Dr. Arguello, Nicaraguan Minister for Foreign Affairs, visited Guatemala, apparently in the interests of his own candidacy for the presidential nomination in Nicaragua, and the Legation in Guatemala has reported that while the Minister of Foreign Affairs was in Guatemala he rebuked the Nicaraguan Chargé d'Affaires for his unauthorized reply to the Guatemalan Minister for Foreign Affairs' note of July 17. Dr. Arguello is reported to have told the Nicaraguan Chargé d'Affaires of the fact that consultations between the American Legation in Managua and the Nicaraguan Government had been held with reference to the Guatemalan Minister for Foreign Affairs' note of July 17 and President Ubico's autographed letter of July 30. Since Mr. Evertz, the Nicaraguan Chargé d'Affaires in Guatemala, is a close personal friend of President Ubico, it is to be presumed that President Ubico is now aware that the Guatemalan note and autographed letter have been the subject of discussions between our representative in Nicaragua and the Nicaraguan Government.

The Present Situation in the Central American Countries Still Parties to the Treaty.

Guatemala

The action of Guatemala in "suspending" the constitutional obstacles to President Ubico's continuance in office lays it open to the charge that it has violated Article V of the 1923 Treaty, which is again quoted for ready reference:

"The Contracting Parties obligate themselves to maintain in their respective Constitutions the principle of non-re-election to the office of President and Vice President of the Republic; and those of the Contracting Parties whose Constitutions permit such re-election, obligate themselves to introduce a constitutional reform to this effect in their next legislative session after the ratification of the present Treaty."

Furthermore, Guatemala's action was so lacking in constitutional sanction that in officially recognizing it, without protest, Honduras and Nicaragua have left themselves open to the charge of violating Article II of the 1923 Treaty, the last paragraph of which again is quoted:

“Furthermore, in no case shall recognition be accorded to a government which arises from election to power of a citizen expressly and unquestionably disqualified by the Constitution of his country as eligible to election as President, Vice President or Chief of State designate.”

Whether or not the action of Guatemala was in technical violation of Article V of the Treaty, or the action of Honduras and Nicaragua was in technical violation of Article II, the acts of the three countries referred to obviously have been in flagrant violation of the spirit of the 1923 Treaty, and have had the effect of defeating, in this case, one of the principal purposes of the Treaty—the prevention of the continuance in office of a Central American president.

In addition to the above, it is pertinent to consider the Guatemalan action in the light of the first paragraph of Article II of the 1923 Treaty which declares that “every act, disposition or measure which alters the constitutional organization in any of them is to be deemed a menace to the peace of said Republics, whether it proceed from any public power or from the private citizens”.

Despite the action it has taken, Guatemala has not denounced the 1923 Treaty, and it is entirely possible that the régime of President Ubico hopes that, while itself taking action in violation of the Treaty, it may continue to use the Treaty, particularly Article II thereof, to discourage any *coup d'état* or revolution which its own arbitrary action may tend to provoke.

Nicaragua

General Somoza, Commander of the Nicaraguan National Guard, has expressed his determination to succeed Dr. Sacasa as President of Nicaragua despite the circumstance that he is apparently prohibited by the Nicaraguan Constitution from becoming a candidate. He has repeatedly endeavored to obtain some intimation from Minister Lane regarding the probable attitude of this Government in the event he succeeded to the Presidency through a *coup d'état* or a revolution, or some unconstitutional procedure, and Minister Lane has told him on a number of occasions, with the Department's authorization, that he has not been informed that the Department's attitude toward the 1923 Treaty has changed. He has told him also, of course, likewise with the Department's authorization, that this Government could not commit itself to any course of action it might take in a hypothetical situation.

On October 8, 1935, the Department addressed a telegram to the Legation at Managua²⁶ for the Minister's strictly confidential information, in which it referred to its instruction of September 25, 1935, mentioned above, informing the Minister of its action in authorizing

²⁶ *Foreign Relations*, 1935, vol. iv, p. 640.

the Chargé d'Affaires in Guatemala to reply to the Guatemalan Minister of Foreign Affairs' note of July 17. The Department stated that it desired the Minister to "make no further statement which might appear to commit this Government to any action in accordance with any of the provisions of the Central American General Treaty of Peace and Amity of 1923, or which might be intended to imply the possibility of any such action."

Honduras

President Carías of Honduras is openly planning to extend his term of office in contravention of the Constitution of his country. The Government press regards President Roosevelt's autographed letter to President Ubico as approval of what the latter did in Guatemala, and cites it as justification for similar action by President Carías in Honduras.

In the case of Honduras, the Government fully expects armed revolt against the action it is taking, and it is conceivable, in its case, too, that it hopes that, while itself violating the 1923 Treaty, it may by remaining a party to it, use Article II to limit the strength of the revolt.

The present situation is therefore as follows:

1. This Government's recent practice has been to follow Article II as a guide in extending or denying recognition to new governments in countries parties to the Treaty.

2. Guatemala, Honduras and Nicaragua are still Parties to the Treaty.

3. The action of Guatemala, in "suspending" Article 66 of the Constitution, and extending the term of office of President Ubico, was in violation of provisions of its own Constitution and Article V of the Treaty. Its alteration of the "constitutional organization" was one of those acts which under the first paragraph of Article II of the Treaty were to be considered "a menace to the peace of said Republics".

4. President Carías, in Honduras, plans to effect a similar extension of his term of office, contrary to existing provisions of the Honduran Constitution.

5. Neither Guatemala nor Honduras has taken any step to denounce the 1923 Treaty. While violating it, or intending to violate it in order to continue themselves in power, it is very possible that the present régimes in those countries wish to retain the Treaty in the hope that Article II will serve to discourage revolutions or *coups d'état* against them.

6. In Nicaragua, President Sacasa is fearful that General Somoza will endeavor to succeed to the presidency through some unconstitutional means, possibly through violence. He is especially anxious, therefore, that the Treaty, especially Article II thereof, remain in force.

7. Nevertheless, both Nicaragua and Honduras have addressed communications to the Government of Guatemala, in which they have taken official cognizance, without protest, of the action of President

Ubico in extending his term of office in apparent violation of the 1923 Treaty. In the case of Honduras the communication was doubtless inspired, in part at least, by a desire on the part of President Carías to emulate President Ubico. In the case of Nicaragua, the Nicaraguan Chargé d'Affaires at Guatemala communicated with the Guatemalan Government without instructions from his own Government, although falsely stating that he was acting under instructions. The Nicaraguan Government, nevertheless, did not withdraw the note of its Chargé d'Affaires, or otherwise repudiate the action taken by him, although President Sacasa has made it clear in conversation that he considers the extension of President Ubico's term of office to be in violation of the Treaty.

8. After informing itself that Honduras and Nicaragua had addressed formal communications to the Guatemalan Government in the sense already referred to, the United States, through its Chargé d'Affaires in Guatemala, addressed a similar communication to the Government of Guatemala.

9. In an effort to assist in the preservation of peace in Nicaragua, our Minister has, on several occasions, with the Department's authorization, told General Somoza that he has not been informed that the attitude of this Government with reference to the Treaty has changed.

10. Following the communications of Honduras, Nicaragua, and the United States to the Government of Guatemala, in which cognizance was taken of the extension of President Ubico's term of office, the Department instructed our Minister in Nicaragua thenceforth to refrain from making any statement that might appear to commit this Government to any action under the 1923 Treaty.

Recommendation as to the Policy of the United States.

As has been noted, this Government, following the signature of the 1923 General Treaty of Peace and Amity, pursued a policy of applying the terms of Article II of the Treaty in extending or denying recognition to new governments in Central America, whether or not the countries concerned were parties to the Treaty.

By recognizing the régime of General Martínez in El Salvador, in the manner we did, our practice was amended in the sense that:

1. We allowed the countries still Parties to the Treaty to take the lead in interpreting Article II (in this case in such manner as to preclude its application to El Salvador). Prior to then, we had, while not a Party to the Treaty, taken the lead in interpreting and applying Article II, and had exerted great moral pressure on the governments of Central America to follow our lead.

2. We implied by our action that we would no longer apply the policy outlined in Article II to countries not Parties to the Treaty.

In the case of the extension of the term of office of President Ubico, we took great care not to reply to the initial communication of the Guatemalan Government announcing the extension, until Honduras and Nicaragua, the other Parties to the Treaty, had themselves taken such action; and the record is clear on that point.

The initiative was taken by Honduras and Nicaragua themselves and the action they took constituted, from our point of view, a violation of the treaty.

Now, so long as the countries Parties to the Treaty themselves continued to observe it we could find justification for our policy of following Article II in extending or denying recognition to new governments. However, in view of the acts of Guatemala, Honduras and even of Nicaragua, described above, we are no longer warranted in invoking the Treaty as a reason for denying recognition to any régime in Central America, since obviously we (who are not even a party to the Treaty) cannot justly invoke it in the case of one violation when the Parties to it themselves have both violated it and failed to invoke it in the cases of other and previous violations. To endeavor to do so would be arbitrary and capricious and would constitute "meddling" of a flagrant kind.

Therefore, the United States should no longer be guided by Article II of the General Treaty of Peace and Amity of 1923 in extending or denying recognition to Governments in Central America, nor should it endeavor to utilize that Treaty as justification for any other action it may take or fail to take.

POLICY OF THE DEPARTMENT OF STATE WITH RESPECT
TO DEFAULTED FOREIGN SECURITIES HELD BY
AMERICAN CITIZENS

825.51/861

*The Secretary of State to American Diplomatic and Consular
Officers in Latin America and Mexico*

Diplomatic Serial No. 2661

WASHINGTON, May 11, 1936.

SIRS: There is transmitted for your information a copy of a typical letter setting forth the Department's policy with respect to defaulted foreign securities held by American citizens.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

[Enclosure]

Copy of Typical Reply to Bondholder of Defaulted Foreign Securities

WASHINGTON, February 21, 1936.

SIR: The receipt is acknowledged of your letter dated February 12, 1936,¹ requesting information concerning the action which the Government of the United States has taken with regard to the payment of obligations by the Governments of Chile and Colombia on their respective external debts.

It is the long-established policy of this Government to consider difficulties in regard to foreign securities as primarily matters for negotiation and settlement between the parties directly in interest, acting through agencies of their own. The Department of State, within its function of protecting all American interests in foreign countries, is glad to facilitate such discussions when it appropriately can and to take such other action, usually informal, as it finds proper and advisable in the varying circumstances to assist in obtaining due consideration of the interests of American investors.

In this connection, I may refer to the fact that the Administration in the fall of 1933 encouraged the bringing into existence of the Foreign Bondholders Protective Council,² with a view to providing

¹ Not printed.

² See *Foreign Relations*, 1933, vol. I, pp. 934 ff.

a disinterested and nonprofit organization to protect the interests of the numerous and scattered holders of defaulted foreign securities. The Council which has offices at 90 Broad Street, New York, New York, functions entirely independently of the Government and reference to it is made without responsibility on the part of the Department.

With special reference to the Chilean debt situation, it may be stated that during the past year the Council held conversations in New York with the Chilean Special Financial Commission, which came to New York to explain to American bondholders the scope of Chilean Law No. 5580, of January 31, 1935, governing the service on the external loans of that country. It is understood that the Council has made representations to the Chilean Government in an effort to obtain an equitable settlement of its dollar bonds in default. Undoubtedly the Council would be glad to furnish you with information regarding its recent efforts on behalf of American holders of Chilean dollar bonds.³

With reference to the bonds of the Colombian Government, the Department understands that preliminary studies are being made looking toward negotiations for the adjustment of Colombia's funded external debt. You may wish to communicate directly with the Council with a view to obtaining further information.⁴

With regard to your request for information concerning the future outlook for economic and political conditions in Chile and Colombia, I regret to state that the Department cannot undertake to make any prediction with regard thereto.

Very truly yours,

For the Secretary of State:

LAURENCE DUGGAN

Chief, Division of Latin American Affairs

³ See Foreign Bondholders Protective Council, Inc., *Annual Report*, 1936, pp. 202 ff.

⁴ See *ibid.*, pp. 269 ff.

COOPERATION OF THE UNITED STATES WITH OTHER
GOVERNMENTS IN THE CONSTRUCTION OF THE INTER-
AMERICAN HIGHWAY ¹

810.154/879b

The Secretary of State to the Chargé in Guatemala (O'Donoghue)

No. 272

WASHINGTON, March 11, 1936.

SIR: In the Department's instruction of October 17, 1934,² you were directed to ascertain and report "whether the Government of Guatemala accepts the route through that country laid down in the reconnaissance survey" for the Inter-American Highway which had been determined by the engineers of the Bureau of Public Roads of this Government. With the Minister's reply No. 396 dated October 25, 1934,³ he enclosed a copy and a translation of a note addressed to him on October 24 by the Minister of Foreign Affairs of Guatemala, which stated that

"The Government of Guatemala is ready to cooperate, within its capacity, in the construction of the above-mentioned highway in the section pertaining to Guatemala; and I have today addressed the appropriate authorities requesting them to indicate whether they accept the route contained in the reconnaissance survey report which Your Excellency was so kind as to send me on June 12 of this year. In due course I shall be pleased to inform Your Excellency of the reply of those authorities."

In his despatch No. 401 of October 30, 1934, the Minister reported a conversation between himself and the Minister of Foreign Affairs in which Mr. Hanna said the Foreign Minister had "stated that he had asked the Minister of Agriculture for his recommendation with regard to the route, although he did not anticipate any desire on the part of the Government of Guatemala to make more than minor changes."

Numerous subsequent despatches from your Legation have indicated that the Government of Guatemala has taken steps "to cooperate, within its capacity,"; but so far as can be found in the Department's files no definite statement has been forwarded by your Legation that the Government of Guatemala accepts the reconnaissance survey

¹ Continued from *Foreign Relations*, 1935, vol. iv, pp. 241-265.

² See instruction No. 174, October 17, 1934, to the Minister in Panama, *ibid.*, 1934, vol. iv, p. 476.

³ Not printed; see despatch No. 401, October 30, 1934, from the Minister in Guatemala, *ibid.*, p. 481.

route for the Inter-American Highway through that country. The Department would like to have a definite statement by the Government of Guatemala that the reconnaissance survey route has been accepted by that Government. If the "minor changes" referred to in the statement quoted above from your despatch No. 401 should not yet have been definitely made so that the entire route can be accepted, it would be helpful to the Department if the Government of Guatemala would state that it accepts the route laid down in the reconnaissance survey report excepting between the two points on the reconnaissance survey which mark the termini of the portion of that route which the Government of Guatemala desires to have changed. It is understood that engineers of the Bureau of Public Roads have been engaged in an alternative survey of a minor portion of the reconnaissance survey route through Guatemala. When their labors shall have been completed, if indeed they have not already finished, an additional statement by the appropriate authorities of the Government of Guatemala would be appreciated indicating that the changed portion of the reconnaissance survey route has also been accepted.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

810.154/879a

The Secretary of State to the Minister in El Salvador (Corrigan)

No. 204

WASHINGTON, March 11, 1936.

SIR: In the Department's instruction of October 17, 1934, you were directed to ascertain and report "whether the Government of El Salvador accepts the route through that country laid down in the reconnaissance survey" for the Inter-American Highway which had been determined by the engineers of the Bureau of Public Roads of this Government.

Numerous replies from your Legation have indicated that the Government of El Salvador is interested in the construction of the Inter-American Highway through the territory of that country and has been proceeding as rapidly as circumstances appear to permit in work toward the completion of its section of the highway; but so far as can be found in the Department's files no definite statement has been forwarded by your Legation that the Government of El Salvador accepts the reconnaissance survey route for the Inter-American Highway through that country.

It is understood that the route of the projected highway through the territory of El Salvador laid down in the reconnaissance survey report was furnished by the appropriate authorities of El Salvador to the engineers of the Bureau of Public Roads of this Government

who conducted the reconnaissance survey. It has therefore naturally been assumed that the route was acceptable to the Government of El Salvador. However, it would be helpful to the Department if the Government of El Salvador would definitely state that the route laid down in the reconnaissance survey report is acceptable to it. Should there be any portion of the route which that Government has been, or contemplates, constructing that does not follow the reconnaissance survey, it would be adequate for the purposes of the Department if the appropriate authorities of El Salvador would state that the reconnaissance survey route is acceptable excepting certain specified portions lying between designated points on the reconnaissance survey marking the termini of the portion or portions which have been or are to be changed. It is not of course, you will understand, the desire of this Government to influence the Government of El Salvador in following any particular route through that country, but the Department would appreciate having as a minimum a statement from the Salvadoran authorities that the approaches to the borders between El Salvador and Guatemala on the one hand and El Salvador and Honduras on the other of the route being, or to be, constructed through that country are identical with the route laid down in the reconnaissance survey. The Department's desire is, you will doubtless understand, to be in a position to state definitely, should occasion for such a statement arise, that assurances have been received from all interested Governments that a definite continuous route for the Inter-American Highway has been accepted.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

810.154/882 : Telegram

The Minister in El Salvador (Corrigan) to the Secretary of State

SAN SALVADOR, March 18, 1936—5 p. m.

[Received 7:50 p. m.]

14. With reference to the Department's instruction No. 204, March 11, and telegram No. 7, March 17, 7 p. m.⁵

The Legation was informed by the Government today that the highway approaches to the Guatemalan and Honduran borders will be identical with the route laid down in the reconnaissance survey for the Inter-American Highway. A note describing certain deviations from the reconnaissance survey in sections of the highway not near the frontiers will be sent the Legation and transmitted to the Department as soon as possible.

CORRIGAN

⁵ Latter not printed.

810.154/891a : Telegram

The Secretary of State to the Chargé in Guatemala (O'Donoghue)

WASHINGTON, March 26, 1936—5 p. m.

20. You are authorized, in company with Mr. James, of the Bureau of Public Roads, to enter into informal conversations with the Government of Guatemala with reference to the possibility of this Government's donating a second bridge to Guatemala along the route of the Inter-American Highway.

In giving consideration to the bridge which may be donated, you should bear in mind that it is planned that the portion of the appropriation of one million dollars remaining unexpended should be expended in further bridge construction in Guatemala, Nicaragua, Costa Rica, and Panama, and that it is this Government's desire that to the extent it may be practicable the one million dollars, when expended, shall have been apportioned equally among the five countries to which assistance is being given. Mr. James can supply you with the revised estimates of the cost to the United States of the bridges in the construction of which this Government has already agreed to cooperate.

Please report the results of your conversations.

In this connection it is desired that no commitments be made at this time. After consideration of the recommendations made by you and Mr. James the Department will following the return of Mr. James to Washington instruct you with reference to the specific assistance to be offered.

HULL

810.154/891 : Telegram

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

WASHINGTON, March 30, 1936—6 p. m.

14. It is understood that Mr. James of the Bureau of Public Roads will arrive in San José shortly. Upon his arrival you may, in company with him, inform the appropriate authorities that this Government is contemplating offering cooperation in the construction of additional bridges in Guatemala, Nicaragua and Panama and that funds will be set aside until as late a date as practicable for possible assistance to Costa Rica. You may say that, while there is no desire to hasten the Costa Rican reply to the offer of assistance already made, if Costa Rica declines to accept assistance or if there is too protracted a delay in replying, the funds set aside will, or course, be expended in other countries which are desirous of receiving further assistance.

Please report the results of your conversation.

The Department does not desire you to enter into any commitments with reference to specific assistance now. However, if the Costa Rican authorities are prepared to discuss details of possible bridge construction, you and Mr. James may discuss it with them informally, and you should report to the Department the details of your discussion, together with your recommendations, and the Department will instruct you further upon the return of Mr. James to Washington.

For your own and Mr. James' information, it is this Government's desire that to the extent it may be practicable the one million dollars when expended shall have been apportioned equally among the five countries to which assistance is being given or contemplated. Mr. James can supply you with revised estimates of the costs to the United States of the bridges in the construction of which this Government has already agreed to cooperate.

HULL

810.154/891

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

No. 95

WASHINGTON, April 4, 1936.

SIR: There is enclosed for your information a copy of a telegraphic instruction which was sent on March 26 to the Chargé d'Affaires in Guatemala,^{5a} with reference to the possibility of this Government's cooperating with the Government of Guatemala in the construction of a second bridge along the route of the Inter-American Highway through that country. Similar instructions have been sent to the Legations at Managua, Panamá,⁶ and San José. No similar instruction is being sent to you for the reason that it is now estimated that the bridge over the Choluteca River, to the cooperative construction of which this Government is already committed, will cost \$229,131, which is a little more than one-fourth of the total amount available for such construction work in the five countries.

The latest estimates of the cost to the United States of all the bridges now planned are as follows:

Chiriqui Bridge (Panama)	\$162, 451
Choluteca Bridge (Honduras)	229, 131
Tamasulpa Bridge (Guatemala)	86, 297
Ochomogo Bridge (Nicaragua)	55, 000
	<hr/>
	\$532, 879

^{5a} *Ante*, p. 154.

⁶ Instructions Nos. 8 and 160, respectively, dated March 31, 1936; neither printed.

It is apparent, therefore, that, on the basis of the most recent estimates made, a greater sum of money will have been expended in Honduras, when the bridge over the Choluteca River has been completed, than the average amount remaining available for expenditure in each of the other countries.

Should the occasion arise you may wish to communicate the foregoing informally to the appropriate authorities of the Honduran Government.

Very truly yours,

For the Secretary of State:
WILBUR J. CARR

810.154/902

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

No. 1082

SAN JOSÉ, April 4, 1936.
[Received April 8.]

SIR: I have the honor to acknowledge receipt of the Department's telegram No. 14 of March 30, 6 p. m., with reference to the Inter-American highway and the proposal of the Government of the United States to cooperate with the several countries in Central America. The Department suggested that upon the return to Costa Rica of Mr. James of the Bureau of Public Roads, that he and I discuss the highway project further with the Costa Rican authorities.

Mr. James returned to San José this afternoon (Saturday) and on Monday morning I will accompany him for a visit to the office of the Minister for Foreign Affairs, Mr. Gurdián, where in the presence also of the Minister of Public Works, Mr. Pacheco, we will inform them of the Department's views as contained in the telegraphic instruction above referred to. With Mr. Gurdián's permission and through his good offices I plan either on Monday afternoon or on Tuesday to accompany Mr. James to the residence of President-elect, Mr. León Cortés, to informally discuss the entire Inter-American highway situation with him. I consider it appropriate and timely to discuss this subject with Mr. Cortés, because of the fact that whatever tangible progress is made on the highway during the next four years, will be under his administration.

As I have heretofore informed the Department, Mr. Cortés is extremely interested in the project and he plans to further the program as much as possible during his administration as president, which begins on May 8th. As I pointed out also in my despatch No. 1046 of February 28, 1936,⁷ the Costa Rican Government has decided that

⁷ Not printed.

it is best to delay formal acceptance of the offer of the United States to cooperate in the construction of certain bridges until after Mr. Cortés comes into power. Among other reasons for this decision is the fact that the consent of Congress is necessary before provision can be made for the allocation of the necessary funds which will be required to meet the offer of the United States. It is unfortunate from the standpoint of the highway in general that Costa Rica was in the midst of a political campaign during most of the past year and the Government felt that it was unwise to take any decisive action on the offer of the United States during that period. It is also unfortunate that following the election of February 9th, the Government of President Ricardo Jiménez, acting upon the advice of the President himself, decided that the best interests of the highway will be served if there was a three months delay until after May 8th when Mr. Cortés assumes office, before formal acceptance of the offer of the American Government is given. As I have endeavored to point out to the Department through this entire period, there has always been the friendliest sentiment among the officers of the Government and the intelligent citizens of Costa Rica toward the proposed Inter-American highway. The delays which have occurred were attributable to the then prevailing disturbed political situation and the fear that a politically minded Congress would refuse to cooperate wholeheartedly in the project. As objectionable as this situation was to me and as distressed as I was that delays were occurring in Costa Rica nevertheless I recognize the logic of the reasons which prompted the delay of the Jiménez Government.

I am happy to say, however, that under the administration of Mr. Cortés, I have every reason to anticipate intelligent and wholehearted cooperation by the Government of Costa Rica to the extent of its financial ability.

When Mr. James called at the Legation this afternoon I took the immediate opportunity to show him the Department's telegram No. 14 of March 30th. The last paragraph of this telegram reads:

"For your own and Mr. James' information it is this Government's desire that to the extent it may be practicable the one million dollars when expended shall have been apportioned equally among the five countries to which assistance is being given or contemplated. Mr. James can supply you with revised estimates of the costs to the United States of the bridges in the construction of which this Government has already agreed to cooperate."

Mr. James then gave me, from memory, the revised estimated costs of the proposed bridge construction in the countries of Central America and Panama as follows:

Honduras, estimated	\$213,000.00
Guatemala, estimated	75,000.00
(Contemplated in addition)	50,000.00
Total	125,000.00
Panama, estimated	160,000.00
(Contemplated in addition)	50,000.00
Total	210,000.00
Nicaragua, estimated	65,000.00
(Contemplated in addition)	50,000.00
Total	115,000.00
Costa Rica (Contemplated)	50,000.00
Gr. Total	713,000.00

In addition to the above commitments totaling \$713,000.00, Mr. James informed me that \$250,000.00 of the million dollar fund would be allocated for Mexico. It seems to me that Mr. James' plan of recommending to the Department that it approve the allocation of approximately \$50,000.00 for Costa Rica in contrast with \$213,000.00 for Honduras; \$210,000.00 for Panama; \$125,000.00 for Guatemala; and \$115,000.00 for Nicaragua would be in violation of the intent of the Department of State when it informed me that,

"it is this Government's desire that to the extent it may be practicable the one million dollars when expended shall have been apportioned equally among the five countries to which assistance is being given or contemplated."

This tentative allocation of the proposed funds, I told Mr. James would, if and when it became publicly known, as it inevitably must, would in my opinion, cause much dissatisfaction in Costa Rica.

The Costa Ricans, it is my belief, will feel that they are being shabbily, and from their standpoint, unfairly treated by the United States Government. A division of the funds whereby Guatemala and Panama, for example, receive approximately four dollars to one for Costa Rica, will create much criticism and will unquestionably, in my opinion, cause much resentment against the United States. Furthermore, as I explained to Mr. James, it should be borne in mind that the Costa Rican section of the proposed highway is the longest in Central America, the most expensive of construction and the burden falls on a country which is least able financially to pay these costs; at the same time, however, it is a fact that to the extent of its financial resources, Costa Rica is constructing more first class highways than any country in Central America.

I also reminded Mr. James of a point that he himself is well aware of, from statements made to us by the Foreign Minister and from his knowledge of the general situation, namely, that the delay in Costa Rica has been due solely to technical and legislative reasons. Mr. James is aware and he so agreed that there has never been a desire on the part of the Costa Rican Government to procrastinate unnecessarily. I pointed out to Mr. James, may I add, that I did not feel that Costa Rica would be critical of the allotment of the \$213,000.00 to Honduras and the allotment of \$260,000.00 [~~\$210,000.00~~] to Panama because of the wide rivers to be crossed in those countries, but I did think that Costa Rica had the right to expect that it should obtain approximately the same amount as that awarded to Guatemala and Nicaragua, to wit: approximately \$100,000.00.

Under the circumstances, therefore, I feel that this Legation is amply justified in recommending to the State Department that it do not approve any allocation which in the end will prove contrary to the intent of the Department of State as set forth in the last paragraph of telegram No. 14 of March 30, 1936. To do otherwise in the opinion of the officers of this Legation would be to create unnecessary ill-will in Costa Rica which aside from causing resentment might delay and jeopardize further construction in Costa Rica north and south from the Meseta Central on the main route of the proposed highway, as is planned as a major part of Mr. Cortés' program for the next four years.

In conclusion may I add that Mr. James declared that the Costa Rican share of the million dollar fund has been increased also because of the resurvey now in progress. I expressed the belief to him that the total cost of this additional survey which has involved part of the time of two engineers and the assistance of helpers since the beginning of the new year should not exceed more than a few thousand dollars. Furthermore, in my opinion, such a survey is not a comparable contribution particularly as similar surveys have been made in the other countries. Mr. James also said that the United States Government is making a great contribution to Costa Rica in that the office of the Inter-American highway is located here. I replied that while the Government of Costa Rica and this Legation in particular are happy that the office was established in San José, we all know that this was done as a matter of convenience to the engineers themselves and that the over-head expenses which have occurred in Costa Rica including salaries of engineers, office rent and wages of helpers would have occurred whether the office was located in Guatemala City, Panama City or any where else. I reminded him that this Government is also aware of this fact.

May I respectfully request the Department's careful consideration of the attitude of this Legation as above set forth. It should not

be forgotten that there will be much opposition to the highway project from nationalistic, anti-government and so-called "anti-Yankee-imperialist" sectors of public opinion. We should do everything possible to avoid furnishing these groups with cause for criticism.

Respectfully yours,

LEO R. SACK

810.154/904

The Minister in Nicaragua (Long) to the Secretary of State

No. 30

MANAGUA, April 7, 1936.

[Received April 13.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 8 of March 31, 1936⁸ (File No. 810.154/891), in regard to the donation of a second bridge to Nicaragua along the route of the Inter-American Highway.

In this connection the Legation makes reference to its despatch No. 1311 of March 14, 1936,⁹ with which there was enclosed a copy and English translation of Note No. 19/36 from the Minister for Foreign Affairs under date of March 6, 1936. In the second paragraph of that note it is stated that "the Nicaraguan Government ventures to suggest the construction of a bridge over the Estelí River, the point where our section of the highway will join that of Honduras." The Legation has received oral confirmation this morning from the Minister of Fomento that the suggested structure over the Estelí River is the choice of the Nicaraguan Government, in case the American Government is able to donate a second bridge.

This reply is made with the full knowledge of Mr. E. W. James, who has said that, in view of the Note No. 19/36 mentioned above, it will not be necessary for him to return to Managua at this time.

Respectfully yours,

BOAZ LONG

810.154/906

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

No. 1083

SAN JOSÉ, April 8, 1936.

[Received April 15.]

SIR: In continuation of my despatch No. 1082, of April 4, 1936, and in accordance with the request contained in the Department's telegram No. 14, of March 30, 1936, to report the results of conversations between Mr. E. W. James of the Bureau of Public Roads and myself with the appropriate authorities of the Government of Costa Rica, I have the honor to attach a memorandum⁹ written by me on

⁸Not printed, but see instruction No. 95, April 4, to the Minister in Honduras, p. 155.

⁹Not printed.

yesterday afternoon following our conversations with the Foreign Minister, Mr. Gurdíán, and the Minister of Public Works, Mr. Pacheco.

The Department will note that the two Cabinet officers again explained why there has been delay in Costa Rica in the formal acceptance of the offer of the United States to assist in the construction of certain bridges along the route of the proposed Inter-American Highway.

The Department will also note from my memorandum that Foreign Minister Gurdíán assured us that in his opinion the incoming administration of President-elect Cortés will act affirmatively on the offer of the United States within a month after it takes office on May 8. It is my opinion that this affirmative action may occur even sooner. In any event, however, I feel confident that the Government of President-elect Cortés will accept the offer of the United States just as soon as it is legislatively possible, bearing in mind, of course, that the Costa Rican Government feels that the acquiescence of the Congress is necessary before it can pledge itself to the expenditure of the funds necessary for cooperation with the Government of the United States.

Respectfully yours,

LEO R. SACK

810.154/907

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

No. 943

GUATEMALA, April 13, 1936.

[Received April 20.]

SIR: I have the honor to refer to the Department's telegram No. 20 of March 26, 5 p. m. instructing me to enter into informal conversations with the Government of Guatemala with reference to the possibility of the United States donating a second bridge to Guatemala along the route of the Inter-American Highway. The Department stated that after being informed of the desires of the Government of Guatemala with regard to the bridge which it would like to have constructed it would, upon the return to Washington of Mr. E. W. James of the Bureau of Public Roads, instruct me with reference to the specific assistance to be offered.

In connection with the foregoing, I have the honor to report that on March 24, Mr. James called at the Legation and discussed the matter with me, after which he also informally consulted with Dr. Guillermo Cruz, the Minister of Agriculture, with respect thereto. In a letter from Mr. James dated March 26, he advised me that in his opinion it would be more practical to carry out certain bridge work "from Asunción Mita by way of the proposed Tamasulapa bridge to

the Salvadoran line". He added that he had discussed this latter work with Dr. Cruz and felt that the Minister was disposed to request that it be done.

On March 30, I called on the Guatemalan Foreign Minister and brought the subject matter of the Department's telegram under reference to his attention. The Minister expressed himself as being very much pleased with the possibility of the United States donating a second bridge to Guatemala and stated that he would immediately consult with the Minister of Agriculture as to his desires with regard thereto. I then went to see Dr. Cruz who told me that he would be glad if the United States could construct a bridge over the Panajachel River near the village of Tzanjuyú (Lake Atitlan). While the river is not on the projected line of the Inter-American Highway, it is I believe an alternative route to be proposed by the Government of Guatemala instead of the route over the mountain pass at Tecpan to Los Encuentros and is considered a more direct route than the one suggested in the reconnaissance survey. Dr. Cruz stated that he had already discussed this bridge work with Mr. D. Tucker Brown of the Bureau of Public Roads, who, according to the Minister of Agriculture, had indicated his approval of the plan.

In my personal opinion the road through Godines, Tzanjuyú, Solola to Los Encuentros is more practicable than that over the Tecpan pass which latter at times rises as high as ten thousand feet above sea level and is often covered with fog and the road itself dangerously slippery.

The Panajachel River is narrow but in the rainy season is quite disturbed and strong often causing numerous wash-outs and interrupting communication along that section of the highway. According to the Minister of Agriculture a bridge sufficient to withstand any stress from the river could be constructed there for about \$20,000 to \$25,000.

I shall await the Department's further instructions with regard to the above.

Respectfully yours,

SIDNEY E. O'DONOGHUE

810.154/910

The Minister in Panama (Summerlin) to the Secretary of State

No. 467

PANAMA, April 16, 1936.

[Received April 21.]

SIR: I have the honor to refer to the Department's instruction No. 160, of March 31, 1936,¹¹ authorizing the Legation, in company with

¹¹ Not printed, but see instruction No. 95, April 4, to the Minister in Honduras, p. 155.

Mr. James, of the Bureau of Public Roads, to hold conversations with the Government of Panamá with reference to the possible donation to Panamá of a second bridge on the route of the Inter-American Highway.

Accordingly, Señor Tomás Guardia, Chief Engineer of the Central Roads Board, Mr. James, and the Secretary of this Legation met on April 14, 1936, at the Legation. Señor Guardia was made acquainted with the substance of the Department's instruction, with emphasis that the Legation was not authorized to enter into any commitments, the intent of the conversations being merely to explore possible further bridge requirements of the Panamanian section of the Inter-American Highway for consideration in the event that an additional donation to Panamá from the unexpended portion of the million dollar appropriation should be determined possible.

Mr. James, referring to the statement in the Department's instruction that it is desired, insofar as may be practicable, to apportion the total appropriation equally among the five countries which have accepted the assistance of the United States, said that a limitation of from \$50,000 to \$55,000 will thereby be placed upon the value of any possible further donation to Panamá. The participation of the United States in the estimated total cost, \$165,000, of the Chiriqui bridge, for which cooperation has already been arranged, is \$135,000 to \$140,000, leaving \$60,000 to \$65,000 available out of Panama's fifth of the million dollar appropriation. A certain portion of this balance would necessarily be held in reserve to meet unpredictable emergencies. Thus he arrived at the above figure of \$50,000 to \$55,000.

Señor Guardia said that, with the Chiriqui bridge, no structures would be required on the highway between Panamá and David. Only twenty-five miles of regrading and surfacing (between Sona and Remedios) remained to be completed in order to make the highway passable to David in all seasons.

In reply to an inquiry by Señor Guardia, Mr. James said that he believed it to be improbable at this time that the United States would consider cooperation in bridge construction on the unsurveyed route east of the Panama Canal. According to Señor Guardia, no single bridge on the David-Concepción section of the Inter-American Highway would exhaust the balance suggested. No structures of importance were indicated on the selected route of the Concepción-Volcan section next following.

Señor Guardia said that the Panamanian Government is desirous of pushing construction of the David-Concepción-Volcan section, now uncomfortably passable to vehicles only in the dry season. Between David and Concepción five major bridges are required, as follows:

Name of River	Span Feet	Estimated Cost		U. S. Participation	
		One Way	Two Way	One Way	Two Way
San Cristobal	65	\$6, 500	\$9, 750	\$5, 525	\$8, 290
Platanares	160	16, 000	24, 000	13, 600	20, 400
Caimito	130	13, 000	19, 500	11, 050	16, 575
Chico	200	20, 000	30, 000	17, 000	25, 500
Mula	130	13, 000	19, 500	11, 050	16, 575
Total		\$68, 500	\$102, 750	\$58, 225	\$87, 340

Señor Guardia based his cost estimates on his experience with similar structures already erected by the Central Roads Board under his direction. Standard one-way structures, such as those in present general use, averaged \$100 per lineal foot complete; two-way structures would cost approximately fifty per cent additional. United States participation is calculated above at eighty-five per cent of the estimated total cost, providing a margin above the proportion estimated for the Chiriqui bridge.

Señor Guardia emphasized that no survey data are locally available and that the span lengths given are from memory. Mr. James, who sailed for the United States on April 15, said the Bureau of Public Roads office at San José would be requested to forward the required data and estimates to him at Washington, where he would make them available to the Department.

In reply to the Legation's question, Señor Guardia said that, although he had no authority to commit his Government, he could foresee no reason for anticipating any change in attitude from that evidenced in its welcome of the cooperation of the United States in the construction of the Chiriqui bridge, already agreed upon.

With respect to the Department's instruction that the Legation's recommendations be submitted in the premises, it is my view that any further donation which may be made to Panamá should, as Señor Guardia and Mr. James agree, be devoted to assisting the extension of the existing highway toward Costa Rica westward from completed construction without break of continuity. Construction of the David-Concepción section logically fulfills this requirement. Further, since the projected highway is said to follow mountainous country from Concepción to Volcan and thence to the Costa Rican border, completion of the listed bridges on the David-Concepción section would dispose of the important bridging requirements of the entire route. Thus, properly considering the David-Concepción investment to apply to the entire mileage from David to the frontier, the bridge investment per potential highway mile appears so low as to justify recommendation of the donation.

It is not recommended, however, that any definite commitment to Panama be made at this time. Instead, it is suggested that such portion of the unexpended balance as may be allotted for construction

expenditure in Panama simply be ear-marked for this purpose pending revelation of the attitude of the administration to be elected on June 7, 1936, toward the present Government's cooperative highway program. Inasmuch as no construction on the David-Concepción section can be undertaken until the next dry season beginning in December, 1936, the Legation's suggestion involves no possibility of delaying the progress of the Inter-American Highway.

Mr. James privately informed the Legation of his receipt in Guatemala of a telegram from the Bureau of Public Roads which indicates the possibility that no further apportionment may be made to Panamá. He said that he had been advised that \$250,000 of the uncommitted balance had been ear-marked for donation to construction in Mexico. The existing commitment to Panamá on the Chiriqui bridge would roughly exhaust Panamá's fourth of the \$750,000 (less the commitment of some \$200,000 to Honduras). However, as he understood, the Bureau of Public Roads proposes to apportion the balance remaining from the million dollar appropriation after deducting all present commitments and the amount ear-marked for Mexico, equally among the five countries south of Mexico to which assistance is being given. \$40,000 to \$50,000 would be available for further donation to Panamá under this proposal.

Respectfully yours,

GEORGE T. SUMMERLIN

810.154/912

The Minister in Nicaragua (Long) to the Secretary of State

No. 41

MANAGUA, APRIL 17, 1936.

[Received April 22.]

SIR: Referring to my despatch No. 30 of April 7, 1936, in response to the Department's Instruction No. 8 of March 31, 1936¹² (File No. 810.154/891), in regard to the donation of a second bridge to Nicaragua along the route of the Inter-American Highway, I have the honor to enclose a copy and translation of Note No. 43/36 of April 15, 1936, from the Ministry of Foreign Affairs,¹³ confirming the desire of Nicaragua to have as a second choice the construction of a bridge over the Estelí River. This written confirmation follows the oral statement to that effect which was reported in the next to the last paragraph of the despatch mentioned above.

Respectfully yours,

BOAZ LONG

¹² Latter not printed, but see instruction No. 95, April 4, to the Minister in Honduras, p. 155.

¹³ Not printed.

810.154/917

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

No. 962

GUATEMALA, April 27, 1936.

[Received May 1.]

SIR: Supplementing the Legation's despatch No. 947, of April 15, 1936,¹⁴ in connection with the acceptance by Guatemala of the route laid down in the reconnaissance survey for the Inter-American Highway, I have the honor to transmit herewith a copy and translation of a Foreign Office note dated April 24, 1936,¹⁴ stating that the Government perceives no objection to accepting the route in question "reserving the right to give the necessary notice upon making any later change".

Respectfully yours,

SIDNEY E. O'DONOGHUE

810.154/918

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

No. 978

GUATEMALA, April 30, 1936.

[Received May 6.]

SIR: Adverting to the Legation's despatch No. 943, of April 13, 1936, in connection with the Inter-American Highway, I have the honor to report that Mr. D. Tucker Brown, of the Bureau of Public Roads, was in Guatemala recently and during the course of his stay here had an interview with the Minister of Agriculture relative to further work on the Highway in addition to that already contemplated. Mr. Brown told me that the Minister had agreed to withdraw his request for the construction of a bridge over the Panajachel River, near the village of Tzanjuyú (Lake Atitlan) and that he was in entire accord with the work suggested by Mr. E. W. James, also of the Bureau of Public Roads, for certain bridge work "from Asunción Mita by way of the proposed Tamazulapa Bridge to the Salvadoran line".

I had occasion today to see the Minister of Agriculture and mentioned the above to him whereupon he confirmed the fact that the work which the Bureau of Public Roads would prefer to undertake would be acceptable to him and to the Government of Guatemala.

Respectfully yours,

SIDNEY E. O'DONOGHUE

¹⁴ Not printed.

810.154/926

The Secretary of State to the Secretary of Agriculture (Wallace)

WASHINGTON, June 1, 1936.

MY DEAR MR. SECRETARY: I have received the letter of the Chief of the Bureau of Public Roads, dated May 26, 1936,¹⁵ in which Mr. MacDonald recommends that a sum not to exceed \$250,000 be allocated, from the \$1,000,000 fund available for cooperation in the building of the inter-American highway, to defray approximately half of the cost of a free bridge which Mr. MacDonald suggests might be constructed between Laredo, Texas, and Nuevo Laredo, Mexico.

While I appreciate the reasons Mr. MacDonald gives for making this recommendation, the situation is, as you were informed in my letter of May 1, 1936, that the Mexican Government has already been approached by the Government of the United States through the Mexican Foreign Office with offers of assistance under the \$1,000,000 appropriation, and it has made it clear that, while appreciating the offers we have made, it requires no assistance from the United States, and it has declined to accept any assistance. Under the circumstance, therefore, and in view of the fact of the much greater need for assistance which exists in the countries of Central America which are at the same time desirous of receiving assistance from the United States, this Department does not intend again to approach the Government of Mexico with any further offer of assistance, and its attitude is that the portion of the appropriation of \$1,000,000 for which commitments have not already been made should be expended in further bridge construction in Guatemala, Nicaragua, Costa Rica and Panama. As you were informed in my letter of April 4, 1936,¹⁵ instructions to this effect were transmitted to the American diplomatic representatives in the countries mentioned on March 26, 1936, and Mr. James, in company with this Government's representatives in the several countries, conferred with the officials of those governments with reference to the further assistance contemplated. This Department is now awaiting a report from the Department of Agriculture on Mr. James' conversations, in order that an agreement may be reached concerning additional bridges which will be offered to the countries of Central America referred to.

Sincerely yours,

For the Secretary of State:
SUMNER WELLES

¹⁵ Not printed.

810.154/1066

The Minister in Nicaragua (Long) to the Secretary of State

No. 186

MANAGUA, July 25, 1936.

[Received July 30.]

SIR: I have the honor to report that, in accordance with a previous agreement with the Nicaraguan Government, Messrs. D. Tucker Brown and John K. Flick, of the Bureau of Public Roads, arrived in Managua on July 17 and left for Costa Rica on July 23. During their stay here, they called on the Minister for Foreign Affairs, the President of the Republic, and the Minister of Fomento. In their talks with the latter, they agreed to send an engineer from the San José office, Mr. Jones, to Nicaragua to make a reconnaissance survey of the route of the Pan American Highway from Granada to Chaguitillo and to report on the advisability of building a bridge across the Sebaco River near Matagalpa instead of the Estelí River. The Nicaraguan Government now desires to have the bridge across the Sebaco River.

In addition to the above-mentioned reconnaissance survey, Mr. Jones will prepare the plans for the Bridge across the Ochomogo River.

Respectively yours,

BOAZ LONG

810.154/1091

The Chargé in Costa Rica (Collins) to the Secretary of State

No. 1262

SAN JOSÉ, September 29, 1936.

[Received October 2.]

SIR: I have the honor to refer to the Legation's despatch No. 1246 of September 3, 1936,¹⁷ reporting conversations with Costa Rican officials concerning the acceptance by Costa Rica of the cooperation of the United States in the construction of the Costa Rican section of the proposed Inter-American Highway; and in this connection to enclose herewith a copy and a translation of a note that has been received from the Ministry of Foreign Affairs,¹⁷ in which the attitude of the Costa Rican Government toward the proffered cooperation is set forth. While the note is dated September 10, it was not delivered to the Legation until September 28.

As forecast by Minister Sack in his despatch under reference, the Government of Costa Rica, while not expressly rejecting bridge construction, suggests that the cooperation of the United States under existing appropriations take the form of aid in the construction of a

¹⁷ No. 489-B, dated September 10, not printed.

stretch of about forty kilometers of road southward from the city of Cartago to the village of San Marcos, as the beginning of a San José–Cartago–Panama road, over a route yet to be studied in detail. The adoption of such a route would, presumably, imply the utilization as a part of the ultimate trunk route of the existing highway extending westward from San José to Alajuela and its environs, and the connection of Alajuela with Liberia, Guanacaste by a road over one of the routes examined in the reconnaissance of 1935–36.

It is perhaps significant that the region that would be tapped by the proposed Cartago–San Marcos road is potentially an excellent coffee producing area, which can at present be exploited only scantily, owing to lack of transportation facilities. . . .

Press notices of the conversations reported in despatch No. 1246 revived public interest in the Highway project, and this has been fed by occasional notices since, particularly by publication at considerable length of an address delivered on September 16 before the Rotary Club of San José by Mr. Leopoldo Arosemena, Secretary of the Treasury of Panama, who advocated the highway, and called for Costa Rican cooperation in furthering it. It can scarcely be said, however, that there exists an active, purposeful and effective body of sentiment for the prompt accomplishment of the project.

The attitude revealed by the conversations of private individuals and officials, and by the public utterances and the acts (the delay of the Minister for Foreign Affairs in despatching the enclosed note is an example) of the latter is at best flaccid.

Underlying this situation are several causes. There is the genuine belief, not ill-founded, that the rapid construction of the Highway in Costa Rica is beyond the country's financial reach. There are personal and sectional selfishnesses that seek to utilize such funds as are available for the construction of roads serving individual or regional interests, the highways to the two volcanoes now under construction being examples. There is uneasiness lest the Highway compete too strongly with the Government-owned Pacific Railroad between San José and Puntarenas, which is at last on a self-sustaining basis. There is the canny feeling that in any case nothing is to be gained by haste, since the longer the delay the more the United States is likely to do. And deep under all is the instinctive unreadiness of the Costa Ricans to abandon an isolation that through generations they have come to feel is their best bulwark—a feeling not unlike that which caused the British to shrink from the proposal for a channel tunnel a few years ago.

Rapid progress against such a situation is hardly to be expected.

Respectfully yours,

HAROLD M. COLLINS

810.154/1092

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

No. 283

MANAGUA, October 1, 1936.

[Received October 6.]

SIR: Referring to previous correspondence on the above-mentioned subject, I have the honor to enclose a copy and translation of Note No. 123/36, of October 1, 1936, from the Minister of Foreign Affairs of Nicaragua,¹⁸ agreeing to the proposed route of the Inter-American Highway through Nicaragua, accepting the offer of the United States to build the Sébaco Bridge, and requesting the assistance of the United States in the construction of that section of the Highway that will join Matagalpa, Granada, and Managua.

It is understood that the American Minister, the Honorable Boaz Long, discussed the Inter-American Highway with Messrs. Brown and James in Costa Rica on his way to the United States and that he will take up the matter upon his arrival in the Department.

Respectfully yours,

FLETCHER WARREN

810.154/1100

*The Secretary of State to the Chargé in Costa Rica (Collins)*¹⁹

No. 352

WASHINGTON, October 20, 1936.

SIR: In a letter addressed to the Secretary of State on October 14, 1936,¹⁹ the Acting Secretary of Agriculture stated that Mr. E. W. James of the Bureau of Public Roads of that Department would proceed about October 16 to Panama, Costa Rica, Nicaragua, Honduras and Guatemala, in connection with work on the Inter-American Highway.

Please show to Mr. James, should the occasion arise, such courtesies and render to him such assistance as is possible and proper.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

810.154/1109

The Chargé in Costa Rica (Collins) to the Secretary of State

No. 1288

November 13, 1936.

[Received November 19.]

SIR: I have the honor to refer to Instruction No. 352 of October 20, 1936, concerning the visit to Costa Rica of Mr. E. W. James of the

¹⁸ Not printed.¹⁹ The same, October 20, to the American diplomatic missions in Guatemala, Honduras, Nicaragua, and Panama.

Bureau of Public Roads, Department of Agriculture; and in this connection to report as follows:

On November 2, Mr. James, who arrived at San José on October 31, requested me to arrange an interview for him with the Acting Minister for Foreign Affairs. He desired to inform the Acting Minister, and, also, if possible, the Minister for Public Works, that the United States might be prepared to expend funds allotted for expenditure in Costa Rica, on machinery, culverts, drains and the like for the Cartago-San Marcos road, proposed by the Minister for Foreign Affairs in his note No. 489-B dated September 10, 1936, a copy and a translation of which were enclosed with my despatch No. 1262 of September 29, instead of on bridge construction; but that the contribution of the United States in this way would be relatively less than if the funds were devoted exclusively to bridges, inasmuch as in the construction of bridges, steel, concrete and other imported materials suppliable by the United States would predominate, while in the carrying out of the Cartago-San Marcos project the predominant elements would be labor and local materials suppliable by Costa Rica.

Pursuant to Mr. James's request I arranged for an interview on November 4, and on that date accompanied him to the Ministry for Foreign Affairs, where we met the Acting Minister for Foreign Affairs, Mr. Fernandez, and the Minister for Public Works, Mr. Pacheco. It appeared that Mr. James had, the day before, had a short informal talk with Mr. Pacheco.

Following introductions and some casual conversation, Mr. James started to outline the situation; and his exposition soon made it plain that he conceived of the undertaking of the United States as being limited to expenditures for machinery and other equipment and materials suppliable by the United States. Mr. Fernandez interrupted here to say that note No. 489-B of the Ministry for Foreign Affairs was not intended as a definite proposal, but as an inquiry whether the assistance offered for bridge construction could be switched to the Cartago-San Marcos project; and that Costa Rica had understood that funds allotted could be applied to all purposes—to local labor and materials, as well as to machinery, equipment and imported materials. Mr. Pacheco assented to this. Mr. James replied that he was sure that it was not understood in the United States that Costa Rica contemplated the use of allotted funds for labor and local materials, and that it would be necessary for him to consult at Washington before discussing the matter further. The interview was then brought to a cordial close. I took no part in the conversation, beyond exchanging civilities, and saying that, having received no instructions, I was there simply to accompany Mr. James and to listen.

Having reviewed the Foreign Office's note No. 489-B, I am inclined to think that the Costa Ricans were not quite ingenuous in their statement of their intention and understanding. The note seems to me to be a fairly definite proposal, and the paragraph numbered 2 indicates that they contemplated furnishing "construction materials now in the country and the labor or men deemed necessary". I suspect that what must have appeared to be a disposition on the part of the United States to assent rather easily tempted them to endeavor to maneuver for more than they had originally intended to ask.

As I advised Mr. James in a somewhat detailed discussion that we had after leaving the Foreign Office, I do not believe that to assist Costa Rica to construct a finished road from Cartago to San Marcos would be materially promotive of the aim to get the existing highway rapidly extended all the way to the Panama boundary. As I indicated in my despatch No. 1262, the region between Cartago and San Marcos is potentially a good coffee growing area, which the road would open up. Costa Rica has, therefore, strong motivation for building to San Marcos. However, there is nothing in view that would impel the Government to build beyond that point—no numerous and politically powerful population to be heeded, no particularly interesting immediate economic possibilities to be realized; and from San Marcos construction would be difficult and costly. If Costa Rica had an active, purposeful interest in the Inter-American Highway, and the means for effectuating the interest, voluntary continuance of the work beyond San Marcos might, perhaps, be expected; but, as indicated in my despatch No. 1262, there is not only no such interest, but there exists a formidable body of instinctive resistance to the Highway, and, moreover, means are exiguous. Hence there is for the time being, and for an incalculable, but probably relatively long, time in the future, little prospect that building would proceed materially beyond San Marcos, unless we ourselves carried it on or heavily subsidized and urged it.

If we should, nevertheless, decide to assist in building to San Marcos, it should not be necessary for us to go to the length that Mr. Fernandez and Mr. Pacheco suggested. It would, I believe, be sufficient for us to survey the road, and put down culverts, drains, and the few small bridges required, and then withdraw from the scene. With such a start made, and in stimulating view, political pressure from Cartago and the coffee interests intent upon the Cartago-San Marcos region would, very probably, compel the Government to do the rest.

Respectfully yours,

HAROLD M. COLLINS

810.154/112 : Telegram

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

SAN JOSÉ, December 16, 1936—noon.

[Received 4:20 p. m.]

89. Referring to despatch No. 1288 of November 13, 1936 and note number 489B of the Government of Costa Rica of September 10 (enclosure No. 2 of despatch No. 1262) Minister of Public Works Pacheco today at informal conference with Brown and me urged early answer to note in order that road building machinery to be furnished by the United States can be ordered. Pacheco asserted that this Government is anxious to push construction and he said Costa Rica will furnish necessary local materials and labor.

For the Department's information. 1. Instrument survey of route to San Marcos now being made by inter-American engineers; (2) Costa Rican Government actually building portion of San Marcos road leading out of city of Cartago; (3) Costa Rican Government also constructing small stretch inter-American highway northward between towns San Ramón and Palmera.

Respectfully request early decision by my Government in order that advantage can be taken of favorable sentiment.

SACK

ARGENTINA

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

611.3531/406a

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

No. 510

WASHINGTON, December 9, 1936.

SIR: There has recently been created a Country Committee on Argentina and Uruguay to study American trade with those two countries and to formulate specific proposals which might be considered in the event that it should be decided to negotiate trade agreements with those countries. In formulating such proposals in connection with a possible trade agreement with Argentina, it is necessary to consider not only the specific tariff concessions which would be granted reciprocally by the two countries, but also the subject matter and phraseology of the general provisions which would form the body of the agreement. In formulating these general provisions, the Department desires to benefit by the experience and advice of its representatives in Buenos Aires, in order that all aspects of the matter may receive thorough consideration. You are therefore instructed, in collaboration with the Consul General and the Commercial Attaché, to study the question of the general provisions which it would be desirable to insert in a possible trade agreement with Argentina, and to submit your specific recommendations in the premises.

In order to facilitate this work, there are enclosed three copies of some standardized general provisions ² which have been prepared in the Department for consideration in connection with trade agreements which may be negotiated in the future and for possible inclusion therein. The various articles contained in these general provisions are purely tentative in their nature and may be appropriately modified in accordance with the needs of any particular agreement. In replying to this instruction, you may find it convenient to take these standard general provisions as a basis, and indicate such deletions therefrom or additions and amendments thereto as you may consider desirable. It is unlikely, for example, that the article on exchange

¹ Continued from *Foreign Relations*, 1935, vol. iv, pp. 266-268.

² *Ibid.*, 1935, vol. i, p. 536.

control contained in the standard general provisions transmitted herewith will be maintained in its present form for incorporation in the proposed trade agreement with Argentina.

In addition to the specific report called for above on the general provisions of the proposed trade agreement, the Department will welcome at any time any further suggestions you may care to make in regard to this matter as well as all information bearing on the question of a possible trade agreement with Argentina.

Your attention is invited to the strictly confidential nature of this despatch and the subject matter contained therein.

Very truly yours,

For the Acting Secretary of State:
FRANCIS B. SAYRE

611.3531/407

*The Secretary of State*³ to the Acting Secretary of State

[BUENOS AIRES,] December 12, 1936.

SIR: During the President's visit to Buenos Aires⁴ the question of a possible trade agreement between the United States and Argentina naturally presented itself. At the request of the Argentine authorities some preliminary conversations intended to clarify what might be involved in a commercial agreement have been undertaken, with the most complete of understandings that such conversations were merely exploratory, bound neither party either to any course of action or to any particular details, and were of a completely confidential nature. The course of these conversations up to the present are recorded in the two memoranda attached. In accordance further with these conversations the Argentine authorities presented to us last night the attached summary of the main concessions which they would hope to secure in the event a trade agreement proved possible.

Will you please give prompt consideration to the question of the undertaking of negotiations and cable us your views. By virtue of the President's declaration⁵ made here, we believe ourselves pledged to make a sincere effort to try to reach the terms of a possible agreement. On the other hand, no promise has been made to the Argentine authorities as to when it might seem to us satisfactory to make formal announcement of public hearings and prospective negotiations. Their wish is that such public announcement be made on the eve of the de-

³ Then at Buenos Aires as Chairman of the American delegation to the Inter-American Conference for the Maintenance of Peace, Buenos Aires, December 1-23, 1936; see pp. 3 ff.

⁴ December 1-2.

⁵ For the text of President Roosevelt's address to the Conference, December 1, see Department of State, *Press Releases*, December 5, 1936, p. 423.

parture of the Delegation from Buenos Aires. However, this morning in a conversation with Ambassador Espil⁶ I emphasized the fact that while I believe it might be quite possible to reach finally a moderate agreement, there are many hazards and difficulties in the way and that it was highly important that all care be taken lest the effort be rushed, to the detriment of the objective. I explained that of course the various American agricultural interests that might be affected by the agreement would be subject to fears, often of an exaggerated character, and that if now, while we were down here and therefore unable to deal with efforts to block the negotiation, sensational stories began to appear in the American press, that it was not at all unlikely that certain interests might secure legislation in Congress defeating our purpose. I furthermore fully explained that this was a matter that had to be carefully considered by the Trade Agreements organization and by the interested Government Departments. For all these reasons I did not encourage the hope that any public announcement could be made while we were here.

Will you, in strict confidence, kindly consult with the Secretary of Agriculture in regard to the prospective Argentine requests and transmit his judgment and reaction. Will you also please cable in very brief summary form your judgment of some of the main tariff concessions it is likely that we will ask, it being understood that if this information is transmitted at all to the Argentine authorities, it will be understood to be wholly without commitment.

I am bearing in mind also my memory that it may be desirable in the event that negotiations with Argentina are undertaken, that negotiations with Uruguay be conducted simultaneously.

Yours very truly,

CORDELL HULL

[Enclosure 1]

*Memorandum by the Economic Adviser (Feis)*⁷

[BUENOS AIRES,] December 8, 1936.

In accordance with a discussion between Mr. Welles⁸ and Ambassador Espil, I met late yesterday afternoon with Mr. Prebitsch, General Manager of the Argentine Central Bank, and the Commercial Attaché in Washington, in order to exchange in a most preliminary way attitudes and ideas regarding the possibility of an American-Argentine commercial treaty.

⁶ Felipe Espil, Argentine Ambassador in the United States and delegate to the Inter-American Conference.

⁷ Herbert Feis, Special Adviser to the Inter-American Conference.

⁸ Sumner Welles, Assistant Secretary of State and delegate to the Inter-American Conference.

The conversation ranged far and wide. I explained that in accordance with our habitual procedure, before any negotiations could be concluded we would have to hold public hearings, and that thus all exchanges of ideas and information would have to be regarded as informal, non-binding, and confidential. This was understood. In response to their query as to whether it might or might not be possible to complete the negotiation of an agreement before the Trade Agreements Act⁹ was renewed in June, I stated that I was not in a position to answer this question and that it would depend somewhat upon the course of our informal conversations and on events back home and upon the ultimate decisions of the Department and the President.

We discussed how these preliminary informal conversations might best be made useful. I suggested that they, having the services of all their Government departments available here, were in a position to determine and make clear for transmittal to Washington what concessions would be expected of us, and these could be given consideration in Washington fairly promptly. However, the matter of what concessions we would ask from them was, I understood, rather complex and would require specialized study by different branches of the American Government and by the regular Trade Agreements organization, and I did not believe that it would be possible to formulate them during our stay here.

Our talk was concluded by a discussion of their exchange policy and their agreement with Great Britain.¹⁰ I emphasized the discriminatory character of the present exchange arrangements. They explained and defended them on the basis of necessity, and on the fact that important markets such as Great Britain and Germany would only give their trade a chance provided the proceeds of the sale of Argentine goods were pledged for purchases of their goods. This situation, they said, still confronted them. I pointed out that there are many signs that they are now in a position to end the exchange discrimination against American products, not the least of which was their ability to find \$35,000,000 with which to pay off their long-term debt in New York. Mr. Prebitsch said this would increase their ability to furnish exchange for American goods. The discussion of this important question was left in suspension. One important point that it brought out was that Article . . . of the new agreement with Great Britain¹¹ apparently has in Argentine eyes a precise significance that a quick reading does not reveal; apparently

⁹ June 12, 1934; 48 Stat. 943.

¹⁰ See section entitled "Representations Regarding the Exchange Provisions of the Anglo-Argentine (Roca) Agreement of May 1, 1933, and Argentine Exchange Regulations," *Foreign Relations*, 1933, vol. iv, pp. 722 ff.; for text of the agreement, see League of Nations Treaty Series, vol. cxliii, p. 68.

¹¹ A commercial agreement between Argentina and Great Britain signed at London on December 1, 1936, was not ratified by Great Britain.

it is viewed as giving the British the right to denounce the agreement if, by virtue of actions of the Argentine Government, such as lifting of the exchange control, British interests do not get the full amount of sterling exchange which they furnish through the purchase of Argentine goods. If the British use this as a continuing threat it will of course restrain the Argentines from lifting the exchange control and from making trade concessions which might cut seriously in upon their purchases from Great Britain. The Argentines apparently have gotten themselves in a situation in which to some extent they will have to trade us off against the British and vice versa.

It was agreed that these gentlemen should consult again with various branches of their Government, looking towards a further exchange of ideas.

H[ERBERT] F[EIS]

[Enclosure 2]

Memorandum by the Economic Adviser (Feis)

[BUENOS AIRES,] December 10, 1936.

By arrangement with Mr. Welles, Mr. Espil, the Argentine Ambassador to Washington, called this afternoon, accompanied by the head of the Central Bank and the Commercial Attaché in Washington.

The Ambassador—I believe in accord with a talk with Mr. Welles—had in his mind the possibility that the Secretary of State might announce on the day of his departure the intention to enter negotiations and that simultaneous public notice might be given in the United States, as required by the Trade Agreements Act.

I stated that I was in no position to pass upon the feasibility of this proposal but that I would be glad to refer it on for decision.

I ventured the judgment that a necessary step in our consideration of the question would be some consultation with the other interested Departments of our Government and the Trade Agreements organization. In the event that the Secretary and Mr. Welles were in favor of making the effort to carry out the idea, I expressed the opinion that it could be best facilitated if the Argentine Government would at once formulate in very brief form, and on the understanding that the formulation was neither formal nor binding, a short summary of the chief concessions they would hope to get from us. I expressed the opinion that I thought that it would be found desirable to transmit this to Washington for immediate consideration, at the same time requesting from Washington a similar brief formulation of the main concessions that we were likely to request of Argentina.

On one point I said I thought I was in a position definitely to formulate one of the leading American requirements, to wit, the ending of all discrimination in the exchange field. This gave rise to an

animated discussion as to the reasons why the Argentine Government created and maintained the discriminations. I vigorously maintained the point of view that this discriminatory treatment represented an obstacle to trade different from that of the ordinary tariff barrier and that our insistence upon its removal would be a matter of principle as well as of dollars and cents. The Argentine representatives upheld the point of view that it was just another kind of obstacle—not different in effect from a tariff—to be dealt with as part of an arrangement for facilitating the trade movement. Mr. Prebitsch, however, did indicate the view that there was a good possibility that something could be done in gradual stages to lessen or remove the discrimination.

Since Mr. Welles had still not returned and they felt strongly desirous of facilitating discussion, I said I would seek approval, that immediately upon the receipt from them of the memorandum referred to above, a cable would be sent to Washington, transmitting this tentative statement of Argentine requests, along with the request that the informed Departments in Washington immediately formulate a similar outline of what our main requests were likely to be in addition to modifications of exchange arrangements, and that immediately upon receipt of word from Washington (if possible, not to be delayed any longer than a week from today) a decision could be reached regarding the possible announcement of the commencement of negotiations. They stated that they would have such a memorandum in my hands by tomorrow night.

Incidentally, in the discussions the Ambassador indicated that the Argentine authorities were willing to forego the making of any request for concession on fresh beef, and I requested them to study our trade with them, particularly with a view of discovering items in the agricultural field in which they might be able to make concessions to us.

One final point of interest on which a word might be added is that in discussing the exchange discrimination, Mr. Prebitsch said that the present situation is to be regarded as somewhat abnormal because it was being affected by the very substantial inflow into Argentina of short term capital leaving Europe.

H[ERBERT] F[EIS]

[Enclosure 3—Translation]

*Memorandum by the Argentine Government*¹²

Being interested in the possibility of arriving at a trade agreement with the United States, which will establish a basis for the future de-

¹² This memorandum is undated; it was presented to Secretary of State Hull on December 11.

velopment of trade between the two countries, more adequate than that of the old treaty of 1858¹⁸ and,

Bearing in mind the difficulties that have arisen at every attempt to bring about an agreement in the last 78 years;

The Argentine Government would be disposed to enter into negotiations on the following minimum bases:

1. In order to eliminate difficulties, the suggestion is accepted that in these conversations all reference to fresh and chilled meat be excluded, in view of the fact that such commerce is not possible without the previous elimination of the present embargo and that such embargo should be raised for reasons of justice in favor of said measure and not for reasons of reciprocal concessions.

2. Of the seven principal articles which, in normal times, represent more than 80 percent of our exportations to the United States, namely; flax, cowhides, wool, maize, preserved meat, intestines and quebracho extract, concessions should be granted at least as to the following four items:

Flax. A reduction of the present duty of 65 American cents per bushel to 32½ cents per bushel. The imports of flax, which represented 35 percent of the total of the trade and which amounted to more than 40 million dollars have been reduced to a third, in consequence of the high customs duties imposed in 1929 and 1930. The high duty has not brought about an increase of domestic production, nor, for known reasons, is it possible that this will provide for the total consumption.

Preserved meats. The present duty of "6 centavos* per pound but less than 20 percent ad valorem" is unjust, because it makes no distinction as to qualities and the schedule of meats of less value sometimes amounts to more than 100 percent ad valorem. In consequence, it is requested that a sub-classification be in the tariff on canned meats, and that in the item "corned-beef in cans", which represents more than 90 percent of Argentine exports of preserved meat, a duty be established of "3 centavos per pound, but not less than 20 percent ad valorem". As there is no production of corned beef in the United States and it is not economically possible as experience has shown in purchases for the United States army, and as this is an article which is chiefly consumed by the poor classes, whose income does not permit them to buy fresh meats, the reduction of the duty in this way cannot cause very great opposition on the part of North American cattle

¹⁸ Correct date is July 27, 1853; Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 6, p. 269.

*This is a literal translation, but "United States cents" must be meant. [Footnote in the file translation.]

raisers, whose interests the Argentine Government understands and respects.

Cowhides. Reduction of the present duty of 10 percent ad valorem to 5 percent ad valorem. The duty is unjustified, as the United States does not produce, nor can it produce all the hides it needs (the complete elimination of the duty and a return to the situation prior to the tariff of 1930 cannot be requested, as, under the present law it is impossible for the President of the United States to reduce duties more than 50 percent).

Quebracho extract. Being an absolutely non-competitive product, the maximum reduction is requested, namely that the present duty of 15 percent be reduced to 7½ percent ad valorem.

3. *As to the other articles* the total amount of which is at present of little importance in most cases, not for lack of commercial possibilities, but on account of the high United States tariff, we are confident that by detailed analysis in the course of the negotiations regarding each case, a satisfactory solution will be reached. However, the following three items are considered of importance and must be mentioned in these bases.

Caseine. The present duty of 5½ cents per pound, should be reduced to 2¾ cents per pound. The increase of the duty by more than 100 percent by the Tariff of 1930 drastically reduced imports of this article, without the desired result being obtained in the domestic production, which cannot increase in normal years, on account of the technique of the milk industry. The duty requested is higher than that in force in 1929.

Canary seed. The duty should be reduced from 1 centavo per pound to ½ centavo per pound. The domestic production is insignificant and the specific duty which was not very burdensome on the high prices of previous years is excessive for the present prices.

Frozen turkeys. The high duty of 10 centavos per pound should be reduced to 5 centavos per pound. This item was excluded from the other of article 712 of the Tariff when by the Canadian Agreement (literally Treaty) the duties were reduced on *gallinatos*† and other birds. This reduction is requested for the same reasons that motivated the concession to Canada.

4. *Seasonal Trade* should be specially considered in the Agreement (*Tratado*) and the Maximum concessions are requested for it in exchange for like treatment in the reciprocal seasonal trade on the ground that this trade is non-competitive and of mutual benefit for both countries. The concessions will be confined to a few months of the

†No precise definition of this word can be found, but it is evidently some kind of fowl. [Footnote in the file translation.]

year. Among other concessions it is principally requested that in suitable months the duty on fresh grapes be reduced from 25 cents, American per cubic foot, to 12½ cents per cubic foot.

5. It is requested that a declaration be made in the Agreement (*Tratado*) that the Argentine articles whose importation into the United States is on the free list will not be taxed during the time the Agreement is in force, especially: salted and dried intestines, sheep, mare and ass hides, goat and kid skins, guanaco skins, common fox skins, nutria skins, bones, guano and dried blood, horsehair, horsehair (manes), quebracho logs and wine dregs. It is also requested that a declaration be made that the duties on imported Argentine articles whose rates have not been changed by the Agreement (*Tratado*) will not be raised hereafter.

6. A declaration in the Agreement is requested in the sense that internal duties will not be imposed on the articles considered therein equivalent to a customs duty, as happened with tallow, the importation of which was practically eliminated by the imposition of an internal tax on the imported article by the United States Tax Law of 1936/37.¹⁴

611.3531/407: Telegram

The Acting Secretary of State to the Secretary of State

WASHINGTON, December 21, 1936—9 p. m.

139. Your letter December 12th. Questions presented have been discussed by Trade Agreements Committee and following represents their unanimous views, in which all in this Department concur. Sayre¹⁵ laid matter before Secretary Wallace¹⁶ this afternoon. Wallace entirely concurs in following conclusions. Henry Grady¹⁷ who happens to be in Washington has also been consulted and expressed full agreement.

1. On the question of immediate formal announcement of negotiations, we share fully the apprehensions set forth in your letter under reference. Such announcement would tend to prejudice renewal of Trade Agreements Act. Principal opposition to renewal is likely to come from agricultural interests who feel that negotiations thus far have been too largely with agricultural countries involving benefits to industry at expense of agriculture. A formal and definite announcement of intention to negotiate would aggravate this criticism and

¹⁴ Revenue Act of 1936, approved June 22, 1936; 49 Stat. 1648, 1742.

¹⁵ Francis B. Sayre, Assistant Secretary of State.

¹⁶ Henry Wallace, Secretary of Agriculture.

¹⁷ Henry F. Grady, Chief of the Division of Trade Agreements.

tend to solidify opposition to renewal of Act. Moreover, immediate announcement would not expedite negotiations as some time will be required to complete the preparatory work which must be done before negotiations can proceed. There now appears to be good prospect of renewal of Act early in the session. If that happens, announcement could be made if agreeable to both Governments and negotiations could at once go forward some time in the early part of 1937. In any event, preparatory work is being speeded up to make this possible.

2. In regard to possible concessions by United States studies thus far made indicate probability that some concessions or bindings on principal Argentine products could be made if adequate *quid pro quo* obtained. The usual thorough preparatory work is now being done and is well under way by Tariff Commission and Agriculture. Much work has been done on flaxseed and data have been submitted in usual manner to country committee. Latter is agreed that concession of some kind should be recommended on this product. Reduced duty with customs quota is under consideration but committee has not yet been able to formulate definite recommendation.

3. With reference to our requests for concessions by Argentina we would normally ask for some tariff reduction or binding on all products of which we have been chief source of Argentine imports. Whether we should request concessions on all products of which we have been the chief source would depend, however, on the schedule of concessions which we can offer. In light of decision on latter schedule it might be considered necessary in order to bring the schedules into approximate balance to eliminate from our requests some of the products of which we have been the chief supplier. In advance of decision on this point it may do more harm than good to present to Argentine Government even a tentative list of requests.

4. In view of the fact that our studies have not gone far enough to support other than the general and highly tentative indications set forth above, we are inclined to think that even informal conversations regarding specific commodities at this time might result in confusion and misunderstanding and thus delay rather than facilitate the conclusion of an agreement.

5. For the reasons given above we consider it desirable that the usual thorough preparatory work be completed before discussions proceed and that any formal public announcement of intention to negotiate be deferred until renewal of the Act is definitely assured. If some sort of announcement by the Secretary appears desirable before he leaves Buenos Aires we suggest a statement to the effect that the bases of a trade agreement between Argentina and the United States are being actively studied.

INTEREST OF THE UNITED STATES IN SECURING EQUALITY OF TREATMENT FOR AMERICAN OIL COMPANIES OPERATING IN ARGENTINA

835.6363/435

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

No. 1193

BUENOS AIRES, May 22, 1936.

[Received June 2.]

SIR: I have the honor to refer to my despatch No. 1161 of April 29, 1936,¹⁸ regarding the efforts of the Yacimientos Petrolíferos Fiscales (Argentine State Oilfields) to increase its sale of gasoline and other petroleum products in Buenos Aires by means of a proposed Executive Decree which would effectively reduce the proportionate shares of this market now held by private oil companies, and to my despatch No. 1164 of May 4, 1936,¹⁸ informing the Department that such a proposal was not put into effect because of the imminent opening of the ordinary session of the Argentine Congress.

I now have to report to the Department that, in accordance with the terms of an Executive Decree originating in the Ministry of Agriculture and dated May 8, 1936, a committee of three was appointed on May 14, 1936, to realize an intensive study of the distribution, sale, importation, exportation and transportation of petroleum and its derivatives in all Argentine Territory. A translation of this Decree as appearing in the *Boletín Oficial* of May 15, 1936, is enclosed.¹⁸ Members of the committee chosen to carry on this work are: Dr. Eduardo J. Bullrich, former secretary to the President, Dr. Horacio Morixe, Under Secretary of Agriculture during the Uriburu¹⁹ Administration and author of a book on petroleum, and Sr. Luis Rojas, one of the directors of the Yacimientos Petrolíferos Fiscales.

The importance of this decree lies not in the fact that a representative of the Yacimientos Petrolíferos Fiscales will directly participate in the drafting of laws and decrees regarding the petroleum industry, for this entity has enjoyed a similar privilege in the past, but rather that a definite campaign to increase the sale of Yacimientos Petrolíferos products to the detriment of those elaborated by private oil companies has been initiated under official auspices. An official of an American petroleum company summarized this situation in the following manner: "The Basic Petroleum Law of 1935²⁰ restricted to a marked degree an [all?] future efforts to increase our production of crude [oil?] by obtaining new concessions, while now an attempt is being made to limit our sales. We are actually being squeezed at both ends."

¹⁸ Not printed.

¹⁹ General José F. Uriburu, Provisional President from September 1930 to February 1932.

²⁰ Law No. 12161, March 26, 1935, printed in Argentine Republic, Laws, Statutes, etc., *Código de Minería de la República Argentina* (Buenos Aires, 1937), p. 97.

Private oil companies consider that the section of Article 1 of this Decree which states "This Committee will submit preliminary projects of decrees and laws which it may deem necessary in connection with this subject" implies that some enactment may be put into effect establishing a sales quota for each petroleum company operating in the Buenos Aires market alone and not for the country as a whole. If this belief should prove true, then the Yacimientos Petrolíferos Fiscales will undoubtedly be guaranteed sales in the Federal Capital, the market in which the greatest profits may be realized because of the absence of transportation charges, in excess of those now being made.

The basis for the Decree of May 8, 1936, namely that certain private oil companies through rebates and price reductions have cut into the share of the petroleum market which normally would be held by the Yacimientos Petrolíferos Fiscales is open to question. By common agreement the retail price for gasoline was fixed at 23 centavos per liter in 1933, and since that time no "price war" has occurred. Furthermore, when the private oil companies in 1935 invited the Yacimientos Petrolíferos Fiscales to join with them in an accord binding themselves from granting rebates, the Yacimientos Petrolíferos Fiscales refused on the grounds that the private oil companies would not live up to its terms and as a result the State oil company would be penalized. Thus at the present time the Yacimientos Petrolíferos Fiscales is able to grant rebates whereas the private companies, according to their statement, are unable to do so because of the aforementioned agreement.

The latter organizations feel that the Yacimientos Petrolíferos Fiscales has resorted to this practise and cite the following instances: In 1934 34 per cent. of the gasoline sales in Buenos Aires were made by the Yacimientos Petrolíferos Fiscales. This cipher dropped to 31 per cent. in 1935 although the total consumption in the city increased by 10 per cent. By March, 1936, however, Yacimientos Petrolíferos Fiscales sales have increased to 38 per cent. of the total, a gain which presumably could only be accounted for by rebates.

I am informed by representatives of the private oil companies that they do not expect any immediate discriminatory action arising out of the terms of this decree. The advisory committee has only just been appointed, and it will require considerable time for this body to effect a comprehensive study of the petroleum market, especially when it is considered that one of the members, Dr. Bullrich, has little more than a superficial knowledge of the petroleum question.

Respectfully yours,

For the Ambassador:
RAYMOND E. COX
First Secretary of Embassy

835.6363/437 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, July 21, 1936—5 p. m.

[Received 8 p. m.]

144. Embassy's despatch 1061 [1161] of April 29²¹ and subsequent Executive decree²² published today prohibits exportation and limits as from August 5 next importation of petroleum and liquid hydrocarbons under what, in effect, is a license system determined and operated by the YPF,²³ the Government owned oil administration. Local heads of Standard Oil Company and Texas Company inform me that decree will have far-reaching effect on their importations of crude oil, roughly estimated in the case of Standard at 40 per cent and in the case of Texas at practically 100 per cent. I understand Standard Oil Company is consulting with the British oil companies here with a view to joint action through legal channels. Résumé of decree as published in today's press being forwarded by air mail tonight.

Cox

835.6363/438 : Telegram

The Consul General at Buenos Aires (Burdett) to the Secretary of State

BUENOS AIRES, July 21, 1936—5 p. m.

[Received 9 : 02 p. m.]

Reference Title 17, Article 377, Argentine Mineral Code reading as follows:

"The National Executive may limit or prohibit the import or export of fluid hydrocarbons when in cases of emergency the public interests shall so dictate," on July 20 a pertinent decree was issued on the alleged grounds that a national emergency now exists. It is said that imports of oil have been increasing at such a rate that the normal development of domestic industry (YPF) is imperilled. The decree reads in part as follows: "Quarterly Yacimientos Petrolíferos Fiscales (Argentine State Oilfields) will propose to the Executive the quantity and kind of petroleum products to be imported . . . importation. . . will be effected by the YPF which will distribute it in the proportions to be determined . . . taking into account the productive capacity or the contact capacity . . . of the private companies which register. . . ."

²¹ Not printed.²² Decree 86,639 of July 20, 1936, published in *La Nación*, July 21.²³ Yacimientos Petrolíferos Fiscales (Argentine State Oilfields).

(a) Crude petroleum will be distributed among the private distilling companies . . . who are in agreement with the YPF. . . .

(b) Sub-products . . . will be distributed and sold by YPF which may make agreements with other . . . entirety always reserving to itself decision as to price, sale or destination . . . every public department and especially the national hired [*highway?*] directorate and the Director of Mines and Geology shall make available all data and statistics which YPF might require." In substance this decree seemingly means that the YPF is to be given such a hold over private oil companies that the YPF will be able to show a profit irrespective of concomitant damages to private oil companies. The measure is so drastic that private oil companies are considering legal action as well as request for diplomatic protest. Report being forwarded by air mail tonight.

BURDETT

835.6363/437 : Telegram

The Secretary of State to the Chargé in Argentina (Cox)

WASHINGTON, July 25, 1936—4 p. m.

96. Representative of Standard Oil of New Jersey today called at Department with reference to decree mentioned in your 144, July 21, 5 p. m. He said Standard Oil was awaiting an opinion of its Argentine attorneys as to legality of decree and upon receipt of this opinion would again approach the Department.

Please endeavor to ascertain whether British Government has approached Argentine Government in this matter and, if it has, endeavor to learn the nature of its representations. Also please report whether all the American oil companies operating in Argentina are acting together in this matter. Please inform Department briefly by cable and fully by first airmail of developments since your despatch No. 1161, April 29, 1936,²⁴ together with your views.

HULL

835.6363/439 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, July 29, 1936—10 a. m.

[Received 11:50 a. m.]

150. Department's 96, July 25, 4 p. m. British Ambassador informs me that he has not approached the Argentine Government regarding the decree nor does he wish to do so alone. He says that he is pre-

²⁴ Not printed.

pared to make joint representations with the missions of countries having companies affected. Dutch Minister has received instructions to keep in touch with situation and I think will follow whatever lead is taken by the American and British Embassies.

There is no unanimity between the two American companies operating in Argentina nor between any of the foreign oil companies since each is affected differently. Texas Company, for instance, having no domestic production may feel itself obliged to agree immediately to the terms of decree if it is to continue in business here. Obviously the non-cooperation of any one company weakens the position of the others in any action they decide to take. I am doubtful whether even their united protest would alter the Government's intention as the decree reflects the nationalistic spirit here and as the YPF reputedly in financial straits has strong influence with the Government.

Since Embassy's despatch No. 1161, of April 29, the following despatches numbers 1164 May 4, 1193 May 22, 1274 July 21, and 1279 July 24²⁵ report developments prior to and since issuance of decree. I should appreciate receiving your instructions in this matter at earliest convenient moment.

Cox

835.6363/439 : Telegram

The Secretary of State to the Chargé in Argentina (Cox)

WASHINGTON, July 30, 1936—2 p. m.

101. Your 150, July 29, 10 a. m. Representatives of Standard Oil have not returned for the further conference with the Department which they said they would seek upon receipt of opinion as to the legality of the decree, nor have they as yet asked the Department to take any action in behalf of their company. No other American companies have approached the Department.

HULL

835.6363/444 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, August 5, 1936—3 p. m.

[Received 5:30 p. m.]

155. Embassy's 150, July 29, 10 a. m. Embassy is informed that the private oil companies have applied for enrollment on register

²⁵ Despatches Nos. 1161, 1164, 1274 and 1279 not printed.

mentioned in article 4 of executive decree and are now waiting to see what action YPF takes regarding their importation requests.

Cox

835.6363/446

The Chargé in Argentina (Cox) to the Secretary of State

No. 1297

BUENOS AIRES, August 7, 1936.

[Received August 14.]

SIR: I have the honor to refer to my telegram No. 155 of August 5, 3 p. m., 1936, advising the Department that the private oil companies operating in Argentina have applied for enrollment on the register mentioned in Article 4 of the Argentine Executive Decree No. 86,639 of July 20, 1936, regulating the importation, sale, distribution and exportation of petroleum and its liquid by-products, and to previous correspondence on this subject.

All of the companies thus far enrolled were called to a special meeting by the Minister of Agriculture held yesterday at which time representatives of each of the organizations were handed two copies of the proposed rules under which they will hereafter operate. A translation of these rules, obtained from one of the private companies, is being forwarded to the Department with the Consulate General's despatch No. 169 of August 7.²⁶

I am informed that the private companies have been given ten days in which to study these rules at the end of which period they will be permitted to propose any additions or modifications to them. The Ministry of Agriculture will then decide whether such changes are to be accepted or rejected and having reached a decision, will proclaim such regulations in their final form.

The private oil companies are now studying the regulations but are as yet unable to state their opinions concerning them in more than a general way. In discussing them with a member of the Embassy staff a representative of one of the private companies described them as severe but said that "they could have been a lot worse."

Briefly, the proposed regulations contain the following points. An estimate of the Argentine consumption of gasoline and other petroleum products will be made annually. The difference between this amount and the annual production of the YPF will be pro-rated among the private oil companies. The quota for each of these latter concerns will be fixed every quarter in accordance with its production and distribution capacity. Any company which sells more than its quota will be liable to a fine. Inspectors will be appointed to see that no infraction is made of the rules. A tribunal consisting of five per-

²⁶ Neither printed.

sons, two of whom will represent the YPF, two, the private companies, and the fifth to be elected by vote of the other four, will be charged with the supervision of the operation of these regulations. This tribunal will have the final decision in any matter under dispute and will have the power to fix the size of the fine to be levied against any infracting company.

Of primary importance is the fact that, for the present, the percentage of the Buenos Aires market to be allocated to the YPF is that which it already holds, roughly 38 per cent., and not 50 per cent. or more, as it attempted to secure by the proposed agreement of April, 1936.

Respectfully yours,

RAYMOND E. COX

835.6363/448 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

Buenos Aires, August 21, 1936—1 p. m.

[Received 4:43 p. m.]

170. Embassy's 144, July 21, 5 p. m. and subsequent correspondence. Local office Standard Oil Company informs me this morning that at yesterday's meeting between the private oil companies YPF and special Commission created by executive decree of May 8, private companies were given until tomorrow noon to agree in principle to a marketing scheme somewhat similar to that reported in my despatch 1297, August 7, and additionally, as concerns the Standard Oil and Shell-Mex Companies only, to withdraw the reservation of their legal rights handed the Ministry of Agriculture when these latter companies applied for enrollment on register mentioned in article 4 of executive decree. Standard states that it was told that if it did not unqualifiedly withdraw its reservation it would not be permitted to take part in the proposed marketing scheme. It informs me that the Texas Company and several minor private companies have signified readiness to adopt the commission's proposal. It has cabled full details to its New York office requesting instructions and pointing out that the matter now is one either of principle or of expediency in the sense that if company stand on its alleged legal rights it might take as long as 4 years before the courts determine such a case and in the meantime company might be practically eliminated from business. Shell has cabled London requesting assistance in the matter getting an extension in the period given by commission for that company's compliance. British Embassy has just received a cable from Foreign Office instructing it to suggest Shell's request in such manner as it deems advisable.

Cox

835.6363/449 : Telegram

*The Chargé in Argentina (Cox) to the Secretary of State*BUENOS AIRES, August 21, 1936—6 p. m.
[Received 6:20 p. m.]

171. My 170, August 21, 1 p. m. British Ambassador informs me he is immediately sending a letter to the Minister for Foreign Affairs stating in effect that he hopes that the extension of time requested by the oil company to allow them to give full consideration to the problems involved will be accorded in order to avoid all semblance of an ultimatum. Request rush instructions, if you desire similar action taken, as time limit given companies for compliance expires noon, tomorrow.

Cox

835.6363/450

*Memorandum by the Chief of the Division of Latin American Affairs
(Duggan)*

WASHINGTON, August 22, 1936.

Mr. Raymond E. Cox, First Secretary of the Embassy at Buenos Aires, telephoned at ten o'clock today to inquire whether the Department had drafted a reply to his telegrams 170 and 171 of August 21. I told him that a telegram had been drafted and signed stating that inasmuch as no request for assistance from any American company had been received, either by the Department or the Embassy, it was not considered advisable to take action similar to that of the British Ambassador.

Mr. Cox stated that he would of course follow the Department's instructions, but then went on to say that the time accorded to the Standard Oil Company for withdrawing its reservation had been extremely short—only forty eight hours; that the representatives of the company in Buenos Aires had immediately communicated with the head offices in New York but had not yet received instructions. He said he felt confident that a request for a brief extension of time in order to permit the company to present its observations would be greatly appreciated by the company and would in no way impair the relations of other American oil companies with the Government.

I authorized Mr. Cox orally to request of the Minister of Foreign Affairs a brief extension of the time limit set for the acceptance by the oil companies of the marketing plan. I said, however, that I thought care should be taken not to give the impression that this Government considered the action of the Argentine authorities in any sense an ultimatum. I said that a confirmatory telegram would be

sent immediately. Mr. Cox repeated the instructions and said he would follow them carefully.

LAURENCE DUGGAN

835.6363/450 : Telegram

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

WASHINGTON, August 22, 1936—1 p. m.

111. Confirming your telephone conversation this morning with Mr. Duggan, and referring to your 170 and 171, August 21, you are authorized orally to request of the Minister of Foreign Affairs a brief extension of the time limit set for the acceptance by the oil companies of the marketing plan in order to permit the Standard Oil to give full consideration to its position in the light of the meeting held on August 20.

PHILLIPS

835.6363/451 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, August 24, 1936—noon.

[Received 12:45 p. m.]

173. I orally conveyed message confirmed in Department's 111, August 22, 1 p. m., to Foreign Office before noon August 22, the time limit given the companies by the commission for their compliance. Dutch Minister informs me that he also requested an extension. Standard states that companies have now been given several days' grace to consider their position under proposed marketing scheme. Standard and Shell have withdrawn for the present the reservations of their legal rights. I am informed that Itaca (Anglo-Persian) has definitively aligned itself with Standard and Shell-Mex.

Standard today states that at meeting Saturday between oil companies and commission the latter proposed to continue conversations and in the meantime that all companies should agree to discontinue special rebates and discounts pending agreement on the marketing arrangement. Oil companies meet today to consider this proposal.

Cox

835.6363/452 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, August 28, 1936—5 p. m.

[Received 7 p. m.]

177. My 173, August 24, noon. Standard Oil Company today informs me that latest proposal of commission to the private companies

provides for signing a temporary agreement discontinuing special rebates and discounts pending the signature of a marketing arrangement on September 20. All companies except Shell-Mex and Standard, I am informed, have signed this agreement, Standard insisting no time limit be set in order to permit Vice President Harden to come from London for discussion.

Standard understands that marketing arrangement, to constitute regulations under executive decree of July 20, will be drafted shortly by a committee including Standard Oil Company representative and will be along lines of proscriptive rules summarized in despatch 1297 of August 7.

Cox

835.6363/453 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, August 29, 1936—1 p. m.

[Received 1:50 p. m.]

179. My 177, August 28, 5 p. m. Standard Oil Co. today tells me it has just signed temporary agreement together with Shell-Mex which does not obligate companies to accept marketing arrangement. Commission informs oil companies that final date for their acceptance of the latter is September 22.

Cox

835.6363/453a : Telegram

The Secretary of State to the Chargé in Argentina (Cox)

WASHINGTON, September 1, 1936—2 p. m.

116. The Standard Oil Company has informed the Department that the petroleum companies in Argentina are urgently requesting the Argentine Government to grant a sufficient extension of time to permit Harden²⁷ arriving in Buenos Aires September 19 to discuss "comprehensive solution" of the petroleum question. The Standard Oil Company has requested the Department to request from the Argentine Government an extension of the time limit for acceptance of the proposed marketing agreement beyond September 20, the date set for final acceptance of the marketing arrangement proposed by the Y.P.F.

The company states that it sees no reason why the Government should not grant this request since under existing decree the Government has the control of petroleum importations for the balance of

²⁷ Vice President of the Standard Oil Co.

the present year and can also assure the marketing *status quo* through the provisional agreement.

The company has been informed that the Department considers that it would be somewhat premature for the Embassy to make a request for extension of the time limit at this time pending the outcome of the company's negotiations directed to the same end.

Please keep the Department fully informed by telegram of the results of the company's request and also of any instructions which the British Embassy may receive to support the Shell-Mex.

HULL

835.6363/460

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

No. 1343

BUENOS AIRES, September 10, 1936.

[Received September 19.]

SIR: I have the honor to enclose memoranda²⁸ of conversations with Mr. R. C. Wells of the Standard Oil Company of New Jersey and Mr. C. R. Wylie of Ultramar, regarding the relations of the private oil companies here with the Argentine Government and the Yacimientos Petrolíferos Fiscales.

Mr. Wells stated to me that his company and others had for some time rather anticipated the coming into effect of measures the result of which might ultimately prove to be government supervision and control of the oil business in Argentina through the YPF. The decree of July 20, 1936, he considers to be the culmination of a campaign by the YPF to restrict competition by private entities.

While this situation, as reported by the Embassy from time to time, may gradually curtail the business and large profits of private companies in Argentina, I cannot but see in this a development in accordance with the supervised economy program of the Argentine Government already visible in other fields of private enterprise. On the other hand, I feel that the attitude of the present Government, at least, with any manifestation by it of nationalistic spirit, is as yet tempered by consideration for the country's economic development and welfare. Any change in the position of the private oil companies will, I think, be gradual rather than sudden. The proposed marketing arrangement under the decree of July 20, for example, provides for a gradual increase by the YPF up to 1941 from its present position of roughly 30 per cent. of the oil business to some figure around 40 or 50 per cent. with a view to controlling the market. Heretofore the Standard Oil Company has been in a dominant position and is, of course, loath to lose any ground.

Respectfully yours,

ALEXANDER W. WEDDELL

²⁸ Not printed.

835.6363/453b : Telegram

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

WASHINGTON, September 21, 1936—7 p. m.

124. Reference Department's 116, September 1, 2 p. m. The Department was today informed by the Standard Oil Company that today's single meeting of Mr. Harden with the Argentine authorities would probably be insufficient for proper consideration and discussion of the proposed marketing agreement with the Y. P. F., and that the Standard Oil would request a postponement of the time limit of September 21 set for acceptance of the agreement. The Company asked that in case this request were refused the Embassy be prepared to support it if Mr. Harden advised that such action was necessary.

If you are satisfied that the Argentine authorities have definitely refused a postponement you are authorized orally to request of the Minister for Foreign Affairs a brief extension of the time limit set for acceptance of the marketing plan, in order to permit the Standard Oil representatives to give full consideration to the plan.

HULL

835.6363/462 : Telegram

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

BUENOS AIRES, September 22, 1936—5 p. m.

[Received 5 : 37 p. m.]

195. Department's 124, September 21, 7 p. m. Standard Oil Company informs me that Harden and Bronson,²⁹ now here discussing situation at length with Argentine authorities, have sent them a joint letter containing main objections to marketing arrangement. Standard Oil Company states that idea of time limit to accept or reject arrangement has apparently been abandoned for the present.

Will keep Department informed by telegraph.

WEDDELL

835.6363/464 : Telegram

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

BUENOS AIRES, September 29, 1936—1 p. m.

[Received September 29—12 : 22 p. m.]

202. My 195, September 22, 5 p. m. Standard Oil Company informs me that discussions between Harden and Brousson and the

²⁹ In following telegrams appears as Brousson, who was one of the directors of the Dutch Shell-Mex Co.

Argentine authorities are continuing, the latter pressing for the acceptance of a marketing arrangement still unacceptable to the company on a business basis. Harden and Brousson presented their case both verbally and in writing to President Justo on September 26. They inform me that smaller companies are also continuing to refuse to sign marketing arrangement.

WEDDELL

835.6363/466 : Telegram

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

BUENOS AIRES, October 7, 1936—11 a. m.

[Received 12:10 p. m.]

209. My 202, September 29, 1 p. m. Buenos Aires City Council yesterday passed a bylaw whose essential points are as follows: the sale and distribution of gasoline in the federal capital is made a public service, an exclusive concession is granted to YPF for this service, 4 years after bylaw comes into force YPF is obliged to sell gasoline from its own refineries.

Bylaw appears to be in line with marketing arrangement already reported to Department and signed on September 30 by small oil companies.

Bylaw has not yet been promulgated by Mayor and is considered by oil company lawyers unconstitutional. Text by air mail. Shall cable local reaction.

WEDDELL

835.6363/467 : Telegram

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

BUENOS AIRES, October 7, 1936—noon.

[Received 4:14 p. m.]

210. Referring to my telegram No. 202, September 29, 1 p. m., and 209, October 7, 11 a. m., Standard and Shell representatives are continuing negotiations with Government.

The Dutch Minister told me last night that his Government had instructed him to lend "all proper assistance" to the Dutch interests (Shellmex). The British Ambassador has given me a memorandum of his oral statements to the Argentine Foreign Minister on September 30 in which he told the latter that the attitude of the Argentine Government is unreasonable and constitutes "unfair discrimination entirely contrary to the principle of equality of treatment".

WEDDELL

835.6363/468 : Telegram

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

BUENOS AIRES, October 8, 1936—6 p. m.
[Received 9 : 59 p. m.]

213. Standard Oil representatives advise me that the present time limit for acceptance by them of marketing arrangement expires on October 13.

It is my considered judgment, particularly in view of the arbitrary municipal bylaw reported in my 209 of October 7, 11 a. m., that if the oil companies are forced to accept the present arrangement and this occurs without question on our part it will adversely affect the prestige of other American interests here and may very likely give rise to further arbitrary legislation.

I would, therefore, strongly urge that I be authorized to discuss the matter with the Minister for Foreign Affairs and to express to him the hope that equality of treatment may prevail in dealing with these companies.

WEDDELL

835.6363/470 : Telegram

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

BUENOS AIRES, October 9, 1936—noon.
[Received 3 : 50 p. m.]

214. My 209, October 7, 11 a. m. Bylaw passed by City Council on October 6 considered by oil companies as infinitely more drastic than marketing arrangement in that while latter provides at least for a quota for the private oil companies, the municipal bylaw may be interpreted if so desired as eliminating these companies entirely from the Federal district, the profitable marketing area.

Standard and Shell-Mex state that they will protest bylaw perhaps today and will sue the Government if bylaw is signed. These two oil companies are also trying to bring smaller companies into line on the protest.

I am inclined to agree with the Standard that crux of problem is based largely on political considerations whereby the President must find a way to assist bad financial plight of YPF which began with his administration, the oil companies offering the most natural and convenient source for this assistance.

WEDDELL

835.6363/468 : Telegram

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

WASHINGTON, October 10, 1936—2 p. m.

134. Your 213, October 8, 6 p. m. You are authorized in your discretion to inform the Minister of Foreign Affairs of the hope of this Government that equality of treatment will prevail in dealing with the oil companies, both as regards the proposed marketing arrangement and under the by-law passed by the City Council on October 6.

HULL

835.6363/473 : Telegram

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

BUENOS AIRES, October 14, 1936—6 p. m.

[Received 7:25 p. m.]

221. I informed the Minister for Foreign Affairs yesterday of the contents of your 134, October 10, 2 p. m. He appeared sympathetic and said that he would pass on my remarks to the appropriate authorities and would let me have a memorandum on the subject shortly.

The oil companies report that negotiations with the Argentine commission are still continuing and in a friendly spirit, that no further mention of a time limit has been made and that the Argentines are gradually becoming more conciliatory.

There is much to indicate that the Argentine Government is endeavoring to drive as hard a bargain as possible with the oil companies and must eventually reach some sort of an arrangement with them. The Standard seems more optimistic although, of course, the negotiations are being prolonged far beyond any expectations.

Standard reports that if the municipal bylaw is not signed by the Mayor within ten working days after October 6, namely, about October 20, it automatically becomes law. Standard and Shell-Mex have endeavored without success to get smaller companies to join them in the protest against the bylaw which the two companies expect to file shortly.

WEDDELL

835.6363/475 : Telegram

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

BUENOS AIRES, October 17, 1936—2 p. m.

[Received 4:34 p. m.]

225. My 221, October 14, 6 p. m. In conversation with the Minister for Foreign Affairs yesterday he said it was the policy of his Govern-

ment that equality of treatment should prevail in negotiations with the oil companies. He was inclined to minimize practical effect of the municipal bylaw which he asserted originated with the Socialists in the Municipal Council.

Standard and Shell-Mex report they protested the bylaw on October 15 which takes effect October 21 unless vetoed. While the companies view this possibility with apprehension I am inclined to believe bylaw is more a threat on the part of the Government to force the oil companies to reach an agreement satisfactory to the YPF and like most Argentine controversial legislation is, as the oil companies admit and as the Minister intimated, very flexible and subject to almost any interpretation.

Dutch Minister informs me he is making, under instructions, declarations [to?] the Minister for Foreign Affairs similar to mine.

WEDELL

835.6363/476 : Telegram

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

BUENOS AIRES, October 28, 1936—4 p. m.

[Received 6:50 p. m.]

244. My 225, October 17, 2 p. m. Standard informs me very confidentially as follows:

Since marketing arrangement satisfactory to Government and to oil companies seems impossible, purchase of Standard interests in Argentina by YPF is being seriously discussed between Government and Standard. Government feels that in the event of such a purchase it would then be in a position to reach an agreement satisfactory to Shell. Harden has full powers to negotiate any arrangement he sees fit. He sees no reason why a good bargain could not be reached and has valued Standard investments in Argentina at 141,000,000 pesos.

Standard also informs me as follows:

Buenos Aires municipal bylaw has been signed by Mayor as of October 20, and now goes into effect one month from that date. Carrying out of bylaw is obviously impossible at present. Although the YPF is making every effort to take over sale and distribution of gasoline for city of Buenos Aires by November 20, against that date this service will very likely be carried on as usual by participating companies supervised by YPF as a matter of form. Standard is bringing lawsuit against the Government protesting unconstitutionality of bylaw.

WEDELL

835.6363/478 : Telegram

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

BUENOS AIRES, December 19, 1936—1 p. m.

[Received December 19—12:08 p. m.]

286. My 144, July 21, 5 p. m.; and 244, October 28, 4 p. m. Representatives of Standard inform me that negotiations between them and Argentine authorities have thus far failed to reach definite agreement on marketing arrangement. A temporary settlement lasting 6 months has been approved according to which Standard will receive import permits. Marketing of gasoline in the capital and outlying districts will remain virtually unaffected, municipal bylaw establishing gasoline monopoly for Buenos Aires in favor of YPF has been completely abrogated following dispute between Mayor and Municipal Council.

Am informed by Standard officials that terms of plan to sell company's property to the Government are now being examined by ex-President Alvear, the leader of the Radical Party and that his decision will determine the fate of the proposal.

WEDDELL

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

835.5151/551

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

No. 1130

BUENOS AIRES, April 17, 1936.

[Received April 27.]

SIR: I have the honor to inform the Department that in the course of the past few months I have had several talks with Dr. Ortiz, the Argentine Minister of Finance, urging equality of treatment in the matter of the granting of official exchange to cover imports of American merchandise into Argentina.

I spoke to the Minister for Foreign Affairs some time ago of my desire to discuss financial matters directly with the Minister of Finance and received the assurance that the suggested course of action was entirely agreeable.

I attach herewith a memorandum of a conversation ²¹ held yesterday with Dr. Ortiz, the Minister of Finance.

As will be observed, the Minister promises a more liberal treatment with regard to exchange covering imports of American goods and fur-

²⁰ Continued from *Foreign Relations*, 1935, vol. iv, pp. 269-280.

²¹ Not printed.

ther indicates that the present year may possibly see the abolition of the twenty per cent. surcharge on goods entering Argentina for which no previous import permits had been obtained, and even of the entire exchange control system.

In this conversation, I pointed out that my attitude and efforts were based on the grounds of equality of treatment and the necessity and advantage to Argentina and to general trade of the removal of artificial exchange barriers and other restrictions on commerce; certainly not on the basis of the possibly transitory "unfavorable balance" with this country manifested in the past year.

In the course of the conversation, I also brought to the Minister's attention two specific cases where representatives of American firms are in danger of losing Argentine Government orders for which they were the lowest bidders because of the fact that their competitors were in a position to obtain exchange at the official rate instead of having to pay the free market rate plus the surcharge. These cases the Minister promised to investigate. The Trade Commissioner in Charge, Mr. Clark, is also bringing these cases to the attention of Dr. Luro, head of the Exchange Control Commission.

It now remains to be seen just how liberal is the exchange treatment which the Minister of Finance declares will be accorded to importers of American merchandise. The Department will be kept fully informed of any developments.

Respectfully yours,

ALEXANDER W. WEDDELL

835.5151/552

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

No. 1137

BUENOS AIRES, April 20, 1936.

[Received April 27.]

SIR: I have the honor to enclose herewith the translation of a memorandum received today from the Minister of Finance, Dr. Ortiz, which he mentioned in my conversation with him on April 16 as in the process of being prepared for the Embassy (See Embassy's despatch 1130 of April 17, 1936).

This memorandum outlines the current exchange control policy of the Argentine Government, particularly as regards the United States. It is, I think, the first clear official statement of its kind. The Department will note the statement that the general situation in Argentina does not make it possible for the exchange treatment applied to the United States to be exactly the same as that granted to the countries that have signed commercial agreements or treaties on any basis, but that it is the intention of the Argentine Government to endeavor by all

means to make it possible for such a treaty to be concluded with the United States.

While later, on further study of this memorandum, I may have other comment to make, I shall appreciate any possible comment by the Department.

Respectfully yours,

ALEXANDER W. WEDDELL

[Enclosure—Translation]

The Argentine Ministry of Finance to the American Embassy

MEMORANDUM

I. The Argentine Republic has found it necessary to adopt the system of exchange control in force at present, by reason of the obstacles of different kinds created against the introduction of its products in the consuming markets, whether it be in the form of prohibitive tariffs, of quotas or of sanitary prescriptions.

Owing to the reasons to which reference is made, it has been necessary to distribute available exchange on the basis of the requirements which must be met and of the interest that such requirements represent in our economy.

II. Once the obligations contracted through signed agreements are covered, the Argentine Republic endeavors to distribute among the remaining countries the available exchange in proportion with their purchases from the Argentine Republic.

However, it is not always possible to distribute among the countries with which no agreement exists, a quantity of currency equal to that which would be fitting should such an agreement have been signed. In effect, previous permits are granted with an advance which in certain cases reaches 180 days before the arrival of merchandise and it is indispensable to have the assurance that in the near future no difficulties will be encountered for the exportation of Argentine products to the country in question.

III. In order to insure the payment without restrictions or delays of imported products in the proportion of purchases effected by foreign countries, after a previous deduction of a reasonable quantity for the payment of the foreign public debt, as has been done with regard to agreements signed with different countries, it is necessary to have a possibility of establishing with a time in advance the volume of purchases effected in the Argentine Republic.

IV. The figures supplied by the Exchange Control Office regarding public, national, provincial and municipal debt services paid to the

United States are correct. They reflect the exact value of transfers effected in the course of each year relative to this item.

Our Government had had to display real efforts to succeed in having the nations with which it has concluded agreements contribute to the payment of the public debt in countries whose commercial interchange does not show a sufficiently favorable balance for Argentina; without this the restrictions on the granting of currency to said countries would have been even greater.

V. Our Government fully appreciates the contribution towards its progress represented by the investment of foreign capital and especially capital from the United States and it wishes to dissipate the impression transmitted by the Ambassador concerning the purpose of deliberate treatment which might prejudice the investors. This misunderstanding may have as a basis the comparison of our figures of interchange referring to only one of recent years. If a study is made of permits granted during the years 1933 and 1934 as compared with figures of the total interchange of those years, it will be admitted that our Government has endeavored to be broadly liberal in the midst of difficult circumstances through which it has passed during that period. It is evident that the comparative liberality prevailing during those years stands in contrast with the figures of interchange registered in 1935, due to somewhat artificial circumstances, as is recognized by the Ambassador. However, confronted with those figures, the granting of permits has maintained a discreet proportion.

Unfortunately, and for the time being, the general situation does not make it possible for the treatment applied to the United States to be exactly the same as that granted to the countries that have signed commercial agreements or treaties on new bases, but it is the intention of this Government to endeavor by all means to make it possible for such a treaty to be concluded with the United States, because it is desirous of being able to give the proper treatment to the commercial and spiritual relation connecting it with that country. Until such time as this purpose is realized,—a purpose common to both countries,—this Department will do all in its power to improve that treatment in order to contribute to create grounds of understanding which may make it possible for the desire to sign a commercial treaty promptly to be put into practice.

The treatment imposed so far has been due to circumstances foreign to the will of Governments, it being indispensable—I repeat—to obtain in future the necessary guarantees so that our regular exports to the United States may be facilitated with the same liberality granted by that country to imports of other origin.

BUENOS AIRES, April 17, 1936.

835.5151/553

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

No. 1150

BUENOS AIRES, April 27, 1936.

[Received May 5.]

SIR: With reference to the Embassy's despatch No. 1137 of April 20, 1936, and previous correspondence concerning my efforts to obtain equality of treatment in the allotment of official exchange, I enclose herewith a copy of a letter received today from the Trade Commissioner in charge, Mr. DuWayne Clark, giving a résumé of his conversation with Mr. Luro, head of the Exchange Control Board.

As I have previously reported, the Embassy, including the office of the Commercial Attaché, is taking every appropriate opportunity to press with the Argentine authorities for equality of treatment with regard to the allocation of official exchange. With the important negotiations going on at present for a renewal of the Roca-Runciman Agreement,³² it would seem that the Argentines are particularly anxious not to give the British Government any impression that the Argentine Exchange Control Board is relaxing in any way toward favoring British purchases wherever possible by preferential treatment in the granting of official exchange.

Respectfully yours,

For the Ambassador:

RAYMOND E. COX

First Secretary of Embassy

[Enclosure]

The Acting Assistant Commercial Attaché (Clark) to the Ambassador in Argentina (Weddell)

BUENOS AIRES, April 27, 1936.

DEAR MR. AMBASSADOR: I enclose herewith for your information a résumé of my conversation on April 23 with Dr. Louro, Director of the Exchange Control Board.

In opening my discussions with Dr. Louro, I referred to your visit to Dr. Ortiz some days ago, at which time you had submitted the memorandum covering the two cases of discrimination against American materials in connection with Government contracts, and Dr. Louro informed me that Dr. Ortiz had referred this memorandum to him for study. However, I left another copy of this memorandum with Dr. Louro. He, Dr. Louro, then explained that there might be a possibility of the Government favorably considering our representations insofar

³² Signed at London May 1, 1933, League of Nations Treaty Series, vol. CXLIII, p. 68. See also *Foreign Relations*, 1933, vol. IV, pp. 722 ff.

as the tender of the Obras Sanitarias for aluminum sulphate is concerned, and he intimated that this matter had been referred to the Obras Sanitarias for its consideration. However, as regards case No. 2, the tender for steel sheets, Dr. Louro very frankly pointed out that the fact that a British firm had submitted a bid practically presumed that this company would secure the business, due to the policy of the Government to divert purchases to Great Britain whenever possible. Dr. Louro mentioned that from their point of view our suggestion that these tenders should be granted on the basis of official exchange for all bidders, and that the minimum expenditure of money by the Government should be a point of material consideration, was beside the point, and that, particularly in view of the negotiations now going on in London, it was necessary to favor English manufacturers, even if this policy actually cost the Argentine Government slightly more money.

After the discussion of the memorandum, Dr. Louro volunteered the information that he had received instructions from Dr. Ortiz to be more generous whenever possible in the consideration of requests for previous exchange permits covering importations of merchandise from the United States, and in line with this suggestion from the Minister of Finance, Dr. Louro informed me that he was closely studying the entire schedule of the Exchange Control Board regarding the allocation of exchange, and that he expected to be able to make a full report to Dr. Ortiz within the next few days. Dr. Louro stated that it was very probable that as a result of this study it would be found possible to be somewhat more lenient with American requests for exchange.

I then took up with Dr. Louro the question of the construction of the grain elevators, and he categorically informed me that so far as he knew, at present, manufacturers in Great Britain and in Germany were the only ones who could submit bids for machinery and equipment in anticipation of securing official exchange. I inquired as to the possibility of the Government finding it necessary to purchase special machinery in the United States which could not be secured from any other source, and Dr. Louro pointed out that in the case of such special machinery, official exchange would be allowed, but that such a matter would have to be the subject of a particular study. He did not hold out any hope for American interests in securing any great proportion of this elevator business, as its allocation, as in the case of the steel sheets, is apparently to be placed with the British interests if this is possible.

In leaving Dr. Louro he asked me to feel perfectly free to come to him and to Dr. Calvo, his assistant, whenever there was anything that the Embassy might like to discuss regarding the matter of exchange, or exchange control. I naturally assured him that I appreciated his attitude, and warned him that I should very probably take advantage

of his offer. I could not, however, avoid the conclusion during our conversations that the policy of the Exchange Control Commission is dictated by the Minister of Finance himself, and that Dr. Louro is simply its guardian. In other words, any concessions that may be made to American goods, or any improvement in general conditions must come from Dr. Ortiz. Dr. Louro also spent some time in discussing with me the renewal negotiations of the Roca-Runciman Treaty, and outlining the point of view of the Argentine Government regarding the necessity of making concessions to the British interests. Without his saying so, I gathered that the current policy is to extend further advantages to Great Britain even at the expense of Argentina's other commercial relations and I frankly think that there is a distinct possibility, if the Agreement is renewed, of the position of American merchandise in this market being even further prejudiced. On the other hand, if this agreement should not be renewed, our chances for better treatment would improve immeasurably. However, I do not think that there is any reason to believe that the Agreement will not be renewed, that is, insofar as the Argentine Government is concerned, although there is always the possibility of it becoming a bone of contention between the Government of the United Kingdom and the various Dominions. In any event, I certainly do not think that there is any chance of our seeing any distinct or definite gain in the amount of official exchange granted for American merchandise coming into this market until the London negotiations have been concluded.

I have [etc.]

DuWAYNE G. CLARK

835.5151/556

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

No. 1203

BUENOS AIRES, June 1, 1936.

[Received June 12.]

SIR: I have the honour to recall to the Department that on instructions contained in its telegram No. 37 of April 29, 6 p. m., 1935,⁸³ the Embassy in protesting against the Argentine decree establishing a surcharge of twenty per cent. on goods entering Argentina without prior permit, took up with the Argentine Foreign Office the question of the reported intention of the Argentine Government to favor countries with which Argentina has a favorable trade balance in the matter of Government contracts. No satisfactory results were obtained. From time to time the Embassy has subsequently heard of various Government contracts being awarded to firms of countries with which

⁸³ *Foreign Relations*, 1935, vol. iv, p. 273.

Argentina has a trade agreement even though the American bids were substantially lower.

In this connection and as illustrative of what I have just said are the facts set forth in a letter (copy enclosed)³⁴ the Embassy has received from Mr. C. T. Brady, Jr., American representative of the United States Steel Products Company. In this case it will be seen that while the bids of three American concerns for merchandise desired by the Argentine Ministry of Agriculture were lower than the bid of a British concern, the latter received the contract.

I have reported in my despatch No. 1130 of April 17, 1936, my recent conversations with the present Minister of Finance, Dr. Roberto M. Ortiz, in which I have urged equality of treatment for American interests in matters of exchange, Government bids, etc. The Minister who on the surface at least takes a different attitude toward this question from that of his predecessor, Dr. Pinedo, assured me that more liberal treatment would be accorded American goods. In my despatch No. 1137 of April 20 I enclosed a copy of a memorandum received from him stating in effect that the general situation in Argentina did not make it possible for the exchange treatment applied to the United States to be exactly the same as that granted to countries which have signed commercial and exchange agreements or treaties on any basis, but that it was the intention of the Argentine Government to endeavor by all means to make it possible for such a treaty to be concluded with the United States.³⁵

I enclose for the Department's information the English text of a communication in Spanish dated May 29³⁴ which I sent to Dr. Ortiz on this subject. In my communication I referred specifically to the contract for merchandise for the Ministry of Agriculture mentioned above in this despatch and requested his good offices in working for a change of attitude and policy on the part of the Argentine officials toward American concerns.

While I shall do everything I can to remove these discriminations against American commerce, I very much fear that the situation will continue precisely as it is today until such time as the United States is in a position to insist on equitable treatment and to make its insistence effective. The Argentines are fully aware of their present advantage and are leaving no stone unturned to persuade us to come to a trade agreement with them. At the moment they are negotiating with the British for a renewal of the Roca-Runciman Agreement and will throw everything they can to the British to facilitate that end. Moreover, the Argentine Government has reaped a small fortune,

³⁴ Not printed.

³⁵ See section entitled "Preliminary Discussions Respecting a Trade Agreement Between the United States and Argentina," pp. 174 ff.

variously calculated to be today in the neighborhood of 300,000,000 pesos, through exchange manipulation and I can foresee that it will be very loath indeed to give up such a source of easy money.

I should greatly value the Department's comments and instructions on the foregoing.

Respectfully yours,

ALEXANDER W. WEDDELL

835.5151/557

*The Consul General at Buenos Aires (Burdett) to the
Secretary of State*

No. 112

BUENOS AIRES, June 5, 1936.

[Received June 15.]

SIR: I have the honor to report that the American business firms in Buenos Aires are becoming increasingly disturbed over Argentine exchange control, particularly the 20% surtax on exchange required to pay for imports from the United States. It may be said that these business men are considering only one angle of a large problem, but it is indeed difficult for them to see millions of dollars of business going to their European competitors because of the 20% differential.

This measure is designed by Argentina to regulate trade and is equivalent to the imposition of customs duties 20% higher on certain merchandise from certain countries of origin than on like merchandise from other countries of origin. The United States is frankly the chief target of this discrimination.

The following is a case in point. The International Portland Cement Corporation, which is closely related to the American General Electric Company, is strongly inclined to use General Electric equipment. The Cement Company engineers are accustomed to General Electric machinery through having used it for many years in their plants. This Corporation's Argentine branch is about to erect a large cement plant on the Paraná River which will require an order of machinery such as is supplied by the General Electric Company, amounting to more than \$1,000,000.

It now appears that this same machinery may not be purchased in the United States because of the 20% surtax and unless some unforeseen eventuality occurs, the machinery will be purchased in Europe.

Thus, we have not only the loss of more than \$1,000,000 to American factories, but also the risk of unsatisfactory operation and output in the factory operating with equipment with which the American engineers are not familiar. On the other hand, there is the danger that this European equipment will prove to be more satisfactory than the American product and thereby will supplant it in cement mill design generally in foreign countries.

The American Chamber of Commerce in the Argentine has held several meetings to discuss the surtax and in late April decided to lodge a protest with the Government at Washington urging that a retaliatory action be taken against Argentine merchandise entering the United States through the President making use of his authority and imposing increased duties on Argentine products. The Chamber decided to address this protest to the Chamber of Commerce of the United States, to send copies to the home offices of the respective companies engaged in business in Buenos Aires to the end that the complaint be brought to the attention of the Senators and Congressmen from the districts within which these home offices are situated, and to give the fullest publicity to these documents. Copies of the rough drafts of these letters are herewith transmitted as enclosure No. 1.³⁷

For obvious reasons the Consulate General advised that these letters be not sent out, stating to the Chamber that the Embassy has been making all representations to the Argentine Foreign Office as are possible in the circumstances, and made clear that the State Department is giving every sympathetic consideration to this matter.

A further argument against sending out these letters, which was pointed out by the Consulate General, was the fact that any imposition of additional duties on Argentine products entering the United States would react against the members of the local American Chamber of Commerce who export corned beef, hides, wool, linseed, and tallow.

At a meeting held on May 20, 1936 the Governors of the Chamber of Commerce voted to cancel the proposed letter to the United States Chamber of Commerce and instead, to substitute another letter, copy of which is herewith transmitted as enclosure No. 2,³⁷ and to address this letter to official or semi-official entities in the United States to be decided upon later. This document is a very clear statement of the acutely distressing position of American business men in Buenos Aires, and can with profit be read by the officers in the Department who are interested in the general question of American trade movement with the Argentine.

The American Chamber of Commerce in Buenos Aires is largely composed of high grade executives who have weathered successfully the depression years. It is asserted that the American business community in Buenos Aires is perhaps more competent and more efficient than that of any other foreign city. Their Chamber of Commerce has cooperated closely with the Consulate General and has sought its advice on every important problem. This office has thus been in a position in the discussion of exchange to exercise a restrain-

³⁷ Not printed.

ing influence against premature action or publicity to untimely criticism of the State Department's policy.

Discrimination through exchange control is a vital question in American-Argentine business. Some of the American importers in Buenos Aires are not affected by this exchange restriction inasmuch as their exchange for imports are granted at the "official" rate through being considered as of public utility. These products include agricultural machinery. On the other hand, the best examples of the suffering from lack of official exchange for Americans and the consequent 20% surtax are steel and machinery. Every few days large orders are going to Germany and England which would ordinarily be taken care of by the United States and would afford work for thousands of unemployed in Pennsylvania and Illinois.

Many of the local branches of American firms are thoroughly agitated over this exchange discrimination. They feel that the wide publicity being given by their British competitors to the assertion that Argentina is not treating English trade fairly although England is Argentina's best market, should be counteracted with publicity in the United States through semi-official organizations, and through the press, of the alleged violation of the Treaty of July 27, 1853³⁸ which stipulates in Article 3 that:

"The two high contracting parties agree that any favor, exemption, privilege or immunity whatever, in matters of commerce or navigation, which either of them has actually granted, or may hereafter grant, to the citizens or subjects of any other government, nation, or state, shall extend, in identity of cases and circumstances, to the citizens of the other contracting party,"

and Article 4 of the same Treaty, which states that:

"No higher or other duties shall be imposed on the importation into the territories of either of the two contracting parties of any article of the growth, produce or manufacture of the territories of the other contracting party, than are, or shall be, payable on the like article of any other foreign country."

As stated above, the Governors of the Chamber of Commerce drafted two communications stressing the discrimination of this exchange surtax system, quoting the above-mentioned Treaty and saying that it has been violated by Argentina. The intention of the Chamber was not only to obtain support from the American Government but also to cause publicity to balance the large amount of British publicity now flooding the Argentine press, much of which is aimed directly against American trade. The members of the Chamber, engrossed with their own immediate grievances, have reached a point where some

³⁸Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 6, p. 269.

of them are criticizing the foreign trade policy of the Department. In preventing these letters being issued, the Consulate General, while agreeing with many of the causes for complaint of the Americans in Buenos Aires, pointed out that the proposed letters would at the present time be without helpful effect, and would hamper the State Department in its urgent wish to negotiate a commercial treaty with the Argentine and to maintain the friendliest relations possible with this key country of Latin America.

On June 2nd the Board of Governors of the local Chamber decided to await a redraft of the letter, enclosure No. 2, and adopted the following resolution.

“That the Chamber of Commerce bring to the attention of the National Foreign Trade Association the matter of the discrimination involved in the 20% surcharge now imposed upon American importers, requesting their assistance and advice as to the best manner of bringing this matter before the State Department and American public.

“That the Chamber should defer the proposed visit to the Minister of Finance as decided upon at the last meeting, until a reply is received from the National Foreign Trade Association and possibly until that Association shall already have taken some action in the United States.”

Further action by the Chamber or by the individual groups of importers will be reported.

Respectfully yours,

WILLIAM C. BURDETT

835.5151/559: Telegram

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

BUENOS AIRES, June 22, 1936—5 p. m.

[Received 8:08 p. m.]

130. My despatch 1203, June 1, regarding exchange restrictions. I have received a note from the Finance Minister in reply to my letter dated May 29³⁹ (see enclosure 2 of above despatch) stating that the Ministry of Finance has decided to amplify list of articles of United States origin for which previous exchange permits have hitherto been granted by 50 categories; and that this procedure “will be maintained as long as interchange with the United States permits, this not preventing the study of its further amplification as soon as permitted by the increase of Argentine exports to the United States.” A copy of the note and the list enumerating the categories affected were transmitted in last Saturday’s pouch with my despatch 1236 of June 19.⁴⁰

³⁹ Not printed.

⁴⁰ None printed.

The Embassy is now preparing a study of the practical effect of the Ministry's statement to be forwarded shortly to the Department. Meanwhile, it appears at first glance that the list is somewhat padded, some of the items being of small commercial consequence. Some 15 items, however, such as trucks, copper, industrial chemicals, railroad and street railway equipment, airplanes, pharmaceutical products, radio tubes, general hardware, machinery, and pumps, et cetera, appear to be valuable concessions and to place American manufacturers in an equitable competitive position which may mean increased business of some millions of dollars this year.

WEDELL

835.5151/571

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

No. 419

WASHINGTON, July 21, 1936.

SIR: There is transmitted for your information copies of a letter dated July 14,⁴¹ received from the National Foreign Trade Council, Incorporated, and the Department's reply ⁴² thereto, relating to the recent action of the Argentine exchange authority in extending the list of articles which, when imported from the United States, will be entitled to exchange coverage at the favorable official rate. You are requested to comment by air mail or, if it can be done briefly, by cable, on the Council's inquiry whether the extension of the list of American articles entitled to official exchange implies a net increase in the total quantity or percentage of official exchange made available for American trade.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

835.5151/574 : Telegram

The Chargé in Argentina (Cox) to the Secretary of State

BUENOS AIRES, July 31, 1936—11 a. m.
[Received 11:45 a. m.]

152. Department's instruction No. 419, July 21. Recent extension of list of American articles to be granted official exchange implies a net increase in the total amount of official exchange to be allocated for imports from the United States. Amount of official exchange thus allocated is subject to revision according to movement of Argentine exports to the United States and consequent creation of dollar ex-

⁴¹ Not printed.

change. Present indications are that in the near future Argentine exports to the United States will be largely augmented because of shipments of corn.

Cox

833.5151/578 : Telegram

The Consul General at Buenos Aires (Burdett) to the Secretary of State

BUENOS AIRES, August 21, 1936—7 p. m.
[Received 8 : 45 p. m.]

It is learned that the Government's chief financial advisors are discussing the imminent advisability of abolishing exchange control and returning to a free market. The exchange position of the Government is strong and announcement of such change will obviously come without warning.

Reasons prompting this discussion are: (1) Large prospective investments in Argentina which are delayed because of reluctance to bring in funds that would be impossible to remove under present exchange restrictions, (2) sudden American demand for Argentine grain and consequent creation of further dollar exchange, (3) prospective conversion of Argentine dollar debt, (4) a timely gesture of voluntary relinquishment of a profitable, but unpopular source of income.

Removal of exchange control would terminate the grain regulatory board. This entity was declared by the Government to be only a temporary expedient and a time when grain prices are at their present high level would be a propitious one in which to abolish it.

BURDETT

835.5151/580

The Chargé in Argentina (Cox) to the Secretary of State

No. 1314

BUENOS AIRES, August 21, 1936.
[Received August 28.]

SIR: With reference to my despatch No. 1248 of June 26, 1936,⁴² dealing with the probable effects of the new Argentine exchange regulations on American trade, I have the honor to submit further current information on this subject.

Immediately after the Embassy informed the United States Chamber of Commerce in the Argentine Republic that, as stated in the

⁴² Not printed.

Finance Minister's note to the Ambassador of June 16,⁴⁸ official exchange would hereafter be granted to cover Argentine imports on some fifty classifications of American merchandise, a special meeting of the Board of Directors of that body was called in order to discuss these new regulations. It was suggested at this meeting that the members of the Chamber handling the various categories of merchandise affected by the new regulations should submit to it their views on the probable effect of these measures on American trade. With the material so compiled the Chamber would then prepare an exhaustive study of the subject as a whole. This plan was subsequently abandoned and in its stead it was decided that such members should advise the Chamber as to the action of the Exchange Control Board on their requests for official exchange.

As reported to me by the Chamber of Commerce, with one exception since June official exchange has been granted for all requests covering imports from the United States in these fifty classifications of merchandise listed in the Minister's note. This exception is automobile trucks. When the exchange regulations first came into effect one automobile dealer immediately applied for official exchange to cover an importation of automobile truck chassis, the usual form in which such vehicles are imported. This request was granted but subsequent to this time this dealer as well as other representatives of American automobile companies have been met with refusal in their applications for official exchange although they were informed that such exchange would be granted to cover trucks imported in a finished state.

As anticipated, the representatives of American radio and radio tube concerns have been particularly benefited by the new exchange regulations and are now importing considerable material from the United States which heretofore was being purchased in Great Britain. The same may be said of importers handling American industrial machinery. Representatives of American railway equipment companies have submitted several bids for rolling stock and other material to be purchased by the State Railways, but as yet no decision has been reached by that entity as to the firm or firms which will be granted contracts. The representative of one of these American companies informed the Chamber of Commerce that the wording of the calls for bids did not tend to favor European firms as opposed to American.

In short, it would appear that in the two months in which the new exchange regulations as affecting shipments of fifty categories of United States Merchandise have been in operation, American export

⁴⁸ Not printed.

trade with Argentina in such lines has increased appreciably and the prospects for a further gain are exceedingly auspicious.

Respectfully yours,

RAYMOND E. COX

835.5151/592

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

No. 1354

BUENOS AIRES, September 17, 1936.

[Received September 25.]

SIR: I have the honor to refer to my despatch No. 1314 of August 21, 1936, dealing with the probable effects of the recent Argentine exchange concessions on American trade. I now wish to report that official exchange is being granted on all the fifty categories of merchandise granted by this exchange concession with the exception of x-ray films. These films come under category No. 690 entitled "Surgical Instruments and Material for Clinics and Laboratories". I am taking up this point with the Minister of Finance in my discussions with him on exchange.

In the Embassy's despatch No. 1314 of August 21, 1936, it was stated that automobile trucks, included in No. 101 of the fifty categories of merchandise, were not being granted official exchange. In discussing this matter with the Exchange Control Board, it was learned that while category No. 101 allows official exchange for imports of automobile truck, this category does not include automobile truck chassis for which the importers were requesting official exchange. However, the Exchange Control Board has shown itself disposed to give a broad interpretation to this list of categories or even to amplify it wherever possible by granting official exchange to electric refrigerators for the first time.

While the amount of official exchange granted for the importation of United States merchandise has thus not increased over last year, it should be kept in mind that the recent Argentine exchange concession was not granted until the middle of June. Furthermore, it is expected that with shipments of grain to the United States increasing each month, the amount of official exchange granted for the last six months should show a considerable increase.

In this connection, however, it may be re-emphasized that in my discussions with the Argentine Treasury authorities care is being taken not to base our claim for more liberal exchange treatment on the amount of our purchases in this country.

Respectfully yours,

ALEXANDER W. WEDDELL

835.5151/596

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

No. 1389

BUENOS AIRES, October 15, 1936.

[Received October 23.]

SIR: I have the honor to refer to the Embassy's despatch No. 1354 of September 17, 1936, informing the Department that official exchange is being granted on all the fifty categories of merchandise granted by this exchange concession with the exception of X-ray films. I now wish to report that X-ray films are also receiving official exchange.

I yesterday had a further discussion with the Minister of Finance over matters connected with our commercial relations. The principal reason of my visit with him was to urge an increase to the list of fifty categories of merchandise from the United States to receive official exchange granted to us by the Minister's note of June 16, in which he promised to study the possibility of such an increase. I enclose herewith a memorandum of my conversation with the Minister.

While Argentina's exchange position has strengthened considerably with an increasing amount of foreign exchange available, this position hinges to a large extent on the outcome of the negotiations now going on for a renewal of the Roca-Runciman Agreement. I understand that exporters shipping products to Great Britain as well as British vested interests here are pressing for exchange concessions eliminating the Government's margin of profit between the buying and selling rate, and that this aspect is now playing a large part in reaching an agreement satisfactory to both countries.

Respectfully yours,

ALEXANDER W. WEDDELL

[Enclosure]

Memorandum by the Ambassador in Argentina (Weddell)

I called on the Minister of Finance today by appointment and discussed with him at considerable length various phases of our commercial relations which are of current interest to us both.

I first referred to the Minister's order of June 16 relative to official exchange granted to fifty categories of merchandise imported from the United States and recalled his expression of hope that he might increase the list of such categories. I pointed out to him the feeling on the part of our Government that continuation of Argentina's exchange restrictions still contains elements of discrimination. The Minister said that he would continue to study the matter of increasing the number of categories to be granted official exchange and would advise me later.

I also referred to my hope that official exchange would be granted to American bidders for the three series of contracts of the Argentine

Government for elevators and for elevator equipment. The Minister said that he was having a meeting this afternoon of the Autonomous Commission which had this matter in charge and which would discuss and settle these very points. The Minister said he would be very glad to inform me by memorandum tomorrow what decision had been arrived at. The Minister said in connection with this that it had been decided to pay for the grain elevators in cash and not by Government bonds.

I called the Minister's attention to the fact that while the United States was now importing large quantities of Argentine corn shipped via Canada, exchange credit for such shipments appears not to be given to the United States. I stated that up to the end of September it was my understanding that the United States had purchased \$20,000,000 worth of Argentine corn and \$12,000,000 worth of Argentine linseed but that the United States is credited with having bought only \$8,500,000 worth of corn and \$10,500,000 worth of linseed. While I realized that there are explanations for some of the discrepancies in these figures, I said I was sure a good deal of the exchange that should be credited to us is being credited to Canada. The Minister said that as a result of a new system of statistical accounting which was being introduced he thought it would be possible to straighten out the matter of the conflicting figures. I said I hoped that later after we had secured more detailed official figures the Embassy could take this matter up with the Statistical Office. The Minister said he would be glad to have this done and to discuss further phases of the question.

We spoke at some length of the movement of American capital to Argentina and of a certain amount of uneasiness provoked by recent events. We touched on the action of the Municipality of Buenos Aires in connection with the by-law making the sale and distribution of gasoline a public service and its possible effect. In this connection I emphasized to the Minister my understanding that foreign capital in Argentina would be fully protected as long as it obeyed domestic laws and regulations without regard to its foreign origin.

Before leaving the Minister I expressed my thanks for his action of September 22 regarding the customs classification of refrigerating units (see Embassy's despatch No. 1374 of October 2, 1936⁴⁴). I said to the Minister that his resolution which was gratifying to exporters of such units from the United States and to local importers and manufacturers makes operative what is practically an equivalent of the previous classification and corrects any element of discrimination. The Minister said he had been very glad to arrange this despite some opposition from the customs authorities.

A[LEXANDER] W. W[EDDELL]

⁴⁴ Not printed.

835.5151/605 : Telegram

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

BUENOS AIRES, December 10, 1936—4 p. m.

[Received December 10—3: 52 p. m.]

281. Reference is made to my despatch No. 1403 of November 6.⁴⁵ Central Bank has now received instructions to sell exchange in official market at the rate of 16 pesos to pound instead of at former rate of 17 pesos, according to official communiqué of yesterday. Communiqué states further as follows: "In compliance with its reiterated promise to return gradually to monetary normality as soon as circumstances should permit, the Government has decided to take new measures tending toward realization of this desire." The communiqué envisages the necessity of possibly discarding gradually the measures set up by exchange control and minimum prices on grains. On December 2 the Government suppressed minimum prices on wheat and linseed.

Present reduction in the margin of exchange profit has been done largely for the following reasons:

(1) Continued increase in exports over imports and the excellent state of the grain market.

(2) Natural appreciation of exchange value of the peso with the free market selling rate coming to within about 4.4 per cent above the official selling rate.

This decrease in exchange margin is felt in some circles to be a possible forerunner of the abolishing of exchange control should circumstances later permit. With free market selling rate today at 335 pesos per hundred dollars, peso has strengthened appreciably.

Please advise Commerce.

WEDDELL

835.5151/609

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

No. 1439

BUENOS AIRES, December 22, 1936.

[Received December 29.]

SIR: Reference is made to my despatch No. 1389 of October 15, 1936, reporting that official exchange is now being granted on all the fifty categories of merchandise granted by an exchange concession.

As far as I am able to ascertain, official exchange covering these fifty categories is still being granted. However, in the case of a bid on the part of the Pullman Standard Car Export Company for equip-

⁴⁵ Not printed.

ment for the Government railways amounting to over one million dollars and falling under three of the fifty categories, the Exchange Control Board refused to grant this Company official exchange. It was only upon urgent representations to the Minister of Finance that I was able to receive assurances that official exchange would be applied. This Company is now hopeful of securing the contract.

Although I have brought up several times with the Minister of Finance the desirability of increasing the list of fifty categories—envisaged by him when this exchange concession was granted—the Minister has finally given me to understand that no increase will be possible at least until after negotiations for a trade agreement between the two countries have been initiated.

Respectfully yours,

ALEXANDER W. WEDDELL

BOLIVIA
REVOLUTION IN BOLIVIA

824.00/740

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 517

LA PAZ, February 6, 1936.

[Received February 15.]

SIR: I have the honor to refer to my despatch No. 496, dated December 24, 1935,¹ briefly describing the internal political confusion in Bolivia, and to report certain realignments that have taken place in the Bolivian political scene since that date.

Union of the C. S. B. and A. S. B. G.

On January 30, 1936, the leaders of the "Acción Socialistic Beta Gama" agreed to incorporate their organization in the "Confederación Socialista Boliviana." The unifying pact provides that all the political units making up the confederation were to be unified into one political organism with a single program to be adopted at a congress to be held early in February; also that a nation-wide convention is to be convoked not later than March 15 to found a genuine socialistic party.

This realignment brings all the "leftist" political groups into a united front. The leaders are not believed to be genuine socialists. The two prime movers of this group, Enrique Baldivieso and Carlos Montenegro, are both former members of the Siles regime that was ousted by the revolution of 1930.² Their intimacy with Colonel David Toro, dominant personality in the Bolivian Army who was a Cabinet Minister under President Siles, makes this political group particularly potent and lines up the Socialistic-youths' movement with the Army Command.

Army

The Bolivian Army has steadfastly refused to return to a peace time basis. It has forced the Government to appropriate 40,000,000 Bolivianos for its use in 1936 out of a total budget of 130 millions. If 49 millions for service on war loans and 10 for repatriation of prisoners is deducted from the budget total it will be seen that the Army

¹ Not printed.

² See *Foreign Relations*, 1930, vol. I, pp. 415 ff.

receives 40 millions and all other government activities only some 31 millions.

The Army General Staff has refused to remove the war-time restrictions such as censorship of the press and mail, and the restrictions for entry into Bolivia thereby being able to keep out its enemies. It controls all roads in and approaching the Chaco as well as the Cochabamba-Santa Cruz Road. During the war the entire petroleum production of the Standard Oil Company of Bolivia was turned over to the Army for war purposes. It is still taking this over and is now endeavoring to retain the right to distribute gasoline and kerosene throughout the entire country. The Army controls the entire telegraph systems of the Government. In fact, it is reliably stated that the General Staff now administers more government functions than the government proper and the press and government in general is completely dominated by Colonel Toro.

There is increasing talk that Colonel Toro will not wait for the National Assembly scheduled to be voted for in May to restore a constitutional government in Bolivia, but will actually take over the government so soon as the prisoners problem is settled. This talk is so common and generally believed that I personally know of several prominent Bolivians who have commenced to purchase foreign currency, confident that internal disturbances are inevitable, leading to the further depreciation of the Boliviano.

Legion de Ex-Combatientes

Many feel that the Legion de Ex-Combatientes is the only organization that can thwart Colonel Toro's political ambitions. The members of this organization are men who served in the Chaco, not of the Regular Army. They have been most critical of the gross incompetence exhibited by the Army Command in the Chaco. The military idol of this group is Colonel Bernadino Bilbao Rioja, the only higher officer who came through the Chaco campaign with the respect and admiration of the rank and file, as well as the junior officers. Colonel Bilbao was sent to London in October on special "mission" and the Government has recently extended the term and emoluments of his mission. I have been reliably informed, however, that he is now en route to Bolivia. Bilbao and Toro are born enemies. With the Legion de Ex-Combatientes and the support of the junior officers and some of the file in the Regular Army, Bilbao may be able to deter Toro from openly taking over the Government. If Toro does attempt it, and Bilbao succeeds in reentering the country, there is likelihood of fighting.

Respectfully yours,

JOHN J. MUCCIO

824.00/745

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 529

LA PAZ, February 28, 1936.

[Received March 7.]

SIR: I have the honor to transmit herewith a news clipping from *Ultima Hora* of February 27, 1936, and translation,³ containing the text of the Presidential Decree dated February 27, 1936, convoking national elections for May 31st, next. These elections were prescribed by the Act of the Bolivian Congress of August 4, 1935. (See Legation Despatch No. 405, dated August 6, 1935.)³ The election will be for the President and Vice President of the Republic and for national representatives to a Constitutional Assembly.

La Republica, organ of the Republican-Socialists or "Saavedrists", has been carrying on a strenuous campaign condemning the Government for the continuance of the "State of Siege" and of the war-time restrictions. Under the existing censorship of the press and restrictions against the right of assembly and freedom of speech, it contends, the political parties cannot freely prepare and organize for the approaching national elections.

There is considerable prediction that these elections will not take place. Many contend that the prisoners are not likely to return in time to register at least thirty days before election day as required by the Bolivian electoral law. Such failure to return in time would be the cause of agitation against the holding of the elections until the prisoners do return as there is considerable feeling that it would not be fair to hold the elections without the prisoners present to vote.

A more prevalent feeling is that prior to the date set for the elections, Colonel David Toro will have taken over the Government. In fact, many in La Paz were surprised that President Tejada Sorzano was permitted to return to La Paz from Sorata where the President had gone to pass the carnival festivals.

Respectfully yours,

JOHN J. MUCCIO

824.00/746

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 534

LA PAZ, March 6, 1936.

[Received March 14.]

SIR: I have the honor to transmit a newsclipping from *El Diario* of March 3, 1936, and translation³ reporting the result of the President's weekly reception of local journalists and foreign correspondents held on March 2, 1936. Of particular interest is the

³ Not printed.

President's statement that the state of siege cannot be lifted since, "We are in possession of concrete data by which is known that preparations are being made in Bolivia to overthrow public order." He adds, however, that "the elections will be held in an atmosphere of complete liberty and that the state of siege will be suspended during the time they are being held."

There is no question but that the Bolivian political situation is confused, uncertain and most delicate. The President's inference ascribing the unrest entirely to the activities of communists and extreme "leftists", however, is not correct. The activities of the communists is a factor but unquestionably one of the least important causes of the present turmoil.

The main cause of the present confused situation is the weakness and vacillation of the present administration in facing the Herculean post war problems and its failure to solve any of them. The administration's inability to curb the constantly increasing cost of living has brought numerous protests from the workers and lower classes. With a view to checking the rising costs the administration has endeavored since October 1, 1935, to peg the Boliviano at 40 to the pound sterling. The opposition of the mining industry to this rate of exchange and to being saddled with what it considers unjust and confiscatory exactions has resulted in the miners' refusal to ship minerals, principally tin, thereby depriving the Government of its principal source of income which is the percentage of drafts that exporters of minerals have to turn over to the Government at 20 Bolivianos to the pound, the so-called "official" rate. The continued uncertainty as to the Government's final action concerning the rate of exchange has resulted in a drastic suspension of importation causing heavy losses to merchants. The administration is therefore unpopular with the workers, the all important mining industry, and with the merchants and its unpopularity is increased by the continuance of the onerous state of siege.

Respectfully yours,

JOHN J. MUCCIO

824.00/754

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 563

LA PAZ, May 5, 1936.

[Received May 16.]

SIR: I have the honor to refer to my despatch No. 529, dated February 28, 1936, transmitting the Presidential Decree of February 27, 1936, convoking national elections for May 31st, next, and to enclose a newsclipping from *Ultima Hora* of April 27th, and translation, giving the text of a Presidential Decree dated April 27, extending the period of registration to May 15, 1936, "so that the number of

citizens (concurring) may increase in view of the transcendancy of this plebiscite.”

It is the consensus of opinion that there will be no national elections on May 31st. None of the political parties in Bolivia has selected or presented candidates and none has yet publicly stated that it will concur. The President of the Republic has been having a series of feverish conferences with the various party leaders urging them to consent to go to the elections, without success. In announcing that he was still endeavoring to convince party leaders to take part, the President is quoted in the *Ultima Hora* of May 7th as stating, in translation:

“Facing the gravity of the national problems, I am intimately convinced—of which I have already informed the nation—that only by constituting a legal government can Bolivia remain capable to handle the grave international questions that she has pending and to resolve the disquieting internal problems. It is for this that I shall not cease recommending to the nation that it retemper its patriotism and concur in an election to constitute public authority (power) on the basis of the consent of the public, in such form that whoever may accede to the government will be supported by national opinion, task which may be assured beforehand will be confronted with difficulties of all orders.”

The President is reported to be prepared to postpone the elections provided all parties consent thereto.

The Liberal Party, in its recent convention, decided to abstain from the coming elections. In a public statement, dated May 2 (text of which as published in *El Diario* of May 3rd, and translation, is enclosed ⁵), Doctor Tomás Manuel Elío, leader of that party, explained that the liberals had decided not to take part since they had submitted definite proof to the President that the “Army would not recognize the results of the elections, for it had the intention of intervening directly in politics, imposing a new regime.” To this the President is reported to have replied that the government possesses moral recourses only to make the Army consider respecting the results of the elections.

It is persistently rumored that Doctor Elío has even suggested to the various parties that they agree to endorse a united candidacy of Doctor Bautista Saavedra (Republican Socialist) for President and Señor Enrique Baldivieso (Socialist) for Vice President in order to avoid the inevitability of an Army regime.

It would be exceedingly rash to endeavor to predict the course of events in Bolivia in the near future. Only a miracle might pull the country out of its present chaotic condition and establish a constitutional government. . . . united action is out of the question. The direct intervention of the Army appears inevitable.

Respectfully yours,

JOHN J. MUCCIO

⁵Not printed.

824.00/752: Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 17, 1936—noon.

[Received 4:40 p. m.]

21. My telegram of May 16, 7 p. m.⁶ President resigned 2 a. m. Manifesto issued by Acting Chief General Staff⁷ this morning states army assumes supreme mandate not to possess itself of the political power but to restore order. Army to associate itself with the more popular political parties to select a mixed junta. Manifesto states provisional government will respect and faithfully comply with all treaties and accept international pacts.

Meeting of army, Socialists and Republican Socialists leaders now in progress in Government Palace awaiting instructions from Colonel Toro still in Villa Montes.

La Paz exceptionally quiet with soldiers patrolling streets. No information is at hand from outlying centers.

MUCCIO

824.00/753: Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 17, 1936—8 p. m.

[Received 11:53 p. m.]

22. My telegram May 17, noon. Manifesto by Acting Chief of General Staff declares that after consulting army, Republican Socialists and Socialists Parties mixed Junta assumes charge of the Government at 5:30 today. Junta consisting of four military, two Republican Socialists and two Socialists with Colonel Toro as President of Junta. La Paz continues tranquil.

MUCCIO

824.00/756: Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 18, 1936—3 p. m.

[Received 6:16 p. m.]

23. My telegram May 17, 8 p. m. La Paz continues superficially tranquil. Secretary of Junta and Chief of Workers Federation announced by radio last night that agreement settling strike had been reached. Workers have not returned to work, however, insisting upon specific declaration by Junta as to wage increases and that one workers' representative be appointed on Junta. Workers possessed themselves of the municipal building this morning.

⁶ Not printed.⁷ Lt. Col. German Busch.

There is underlying current of discontent with present organization of Junta. Many feel that Toro is not coming to La Paz since there is considerable opposition to him. Rumors also that army is not unified. No information concerning conditions in other centers, though I have been reliably informed that garrison in Oruro have declared themselves against Toro.

Students also declared a strike this morning. Students and ex-service men not generally sympathetic with army.

MUCCIO

824.00/752 : Telegram

The Secretary of State to the Chargé in Bolivia (Muccio)

WASHINGTON, May 18, 1936—5 p. m.

11. Repeat your 21, May 17, noon, to Buenos Aires for Braden⁸ as well as all subsequent telegrams reporting important developments in the political situation.

HULL

824.01/40 : Telegram

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

BUENOS AIRES, May 18, 1936—9 p. m.

[Received 9:55 p. m.]

109. From Braden. Chairman of Peace Conference today received a telegram from the Minister for Foreign Affairs of the new Bolivian regime announcing assumption of Government by Junta and making formal declaration that Buenos Aires protocols and all other existing treaties to which Bolivia is a party will be respected strictly.

At meeting of Executive Committee this afternoon consensus of opinion was that recognition probably might be accorded by the six mediating nations within a few days and should be approximately simultaneous and as nearly as possible by identic notes. Chilean delegate stated he had received instructions to recommend that recognition be granted in this manner as soon as possible. I should appreciate the Department's instructions.

There seems to be no reason for change in the Government to affect repatriation of prisoners. However, for technical reasons involving change in train schedules previously requested by Bolivia, despatch of next contingent of prisoners from Asunción will be delayed one week. [Braden.]

WEDDELL

⁸ Spruille Braden, American delegate to the Chaco Peace Conference; see pp. 35 ff.

824.00/757 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 19, 1936—11 a. m.

[Received 1:55 p. m.]

24. My telegram May 18, 3 p. m. Agreement reached between Workers Federation and Junta yesterday afternoon and all workers returned by this morning. Terms of agreement not yet announced.

Colonel Toro has not yet returned to La Paz. His procrastination in coming to La Paz is difficult to explain though he is known to detest Saavedra and is reported to have stated he will not have a Saavedrist on his Junta. At public gatherings yesterday Saavedra eulogized Colonel Busch, accompanied by general shouts of down with Toro.

None of the Legations has as yet received any communications from the Junta. Unity of Junta is still problematical with Toro and Lieutenant Colonels Moscoso⁹ and Veira¹⁰ not in La Paz.

La Paz superficially normal. Repeated to Buenos Aires.

MUCCIO

824.00/758 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 19, 1936—2 p. m.

[Received 4:10 p. m.]

25. My telegram May 19, 11 a. m. Mixed Junta dissolved early this morning, Toro apparently having sent word that he would not associate himself with it and that he would select a Junta upon his arrival here. Toro expected by airplane this afternoon or by train tomorrow.

Colonel Busch, Acting Chief of General Staff, apparently issued manifesto reported in my telegram May 17, 8 p. m., without approval of Toro.

Repeated to Buenos Aires.

MUCCIO

824.01/40 : Telegram

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

WASHINGTON, May 19, 1936—3 p. m.

64. For Braden. Your 109, May 18, 9 p. m. This Government concurs in the belief expressed at the meeting of the Executive Committee that recognition of the new Bolivian Government might well be accorded simultaneously by identic notes by the six mediating nations,

⁹ Oscar Moscoso, who became Minister of Education and Indigenous Affairs in the governing Junta.

¹⁰ Julio Viera, who became Minister of Interior and Justice in the governing Junta.

thus following the desirable precedent created in the case of the recognition of the present Government in Paraguay.¹¹

It would seem, however, premature to consider extending recognition at this juncture and in the belief of this Government it would be wise to await developments for at least a few days in order to ascertain public reaction in Bolivia to the change of government and more specifically to determine the final composition and authority of the present regime. Please cable the Department such pertinent information as you may obtain both on these points and on any other important developments in the Bolivian situation.

HULL

824.01/41 : Telegram

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

BUENOS AIRES, May 19, 1936—5 p. m.

[Received 5:53 p. m.]

111. From Braden. My 109, May 18, 9 p. m. Informed Saavedra Lamas¹² today of substance of La Paz's 23, May 18, 3 p. m. He agreed we should proceed carefully with respect to recognition of new regime until situation becomes clarified and urged suspension of repatriation until recognition is granted. I suggested caution in considering any further delay in repatriation and that, if decided upon, it should be attributed to technical reasons insofar as possible. [Braden.]

WEDDELL

824.01/42 : Telegram

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

BUENOS AIRES, May 20, 1936—1 p. m.

[Received May 20—12:45 p. m.]

112. From Braden. Department's 64, May 19, 3 p. m. The promptest, fullest and apparently most accurate information received here as to the Bolivian situation has been contained in the telegrams from our Legation at La Paz. These are confirmed by reports received through the Chilean Minister for Foreign Affairs who now favors delay of recognition pending developments. [Braden.]

WEDDELL

¹¹ See section entitled "Revolution in Paraguay", pp. 858 ff.

¹² Argentine Minister for Foreign Affairs; President of the Chaco Peace Conference.

824.00/759 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 20, 1936—4 p. m.

[Received 5:13 p. m.]

26. Toro scheduled to enter La Paz 5 p. m., with grand display of force. No announcement of the composition of his Junta whether purely military or mixed.

La Paz superficially tranquil. Situation continues delicate and unpredictable. Labor element believed to consider themselves thwarted in their aspirations. Labor Federation still ensconced in Municipal Building. Rumors of lack of army solidarity continue. Repeated to Buenos Aires.

MUCCIO

824.00/770

The Chargé in Bolivia (Muccio) to the Secretary of State

No. 575

LA PAZ, May 22, 1936.

[Received June 6.]

SIR: I have the honor to submit the following summary of events of the past week which, with the several telegrams and despatches already transmitted, form a background to the movements leading to the resignation of President Tejada Sorzano and to the subsequent attempts to form a government, the composition of which will probably be announced today.

General Strike

As reported in my despatch No. 569 dated May 15, 1936,¹³ the typesetters and employees of all newspapers in La Paz went on strike on May 9 demanding wage increases on a scale equivalent to that given to government employees effective January 1, 1936. (Report from Consulate dated February 6.)¹³ Attempts to settle this strike were futile. Although under the "state of siege" restrictions obtaining public assemblies were prohibited, workers agitations became increasingly frequent protesting against the mounting cost of Living which the Government had not been able to curb. On the evening of May 15 the Assembly of the Workers Federation of La Paz declared a general strike effective the next morning demanding primarily increases similar to those given government employees. The President of the Republic called in the Federation leaders, described the critical condition in which the country found itself, and urged that the strike

¹³ Not printed.

be called off until the Government had time to study the question of wage increases for all non-government employees. Though an announcement was made by radio late that evening that the strike leaders had acceded to the President's request, practically all workers went out on Saturday morning. (Telegram No. 18, dated May 16, 11 a. m.)¹⁴ A complete stoppage of all trade and industry became effective at once throughout the La Paz area although the Bolivian Power Company managed to maintain an uninterrupted service of electric current and water during the entire period. The La Paz Students Federation also announced that it would join the workers if the strike was not settled by Monday.

The President discussed the situation at a meeting of "Notables" on Saturday morning and shortly afterwards issued a decree (See telegram No. 20, dated May 16, 7 p. m. and Despatch No. 570 of May 18¹⁵ mobilizing all vital workers as reservists and subjecting them to military duties and laws. The workers took no heed of this decree and it soon became obvious that it could not be made effective.

Resignation of President Tejada

There were numerous conferences at the Government Palace Saturday afternoon and evening. The manifest impotence of the President and the chaotic condition of the Government soon made it obvious that they could not long face the critical situation. The President later retired to his private home. Sunday morning two Lieutenants called on President Tejada. When finally admitted, they placed before him a letter of resignation for signature, but he handed them a letter he had already written. Shortly thereafter a proclamation announcing the resignation, and that pending the selection of a mixed junta, the Army would be responsible for public order was issued by Colonel German Busch, Acting Chief of the General Staff. The Commander-in-Chief, General Peñaranda, and the Chief of Staff, Colonel David Toro, were both in Villa Montes supervising the repatriation of the Bolivian prisoners.

The text of the resignation, believed to have been considerably altered, and of the proclamation, were forwarded in Despatch No. 571, dated May 19, 1936.¹⁴

Proclamation of Mixed Junta

A proclamation issued by the Acting Chief of Staff Sunday afternoon announced that a mixed junta would assume charge of the government at 5:30 that day. (See telegram No. 22 dated May 17, 8 p. m. and Despatch No. 572 of May 19, 1936.¹⁶) The Junta was to

¹⁴ Not printed.

¹⁵ Neither printed.

¹⁶ Latter not printed.

consist of four military, two Socialist and two Republican Socialists members with Colonel David Toro as President of the Junta.

Sunday evening the Secretary of the Junta and the head of the Workers Federation announced by radio that an agreement had been reached settling the general strike and that the workers would return to their tasks Monday morning. (See telegram No. 23, dated May 18, 3 p. m.) The workers did not return, however, and in accordance with their agreement, the students of La Paz stayed away from their colleges and schools. On Monday, numerous demonstrations by workers groups took place demanding a specific declaration by the Junta that increases equivalent to those given government employees would be accorded all industrial, mine and commercial employees; and further, that a laborers' representative be appointed to the Junta. As a part of these demonstrations, the members of the Workers Federation entered the Municipal Building which has been used as their headquarters since.

Tuesday morning the laborers finally returned to their work. The terms of the agreement have not been announced. It is believed that verbal assurances only were made that the demands of the laborers would be sympathetically considered so soon as practicable. The satisfaction of the laborers will undoubtedly be the most crucial task facing whatever governing group is finally organized. It is generally realized that labor having felt its power in the past week, and incited by political agitators, will not readily forego the demands it has put forth for salary increases and direct representation on the Junta.

Dissolution of the Junta

Following the appointment of the Junta matters were at a practical standstill awaiting the arrival of Colonel Toro from Villa Montes. His procrastination in coming, which he could have done in a few hours by plane, and the lack of any public pronouncement from him resulted in a gradual increase of uneasiness. The feeling finally became prevalent that he was not satisfied with the Junta. The Junta dissolved during the night of May 18-19 (See telegram No. 25, May 19, 2 p. m.) and the Army again became responsible for public order.

It was generally known that Toro detested Doctor Bautista Saavedra, head of the Republican Socialists. Also that he had stated he would never associate himself with a Saavedrist. The repudiation of the proclamation establishing the Junta became inevitable, however, when the significance of sections four and five thereof providing that each member of the Junta was autonomous, and could be removed only by the party appointing the member, became evident to Toro.

It is evident that Lieutenant Colonel Busch a young militarist, 32 years of age, could not have drawn up a proclamation as politically

subtle and astute as that announcing the resignation of President Tejada, nor have the political sagacity of inserting the ingenious sections four and five into the proclamation establishing the Junta. These are attributed to Doctor Saavedra. That Saavedra was cleverly manoeuvring for supremacy is indicated by his activity following the resignation of the Junta. At numerous gatherings he extolled the workers, the Army and the youthful hero, Busch. I have been reliably informed that he personally appealed to Busch to declare himself against Toro. At these meetings, there were frequent cries of "Down with Toro". Toro is not popular with labor, ex-service men, nor with the students who blame him for the student massacres during the 1930 revolution.

It appears that the Army was not anticipating a change of Government at this time and was caught unaware with Colonel Toro in Villa Montes. It is even stated that Toro was furious with developments as he had tacitly agreed to Tejada Sorzano remaining as President till the expiration of his term on August 15, 1936. The general strike brought about a critical situation, however, which was used by the "leftists," particularly the Saavedrists, to further their own ambitions and the Army had to step in to protect its dominant position.

Arrival of Toro

Colonel Toro arrived in La Paz on May 20 at 5 p. m. (See telegram No. 26, dated May 20, 4 p. m.) and immediately established himself in the Government Palace. He has made no public pronouncement concerning his plans except in a very nebulous interview granted the La Paz correspondent of the Associated Press. (Despatch No. 574, dated May 21, 1936.)¹⁸

Toro has been having continuous conferences since his arrival. Rumors indicate that he will establish a junta of ten members; six military, and four civilians—one a representative of labor. The civilian members will probably be Socialists and Republican Socialists appointed as individuals amenable to him and not as party representatives.

La Paz and the Country generally remain superficially tranquil. The dissolution of the first Junta and the delay in announcing the new governing group indicates a lack of unity and of decision. The frequent demonstrations by laborers and the socialist groups, and the general unpopularity of the Army leaders, are also causes for considerable uneasiness. Furthermore, the fundamental problems that the Tejada government was unable to settle, particularly the exorbitant cost of living and inordinate government expenses with a deficit itself larger than the total budget for any former year, are

¹⁸ Not printed.

critical issues which will have to be met by the Army and its associates in the new administration.

Respectfully yours,

JOHN J. MUCCIO

824.00/761 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 22, 1936—7 p. m.

[Received 8 : 43 p. m.]

27. Composition of Junta settled this evening to consist of six military, two Socialist, two Republican Socialists, one Labor, with Toro as President of Junta.

Repeated to Buenos Aires.

MUCCIO

824.00/762 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 23, 1936—5 p. m.

[Received 7 : 30 p. m.]

28. My telegram May 22, 7 p. m. Members of the Junta took oath May 23, noon. Toro stated that faith of the nation was due to treaties and foreign rights and that nation's economy needed strengthening within purely socialistic standards. Enrique Baldivieso, in charge of foreign relations, reiterated Bolivia's respect for all treaties, that Junta's socialistic creed is purely Bolivian not inspired by universal formulae, that Bolivia is not prepared for full socialism, needs foreign capital which will enjoy full guarantees.

Repeated to Buenos Aires.

MUCCIO

824.01/43 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 24, 1936—11 a. m.

[Received 1 : 15 p. m.]

29. The following is translation of the pertinent part of a note received from Minister of Foreign Affairs:

“In placing this fact before you and in regard to the circumstance that the new situation, which counts with the support of the people and of the army, is now definitely consolidated, permit me to request that you take up with your illustrious Government the question of formal recognition, which would make normal the relations of this Chancellery with the Legation and thus facilitate the realization of the program of the Junta of Government which, in international mat-

ters, is one of sincere intimacy of Bolivia to all friendly nations, of a close and harmonious cooperation and the strict observance of existing pacts.”

Shall await Department's instructions prior to acknowledging.

While the country is peaceful and the Junta has appearances of stability, it will be most extraordinary if divergent members can cooperate in facing critical, social and economic conditions.

Repeated to Buenos Aires.

MUCCIO

824.00/765 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 27, 1936—noon.

[Received 1:50 p. m.]

30. The following are evidence of increasing stability of Junta. The country continues peaceful. There is no organized opposition to the Junta. The Liberals and the Genuinos are at present impotent and the Socialist Republicans and Socialists are parties to the Junta. Not only have no political arrests been made but Junta proclamation of May 23 raised state of siege restrictions and proclaimed general amnesty for political prisoners, though Genuinos have not yet all been released. Moderation of proclamations and of the minimum platform proclaimed by the Junta has greatly eased the fear of an extremist administration.

Only unfavorable factors evident are that Workers Federation is still in possession of municipal building flying red flag. Basic, social and economic problems still have to be solved. It will be miraculous if army and Republican Socialists can long cooperate on Junta.

I have been informed by representatives of Argentina, Brazil, Chile and Peru that they are informing their respective Governments that stability of Junta warrants recognition.

Repeated to Buenos Aires.

MUCCIO

824.01/45 : Telegram

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

BUENOS AIRES, May 28, 1936—1 p. m.

[Received May 28—12:54 p. m.]

115. From Braden. La Paz's 30, May 27, noon. Telegram from Argentine Minister in Bolivia to Argentine Minister for Foreign Affairs received yesterday states that he and representatives of Brazil, Chile, Peru and the United States in La Paz (Uruguayan Minister is absent on leave) believe new Government is stable and recognition thereof now appropriate. Executive Committee will probably

recommend on Friday to respective Governments that recognition be accorded simultaneously on Saturday in La Paz in similar notes. Will cable substance of proposed Argentine note of recognition as soon as received. [Braden.]

WEDDELL

824.01/43 : Telegram

The Secretary of State to the Chargé in Bolivia (Muccio)

WASHINGTON, May 30, 1936—10 a. m.

12. Your 29, May 24, 11 a. m. You may deliver the following note simultaneously with the delivery of notes by the other mediatory powers on Saturday afternoon at a time to be agreed upon with your colleagues :

"I have the honor to acknowledge the receipt of Your Excellency's note of (insert date) by which after stating that your Government enjoys the support of the people and that it intends to respect its international obligations, you request that the question of the continuance of normal friendly relations be taken up with my Government.

In view of the affirmation set forth in your note under reference, my Government has instructed me to state that it will be pleased to maintain with the Government of Bolivia the friendly relations that are traditional between our two countries".

HULL

824.01/46 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 30, 1936—10 a. m.

[Received 10:45 a. m.]

31. My telegram May 27, noon. Ministers of Argentina, Brazil, Chile, and Peru have received instructions for recognition of Junta today. Chilean Consul's instructions are that he is to place himself in agreement with representatives of the mediatory powers for simultaneous recognition. Awaiting instructions. Repeated to Buenos Aires.

MUCCIO

824.01/48 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, May 30, 1936—6 p. m.

[Received 7:20 p. m.]

32. Department's telegram May 30, 10 a. m. Note delivered May 30, 5 p. m.

Repeated to Buenos Aires.

MUCCIO

824.00/775 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, June 22, 1936—10 a. m.

[Received 3:35 p. m.]

32. Bautista Saavedra arrested and deported night of June 20, many other Saavedrists or Republican Socialists arrested.

Chief of Army Staff in manifesto dated June 21 accuses Saavedrists of subversive activities against the realization of the aims of the May 17 movement, ratifies confidence of the army in the military members of the Junta, and gives full freedom to the President to complete the Junta and continue carrying out the minimum program of the Government.

Colonel Toro declared to press last evening that three civilians would be retained on Junta in personal capacity not representing any political party. Personnel of Junta not yet announced though Finot¹⁹ is mentioned for Minister of Foreign Affairs.

Repeated to Buenos Aires.

MUCCIO

824.00/776 : Telegram

The Chargé in Bolivia (Muccio) to the Secretary of State

LA PAZ, June 23, 1936—3 p. m.

[Received 6:40 p. m.]

34. My telegram June 22, 10 a. m. Two new members of governing Junta took oath of office June 23, noon. Finot has been appointed as Minister of Foreign Affairs. I should like to point out that Chief of Army Staff manifesto of June 21 states "the army from this date takes possession of the Government." The note from Acting Minister of Foreign Affairs received this morning states "the army has assumed full responsibility of the Government satisfying the confidence in the military members of the Junta and leaving the President with full liberty to complete it and develop the program which has been planned." Colonel Toro decree dated June 22 states "that the army has assumed exclusive government of the country, that it is necessary to provide the executive power. The Military Junta of Government is constituted in the following form." Juridically this indicates an actual change in the Government though President and six members of the Junta did not take new oath this morning and in interview with the press Toro stated all acts, declarations, and public manifestos of former Junta remain in force both in internal and international matters.

¹⁹ Enrique Finot.

In fact, present Junta is continuation of former Junta and direct army intervention was merely to reproach representatives on Junta. I do not consider that question of recognition therefore arises.

MUCCIO

PROPOSAL BY THE FOREIGN MINISTER OF BOLIVIA FOR AGREEMENT FOR THE EXPORTATION OF TIN FROM BOLIVIA TO THE UNITED STATES

824.6354/113

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

No. 40

LA PAZ, September 25, 1936.

[Received October 6.]

SIR: I have the honor to report that during a recent call at the Foreign Office Señor Finot²⁰ stated that, outside of an honorable settlement of the Chaco,²¹ a trade agreement with the United States based on our consumption of tin was in his opinion the greatest single contribution he, as Foreign Minister, could make to the welfare of the country. He said that an agreement to supply the United States with tin had for years been one of the "great expectations" of the Bolivian people, but that in view of the present economic crisis and the need to give some new impetus to Bolivian trade its popular appeal would be even greater at this time. He had, he said, given much thought to a direct agreement between the two countries, and that from his conversations in Washington with members of the Department and others, he understood that some such course was not impossible, but that the degree of our cooperation was dependent upon pending legislation advocated as a measure of national defense by the Navy and War Departments.

As representative of Bolivia in Washington his personal interest in a direct deal between the two governments was well known, but the uncertainty of Congressional action, and his own country's preoccupation with the war had precluded any serious approach to the problem. Now, however, with peace in the offing, and in his position as Foreign Minister, he authorized me to say to my government that, if we were willing, he desired to suggest the two governments undertake without delay to explore the possibilities so as to determine if sufficient mutual interest exists to justify a formal agreement.

I replied that I would be glad of course to report his interesting proposal, and suggested that Señor Guachalla,²² in Washington, be

²⁰ Enrique Finot, Bolivian Minister for Foreign Affairs, and former Minister in the United States. Mr. Finot notified the Department of State of his departure from Washington on July 29, 1936. His letter of recall was transmitted by the Legation on September 21.

²¹ See pp. 35 ff.

²² Luis Fernando Guachalla, Bolivian Minister in the United States, presented his letters of credence on September 21.

instructed as to the details and scope of any plan he had in mind. As this suggestion did not elicit any amplification of his ideas, as I had hoped, I asked him if he had taken into account the possibility that the Patiño interests might object. To this he replied that Señor Patiño was patriotic and would act for the best interest of the country, but that he was positive if an agreement between the two governments was feasible he could guarantee the Bolivian Government would see it through irrespective of possible obstructive tactics on the part of Patiño and the international tin pool. He added that if I could obtain an indication that his suggestion for exploratory negotiations would be well received in Washington he was prepared, on so being informed, to reduce his ideas to a formal written proposal.

Obviously Foreign Minister Finot would be happy to have the credit for initiating and negotiating an agreement guaranteeing a market in the United States. Because such an orientation to Bolivia's trade would be popular and most welcome at this particular time when the country is suffering from a wave of "defeatism", the plan undoubtedly would have the support of the present government, such as it may be worth. Though the Foreign Minister spoke with much assurance I do not know what measures the Bolivian Government could invoke if Mr. Patiño and his associates should, as evidence of their disapproval of the suggested governmental agreement, decide to curtail further the scale of their operations by leaving the tin in the ground. This inquiry is a very natural one in view of the evidence we have today of the policy of more or less passive resistance on the part of the miners, who have materially reduced the output of their mines as a defense against the Government's action in taking increasingly large proportions of the foreign exchange derived from the export of tin. . . .

In connection with my undertaking to transmit his suggestion to Washington, I reminded the Foreign Minister that the matter of direct tin sales to the United States had a long history and that any new approach naturally would have to take into account the interest the American Congress has recently shown in this regard. It is my understanding that the Bolivian Minister in Washington is being instructed to confirm this conversation, and I shall await with interest the Department's position. My only observation for the moment is that according to the Legation's records this appears to be the first occasion the Bolivian Government has taken any positive step, and regardless of my doubts as to how fully the repercussions have been considered, at least the door is open for discussion if we wish to pursue the matter further.

Respectfully yours,

R. HENRY NORWEB

824.6354/123

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

No. 77

LA PAZ, November 5, 1936.

[Received November 13.]

SIR: I have the honor to report that according to Señor Carlos Victor Aramayo, the second largest producer of tin ore in Bolivia and formerly Bolivian Minister in London, President Toro²³ recently discussed with him the world tin situation and the question of diverting Bolivian production to the United States. He stated to Colonel Toro that as Señor Patiño is the producer of more than one-half of the Bolivian output and is believed to have large potential resources under his control as yet undeveloped in any way, any arrangement looking toward diverting the ore to the United States must be agreeable to him. Señor Aramayo told me privately in this connection that he believed Señor Patiño might be willing to write off his possible losses in English smelteries controlled by him should some compensating arrangement be made. Such losses on the part of Señor Patiño would be only partial since he controls other tin mining interests which would compensate for his losses in not smelting ore produced in Bolivia. Colonel Toro is said to have expressed the feeling that Bolivia should not lose its position in the Tin Pool, but since the Pool is influenced in a large measure by Señor Patiño some arrangement would undoubtedly be made before the matter was made public in any way.

However, in view of the continued failure of Bolivia to fill its allotted quota, questions arising at this time with regard to this matter must be looked at with at least some suspicion and it may be that Bolivian producers hope that, through a seemingly premature announcement regarding plans to have Bolivian ore smelted in the United States, they may be able to retain their position in the Pool. Since they have had to relinquish a portion of their quota during the present year their position is not so strong as it might be. The withdrawal of Bolivia would have serious consequences but should it do so, and the price of tin fall, the arrangements regarding smelting in the United States would necessarily have to include some compensation to offset Bolivia's position as the producing nation having the highest production costs.

During the afternoon of the same day the Minister for Foreign Affairs again, but apparently independently, brought up the subject. He stated that he was interested in the fact that Dr. Herbert Feis²⁴ would be at the Conference in Buenos Aires²⁵ since he knows that

²³ Colonel David Toro, President of the governing Junta of Bolivia; see pp. 220 ff.

²⁴ Economic Adviser, Department of State.

²⁵ Inter-American Conference for the Maintenance of Peace, Buenos Aires, December 1-23, 1936; see pp. 3 ff.

Dr. Feis is interested in this question, and that he, Señor Finot, would take that opportunity of discussing the matter with the Secretary of State.

Señor Aramayo's statements have probably been influenced by recent discussions he is said to have had with Señor Patiño in Paris and his own reflections on the uncertainty of the European situation which were published in the press in Buenos Aires on his return to Bolivia. Political disturbances in Europe which might lead to war would increase the price of tin but would make the delivery of Bolivian ores to European smelters uncertain.

Respectfully yours,

R. HENRY NORWEB

824.6354/127

*Memorandum by the Chief of the Division of Latin American Affairs
(Duggan)*

WASHINGTON, December 7, 1936.

During a conversation this morning with the Bolivian Minister, I inquired whether he had ever received instructions to consult with the Department regarding cooperation between the two countries in matters pertaining to tin. The Minister replied that when the Minister of Finance passed through this country several months ago, the latter said that he would send instructions shortly after his return to La Paz. The Minister said he would write the Minister of Finance reminding him of this conversation.

LAURENCE DUGGAN

PROTEST BY THE BOLIVIAN GOVERNMENT REGARDING INVOLVEMENT OF BOLIVIAN CONSUL GENERAL IN COURT ACTION IN CASES GROWING OUT OF VIOLATIONS OF ARMS EMBARGO

810.79611 Tampa-New Orleans-Tampico Airlines/283

The Bolivian Legation to the Department of State

[Translation]

MEMORANDUM

The Minister of Bolivia to the Government of the United States²⁶ has, for some time, been holding conversations with the Honorable Mr. Sumner Welles, Assistant Secretary of State, concerning the lawsuit²⁷ which is being tried in New York against those accused of

²⁶ Enrique Finot.

²⁷ *United States v. Curtiss-Wright Export Corporation, et al.*, April 6, 1936, in the United States District Court for the Southern District of New York, 14 *Federal Supplement*, 230; and on appeal to the Supreme Court, December 21, 1936, 299 *U. S. Reports*, 304.

violation of the proclamation of the President of the United States²⁸ which prohibited the sale of arms and munitions to Bolivia and Paraguay, during the Chaco War. In these conversations Mr. Assistant Secretary Welles began by requesting of the Government of Bolivia authorization for the Consul General of Bolivia in New York, Mr. Walter J. Decker, to testify concerning the cases denounced. This authorization having been refused by the Government of Bolivia, on the basis of international practice and conventions in force, Mr. Welles insisted that, at least, the Consul should be authorized to make a confidential report on whatever he knew concerning the matter.

It is necessary to point out that, previously, the Consul, Mr. Decker, had received, from the official charged with the investigation in New York, Mr. Conboy,²⁹ various comminatory demands, not only to testify, but also to exhibit the documents of his office file, which Mr. Decker refused to do, on the basis of the universally recognized inviolability of consular archives.

The request by the Department of State that the Consul should make a confidential report was given favorable consideration by the Government of Bolivia, on the condition that it should not include the acts performed by the Consul in the exercise of his functions nor facts the divulging of which might compromise the secrets of the national defense. Consequently the Consul was authorized by the Legation in Washington to furnish the information requested.

But the Legation was informed shortly afterward, to its great surprise, that the above-mentioned Mr. Conboy, in an interview held with Mr. Decker in the office of the Consulate, had begun by questioning the latter on the destination given to certain sums of money drawn to his order by the Government of Bolivia. As Mr. Decker refused to furnish such data, because he was not authorized to do so and because doing so meant going beyond the conditions agreed upon, Mr. Conboy left the Consulate, telling Mr. Decker that he would be involved in the trial and would be obliged to appear therein as an accused party. At the same time Mr. Conboy notified the Central Hanover Bank and Trust Company of New York to submit a statement of the personal account of Mr. Decker and of the Consulate General's account, feeling sure of obtaining, by that method, the data he required.

The Legation being informed about the above measure, the Minister of Bolivia immediately got in communication with Mr. Assistant Secretary Welles, putting on record with him his protest against the said measure which he deemed contrary to international practice, as involving an attack upon the liberty of action of a consular functionary

²⁸ Proclamation No. 2087, May 28, 1934, Department of State, *Press Releases*, June 2, 1934, p. 327; see also *Foreign Relations*, 1934, vol. IV, pp. 289 ff.

²⁹ Martin Conboy, Special Assistant to the Attorney General.

in the discharge of his duties. Mr. Welles took note of the protest and, taking up a consideration of the situation, found the attitude of the Consul justified in refusing to give information regarding his official acts, but insisted that he submit the confidential information authorized. At the same time he stated, like Mr. Conboy, that the Consul ran the risk of being involved in the case as an accused party. The Minister of Bolivia rejected peremptorily on that occasion any possibility that the Consul could be involved in a court action due to acts performed in the exercise of his functions.

Another interview held at New York between the official in charge of the investigation and the Consul seems not to have satisfied the former, in spite of the efforts made by Mr. Decker to give him all the information which should not be incompatible with the discharge of his official duties. The fact is that, on the following day, the Central Hanover Bank and Trust Company of New York received a formal judicial notice to furnish a copy of the statement of the account of the Consulate General.

As if this were not enough, another judicial order required and obtained from the Postal Telegraph-Cable Company copy of the despatches exchanged between the Consulate and the Government of Bolivia, both in current language and in code, notwithstanding the opposition of the Consulate. On this point, which signifies an attack upon the independence which consular representatives ought to enjoy in the exercise of their functions and which moreover involves a violation of the secrecy of the official correspondence of a foreign nation, and of what may be considered as a part of the consular archives, the Government of Bolivia formulates its protest by this memorandum. There is also the circumstance that, since the key used in the cable correspondence between the Government of Bolivia and the Consulate General in New York is the same as is used in the confidential diplomatic despatches between the La Paz Chancellery and its legations abroad, any attempt to decipher said key signifies a violation of the secrecy and respect universally granted to diplomatic correspondence. The Government of Bolivia considers it superfluous to call the attention of the Department of State to the future consequences that a precedent such as the one noted would have and with very good reason hopes that the Government of the United States will take the steps it may deem proper to prevent the consummation of the act pointed out.

In connection with the prosecution of the Consul General in New York, it is necessary also to note certain considerations tending to prevent the accomplishment of an act which not only would be contrary to generally recognized practice but also to the conventions in force. Although it is true that in general there is no exemption from civil or criminal jurisdiction for consuls in private matters, it is also true that

it is fully recognized by doctrine and by positive law, even for acts which they perform in the discharge of their official duties. Article 16 of the Convention concerning Consular Agents signed at Habana on February 20, 1928,³⁰ and ratified by the United States Government, states: "Consuls are not subject to local jurisdiction for acts performed officially within the limits of their competence . . ."* Although Bolivia has not yet ratified the convention cited, she can have recourse to it on this occasion because of its having been ratified by the United States, since the Bolivian-American treaty of May 13, 1858,³¹ grants to the contracting parties the most-favored-nation treatment. As the Habana consular convention is binding on the United States with respect to the other nations that have ratified it, it is binding also with respect to Bolivia, by virtue of Article 31 of the said treaty, which says:

"In order to make more effective the protection which the Republic of Bolivia and the United States will in the future afford to the navigation and commerce of their respective citizens, they agree to receive and admit Consuls and Vice Consuls in all the places open to foreign commerce, who shall enjoy therein all the rights, prerogatives and immunities of the consuls and vice-consuls of the most-favored-nation . . ."*

It might be alleged that the Consul General of Bolivia at New York may have exceeded "the limits of his competence" in the case in point: but there is no doubt that only the Government of Bolivia, the authority which is the source of his competence, has the power to evaluate it. As the Government of Bolivia has not received any diplomatic protest relative to the acts performed by the Consul of Bolivia at New York, and occasion therefore not having arisen to study such acts from the point of view of their legitimacy, it is logical to suppose that the judicial authorities charged with the investigation as to possible contraventions of the proclamation of May 28, 1934, will refrain from adopting precipitate and forcible measures.

The insistence on obtaining first a sworn statement and then a confidential report from the Consul clearly demonstrates, moreover, from the first any idea that the said official might be compromised in the court action was discarded, as it is impossible to imagine that an attempt would have been made to force from him by such means a con-

³⁰ *Foreign Relations*, 1928, vol. 1, pp. 598, 601.

* As the convention in question is not immediately available to the Translating Bureau, the above wording is a translation from the Spanish above quoted. [Footnote in the file translation.]

³¹ Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 7, p. 733.

fession against himself, which would violate the most elementary juridical principles.

The presidential proclamation of 1934, moreover, is clear and conclusive in the sense that it only prohibits and applies sanctions to the sale of arms and munitions to Bolivia and Paraguay, without in any way mentioning the possible buyers or exporters of such articles. Even in the hypothetical case that some charge would result against the Consul General of Bolivia at New York for having purchased or exported war matériel, we should bear in mind the repeated declarations of the Department of State in connection with the protests of the Government of Bolivia, to the effect that an embargo on or prohibition of exportation was not decreed in 1934 in contravention of the commercial treaty of 1858, but merely a prohibition of sales which only included American merchants and manufacturers.

The Government of Bolivia hopes that the Government of the United States, inspired by the sentiments of equity and good will which characterize its relations with friendly nations, will see fit to adopt the measures that it deems proper in order to rectify the erroneous procedures followed in this case and to avoid new complications in the matter.

WASHINGTON, February 7, 1936.

810.79611 T. N. T. Airlines/283

The Secretary of State to the Bolivian Minister (Finot)

WASHINGTON, February 27, 1936.

SIR: I refer to the memorandum in regard to the cases of violation of the President's Proclamation of May 28, 1934, which you left at the Department on the occasion of your call on February 7, 1936. In reply to the questions which you raise as to the propriety of the procedure of investigation followed by the authorities in charge of the prosecution of those persons and companies who were involved in these cases, I take up seriatim the features of the investigation dealt with in your memorandum.

1. I have been informed by Mr. Conboy that he has never at any time insisted that the Bolivian Consul General in New York testify in connection with these cases; that he has never demanded that the Consul General exhibit to him documents from his official files; and that he has never threatened him with prosecution or otherwise.

2. I have noted your statement that a consul cannot be properly involved in a court action as a result of acts performed in the exercise of his functions. A careful examination of the treaty provisions which would be applicable to the case under discussion leads me to

the conclusion that should it appear that the Bolivian Consul General in New York had committed an act constituting a crime, he could be prosecuted for that act. Article 14 of the Convention in regard to consular agents, signed at Habana February 20, 1928, to which you refer, states that:

“In the absence of a special agreement between two nations, the consular agents who are nationals of the state appointing them, shall neither be arrested nor prosecuted except in the cases when they are accused of committing an act classed as a crime by local legislation.”

Article 16 of the same Convention provides in part that:

“Consuls are not subject to local jurisdiction for acts done in their official character and within the scope of their authority.”

It can hardly be seriously contended that crimes committed by consular officers could be considered as acts performed “in their official character and within the scope of their authority”.

3. I have been informed by Mr. Conboy that when the representative of the Postal Telegraph Company presented, in compliance with the *subpoena duces tecum* which had been served upon the Company, a collection of telegrams which had been filed with the Company by the Bolivian Consul General, he retained only three telegrams which had been sent in English, and that he immediately handed back to the representative of the Company the telegrams in code and even the telegrams in Spanish. He made no attempt to decipher the telegrams in code nor had he an opportunity to do so. The representative of the Company gave Mr. Conboy a receipt for the telegrams in code and the telegrams in Spanish, and this receipt set forth the fact that Mr. Conboy had retained no copies of those telegrams.

Accept [etc.]

For the Secretary of State
SUMNER WELLES

810.79611 T. N. T. Airlines/296

The Assistant Secretary of State (Welles) to the Secretary of State

[WASHINGTON,] March 4, 1936.

MY DEAR MR. SECRETARY: I am strongly opposed to the action proposed in the attached correspondence.³²

The Minister of Bolivia has stated by instruction of his Government that it is the intention of that Government to remove the Bolivian Consul General in New York in the near future and to replace him with a new consul general. Under these circumstances, the objective sought, namely, having the official in question removed—would be obtained but by other methods which would create no publicity and

³² Not printed.

would do nothing to impair the relations between Bolivia and the United States.

If the exequatur of the Consul General is revoked as here suggested, the matter will inevitably be given prejudicial publicity in Bolivia at a time when any anti-American press campaign would be definitely detrimental to the position we hold in the Chaco Peace Conference and which would most decidedly not be conducive to the creation of the kind of friendly atmosphere we desire at the proposed inter-American peace conference.

I have already intimated to the Minister that the time his Consul General was permitted to remain in New York by his Government should be limited and I have mentioned two months as a reasonable time limit.

I hope, consequently, that you will coincide in my opinion that the better way to handle this in our own interest is to have the Bolivian Consul General removed by his own Government.

S[UMNER] W[ELLES]

810.79611 T. N. T. Airlines/297

Memorandum by the Chief of the Office of Arms and Munitions Control (Green)

[WASHINGTON,] March 6, 1936.

The Secretary informed me yesterday that, in view of the considerations set forth in Mr. Welles's memorandum of March 4, he had decided not to recommend to the President that he formally revoke the exequatur of the Bolivian Consul General in New York. The Secretary added that he wished it recorded that his decision to permit the Bolivian Government to recall the Consul General instead of having his exequatur revoked was made because of the effect which the latter action might have upon relations between the United States and Bolivia at this time when an anti-American press campaign in that country might have far reaching detrimental consequences. The Secretary said that his decision not to recommend the revocation of the exequatur in these particular circumstances was not to be considered as a precedent to be invoked in case other consular officers should become involved in violations of the law, such as those in which the Bolivian Consul General has been involved.

JOSEPH C. GREEN

BRAZIL

REPRESENTATIONS TO THE BRAZILIAN GOVERNMENT REGARDING THE PROPOSED GERMAN-BRAZILIAN PROVISIONAL COMMERCIAL AGREEMENT

632.6231/42a : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, April 17, 1936—6 p. m.

62. Please comment briefly by cable on story in today's issue of *New York Times* that the Brazilian Foreign Trade Council has recommended "an emergency commercial agreement (with Germany) as a method of selling surplus cotton stocks Germany is willing to buy with compensated marks."

HULL

632.6231/43 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, April 20, 1936—noon.

[Received 1:30 p. m.]

115. Department's 62, April 17, 6 p. m. The text of the resolution passed by the Brazilian Foreign Trade Council on the 16th instant is as follows:

"The Federal Foreign Trade Council after having concluded its studies with reference to the marketing of the cotton crop of 1935 and to the exportation of the crop of this year viewing the sale of this product in its relation to the general commercial interchange with Germany, hereby resolves to suggest to the Government that a provisional commercial accord be realized immediately with a view to determining—given the economic regime now prevailing in Germany—the products which shall be imported by Brazil and the products which shall be exported to Germany. The accord in question shall decide the method of payment".

Emergency commercial agreement mentioned in *Times'* article is in fact contemplated and the proposal provides establishing a quota system to control exports from Brazil and imports from Germany. Accord would not become effective until present German-Brazilian accord¹ lapses next summer. It must also receive legislative ap-

¹ Signed October 22, 1931, League of Nations Treaty Series, vol. cxxxvi, p. 443.

proval. Thus no practical effect is contemplated before August or September.

The primary significance of the Council's recommendation is that the Brazilian Government cannot evade giving some satisfaction to cotton exporters particularly in the north. In view of the political and economic situation the Government is not in a position to disregard the pressure being brought to bear by cotton interests in various parts of the country.

Whether the quantities licensed for import and export will be based upon the average of last 5 years or upon 1934 or upon 1935 is now under consideration by Macedo Soares.² Foreign Office leans to last 5 years but this would not favor the cotton exporters who are just now agitating strongly because German cotton purchases were much lower previously than in 1935. Boucas³ is endeavoring to secure 1934 or 1933 as basis for "normal" trade volume between Germany and Brazil.

The Council's resolution signifies that Government realizes need for restricting German trade and is ready although unwillingly to adopt quota system. This solution, accepted only after many other devices have been considered, is result not only of pressure from English and American business firms but also of realization that Brazil must build up favorable trade balance, first, to support her currency and, second, as a matter of patriotic sentiments.

Means to be used in payment will be compensation marks but present plan is to force German banks in Brazil to carry entire load. Exporters here receiving payments in compensation marks will take latter to German banks for rediscount. German banks will sell 35% to Bank of Brazil at official exchange rate and will be forced immediately to buy back the same funds at open market exchange rate so that Bank of Brazil will not sustain any loss or acquire any compensation marks in future.

In view of large prospective Brazilian cotton and coffee crops and particularly of pressure by northern cotton growers, holders of low grade stocks, the Brazilian Government feels obliged to permit a solution maintaining payments in compensation marks; but by establishing reduced quotas and by forcing the German banks in Brazil to carry the entire load will remove many of the objectionable features of the system from the American viewpoint.

Confidentially Macedo Soares in several recent conversations with me has shown himself fully alive to the dangers of destroying American import trade and good will and is studying partial list of imports showing effect on our commerce of competition by Germany. He is

² José Carlos de Macedo Soares, Brazilian Minister for Foreign Affairs.

³ Valentim F. Boucas, member of the Brazilian Foreign Trade Council.

studying measures to protect lines normally purchased by Brazil in the United States, automobiles, typewriters, et cetera.

The Bank of Brazil is apprehensive that Germany may soon arrange devaluation of the mark and is determined not to be caught for a loss. Sebastiao Sampaio ⁴ has been negotiating in Berlin but Foreign Office states he has made no report.

GIBSON

632.6231/44 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, April 24, 1936—5 p. m.

[Received April 24—4: 55 p. m.]

117. Department's 62, April 17, 6 p. m. There is now a prospect that a temporary accord delimiting Brazilian trade with Germany may be concluded within the next few weeks under presidential decree of December 30, 1935 ⁵ transmitted with my despatch 898, January 2, 1936. ⁶ Convinced that Germany needs Brazilian cotton immediately, Brazilian officials are holding up exchange permits and expect this to force Germany into making overtures at once. Thereupon Brazil will insist upon quota arrangement in both directions specifying individual commodities and quantities. The German commodities will be those regularly exported from Germany to Brazil prior to compensation mark regime. The Brazilian commodities will be based on average of 1933 and 34 exports to Germany, cotton being cut to approximately 40,000 tons as compared with 100,000 in 1935. Consent of Brazilian exporters is said to be forthcoming.

Brazil has learned that Germany has been intentionally and needlessly maintaining excess supply of compensation marks here to force additional types of German exports into this market. The aniline dyes and coal which Brazil has been regularly taking could have been shipped against these marks but instead have been sold as from Holland and Switzerland leaving the excess marks as a load on the Bank of Brazil to be cleared only through purchases of new lines of German goods. Discovery that they have thus been exploited has stiffened determination of Brazilian officials to "buy from the Germans what we want from them not what they want to sell us and to sell them what we want them to take not what we could sell elsewhere anyhow." At present, however, Brazil does not intend to insist on a favorable balance with Germany but is willing to exchange goods on approximately even terms.

GIBSON

⁴ Chief of the Commercial Section of the Ministry for Foreign Affairs, 1934-1936. In the latter year he was sent as a commissioner to Europe to readjust commercial accords with various countries.

⁵ Brazil, Ministerio das Relações Exteriores, *Relatorio*, 1935, vol. II, p. 357.

⁶ Not printed.

632.6231/44 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, May 6, 1936—2 p. m.

68. I have read your 115, April 20, and 117, April 24, with distinct interest. Please follow development of these arrangements and keep Department as fully informed as possible.

The arrangements outlined in your 115 are not entirely understood by the Department.

(1) Will the new agreement cover other Brazilian exports to Germany besides cotton?

(2) Will Brazilian exporters have to turn over to the Bank of Brazil (directly or indirectly) 35 percent of the proceeds of their sales in Germany in free currencies, the currencies of international acceptance (a) in connection with sales of cotton, (b) in connection with sales of other commodities?

(3) Under the arrangement, does either the Brazilian Government or the Bank of Brazil undertake to buy German goods in specified amounts, or undertake other specified relations to German purchasers of Brazilian products?

From another angle, one provision outlined in your 115 is perplexing: "The German banks will sell 35 percent to the Bank of Brazil at official exchange rate and will be forced immediately to buy back the same funds at open market exchange rate". Would this provision facilitate the sale of Brazilian goods to Germany, particularly of cotton? Department would welcome full interpretation.

Department would like your judgment as to whether the arrangement as far as outlined would constitute discrimination against American trade.

The Department's point of view is that the Brazilian Government should take no action, whether through agreement with Germany or unilaterally, which would place trade with Germany and the blocked currencies in which it is transacted in a specially favored position as compared with the trade and currencies of non-compensation countries. The Department assumes that you are clearly keeping its point of view before the Brazilian authorities and indicating this Government's substantial interest in the bearing of any of Brazil's clearing agreements upon Brazilian-American trade and the Brazilian-American commercial agreement.⁷

HULL

⁷ Reciprocal trade agreement between the United States and Brazil, signed February 2, 1935, *Foreign Relations*, 1935, vol. iv, p. 300.

632.6231/46 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 7, 1936—3 p.m.

[Received 5:45 p.m.]

121. Department's 68, May 6, 2 p. m. The proposed German-Brazilian commercial *modus vivendi* is still in an inchoate stage. The details has [*have?*] not been definitely formulated and when formulated will be subjected to modification in the course of negotiations. The information contained in my 117 simply indicated the general ideas then in the minds of Foreign Office officials. As yet Germany has not been brought to initiate negotiations as has been hoped and Macedo Soares has gone so far as to telegraph his views on the subject to the Brazilian Ambassador at Berlin.

Replying to the Department's inquiries, paragraph (1), the agreement according to present Brazilian intentions will cover a wide range of Brazilian exports and also of imports. Paragraph (2). Brazilian exporters will have to turn over i. e. sell to the Banco do Brazil through local German banks 35 per cent of the proceeds of their sales in Germany in compensation marks at the official exchange rate now 3.7 milreis, but, as the Banco does not wish in future to hold or deal in compensation marks, the German banks here will then be forced immediately to repurchase from the Banco the very marks just sold to it and will be forced to pay the open market rate now 5.5 milreis. This will ensure to the Banco the same profit as it secures on its acquisitions of other currencies and will free it from further dealings in compensation marks. Paragraph (3). Under the arrangement the exchange department of the Banco do Brazil, as agent of the Brazilian Government, will undertake to see that commercial export contracts to Germany shall not be granted exchange authorizations in excess of the export quotas which shall have been established. The matter of the enforcement of the quotas on German imports under the agreement has not been worked out, but this control is likely to be in the hands of the Brazilian customs authorities.

The situation already existing, which has been forced upon Brazil by Germany, has had the practical result of favoring German imports very strongly. It has been my understanding that Germany has been using compensation marks in her trade with the United States. The contemplated new German-Brazilian agreement is intended expressly to favor the English and American exporters to this market and this is, in fact, its primary purpose. Brazil feels that the English and American merchant classes must not be too deeply estranged and also that the German market is not a permanently secure one. The new arrangement will change the situation by affording formal recognition

from Brazil of the compensation mark system which has hitherto received merely a tacit toleration; but on the other hand, it will, by its operations, cut down German imports into Brazil as well as the Brazilian exports to Germany very substantially, thus favoring American and English interests here.

GIBSON

632.6231/51 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 25, 1936—6 p. m.

[Received 6:50 p. m.]

132. My 129, May 25, 11 a. m.⁸ On Saturday afternoon there was a meeting of the Cabinet to discuss the German-Brazilian *modus vivendi*. The following note was issued to the press by the President's Secretariat: "The President made a general exposé of the principal administrative problems of importance. There was no discussion of any modification of our policy in commercial matters. The Government will continue to promote the expansion of our interchange with those countries which maintain the regime of equality of treatment and freedom of commerce. With those which subordinate their commercial exchanges to a regime of preferential treatment and of compensations, there will be an endeavor to negotiate special agreements in such a way as to keep the commercial exchanges within normal limits."

GIBSON

632.6231/52 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 25, 1936—7 p. m.

[Received May 25—6:05 p. m.]

133. My 132, May 25, 6 p. m. Yesterday's *Correio da Manhã* carried a sensational story alleging that Aranha⁹ has sent a telegram to President Vargas reporting certain representations made to him by the Department, the implication being that if the Brazilian-German *modus vivendi* is signed the American Government will put Brazilian coffee on a quota. He is also supposed to have threatened to resign unless the Foreign Office ceases to undermine his efforts to build up better relations with the United States.

I have not been able to get at the facts as the Minister for Foreign Affairs has not been at the Ministry today and I shall be able to see him only tomorrow. I have considered it wise to avoid the Presi-

⁸ Not printed.

⁹ Oswaldo Aranha, Brazilian Ambassador in the United States.

dential Palace in order not to give further color, which it may not deserve, to the newspaper reports in question.

In the meantime, I should be glad if the Department could inform me as to what representations if any have been made to Aranha on the subject of the Brazilian-German *modus vivendi*.

GIBSON

632.6231/52 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, May 26, 1936—7 p. m.

74. Your 133, May 25, 7 p. m. Aranha advised me this morning that he has sent no such message to President Vargas as that alleged. He informed me that the story is probably based upon letters which he addressed to President Vargas in the early part of 1935 prior to the conclusion of the trade agreement negotiations.¹⁰

HULL

632.6231/51 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, May 26, 1936—8 p. m.

75. Your 132, May 25, 6 p. m. Aranha informs me that he has not received a copy of the text of the proposed German-Brazilian Agreement, that he has cabled for such text, but that he believes it may be easier for the Department to be advised of the contents of the agreement, if there as yet exists any draft version of such agreement, through you, since he feels that the Brazilian Foreign Office knowing his own attitude in the matter would be reluctant to cable him a copy.

Until the Department is advised of the text of the proposed agreement, it is, of course, impossible to make any considered representations to the Brazilian Government. It would, however, be desirable for you to intimate at the earliest opportunity to the Minister for Foreign Affairs that the press reports of the nature of the proposed agreement would seem to indicate that the spirit, if not the letter, of the trade agreement between Brazil and the United States, would be endangered by the proposed agreement. You may further say that this Government had believed that Brazil had joined the United States in taking the leadership on this Continent in support of the broad principles of equality of treatment and freedom of commerce and that it would be keenly disappointed to find that the Brazilian Government, in order to achieve what might seem to be apparent momen-

¹⁰ See *Foreign Relations*, 1935, vol. iv, pp. 300 ff.

tary advantages, were engaging in the negotiation with other countries of commercial agreements, which would contravene the salutary principles embodied in the Brazilian Trade Agreement with the United States.

If you are able to obtain a copy of the draft of the proposed agreement with Germany, please cable the essential portions to the Department.

HULL

632.6231/53 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 27, 1936—noon.

[Received 2 p. m.]

134. In conversation with Macedo Soares this morning I conveyed to him the substance of the Department's 74 and 75.

He authorized me to say that the only problem which has held up conclusion of the agreement with Germany has been finding some method of giving adequate protection to American products; that as the matter now stands he has submitted to the Germans a considerable list of essentially American products such as automobiles, typewriters, adding machines, gasoline, et cetera, described as "commodities habitually purchased from countries dealing in international exchange".

The latest draft is now being written up and Macedo tells me he will furnish me with a copy tomorrow for the information of the Department.

Macedo is obviously greatly troubled by the problems presented. He is, I believe, honestly concerned to do nothing in violation of the letter or the spirit of the agreement with us; on the other hand he is under heavy pressure from Germany and from influential Brazilian interests particularly in São Paulo which stand to benefit from a broader arrangement with Germany. At the same time he recognizes that any extension of transactions with Germany means a proportionate lessening of the amount of exchange available to the Brazilian Government to meet its purchases and obligations abroad.

The problem presented is difficult and if the Department can furnish me any suggestions as to how it should be met I am confident they will be welcomed by the Minister for Foreign Affairs.

GIBSON

632.6231/54 : Telegram

*The Ambassador in Brazil (Gibson) to the Secretary of State*RIO DE JANEIRO, May 28, 1936—1 p. m.
[Received 2:20 p. m.]

135. Department's 76, May 27, 6 p. m.^{10a} I called on Macedo Soares this morning to get the draft of the agreement referred to in my 134, May 27, noon. Macedo informed me that the whole matter had been thrown into a state of flux by a telegram received from the Embassy at Berlin wherein the Germans asked for modifications of the figures on some 30 different commodities. The telegram was very long and considerably garbled and he has not an accurate idea of what it is all about beyond the fact that it will call for careful study. I was concerned to learn from him that import purchases from Germany are to be based on the 1935 figures plus 10% "to allow for normal increase" the Germans pressing for 25%.

This morning's papers contain a Havas despatch from Washington stating that Aranha had received a telegram from President Vargas to the effect that the Brazilian Government has gone no further than a simple exchange of telegrams with Germany for the purpose of discovering whether it was possible to find the basis for a commercial agreement. I drew this to the attention of Macedo Soares who stated that I might confirm definitely to Washington the statements he had made to me yesterday and which I checked over with him on the basis of my 134 in order to make sure that he understood in what sense he was being quoted.

He apparently knew nothing of the telegram from the President but showed me a telegram he had sent to Aranha some days ago in which he gave him substantially the same information I have sent in with the additional information given above.

On the whole I believe that Aranha's activities both in his telegrams here and his statements to the press have had a distinctly useful effect. These coupled with the new outburst reported in my 133, May 25, 7 p. m., and the representations I have made under the Department's instructions, have, I believe, slowed up the entire negotiations so that we shall probably be afforded ample opportunity to make our views known before any final decision is taken. To this end, however, I believe it would be desirable for the Department to keep the matter clearly before Aranha in order that he may confirm my statements as to our anxiety over the broader aspects of this problem.

^{10a} Not printed.

Macedo Soares informs me that it is contemplated that the agreement shall run for one year from June 1936 to June 1937. I shall, of course, telegraph the text as soon as it can be furnished me by Macedo Soares although I do not anticipate being able to do so for several days.

GIBSON

632.6231/58 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 29, 1936—9 p. m.

[Received 10:15 p. m.]

137. My 136, May 29, 8 p. m.¹¹ Not being able to find the Foreign Minister I have impressed upon the Secretary General:

1. That Aranha had assured the Department in the name of President Vargas that the matter had not progressed beyond a preliminary exchange of views.

2. That I had transmitted to the Secretary of State an assurance from the Foreign Minister that we would be allowed to examine the text before signing and that he would welcome an expression of your views; and

3. That consequently if the signature takes place before such examination (a) my Government would not be accorded the opportunity which had been promised to formulate its views in the light of our trade agreement, (b) the assurances from the President and Minister for Foreign Affairs would remain in a very peculiar light.

I am endeavoring to get in touch with Macedo Soares and also to have the matter brought to the attention of the President tonight. In the meantime, I venture to suggest that the Department remind Aranha of the definite assurances already given and impress upon him the desirability of action on his part.

GIBSON

632.6231/71 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 30, 1936—2 p. m.

[Received 7:23 p. m.]

138. My 137, May 29, 9 p. m. I succeeded in running Macedo Soares to earth this morning and secured an undertaking that signature would not take place on the subject unless the Department had had an opportunity to examine the agreement with Germany and express its views.

I am reporting more fully by a later telegram but inasmuch as I have secured this assurance I would suggest that Aranha be advised

¹¹ Not printed.

as there would appear to be no further necessity for him to deal with this phase of the matter.

Macedo is under heavy pressure from Germany for an early signature and would, therefore, greatly appreciate it if the Department would give immediate consideration to the matter and afford him its views at the earliest moment.

GIBSON

632.6231/57 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 30, 1936—3 p. m.

[Received 8 : 09 p. m.]

139. My 138, May 30, 2 p. m. Macedo Soares today handed me the following informal memorandum :

“The provisional agreement for one year proposed by the Brazilian Government to the German Government, taking into consideration the necessity for interchange between the two countries goes into effect on June 1.

Quotas to be granted by the German Government: cotton 62,000 tons; meat 10,000 tons; Brazil nuts 4,000 tons; bananas 4,000 tons; tobacco 18,000 tons; oranges 200,000 cases; coffee 1,600,000 sacks; with an agreement not to increase the last named commodity.

The following products to be exported to Germany without restriction: cereals, mineral, lard, wool, hides, and skins, rubber, oil bearing seeds, matte, cocoa and raw materials for industry. A special clause is included in the agreement to the effect that no increase in the commercial interchange should prejudice commercial relations with countries which deal in international currency, this clause being drafted as follows: ‘It is agreed the following articles, automobiles and accessories, typewriters and accessories, gasoline, oil, sewing machines and accessories, and carbon paper, may be imported from Germany in maximum quantities equal to those of the last 12 months previous to the entry into force of this agreement, with an increase of 10%.’

As concerns commerce carried by German vessels the maritime freight shall be paid in compensation marks”.

The foregoing has been transmitted to Aranha.

I had a clear explanation with Macedo this morning and fortunately saw him just after he had received a visit from the Minister of Finance who had expressed himself somewhat vehemently as to the plan to sign the agreement without waiting for full consultation with us. Macedo said that he was under heavy pressure from the German Government but that he would be glad to wait and take into account the views of the Department; that he did adhere to our policy of combatting trade barriers and that he hoped he [*we?*] would examine this whole question in the lights of Brazilian difficulties inherent in the

existence of the compensation mark system. He stated that he would like you to know that he had taken a decided stand against German insistence on a totally different arrangement which would have put every product under a quota and which would have left Germany practically unrestricted competition against us with the advantage of her compensation mark system and that having, as he felt, assured American interests against unfair competition he was acceding to the rest only because he felt there was no alternative.

Although there has apparently been a rather curious attempt to rush through the signature of this agreement I think that Macedo is persuaded, rightly or wrongly, that he has not contravened the letter or spirit of our trade agreement and that he was, therefore, justified in going ahead. He has apparently made it clear to the German Government that he does not relish this agreement which was practically signed under duress because he had no other choice.

He stated the Germans had adopted a very truculent and threatening attitude and that Hitler had personally made a strong fight for the exclusion of automobiles from the list of articles limited to the 1935 figure as it is a personal hobby of his to foster the German automobile market abroad. He states that he had included rails and railway equipment on the list but that the Germans had made such a determined stand that he had been obliged to give way.

I am endeavoring to secure the text and hope to telegraph pertinent parts later today.

I trust the Department will accord early consideration to this whole matter and give me its views particularly as to how the proposed agreement would affect the letter and spirit of our own trade agreement.

I would also suggest the Department's views be communicated to Aranha in order that he may reenforce what I am saying here.

GIBSON

632.6231/57 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, May 31, 1936—8 p. m.

79. Your 137 [139], May 30, 3 p. m. From available statistical data the Department is unable to determine whether the total Brazilian export trade with Germany which would be permitted under compensation under the proposed agreement would be more than that of the last 12 months. Please telegraph for each commodity for which an export quota would be established in the proposed agreement, the volume of exports to Germany during the last 12 month period available. Is Department's understanding correct that under the proposed

agreement Germany would be able to buy in excess of quotas but would have to pay for such additions in currencies of international acceptance? If statistical material above requested is not immediately available cable best estimate you can make.

HULL

632.6231/60a : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, June 1, 1936—7 p. m.

80. From Welles. This afternoon I presented to Aranha orally the views of this Government with regard to the proposed commercial agreement with Germany and gave him as a résumé of these views the *aide-mémoire* which follows. I believe it desirable for you to see the Minister of Foreign Affairs at once, to thank him in the name of this Government for his courtesy in informing you of the nature of the proposed agreement, to read to him a copy of the *aide-mémoire*, making clear that it is only a record of the views of this Government communicated orally, and to reiterate the hope expressed by this Government that the Government of Brazil will continue to pursue a commercial policy based upon the broad principles of equal opportunity and treatment.

“The Government of the United States appreciates the friendly courtesy of the Brazilian Government in acquainting it with the nature of the trade and compensation agreement under negotiation with Germany. This Government believes that such consultation between governments desirous of pursuing the same liberal commercial policy is of mutual value, particularly in the matter of arrangements with countries pursuing a divergent policy of balancing trade and payments between two countries.

“This Government has not as yet received the precise text of the proposed agreement between Germany and Brazil which the Brazilian Government indicated it would be pleased to make available to our Government. In any event this Government does not desire at present to express any opinion as to the possible discriminatory effects or to seek to determine the balance between the advantages and disadvantages the agreement might involve for American trade.

“It is, however, not too soon to express the concern with which the Government of the United States would view the subscription by Brazil to the widely prevalent system of bi-partite intergovernmental agreements for balancing trade and payments between two countries as opposed to the system of non-discriminatory trade agreements which leaves it possible for payments to be balanced through multilateral movements of trade. At the present time, many governments are seeking the temporary illusory advantages which they may hope to obtain from exclusive bilateral agreements, though conscious that the system is deleterious to the broader interests of trade and offers little prospect of even narrow advantage in the long run.

"As the Brazilian Government is aware, this Government has steadfastly refused to enter into any arrangement with Germany, or other countries, which would recognize or imply acquiescence in the system of bilateralism, trade restriction and discrimination which the commercial policy of Germany and of certain other countries exemplifies. This policy of avoidance of compensation arrangements has been at the cost of immediate advantages to this country on certain occasions but has been pursued in the belief that the principle of compensation and narrow bilateralism constitutes one of the chief barriers to the recovery and expansion of international trade which the world so urgently requires.

"In the existing exigencies of trade and international payments, there may be room for barter transactions for the exchange of specific commodities on fair terms offering mutual advantage. Such transactions negotiated between non-governmental producers or distributors of merchandise, even though facilitated by governments, while obviously an inefficient procedure suitable only when normal monetary facilities are unavailable, may not be objectionable in principle. When intergovernmental arrangements are systematically made, however, regulating trade between two countries on the basis of exchanging commodities against commodities, in pursuance of a considered policy, broad questions of principle are raised as to the conflict between that trade regime and the regime of multilateral trade which the Government of the United States has sought to promote by its own practice and by actively appealing to other governments to cooperate not only in their announced policies but by the avoidance of exceptions therefrom which in fact vitiate and tend to defeat the better regime of trade.

"The United States has pointed out to other governments that its policy is based on the belief that a general return on the part of the major commercial nations to the broad, liberal principle of seeking and of granting only equal opportunity and treatment with the commerce of other nations, combined with the gradual reduction or elimination of the numerous restrictions now throttling trade, offers the surest, if not the only way, of restoring international commerce. Were the leading commercial nations of the world to support this liberal, far-sighted policy in all its essential respects, the outlook for world peace and prosperity would be brighter by far than it is today.

"The Government of Brazil will, of course, recall that it is the first government with which the United States had the privilege of negotiating a trade agreement based upon the broad principles of equal opportunity and treatment in accordance with the resolution adopted at the Conference at Montevideo¹² for restoring world trade. This Government has been greatly encouraged by the invaluable support which it has subsequently received from the Government of Brazil in furtherance of the policy so proclaimed. It feels confident, therefore, while fully recognizing the present difficulties confronting the Government and people of Brazil, that the provisions of any commercial agreement into which the Government of Brazil may enter with other

¹² Resolution V, Economic, Commercial and Tariff Policy, *Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933* (Washington, Government Printing Office, 1934), p. 196.

governments will prove to be in complete accord with the principles of the policy above mentioned and will not permit the impression to be created that the Government of Brazil is in any sense compromising the position which it has so helpfully and resolutely maintained."

For your confidential information. Aranha is cabling President Vargas directly tonight urging him to refuse to permit the German Agreement to be signed. He has asked me to let you know that he believes it would be very helpful for you to see the Minister for Finance personally, to advise the latter that Aranha has shown me the personal letter addressed to Aranha by the Minister recently, and to read to him the contents of the memorandum above quoted as a convincing reply to the arguments advanced by Souza Costa¹³ in his letter. [Welles.]

HULL

632.6231/59 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 1, 1936—8 p. m.

[Received 10:05 p. m.]

140. Department's 79, May 31, 8 p. m.

1. Following are the last figures available on exports to Germany. They cover calendar year 1935: Cotton 83,329 tons, meats 50 tons, Brazil nuts 3,186 tons, bananas 102 tons, tobacco 17,160 tons, oranges 16,680 cases, coffee 871,007 sacks. The agreement not to reexport applies to all articles on the quota list and not only to coffee. Those figures should be compared with the figures given in my 139, May 30, 2 [3] p. m.

2. The above comparison provides, with the exception of cotton, a distinct upward revision of Brazilian export trade to Germany. This is frankly regarded by the Brazilian Government as a remarkably advantageous offer, much better than they had hoped for. The Germans appear to have combined enticing offers as regards purchases with threatening methods concerning articles to be put on the restricted list.

3. The Department's understanding is correct that Germany may make purchases in excess of the quotas by paying in currency of international acceptance although this is not considered as probable.

4. The foregoing figures relate to quantities and indicate an upward trend. As now we can estimate, however, on a basis of money values, the increase will be much slighter.

5. As regards coffee, the apparent increase is somewhat misleading inasmuch as the 1935 figures were unusually low due to the Germany

¹³ Arthur de Souza Costa, Minister for Finance.

restrictions and the fact that considerable stocks of coffee had been accumulated by Germany in the latter part of 1934.

6. The reduction in the exportation of cotton appears to represent a Brazilian concession to what they believe to be our chief concern. Rightly or wrongly, they feel that in restricting their exportation of cotton to Germany, they have deferred to our interest.

7. Furthermore, they feel that they have gone a long way toward protecting our markets by limitation of the essentially American article[s] itemized in the list (to this list they have now added calculating machines). They have failed to realize, however, that precisely by listing these on the basis of the last 12 months plus 10 per cent, they are consolidating the German gains already made at the expense of American business during this particularly unfavorable period. In the course of conversation, I have brought this to their attention.

8. The agreement appears to be curiously constructed. The quotas set by Germany for purchases from Brazil constitute for all practical purposes a promise to purchase those quantities. On the other hand, it is prescribed that certain Brazilian imports from Germany are to be based on the maximum quantities imported in the last 12 months last preceding signature of the agreement with an increase of 10 per cent; in other words, the Brazilians are agreeing to permit importation of the articles listed in amounts which it will not be possible to calculate accurately until some time after the signature. All other Brazilian products are free from quota restrictions which is regarded here as an important concession.

9. The quantities of German articles other than those specified in the agreement which will be importable into Brazil will depend upon the amount of compensation marks remaining to Brazil's credit after the specified articles have had their quotas filled. As to individual items of these unlisted products, the amounts will be determined by agreement between the Bank of Brazil and the Ministry of Finance. In other words, the specific quantities of German merchandise which will enter Brazil are not set forth in the agreement and cannot be calculated at this time except roughly as to the listed articles.

10. As nearly as I can ascertain from the Brazilian authorities, they have been dazzled by the tempting opportunity to dispose of increased quantities of their commodities to Germany. It is clear, however, that they have not given adequate weight (*a*) to the effect of this agreement upon the broader principles of international trade to which they profess their devotion; (*b*) to the political effect upon relations with other countries including the United States; (*c*) to the inevitable effect of such an agreement in lessening the amount of available exchange for debt service and purchases abroad.

11. I have seen the Foreign Minister again this afternoon in order to make very sure that signature of the agreement is being held in abeyance until the Department has an opportunity to formulate its views. I have ascertained that the memorandum I have telegraphed with the slight modifications set forth in this telegram contains practically the exact text of agreement with the exception of the preamble. I do not contemplate furnishing any further text on that subject and shall await an expression of the Department's views to convey to Macedo Soares as to the effect of the proposed agreement on our own treaty rights.

12. As to the effect on American business it is difficult to avoid the conclusion that if this agreement goes through the pronounced German progress already realized at our expense will be accentuated; that within a relatively short period we may expect to see Germany occupying first place instead of the United States and that various American enterprises will be forced out of this market.

GIBSON

632.6231/61 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 2, 1936—3 p. m.

[Received June 2—2:35 p. m.]

141. Department's 80 June 1, 7 p. m. I saw Macedo this morning, read to him the *aide-mémoire* and at his request left with him a copy. He is to see the President on the subject this afternoon.

I expect to see the Minister of Finance later in the day.

GIBSON

632.6231/63 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 3, 1936—noon.

[Received 12:14 p. m.]

143. My 141, June 2, 3 p. m. Minister of Finance was engaged until late last night discussing the compensation question with the President and Macedo Soares but I saw him this morning at his house.

He was fully conversant with the *aide-mémoire* quoted in your 80 June 1, 7 p. m. and stated that it so fully represented his own views that he might have drafted it. He read me the letter referred to in the last paragraph of the above telegram and concluded by saying that as a result of a thorough canvassing of the whole question the German Agreement could be considered as abandoned in its present form. He said that Macedo Soares had come completely round to his point of view and was now in favor of abandoning the German Agree-

ment and seeking some other method of meeting the situation which would not be open to the same objections.

I expect to see Soares this afternoon.

GIBSON

632.6231/65 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 6, 1936—7 p. m.

[Received June 7—7 a. m.]

146. In the course of a conversation this morning Macedo Soares handed me the following memorandum¹⁴ intended as a reply to the *aide-mémoire* handed by the Department to Aranha on June 1st.

“Memorandum. 1. The Brazilian Government received with pleasure and examined with the most detailed and friendly attention the memorandum which the Embassy of the United States presented to it in the name of its Government on Thursday of information furnished by the Minister Macedo Soares to Ambassador Gibson regarding the commercial negotiations under way between Brazil and Germany.

2. In this document the American Government drawing attention at the start to the fact that ‘the precise text of the proposed agreement between Germany and Brazil has not yet been received’—which moreover it could not have been as the matter had not yet reached the point of a definite formula—gives immediate[ly] to understand that its comments are not intended to express any opinion as to the practical effects that such an agreement might cause to the prejudice or benefit of American commerce in Brazil which obviously places the comment offered upon a theoretical basis of principle.

3. It is extremely agreeable to the Brazilian Government in these conditions to hasten to affirm to the Embassy of the United States for information of the American Government the fullest explanations best calculated to dissipate any apprehension which may have arisen or which it would involve from any ill-founded interpretation as to the consequences of the negotiations now under way between Brazil and Germany might have for the maintenance and development of the policy of free commerce endorsed in the Brazilian-American treaty of February 2, 1935.¹⁵

4. Under these conditions the Brazilian Government desires, before that the return to the broadest liberal principles for equality of opportunities and of treatment for the commerce of all nations combined with the reduction or gradual elimination of the many restrictions which now asphyxiate it, is the only sure way if not the only way to bring about return to the prosperity of international commerce; and finally seeing in these principles more than the mere everything else to reaffirm here once again its unalterable conviction that as the Amer-

¹⁴ Telegraphed text of translation of this memorandum seems faulty. No other text has been found in the Department's files.

¹⁵ Reciprocal trade agreement between the United States and Brazil, signed February 2, 1935, *Foreign Relations*, 1935, vol. iv, p. 300.

ican Government so well says in the memorandum under acknowledgment it is in the system of compensation and of narrow bilateralism that we find one of the principle obstacles to the restoration and expansion of international commerce so urgently needed by the world. Furthermore the Brazilian Government shares without reservation the conviction [of?] the importance of a simple commercial policy. The Brazilian Government continues to believe as does the Government of the United States that from the application of these principles based on a broader view there is bound to result not only for the prosperity of the world but also and above all for universal peace, the most brilliant hope.

5. Consequently it is without hesitation that the Brazilian Government once more affirms its fidelity to these ideas not only in the limited field of commercial activity but also and chiefly in the broader domain of general international policy.

6. Once these basic and essential points have been thus clarified the Brazilian Government feels disposed to declare that in its negotiations with Germany its purposes have not gone beyond what is clearly defined in the following terms by the American memorandum: 'In the existing exigencies of trade and international payments there may be room for barter transactions for the exchange of specific commodities on fair terms offering mutual advantage. Such transactions negotiated between non-governmental producer or distributors of merchandise even though facilitated by governments though obviously an inefficient procedure suitable only when normal monetary facilities are unavailing may not be objectionable in principle.'

7. It was precisely upon conception of this character that the Brazilian Government based its present negotiations with Germany allowing herself to proceed with these because of the imperative requirements and the real necessities of its international commerce and seeking to confine them within a provisional formula which without violating the general policy which it has adopted and from which it does not propose to deviate, would permit it to meet the needs of certain immediate interests.

8. The determining factor in these negotiations was the necessity for the sale to Germany of a part of the Brazilian cotton crop. The Germans definitely require this product. If we were not to meet their request we ran a serious risk of not disposing of certain of our other articles (among them coffee) in that important market. In order to insure the German market for these products the Brazilian Government agreed on the basis of payment in the same exchange in which other articles had been paid for, that is in compensation marks, to deliver a quantity of cotton equivalent to 62,000 tons annually. In exchange for this concession the German Government was prepared to give certain specified facilities to our export trade in general. The intervention of the Brazilian Government consists therefore barely in agreeing to recognize the purchasing power of compensation marks for the financing of a provisional agreement of this character applying chiefly to cotton, an arrangement the execution of which will be entirely in the hands of the interested parties.

9. Under such conditions the Brazilian Government can unhesitatingly assure the American Government that in conformity with its wishes and hopes the American Government may rest fully assured

that the provisions of any commercial agreement into which the Government of Brazil may enter with Germany will prove to be in complete accord with the principle of the policy above mentioned and will not permit the impression to be created that the Government of Brazil is in any sense compromising the position which it has so helpfully and resolutely maintained."

GIBSON

632.6231/66 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 6, 1936—8 p. m.

[Received June 7—1:54 a. m.]

147. After handing me the memorandum transmitted in my 146, June 6, 7 p. m., Macedo Soares told me that on more careful examination it had proved to be impossible to find any method for reconciling in the form of even a temporary agreement the needs of the German system of directed economy and the Brazilian system of free commerce and that consequently the idea of the provisional German-Brazilian trade agreement had been abandoned.

He stated that two steps would be taken in the near future:

1. The Brazilian Ambassador in Germany will address a note to the German Government stating that the Brazilian Government will permit purchases for compensation marks of Brazilian cotton to a maximum amount of 62,000 tons staggered over a 12 months period. The Brazilian action is unilateral and equivalent to the placing of a Brazilian export quota on cotton in exchange for compensation marks and makes it clear that any purchases above this amount must be paid for in currency of international acceptance. Once this is done Macedo anticipates that the German Government will announce import quotas on various Brazilian products.

Inasmuch as the Germans bought 82,000 tons of cotton last year Macedo believes that to meet their needs they will be obliged to buy at least that amount this year and to pay for the surplus in international currency.

2. As the Brazilian-German trade treaty has been denounced and expires on June 30th it is necessary to take steps to maintain most-favored-nation treatment for both countries; consequently there will be an exchange of notes stating that each country recognizes to the other the right to most-favored-nation treatment pending the conclusion of a definite commercial treaty. Macedo states that he can foresee no possibility of concluding a final treaty so long as Germany continues under the compensation system and that once most-favored-nation treatment is assured it will be necessary to carry on by dint of expedients, temporary arrangements, et cetera.

Macedo states that in apprising the German Chargé d'Affaires of the difficulties in concluding a trade agreement he made a verbal communication to him to the effect that Germany must keep within normal bounds her exports to Brazil of certain products normally acquired by Brazil from countries dealing in exchange of international acceptance—which he said was equivalent to saying the United States. He informed the Chargé d'Affaires that if Germany disregarded this warning and persisted seeking unduly to enlarge her sales of motor cars, machinery, et cetera, the Brazilian Government would be obliged to “take steps”. He added to me that the Brazilian Government proposed to make effective its objections to having the market flooded with German products to the detriment of normal commerce with the United States.

GIBSON

632.6231/67 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 6, 1936—9 p. m.

[Received June 7—12:21 a. m.]

148. In conversation this morning Macedo stated that throughout the negotiations he had never been clear in his own mind as to what the upshot of the whole thing was going to be. I felt that he was rushed off his feet by the combined pressure of Germany and the São Paulo cotton interests. He allowed me to gather that it was not until he received the clear statement of your views that he saw matters in their true light and realized for the first time the impossibility of reconciling Brazil's liberal commercial policy and the demands of a country with directed economy.

As the Department will understand the abandonment of the German negotiations has left Macedo in a difficult position. He has, however, accepted the situation with good grace. I think it important for him to realize that there is no disposition on our part to rub it in and I therefore hope you will feel disposed to send him a friendly message of appreciation for the way he has responded to your friendly representations.

GIBSON

632.6231/69 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 8, 1936—6 p. m.

[Received June 8—5:50 p. m.]

149. Data contained in the Department's 81, June 3, 5 p. m.,¹⁶ has been of great value.

¹⁶ Not printed.

Although signature of a provisional trade agreement on a compensation mark basis has been averted, I feel we must not ignore the constant pressure that will be exerted for objectionable arrangements of one sort or another, not only with Germany but with numerous other countries which are holding out tempting offers. It would, therefore, be helpful if the Department could afford me for my guidance as much material as may be available on this general subject together with any instructions of a general character that it may care to give me as to our desiderata.

There is a persistent effort being made here to create the belief that our objection to the compensation mark agreements is prompted by our desire to exclude Brazil from the German market for her cotton. I learn confidentially that at today's meeting of the Federal Foreign Trade Council, presided over by President Vargas, the Chief of the Government's Statistical Bureau submitted figures to demonstrate this and apparently made a considerable impression on those present.

GIBSON

632.6231/68 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 8, 1936—7 p. m.

[Received June 8—5:20 p. m.]

150. My 147, June 6, 8 p. m., numbered paragraph 2. Exchange of notes¹⁷ was effected today prolonging most-favored-nation treatment between Brazil and Germany pending conclusion of a commercial treaty.

GIBSON

632.6231/70 : Telegram

The Acting Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, June 9, 1936—4 p. m.

86. From the Secretary. Your 146, 147, and 148, June 8 [6]. Please obtain an early interview with the Minister for Foreign Affairs and inform him that I am deeply appreciative of the friendly consideration which the Brazilian Government has given to the views of this Government regarding commercial policy, and that I have read with great interest and gratification the fine statement of the liberal trade policy of Brazil based upon equality of opportunity and treatment, set forth in the memorandum which he was kind enough to give me.

¹⁷ This agreement of June 8, 1936, between Brazil and Germany replaced the agreement of October 22, 1931; for text of the 1936 notes, see telegram No. 152, June 10, 1 p. m., from the Ambassador in Brazil, p. 269.

The action of a great trading nation like Brazil in standing forth resolutely for a liberal trade policy immeasurably enhances the possibility of general adoption of those broader principles. As the Minister points out in his memorandum, the best hope for world prosperity and peace is in the general application of these principles.

PHILLIPS

632.6231/69a : Telegram

The Acting Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, June 9, 1936—7 p. m.

87. A United Press report and a special cable to the *New York Times*, both dated Rio, June 8, report that the Foreign Minister and the German Chargé d'Affaires exchanged notes on that date "sealing the one-year trade agreement between the Reichsbank and the Banco do Brasil" on a basis similar to that reported in your 137 [139], May 30, 3 p. m. The quotas mentioned in these press despatches are identical with those mentioned in your 137 [139], but the sales of German goods by categories are to be held to 1935 limits. The Department is receiving inquiries on the basis of these despatches and would appreciate your prompt comment.

PHILLIPS

632.6231/70 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 10, 1936—1 p. m.

[Received 1:50 p. m.]

152. Department's 87, June 9, 7 p. m. Press reports mentioned are inaccurate. The facts regarding this whole subject are as reported in my 147, June 6, 8 p. m.

In order to be quite sure of the facts I have this morning talked with the exchange director of the Bank of Brazil. He states categorically that no agreement of any character has as yet been signed between his bank and the Reichsbank. He states, moreover, that up to the present time he knows nothing about the matter beyond what he has read in the newspapers. However, he informs me that he has been summoned to see the Minister of Finance this afternoon. After this interview I may be able to afford the Department more definite information as to how the Bank of Brazil will deal with the problem of compensation marks.

In order that the Department may be in a position to answer inquiries I quote text of identic notes exchanged between Brazilian Minister for Foreign Affairs and German Chargé d'Affaires on June 8th.

"I have the honor to inform Your Excellency that the Government of Brazil desiring to continue her commercial relations with Germany and in view of the present impossibility of concluding a treaty of commerce and navigation between the two countries has decided to adopt a temporary measure effective from the 31st of next July the date upon which the present German Brazilian commercial accord as denounced by Brazil will terminate. In accordance with this provisional measure and pending the signature of a future treaty of commerce and navigation the Brazilian Government maintaining the regime of the accord which is to expire will grant to German products entering its territory unconditional and unlimited most-favored-nation treatment with respect to customs tariffs.

"It is understood, however, that this concession can only be granted on a basis of reciprocity, its application depending upon concession by the German Government to Brazilian products entering its territory of the same unconditional and unlimited most-favored-nation customs tariff treatment an understanding which Your Excellency has agreed to confirm in writing as of this date. I desire furthermore to enlarge herein that either of the two interested Governments will have the right to terminate the present provisional accord upon 3 months advance notice".

The Department is aware of the nature of the original temporary agreement which Brazil intended to make with Germany and which was abandoned. Some days ago one or two papers here printed the substance of the original plan as the one about to be signed and the American correspondents appear to have telegraphed this as an agreement actually signed without attempting to verify the facts.

GIBSON

632.6231/75 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 18, 1936—11 p. m.

[Received 11 p. m.]

156. For Assistant Secretary Welles. After the exchanges referred to in my 152, June 10, 1 p. m. and the unilateral announcements as to import and export quotas the Brazilian press was filled with misleading articles indicating that a commercial treaty had been signed with Germany.

Macedo Soares in his anxiety to secure the support of coffee and cotton interests addressed to the governors of the various states an unwisely worded telegram, which, while it did not misstate the facts, was clearly calculated to create the impression that a treaty had been signed with Germany resulting in a highly advantageous arrangement for Brazilian interests.

The censorship which was set up solely to deal with subversive activities has been applied to more accurate statements of the facts as well as to criticism of the compensation system and general mystification has resulted.

In view of the fact that the business community has had nothing to go on except misstatements of facts published in the press and as no publicity has been given to Macedo's assurances to me as to keeping the Germans within their normal sales, the impression is growing among American interests here that American business has been placed in jeopardy. Accordingly, I am informed, a move is under way to furnish Peek¹⁸ with information as to the unfortunate position of American business in Brazil for use against our present trade policy.

I have gone over this situation with Macedo and drawn his attention to rather disquieting editorials from the *New York Times* and the *Journal of Commerce*, pointing out to him again that because of the censorship a distorted statement of the situation has gone to the American press which is harmful to Brazil and is bound to arouse resentment in the belief that American interests are being unfairly treated. I have suggested to him that from the point of view of Brazilian interests he should lose no time in restating categorically to the American press agencies the assurances he had already given to me to the effect that (1) no trade agreement has been signed with Germany; (2) Germany has been warned not to increase her markets in commodities usually purchased from the United States; (3) that the same admonition would be addressed to all countries imposing the compensation system; (4) that the compensation system is distasteful to the Brazilian Government which hopes it will be abandoned as soon as conditions permit in view of Brazil's definite attachment to principles of free commerce.

Macedo has got himself into an awkward position by the press propaganda he has made here, and although I believe he sees the wisdom of my suggestions, it may be difficult for him to extricate himself sufficiently to make such a statement for the American press without difficulty.

You may feel warranted in going into the subject with Aranha and suggesting that he communicate to Macedo his views as to the dangers of the situation as it now stands and the necessity for clearing the air once and for all with a categorical and satisfactory statement.

GIBSON

632.6231/79 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, June 23, 1936—1 p. m.

[Received 2:02 p. m.]

159. My 156, June 18, 11 p. m. Last night Macedo Soares gave a satisfactory and categorical statement to the Associated Press and the

¹⁸ George N. Peek, Special Adviser to the President on foreign trade policy; president, Export-Import Bank.

United Press along the lines mentioned in antepenultimate paragraph of telegram under reference.

Yesterday the Federal Foreign Trade Council at a meeting presided over by the Minister of Foreign Affairs recommended immediate setting up of an official body to supervise and coordinate German-Brazilian trade resulting from the operation of the compensation system.

GIBSON

632.6231/85a

The Secretary of State to the Ambassador in Brazil (Gibson)

No. 529

WASHINGTON, June 27, 1936.

SIR: The Department acknowledges the receipt of your telegram No. 149 of June 8, 6 p. m. in which you refer to the pressure in Brazil for conclusion of exclusive bilateral trade and payments arrangements with other countries and ask to be furnished with available material on this general subject and instructions as to the Department's desiderata in this connection. You report that the Chief of the Government's Statistical Bureau at a recent meeting of the Federal Foreign Trade Council submitted figures to demonstrate that American objections to the conclusion by Brazil of a "compensation mark" agreement with Germany was prompted by the desire to exclude Brazil from the German market for its cotton.

In regard to the latter assertion you are informed that the Department's action in discussing with the Brazilian Government its proposed compensation agreement with Germany was not motivated by any idea of seeking special competitive advantages or safeguards for American trade in either Brazil or Germany. It seems apparent that any Brazilian cotton withheld from export to any one market will undoubtedly be offered in competition with American cotton in others.

The interest of this Government, which has cooperated with Brazil to promote general adoption of liberal commercial policy, was in the effect on the progress of this policy of Brazil's committing itself by the proposed agreement with Germany, to acceptance of the counter policy of trade bilateralism, thereby possibly limiting its liberty to take such effective action against bilateralistic trade practices as later developments might make practical and advisable in Brazil's own interest and the general interest of international trade and welfare.

While the Department inclines to the belief that systems of bilateral balancing of trade effected through such devices as clearing and compensation agreements and exchange blockage, will eventually be rejected by countries practicing them because of their inherent defects and disadvantages, such systems may be continued as long as these

countries can induce important trading nations to agree to such terms of trade. It is obvious that general adoption of a policy of trade bilateralism would be counter to the interests of all countries and particularly injurious to countries which, like Brazil, require a favorable trade balance in order to effect the various non-commercial payments which they desire to make abroad.

From your No. 117 of April 24, 5 p. m., and No. 121 of May 7, 3 p. m., the Department had understood that the proposed action of limiting the sale of cotton to markets where payment is made in blocked exchange, was to be taken in view of the greater advantage to Brazil of selling its cotton in markets which paid in international exchange, which can be used freely to make whatever purchases and payment it desires. The Department understood that the Brazilian Government also had in mind the advantage of not making its cotton industry dependent on the single insecure market of a country the government of which has been pursuing a policy of frequent diversion of trade for political purposes and of using any strong trading position which it may acquire vis-à-vis another country to compel such country either to make unneeded purchases of goods or submit to blockage of the funds of its nationals.

In this connection, you are informed that the Argentine Exchange Control is recently reported to have deliberately restricted Argentine exports to Germany in order to liquidate blocked balances in that country and to prevent the accumulation of new frozen credits which can only be liquidated by greater quantities of German merchandise than the Argentine market desires to absorb.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

**REPRESENTATIONS TO THE BRAZILIAN GOVERNMENT REGARDING
THE PROPOSED ITALIAN-BRAZILIAN PROVISIONAL COMMERCIAL
AGREEMENT**

632.6531/26 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, July 17, 1936—5 p. m.

[Received July 17—4: 45 p. m.]

167. For Assistant Secretary Welles. I called upon Macedo Soares¹⁹ this morning and inquired as to the progress of negotiations of the treaties which have been denounced particularly that with Italy. I said I had heard a rumor that this might follow the general lines of the arrangement with Germany²⁰ and wanted to assure myself at once

¹⁹ José Carlos de Macedo Soares, Brazilian Minister for Foreign Affairs.

²⁰ See pp. 247 ff.

in regard to the true situation as I knew the Department would be much concerned at any such development after his previous categorical reassuring statements.

Macedo told me categorically that there was no foundation for such reports. He said that the Italian Government was exercising strong pressure for submitting all products to the quota system; that Italy held the whip hand inasmuch as she had already blocked a million bags of coffee by withholding import permits and was apparently prepared to be ruthless in imposing her views on Brazil. He said that the negotiations would be difficult but that he was determined not to yield to Italian pressure or to conclude any agreement that was not in harmony with the assurances he had given us. He said that it would be impossible to conclude the negotiations before the expiration of the existing treaty²¹ on July 31st but on that date there would be an exchange of notes for the maintenance of most-favored-nation treatment and probably some temporary agreement to remain in force pending the conclusion of a more permanent treaty. He assured me that he would keep me informed as to developments.

GIBSON

632.6531/27 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, July 17, 1936—6 p. m.

[Received July 17—5:52 p. m.]

168. For Assistant Secretary Welles. The inquiries reported in my telegram 167, July 17, 5 p. m. (which I sent separately in order that you might show it, if you so desired, to Aranha²² were prompted by information I had just received from an entirely reliable source that Macedo was negotiating with Italy an arrangement similar to that made with Germany and that it was expected to be concluded by Monday, the 20th.

During my conversation with Macedo he did not appear altogether comfortable and since his remarks were almost verbatim what he told me in connection with the German negotiations I am sorry to say that they did not carry much conviction.

Since my interview of this morning I have learned in strict confidence that the written instructions issued by the Minister of Finance for setting up the board to supervise and control imports and exports under the new proposition contain the definite statement that in organizing this board it should be borne in mind that the arrangements

²¹ Provisional commercial agreement, signed at Rio de Janeiro, November 28, 1931; for text see League of Nations Treaty Series, vol. cxxxI, p. 273.

²² Oswaldo Aranha, Brazilian Ambassador in the United States.

to be negotiated with other countries would follow the general lines of the arrangement with Germany.

I was also afforded an opportunity to examine the minutes of a confidential meeting of the Federal Foreign Trade Council in which Macedo Soares stated that arrangements would shortly be concluded with Italy and Spain on a compensation basis. He also stated in the course of a rather sharp interchange with Valentim Boucas²³ who raised the question of possible American objection to such a course and alluded to possible retaliatory measures that he felt he was fully covered with respect to the United States and that no matter what was said he was confident that the American Government would never adopt reprisals against Brazil.

Macedo apparently feels that our failure to protest the form in which the arrangement was entered into with Germany implies our acquiescence with the substance of the agreement itself. This impression may have been strengthened within the last few days by Havas despatches Washington quoting interview with Aranha to the effect that he has satisfactorily dissipated any doubts the Department had regarding the German-Brazilian arrangement.

In spite of the assurances given us by Macedo in his memorandum (my telegram 146, June 6, 7 p. m.²⁴) in his interview with American press agencies (my despatch No. 1080²⁵) and in his remarks before the committee on Foreign Affairs (my despatch No. 1088²⁵) which put him clearly on record against the compensation system, there is no escaping the fact that in practice he is now heading for general compensation arrangements which are bound to be disastrous to American trade whether they be in the form of treaties or of unilateral declarations.

My informant intimates that the arrangement with Italy is practically concluded, and, in view of previous experience, I feel that no time is to be lost. You may agree that it would be well to consult Aranha on this subject and suggest that he communicate direct with the President as to the consequences of any such general compensation program. . . .

GIBSON

632.6531/27a : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, July 18, 1936—4 p. m.

99. I read your telegram No. 167, July 17, 5 p. m., to Aranha, and at the same time endeavored to convey to him the impression that other

²³ Member of the Brazilian Foreign Trade Council.

²⁴ *Ante*, p. 264.

²⁵ Not printed.

information indicated that the Brazilian-Italian negotiations were rapidly approaching a conclusion. Aranha said that he had recently received a letter from President Vargas saying that no commercial agreements would be concluded without full and public discussion. The Ambassador therefore tended to minimize the possibility of any agreement being concluded within the next few days. The subject will be discussed with Aranha fully on Monday.

Please endeavor to get in touch with Macedo Soares and by discreet reference to his friendly gesture in having made available the principal features of the proposed German agreement endeavor to secure from him a proffer to make available similar information regarding the Italian agreement.

If, in your judgment, however, the signature of an arrangement, whether overt or covert, is imminent, you may, with reference to the Department's telegram No. 80, of June 1,²⁶ impress upon Macedo Soares the concern with which this Government would view the subscription of Brazil to any arrangement of a compensation nature and which would limit her freedom of action in behalf of multilateral trade. Any arrangement setting up inter-governmental machinery for compensation trade would be a threat to the success of the program of re-establishing the system of multilateral trade.

HULL

632.6531/28 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, July 20, 1936—7 p. m.

[Received 10:25 p. m.]

170. My 168, July 17, 6 p. m. Boucas informs me that at this morning's meeting of the Federal Foreign Trade Council those opposed to the compensation system were successful in securing the adoption of measures they consider best calculated to minimize the objections of [to?] the German compensation arrangement. The Board for the supervision and control of purchases under the compensation system now directed by Boucas although this is to remain confidential and he is to remain in the background. The regulations which he has drawn up are based largely on the Argentine regulations on this subject. They were approved by the Foreign Trade Council this morning and are at present awaiting the signature of the Minister of Finance. They provide that all imports from Germany must receive previous approval here which is equivalent to a system of import licensing. In addition no bank will be allowed to maintain an over-bought position in compensation marks thus correcting one of the most objectionable features of the whole situation.

²⁶ *Ante*, p. 259.

As regards Italy, the original intention was to have an informally negotiated arrangement along the lines of the German arrangement but I understand that as a result of our unremitting expressions of interest the original plan has been abandoned, that the Italian question was not brought before the Trade Council this morning as planned but that probably in the near future it will be brought up in a different form, namely, figures will be agreed upon as representing the normal trade as between the two countries, that commerce between Brazil and Italy up to that figure will be financed with currency of international acceptance and anything above that will be subject to trade on a compensation basis; it is assumed that the figures for 1934 will be agreed upon.

Those opposed in principle to the compensation system hope that the foregoing measure will serve to protect the legitimate interests of those countries which maintain free commerce.

I am informed by one of the most influential bankers here who himself is definitely opposed to the compensation system that he believes the German arrangement will prove to be much less obnoxious than originally anticipated because of the fact that the formalities and complications in handling individual transactions are so great and the profit of the banks so considerable that the merchants find much less profit than they had expected.

The same banker informed me that the Bank of Brazil has now liquidated its compensation marks position and that from now on banks will not be permitted to maintain an over-bought position in this currency.

A high official of the Foreign Office told me today that our constant manifestations of interest had, he believed, prevented Macedo from taking precipitate action in this matter and he felt it important that I continue making frequent inquiries.

I have already made the remarks outlined in your 99, July 19 [18], 4 p. m., in various conversations with Macedo. In spite of the encouraging outlook at the moment negotiations are to be continued with Italy and other countries and the outcome is unpredictable. I feel it would be prudent to ask Aranha to keep our interest and concern in this matter clearly before the President.

GIBSON

632.6531/26 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, July 20, 1936—8 p. m.

101. Your 167, July 17, 5 p. m. Aranha is cabling President Vargas immediately and is following up his cable by an air mail letter. He is insisting in these communications that the Brazilian Government re-

frain from entering into any further treaties similar in any sense to that recently entered into with Germany.

I suggest that for the time being you limit yourself to the endeavor to obtain from Dr. Macedo Soares accurate information as to what project, if any, the Brazilian Government is contemplating entering into with Italy. Aranha believes that he will receive correct information by cable from the President within the next 2 days.

Please continue to cable me fully all information which you may obtain.

HULL

632.6531/30 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

[Extract]

WASHINGTON, July 24, 1936—2 p. m.

106. For the Ambassador from Welles. . . .

. . . As reported to you in my cable 101, July 20, 8 p. m., I conferred with Aranha on July 20 and informed him of the disquiet which would naturally be occasioned this Government if the Brazilian Government entered into further compensation or clearing agreements which would have the effect inevitably of restricting trade between Brazil and the United States. I reiterated what I had said frequently before, namely, that the moral support which Brazil had given to the United States in carrying out its program for the liberalization of world trade had been of recognized value, but that if public opinion in the United States saw that notwithstanding the terms of the trade agreement entered into between the two countries, Brazil was embarking upon a policy of compensation and clearing agreements with other countries which necessarily would have a prejudicial effect upon the stimulation of the movement of goods between our two countries which had been justly anticipated as a result of the trade agreement, and that no apparent benefits were being derived for United States trade with Brazil, such a situation would inevitably lend aid and comfort to that portion of public opinion in the United States which vigorously opposed a liberal trade policy on the part of this Government. It is only from this general statement that any implications could have been drawn which would correspond even remotely to the numbered alleged threats reported in your telegram. It is hardly necessary to add that no such threats as those alleged were made.

[Welles]
HULL

632.6531/31 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, July 25, 1936—2 p. m.

[Received 6:05 p. m.]

175. For Assistant Secretary Welles. Your 106 July 24, 2 p. m., outlined the situation very much as we had anticipated.

.
It seems important to me that we should clear the air and let them know exactly where we do stand . . .

You may feel that this purpose can be achieved by directing me to take an early occasion to convey to Macedo Soares the substance of what you have told Aranha, stressing the seriousness and importance we attach to the whole compensation question and stating that you consider it important that he be kept fully and accurately informed step by step as to our views on the subject. It would be my idea to do this without any reference to Aranha's telegram. This would be possible as Macedo has not himself mentioned to me the subject of that telegram.

The general conclusions drawn in your conversation with Aranha are a definite and logical development of the position we have kept clearly before Macedo hitherto and their presentation to the latter would ensure that the matter is kept in its proper light.

GIBSON

632.6531/31 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, July 27, 1936—1 p. m.

107. Your 175, July 25, 2 p. m. You are authorized to convey to Dr. Macedo Soares the considerations indicated in the next to the last paragraph of your telegram under reference. You may, of course, make it clear in this conversation that while this Government is making no threats, it cannot underestimate the seriousness of the effect on public opinion in the United States if the Brazilian Government enters into a series of compensation and clearing agreements with other governments which will inevitably tend to counteract the helpful effects of the trade agreement between our two countries.

I am entirely in accord with your views as expressed in the fourth paragraph of your telegram.

Aranha has called me on the telephone this morning and let me know that he has received a further cable from President Vargas stating that he had not realized until receipt of Aranha's last telegram that the Foreign Office had not kept the latter fully advised of all

features of the German-Brazilian negotiation and adding that President Vargas also had now ascertained facts which were "even more curious." The telegram contained additional assurances that the President himself would see to it that no further negotiations were undertaken.

HULL

682.6531/33 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, August 8, 1936—11 a. m.

[Received August 8—10:15 a. m.]

179. Having been informed by the Foreign Office that the negotiations for a commercial arrangement with Italy had been referred to the Minister of Finance, I called upon the latter last night. I explained that our Government had been somewhat perturbed at the secretive manner in which the German arrangement had been consummated in spite of assurances given me that we would be given full opportunity for consultation and I expressed the hope and confidence that nothing similar would occur as regards the Italian negotiations. I also gave the Minister the substance of the Department's 107 July 27, 1 p. m., in order that he as well as the Foreign Office might entertain no doubt as to the seriousness with which our Government views the German arrangement.

The Minister stated that he had insisted that nothing further than an exchange of notes embodying the usual most-favored-nation clause should be signed with Italy. He showed me a draft copy of the proposed notes which appear innocuous and promised to go over them with me again in case there is any change before they are signed.

GIBSON

632.6531/39

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

No. 1187

RIO DE JANEIRO, November 4, 1936.

[Received November 12.]

SIR: With reference to this Embassy's despatch No. 1132 of August 19, 1936,²⁸ I have the honor to enclose herewith copies of the Portuguese and Italian texts of the provisional *modus vivendi* effected between the Governments of Brazil and Italy on August 14, 1936, by an exchange of notes between Dr. Jose Carlos de Macedo Soares, Brazilian Minister for Foreign Affairs, and Mr. Roberto Cantalupo, Italian Ambassador to Brazil, as well as the English translation of

²⁸ Not printed.

same.²⁹ These texts were furnished to the Embassy in confidence by the Foreign Office and have not as yet been made public.

The Department will note that the *modus vivendi* provides in effect for the continuation of most favored nation treatment and, furthermore, there would seem to be no basis for the information given to the American Embassy at Rome by the Italian Treaty Office (see despatch No. 1872 of September 10, 1936, American Embassy, Rome³⁰) that the agreement would provide for measures whereby exports and imports are expected to balance.

Respectfully yours,

R. M. SCOTTEN

AGREEMENT BETWEEN THE GOVERNMENT OF BRAZIL AND THE NATIONAL FOREIGN TRADE COUNCIL FOR THE LIQUIDATION OF AMERICAN BLOCKED COMMERCIAL CREDITS, EXECUTED FEBRUARY 21, 1936³¹

832.5151/782: Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, January 3, 1936—6 p. m.

2. Your 346, December 21, 1 p. m.³² Please inquire of the Minister of Foreign Affairs³³ and, in your discretion, of the Minister of Finance,³⁴ whether the Brazilian Government has completed arrangements for funds to make a cash payment to the American owners of frozen credits equivalent to that promised the British creditors. Please cable.

HULL

832.5151/788: Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, January 4, 1936—1 p. m.

[Received 5:30 p. m.]

3. Department's 2, January 3, 6 p. m. Minister of Finance informs me Rothschilds have communicated to him that their idea has been to arrange a \$5,000,000 credit for payment of American claims through Guaranty Trust Company but that latter states it will undertake the operation only if requested to do so by the Department of State.

Minister of Finance yesterday telegraphed this information to Brazilian Ambassador in Washington³⁵ with request that he report as to the Department's attitude.

²⁹ Enclosures not printed; for texts of notes, see Brazil, Ministerio das Relações Exteriores, *Actos Internacionais Vigentes no Brasil 1936*, vol. II, p. 80.

³⁰ Not printed.

³¹ For previous correspondence, see *Foreign Relations*, 1935, vol. IV, p. 321 ff.

³² *Ibid.*, p. 386.

³³ José Carlos de Macedo Soares.

³⁴ Arthur de Souza Costa.

³⁵ Oswaldo Aranha.

The Minister states he does not anticipate the Department will feel warranted in making a specific request of this character and that in that event this method of dealing with the problem would be eliminated. He added that this did not cause him any concern inasmuch as under the existing authority of the Government it was able to negotiate an entirely satisfactory arrangement under other conditions, alluding apparently to what is known as the Boucas³⁶ plan for Bank of Brazil notes.

I gather the impression that the Minister is distinctly relieved at the prospective elimination of financing this arrangement through London and that he prefers such direct agreements as can be made here.

As there are various reports circulating as to the Department's attitude I should appreciate full information.

GIBSON

832.5151/787: Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, January 4, 1936—2 p. m.

[Received 5:45 p. m.]

4. Department's 2, January 3, 6 p. m. The situation with respect to the liquidation of American frozen credits has been further developed here by a telephone call put through yesterday by Thomas³⁷ to Drumm, local Vice President of the National City Bank in an effort to secure the latter's support in combating the Boucas plan outlined in paragraph 2 of my 346, December 21, 1 p. m.³⁸ Thomas states this plan has been substituted in the United States by Aranha. This call is construed by the Americans here as an indication that their views are being taken seriously and that Thomas feels obligated to offer them terms.

American business men here who are unanimously and perseveringly in favor of plan submitted by Boucas to Aranha or some similar plan providing Bank of Brazil notes, believe that Export-Import Bank could play a role at once safer and more important if Boucas plan were accepted. Confidentially they feel as individuals that Thomas is seeking to put them on the spot as impeding his plan and thus impeding the settlement of the question. They assert that their efforts have not been aimed against Thomas or against anything but have merely been designed to secure a type of settlement similar to the 1933 arrangement which will really restore confidence and create an atmosphere in which American companies can again flourish here.

According to Drumm, Thomas stated that he had discussed the Boucas proposal with the Department which had expressed definite

³⁶ Valentim F. Boucas, member of the Brazilian Foreign Trade Council.

³⁷ Eugene P. Thomas, President of the National Foreign Trade Council.

³⁸ *Foreign Relations*, 1935, vol. iv, p. 386.

opposition to the plan and said it would telegraph me instructions to take action accordingly.

This conversation has been reported by Drumm to Boucas and therefore I trust you will put me in possession of the facts in order that I may know what line to take in the event of inquiries from Boucas or the Government.

In this connection I am informed that the President and the Exchange Director of the Bank of Brazil are entirely in favor of a settlement based on the Boucas plan.

The Minister of Finance would not actively oppose making a cash payment to American Congelado owners equivalent to that promised the British creditors provided a loan covering that amount (5 million dollars) can be conveniently obtained. It appears that he would definitely prefer the Boucas plan inasmuch as it eliminates not inconsiderable expense attached to obtaining a foreign loan. We referred today to the 1933 agreement as having worked out satisfactorily and as furnishing a good method of approach.

Incidentally the Minister of Finance showed me his estimate that American frozen credits total 16 million dollars of which not quite 1 million is in claims under 5 thousand dollars.

GIBSON

832.5151/788 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, January 9, 1935—7 p. m.

8. Your No. 3, January 4, 1 p. m., and No. 4, January 4, 2 p. m. In connection with the discussion regarding frozen credits, Department is puzzled by statement of Brazilian Finance Minister that he estimates the American frozen credits at \$16,000,000. The Council declares that it has registered blocked funds to the amount of \$37,000,000; however, in this figure were included inventories of unsold merchandise amounting to around \$7,000,000, and Thomas stated that he thought the final amount to be admitted as eligible for funding by the Brazilian Government would be around \$30,000,000. Can you explain the discrepancy?

HULL

832.5151/788 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, January 9, 1936—8 p. m.

9. Your No. 3, January 4, 1 p. m., and No. 4, January 4, 2 p. m. The Department has been discussing the possibilities of a prompt disposal of this frozen credit situation with Aranha. The Amba-

sador told the Department that he had suggested to the Minister of Finance that cash payments to British creditors be reduced to 2½ million dollars and that the other half of the Rothschild credit be used to make a similar payment to the American small creditors, but that the Minister of Finance had vetoed this suggestion.

Today representatives of the Council indicated to Aranha that if it proved impossible for the Brazilian Government to make an immediate cash payment of \$5,000,000, the Council would be willing to take under consideration an arrangement whereby \$2,000,000 were provided to clear off the frozen credits smaller than \$25,000, on condition that the Banco do Brazil would give its endorsement to the frozen credit notes. They are continuing discussion of that idea with Aranha this afternoon.

Incidentally the Department would welcome your comment as to whether the resident American business community in Brazil who have apparently been carrying on independent discussions regarding frozen credits, represent any substantial portion of the total and have the authorization of their home offices to press for a different settlement than that under negotiation by the Council.

HULL

832.5151/807

Memorandum by Mr. Donald R. Heath of the Division of Latin American Affairs

[WASHINGTON, January 9, 1936.]

Conference: Mr. E. P. Thomas, President, National Foreign Trade Council,
 Mr. William S. Culbertson and Mr. Micou, Counsel of the National Foreign Trade Council, and
 Mr. Warren Lee Pierson, Counsel of the Export-Import Bank.
 Mr. Duggan,³⁹
 Mr. Feis⁴⁰ and
 Mr. Heath.

Mr. Micou explained that they had wished to talk with the Department before proceeding to a conference with Ambassador Aranha on American frozen credits in Brazil. He said that certain American businessmen, resident in Rio with no home office connections in the United States, had succeeded in complicating the Council's negotiations with the Brazilian Government on behalf of the American holders of frozen funds by insisting on Bank of Brazil notes in place of

³⁹ Laurence Duggan, Chief of the Division of Latin American Affairs.

⁴⁰ Herbert Feis, Economic Adviser of the Department of State.

Brazil Government obligations provided for in the tentative agreement reached by the Council and the Brazilian Government.

Mr. Micou said that certain members of the American business committee in Rio had obtained the impression that the Council was not efficiently conducting negotiations and was responsible for the delay in reaching settlement. He said that the Council was making every effort rapidly to conclude an agreement and was prepared, if the Department saw no objection, to waive a five million dollar cash payment to the American creditors which would be equivalent to the cash payment promised the British creditors, provided that Brazil would obtain Bank of Brazil endorsement of the American frozen credit notes and make cash payment of holdings of less than \$25,000, which are estimated to total some \$2,000,000. He said that if it proved impossible to obtain even \$2,000,000 that they might waive cash payment to the small holders provided the latter would be paid off in 120 days. He said that Aranha had informally broached the possibility of eliminating a cash payment providing Bank of Brazil endorsement of the frozen credit notes as compensation. He said, however, that Aranha had indicated that there would be a reduction in the previously agreed upon interest rate of four percent on the notes if the Bank of Brazil endorsement were added to them.

Dr. Feis stated that the Department still regarded the matter as one to be handled primarily by direct negotiation between the Brazilian Government and the American creditors and he thought that the Department would interpose no objection to a settlement along these lines provided it was satisfactory to the American creditors. Mr. Pierson thought that the Export-Import Bank would maintain its offer to discount such notes.

Mr. Micou asked the Department to lend its good offices to promote a rapid conclusion to the long pending negotiations and Dr. Feis said that he was certain that the Department would do so.

D[ONALD] R. H[EATH]

832.5151/790 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, January 10, 1936—5 p. m.

[Received 7:20 p. m.]

10. Department's 8, January 9, 7 p. m. Apparent discrepancy is, I believe, explained by the fact that the two estimates deal with different situations (1) that of the Minister of Finance was not in reality an estimate but a statement from the Bank of Brazil as to the actual amounts deposited in milreis in order to qualify for inclusion in any Congelados agreement; (2) the amount indicated by Thomas apparently refers to all sums now awaiting exchange in Brazil. The Ameri-

can oil companies which have thus far played a lone hand and made the disposal arrangements usually on the basis of daily exchange quota, now have, according to their own estimate, approximately \$20,000,000 or more, which I understand are on Thomas' list and which would approximately account for the discrepancy. I learn from the oil companies, however, that they have not until today approached the Brazilian Government with a view to inclusion in this arrangement. As the Department is aware these companies have as a rule preferred to depend upon assurances that they would receive special and satisfactory treatment.

The Minister stated that he had received no communication from the oil companies as to why they had not seen fit to make deposits thus signifying their desire to become parties to any frozen credit agreement. He intimated, however, that he would consider issuing another notice extending the period in which deposits might be made in order to afford those and other companies another chance.

Confidentially, the oil companies are not in a position to deposit milreis for more than about \$9,000,000 and will probably not figure in the settlement for much more than that sum.

Aside from the oil company situation Thomas' estimate of \$7,000,000 for inventory of unsold merchandise is regarded here as much too low.

GIBSON

832.5151/792 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, January 10, 1936—6 p. m.
[Received 7:45 a. m.]

11. Department's 9, January 9, 8 p. m. Minister of Finance informs me today that he considered Aranha's proposal to split equally between British and American creditors the 1,000,000 pounds which the Brazilian Government will obtain in England as so entirely impracticable that he does not think it worth discussing with the British creditors. His attitude is that the Rothschild loan was obtained with a clear commitment that it would be applied exclusively toward liquidation of British frozen credits in accordance with the definite terms of the Anglo-Brazilian agreement.

The willingness of the Council to accept \$2,000,000 for small creditors instead of 5,000,000 on condition of receiving Bank of Brazil endorsements for the treasury notes to cover the remaining creditors seems to indicate an important shift in the direction of the so-called Boucas arrangement. There would still appear to be a certain confusion, however, arising from the fact that the Council seems to be considering treasury notes endorsed by the Bank of Brazil whereas

the Boucas proposal is for Bank of Brazil notes endorsed by the treasury. Under the latter the small creditors would receive 120 day notes which are virtually as good as cash but which could be handled here without the necessity for a new Brazilian loan. It is improbable, moreover, that the Brazilian authorities will consent to having their treasury notes endorsed by any bank, even the Bank of Brazil, so that the arrangement will presumably develop into the issuance of Bank of Brazil notes.

The Minister of Finance stated that in principle he was in accord with the proposition outlined in paragraph two of the Department's telegram but that he would have to discuss the matter with the President of the Bank of Brazil who was out of town and that he hoped to be able to give a definite reply on Monday.

I venture to submit the following comments on the last paragraph of the Department's telegram: (1) The American business community in Brazil has been carrying on no "negotiations". Such "independent discussions" as have been conducted have been among the Americans themselves and between them and their principals in the United States. So far as I know no one of them has sought to reach an independent settlement with the Minister of Finance, the President of the Bank of Brazil or any one officially charged to deal with this question (this obviously with the single exception of Boucas, who is both a representative of the above American interests and a member of the Federal Foreign Trade Council) these men, who are the Rio representatives of practically all the interests involved in the negotiations under the Council, are a sober and experienced group and their action has been confined to impressing upon their principals at home their views gained on the ground as to which form of arrangement would best serve American interests. I have no knowledge as to what authority they may have from their home office to press for a different form of settlement than that proposed by the Council but I know that any pressure they have exerted up to this time has been upon their principals at home and not upon the Brazilian Government here. The Boucas plan which may have caused a contrary impression was evolved through the concern of the Brazilian Government to find some means of placing future Brazilian-American business relations upon a basis of greater confidence.

GIBSON

832.5151/793a : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, January 11, 1936—5 p. m.

11. For the purpose of determining the maturities of the notes to be issued under the American agreement please endeavor to obtain

as definite information as possible as to the maturities of the British frozen credit obligations.

HULL

832.5151/794 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, January 13, 1936—5 p. m.

[Received 5 p. m.]

13. Department's 11, January 11, 5 p. m. According to the British Embassy, the maturity of the British frozen credit obligations is dependent upon the total amount of British frozen credits and this amount is not as yet definitely established. Under the terms of the Anglo-Brazilian agreement transmitted with despatch No. 616 of March 28, 1935,⁴¹ the English creditors will receive annually the sum of 1,200,000 pounds sterling until the amounts due them shall have been settled with the proviso that after the termination of the 1933 Anglo-Brazilian frozen credits arrangement⁴² which is expected to take place in June, 1938 they will receive 2,053,000 pounds sterling annually. Present estimates as to the total amount of the British frozen credits thus to be paid off are necessarily provisional and it can only be said that prospects are believed to be for a settlement in approximately 4 years and 6 months.

Confidentially, I am inclined to believe that if the American small creditors receive no cash payment and do not receive in excess of \$2,000,000 in 120 or 150 day drafts, there will be little likelihood of protests from British sources if the remaining American creditors should receive payment through a set of notes to run 48 months. Assurance on this point could only be secured at London through consultations with the British Board of Trade and perhaps with Rothschilds.

Have appointment to see Minister of Finance tomorrow.

GIBSON

832.5151/795 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, January 13, 1936—7 p. m.

12. Your 12, January 11, 2 p. m.⁴¹ Owners of a principal amount of American deferred indebtedness in Brazil expressed the desire themselves to negotiate the detailed liquidation plan through the National Foreign Trade Council. The Department's position has been

⁴¹ Not printed.

⁴² June 29, 1933; text in Department of State file 832.5151/182.

to facilitate such negotiations, following them closely to insure that equitable treatment was being provided for all classes of creditors and that the terms discussed were comparable with those granted other foreign creditors. The Council has maintained that the terms of the American agreement shall not be inferior to those granted British creditors and the Department in its conversations with Aranha has upheld this position. As stated in the Department's telegram No. 9 of January 9, 8 p. m., the Council indicated to Aranha that it would regard as comparable to the British plan an agreement whereby American creditors would receive a cash payment of only 2 million dollars as contrasted with the payment of 5 million dollars to the British, provided, in compensation, that the American frozen credit notes were endorsed, or issued, by the Bank of Brazil. Since an agreement along these lines is acceptable to the representatives of the American creditors the Department will use its good offices to promote its acceptance by the Brazilian Government.

In asking this suggestion, however, the Council assumed that the maturities of the British and American frozen credit obligations would be identical. On January 11 the Council informed the Department that Aranha had suggested a longer maturity should Bank of Brazil notes be issued, on the grounds that such notes were better secured than Brazilian Government obligations, since in case of their default the creditors could throw the Bank of Brazil into bankruptcy and the Bank of Brazil was unwilling to undertake such obligations except on terms that would insure its ability to meet them. The Council states that it informed Aranha that maturities longer than those of the British obligations would be unacceptable to the American creditors.

HULL

882.5151/796 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, January 14, 1936—11 a. m.

[Received 1:55 p. m.]

15. Department's 12, January 13, 7 p. m. Agreement outlined in Department's first paragraph will be highly satisfactory to Americans here as it provides the security of Bank of Brazil notes which they consider so important. It is interesting to note that Aranha himself makes a point of the fact that Bank of Brazil notes are better secured than Brazilian Government obligations, a fact which New York negotiators have hitherto seemed to overlook despite the insistence of the Americans here. So long as negotiations proceed along these lines there will I feel sure be no further agitation by Americans here as the proposals constitute precisely what they desire.

The British and American situations are radically different: The British settlement is therefore basically so different from the proposed American settlement that it is difficult to find a basis for identity of treatment. The following differences may be noted: (1) The British plan calls for payments at predetermined figures until an indeterminate total sum shall have been covered. The American plan has contemplated an advance determination of a total then to be covered by an agreed number of monthly installments. (2) The British plan calls for Brazilian Treasury bonds which are safe for British holders because England is the traditional and sole remaining source of credit for Brazil and can count on not being let down; while the American plan now contemplates Bank of Brazil paper which alone can offer security to American holders equivalent to the security which Treasury bonds offer to British holders for the reason just stated. (3) The British plan calls for a substantial initial cash payment to cover not only small credits but a part of the amounts due to large creditors; while the American plan contemplates a small payment or set of short term notes for small holders only. The treatment accorded the British is rendered possible by the fact that they themselves advance the sum involved, we advance nothing and secure a lesser initial payment.

No hard and fast calculations to achieve a perfect balancing of the two agreements are therefore practicable. If an opinion may be ventured I should confirm the intimation contained at the end of my telegram number 13, January 13, 5 p. m. to the effect that if the American plan is based on initial settlement for small creditors by 120 or 150 day drafts aggregating not over 2 million dollars and if the monthly Bank of Brazil notes to cover the large creditors run for 48 months or even a little longer, the arrangement may be regarded as being about equally favorable.

GIBSON

832.5151/797: Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, January 14, 1936—1 p. m.

[Received 2:15 p. m.]

17. Department's 12, January 13, 7 p. m. Minister of Finance informed me that he telegraphed Aranha yesterday to the effect that the Brazilian Government will be able to pay \$2,000,000 to the small creditors within 30 days provided that payments of the Bank of Brazil notes, endorsed by the Federal Treasury, to be issued to the larger creditors begin next July. He further stated that beginning next July he would be able to make payments at the rate of 100,000 pounds per month similar to the British plan, but that in order to alleviate

the situation created by the continued lack of sufficient foreign exchange he would like, if possible, to pay less than 100,000 pounds per month as a compensation for having given Bank of Brazil notes. (From the tone of his remarks, I am convinced that this was merely a feeler and that if we do not acquiesce he will be prepared to adhere to the idea of payments at the rate of 100,000 pounds per month.) He stated that he wished to make clear that the payment of 1,000,000 pounds to the small British creditors is being made possible only by a loan in that amount from the British themselves and that if they had not been willing to advance this sum it would not have been possible, due to the lack of foreign exchange, to make this cash payment. He again stated that if American bankers were willing to make an advance to the Brazilian Government, similar to the Rothschild loan, he was perfectly willing to accept it and turn the proceeds over to the American creditors.

With respect to maturities, he stated that the British would be paid off at the rate of 100,000 pounds per month plus the additional amount which will be prorated to them after the expiration of the 1933 agreement in 1938 and that he estimates the total British credits at 4,500,000 pounds. He stated that inasmuch as the American frozen credits will probably total somewhat higher, a proportionably longer time would be taken to liquidate them on the basis also of 100,000 pounds per month (beginning next July) plus a proportionate additional amount which may likewise be allocated after the expiration of the 1933 agreement in 1938. He seems to believe that in a final analysis there will only be some months difference in the actual time necessary to liquidate the American credits.

GIBSON

832.5151/798: Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, January 15, 1936—noon.

[Received 1:48 p. m.]

19. My 17, January 14, 1 p. m. If the frozen credits agreement is to provide for monthly payments of a regular amount whether of 100,000 pounds or more the total amount of the creditors' claims which will be admitted to participate in the settlement must be determined in advance. Claims which are outstanding in an indefinite or unadmitted condition can be passed upon gradually after the payments have commenced.

The definite determination of the amounts of the claims to be allowed is a complicated matter and if the conclusion of the settlement were to await it the delays might still be great. From this stand-

point the proposal for fixed installments to commence in the near future is desirable.

On the other hand if the monthly installments paid to the English and the American creditors are equal and it eventuates that the American total is larger than the English as is probable the American firms will not receive complete satisfaction as early as the English.

To meet this difficulty two suggestions have been made:

(1) Provision might be made that if in the working out of the agreements the English creditors reach the stage of having received full payment before the American creditors the same monthly amount of Brazilian exchange hitherto devoted to the British payments will be added to the regular monthly payments to Americans. This would greatly accelerate the final stages of the liquidation.

(2) The agreement might include a provision for the automatic readjustment of the monthly payments at the end of the first 18 months or 2 years. By that time the total amounts to be admitted under each of the two agreements would have been ascertained. If the American total should prove to be somewhat greater than English total the monthly payments to the American creditors could be stepped up to 110,000 or 120,000 pounds or more so as to bring the two processes of liquidation to an end at approximately the same time. Present indications are that the two totals will be within 2 or 3 million dollars of one another.

I take the liberty likewise of mentioning the relation of the payments under the frozen credits settlement to the payments under the Aranha plan for Brazilian external debts. If the frozen credits monthly payments are made too onerous they will be regarded by the Brazilian officials as hampering the general debt service payments. However true it may be that the Brazilian Government has not been practicing the economies which are feasible it is equally true that the finding of exchange is chronically very difficult for Brazil. Accordingly the frozen credits installments ought perhaps to be kept moderate in scale. Aranha as well as the Brazilian Government here might be allowed to feel (confidentially of course) that the new arrangement is being tempered in recognition of their efforts regarding the general external debts and in the expectation that these efforts will be maintained.

GIBSON

832.5151/798 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, January 16, 1936—4 p. m.

14. Your 19, January 15, noon. Yesterday the Council proposed to Aranha a cash payment by March 1 of \$2,250,000 to liquidate frozen credits of \$25,000 or less, the larger creditors to receive a series of 56 monthly Bank of Brazil notes the first of which would fall due on

July 1. The Council proposes that 10 per cent be added to the principal of each frozen credit to be funded which, it calculates, would be practically equivalent to 4 per cent interest on the notes. I believe Aranha cabled this at once to his government.

The Department has noted with interest your suggestions as to provisions for the readjustment at a future date of the rate of liquidation of American frozen credits and will transmit them to the Council should the development of the negotiations render their consideration feasible.

HULL

832.5151/802 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, January 17, 1936—5 p. m.

[Received 5 : 25 p. m.]

26. Department's 14, January 16, 4 p. m. I have just seen the Minister of Finance who, on congratulating me on the successful conclusion of negotiations, stated that he is in entire agreement with Council's proposals provided total frozen credits do not exceed 30,000,000. In the event that they do exceed this sum, such excess will be liquidated at the equivalent rate of £100,000 per month after expiration of the 55 months agreed on. He has telegraphed this to Aranha.

GIBSON

832.5151/814 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, February 6, 1936—6 p. m.

[Received February 6—5 : 55 p. m.]

52. American interests here have received telegraph advices that Export-Import Bank has formulated certain objections to frozen credits agreement and has threatened to withdraw its commitments.

Should appreciate any information Department can give me for my guidance.

GIBSON

832.5151/814 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, February 8, 1936—2 p. m.

30. After the Foreign Trade Council reached agreement with the Brazilian authorities regarding the proposed refunding on frozen commercial credit, it approached the Export-Import Bank and requested it to revise the discount agreement previously reached by the Council and the Export-Import Bank through its Executive Committee. This request was made because of certain changes effected

in the refunding agreement after the discussions with the Export-Import Bank.

Since the resignation of Mr. Peek, Mr. Jesse Jones has been acting as President of the Bank because of the fact that the Reconstruction Finance Corporation would supply the funds for the discounting operation. Mr. Jones has undertaken a thoroughgoing renewed study of the question from the Bank's viewpoint. He was much perturbed by the fact that if the Bank proceeded under the original commitment, so great a portion of the funds paid out by the Bank in rediscount would go to a small number of very large American enterprises who did not need ready cash to conduct their business. With this judgment in mind he has been in steady conference with the representatives of the Council. As a consequence, the Council now reports that the potential rediscount requests of the large corporations will be greatly reduced from the earlier estimates, first by omission of exchange arrears arising out of the shipment of goods from countries other than the United States (primarily oil) and secondly, because some of the largest creditors now state that they intend to hold the Bank of Brazil notes. But despite this reduction in the potential total liability of the Bank, that institution is insisting upon further time to consider its decision and will not give a final reply until next week.

The Foreign Trade Council takes the position that it cannot sign the agreement with the Brazilian Government unless the Export-Import Bank goes forward with the rediscounting agreement. The Department considers the two arrangements in no way dependent upon each other and has made that clear throughout its discussions with the Council. However, there seems little doubt that the Import-Export Bank took a commitment towards the Council in the early negotiations.

There is some ground for believing that within the next few days the discussions will result in a compromise agreement between the Council and the Bank whereunder the Bank will do a limited amount of rediscounting, but that is not certain.

HULL

832.5151/821 : Telegram

The Brazilian Minister for Foreign Affairs (Macedo Soares) to the Secretary of State

[Translation]

RIO DE JANEIRO, February 20, 1936.

[Received 6:40 p. m.]

I have the honor to communicate to Your Excellency that the President of the Republic of the United States of Brazil confers, by

the present telegram, full powers on the Ambassador of Brazil at your capital, Mr. Oswaldo Aranha, to sign, as representative of the Brazilian Government and of the Bank of Brazil (*Banco do Brasil*), with the National Foreign Trade Council an agreement for the liquidation of the commercial debts between Brazil and the United States of America which are overdue.

JOSÉ CARLOS DE MACEDO SOARES

832.5151/842

The Ambassador in Brazil (Gibson) to the Secretary of State

No. 1062

RIO DE JANEIRO, JUNE 11, 1936.

[Received June 19.]

SIR: I have the honor to report that during the months which have supervened since the conclusion of the Brazilian-American blocked credit agreement of February 21, 1936⁴⁴ the American concerns at Rio de Janeiro which are interested in the settlement have not suggested Embassy intervention in the various discussions as to the detailed working out of the agreement. It is possible, however, that the Department may be interested as a matter of information in the progress of these discussions and of the execution of the agreement.

With regard to the so-called small creditors it will be recalled that a sum of \$2,250,000 was provided for cash settlement. This sum was based upon the best possible estimates of the probable total amount of the various individual claims under \$25,000 each; but since the conclusion of the agreement so many creditors have come forward that the \$2,250,000 has proven inadequate, and it has been necessary to restrict the cash settlement to claims of \$18,000 or less. Payments exceeding \$18,000 will be covered, along with the other larger claims, by series of Bank of Brazil notes. The Bank of Brazil states that it is this week forwarding instructions to the Guaranty Trust Company at New York to proceed immediately to pay the claims under \$18,000.

The agreement provides, in connection with the larger claims, for the addition of 10 percent to the total of each claim in lieu of interest over the 56-month period during which the Bank of Brazil notes will be maturing. The total amount which the Brazilian Government will be forced to pay in the form of this additional 10 percent will be somewhat less than \$3,000,000; and the intention has been to consider this sum as a portion of the \$30,000,000 provided by Brazilian legislation. Under protests made by the National Foreign Trade Council at New York the Brazilian Minister of the Treasury, Dr. Arthur de Souza Costa, has orally advised the Bank of Brazil that he believes

⁴⁴ Not found in Department files.

it may be advisable to yield on this point. Presumably he will consider this as an ordinary interest charge incurred by the Brazilian Government, payable under the ordinary appropriation acts. If the amount in question is not deducted from the \$30,000,000 appropriated by the Brazilian Congress then the payment of the \$2,250,000 for the small claims will leave the sum of \$27,750,000 available for the large claims.

Between \$14,000,000 and \$15,000,000 of large claims have been definitely approved; but something more than \$4,000,000 out of them will not be paid immediately because due to firms which have also put forward claims still in dispute. It is planned that these firms shall receive a general settlement after their contingent claims have been adjudicated. Something more than \$10,000,000 of the approved claims is to be paid immediately. The series of notes covering this sum total more than 9,000 individual notes, all of which must bear the signatures both of the Bank of Brazil and the Brazilian Treasury. While special officers have been delegated to do the work of signing it, it seems probable that at least a week to ten days may elapse before the series of notes are ready for despatch to New York.

Setting aside the approved large claims and the amount now in process of being paid to the small claimants, something like \$13,000,000 will probably remain out of the legislative appropriation of \$30,000,000. This amount must be used in settlement of claims aggregating approximately \$19,000,000; so that on the average the claimants can only receive approximately a 70 percent settlement if all are treated on the same footing. Paragraph 13 of the agreement of February 21, 1936, provides that if the total claims are found to exceed \$30,000,000 the claimants (after settlement of the smaller claims), shall receive preference in the following order:

- “(a) for amounts already deposited in milreis,
- (b) for amounts which may be deposited until March 23, 1936 and,
- finally,
- (c) for amounts deposited between that date and July 1, 1936.”

The claims already approved in full, aggregating as stated between \$14,000,000 and \$15,000,000, virtually represent those covered by provision (a); but differences of opinion have arisen in connection with the application of provisions (b) and (c) to the remaining claims.

At least one of the large American petroleum companies operating here made complete deposits prior to March 23, 1936, whereas it is understood that the other petroleum companies, as well as most of the other claimants, did not make more than 40 percent of their deposits prior to the date in question, completing the remainder in monthly installments in April and May. There has apparently been some disposition on the part of the Brazilian authorities to feel that those con-

cerns which completed their deposits by March 23rd are hardly entitled in equity, despite the existence of provision (b), to preferential treatment. The Brazilian authorities appear to have suggested that the distribution of the approximately \$13,000,000 be based upon the dollar claims presented at New York to or through the National Foreign Trade Council, as listed at the time the agreement was signed, and not upon the milreis deposit situation at Rio de Janeiro. This system would result in paying less to the petroleum company which made all its deposits (the Texas Company), and also less to the Paulista Railway claimants, than the distribution according to provision (b). The petroleum companies in the aggregate would benefit, however. The National Foreign Trade Council is insisting upon distribution strictly in accordance with the milreis deposits at Rio de Janeiro, i. e. with the terms of the agreement as cited.

Next in magnitude after the claims of the petroleum companies, which aggregate somewhat more than \$10,000,000 are the claims in connection with the railroad rolling stock and other material furnished to the Paulista Railway by American firms such as the Pullman Company, the Westinghouse Company and the General Electric Company. These are understood to aggregate close to \$6,000,000. The goods in question were imported into Brazil principally between 1924 and 1926, and the arrangement was that they were to be paid for by a series of notes issued by the Paulista Railway maturing over a number of years. As the credit of the railway was good the maturity-dates of the notes in question were deferred from time to time; so that when the system of Brazilian official exchange was instituted in April 1931 the amount of notes indicated above was still outstanding, and their payment at the official rate of exchange was blocked. The Brazilian Treasury Department is said to feel that the transactions in question were essentially similar to the issuance of bonds by other railways, and amounted to railway loans rather than to commercial import transactions. The fact that the Paulista Railway notes could well have been retired prior to the establishment of the official exchange control seems also to have been taken into consideration. There is said to have been some pressure from certain wealthy and influential Paulista families interested in the Railway, as the latter would naturally benefit by an opportunity to pay off its notes in dollars secured at the official rate under the blocked credits agreement; but this pressure has perhaps been resented at Rio de Janeiro. This may partly account for the apparent desire of the Brazilian authorities to base the distribution of the \$13,000,000 upon the dollar claims in New York rather than upon the milreis deposits here,—a procedure which would not favor the Paulista Railway claimants. This distribution has even been referred to informally by Bank of

Brazil officials as an "equitable" rather than a "contractual" distribution.

Very confidentially it may be reported that the Bank of Brazil has worked out the two possible distributions at the rate of 65 percent of each claim approximately as follows:

<i>Classes of Claims</i>	<i>Based on Milreis Deposits at Rio de Janeiro</i>	<i>Based on Total Dollar Claims, New York</i>
Petroleum Companies.....	\$7,400,000	\$6,100,000
Paulista Railway Claimants.....	3,900,000	4,300,000
Other Claimants.....	1,100,000	1,600,000
Totals.....	\$12,400,000	\$12,000,000

The Department will note that in each case the total amount would fall considerably short of \$13,000,000 so that the actual distribution may be made at the rate of 70 percent instead of 65 percent and may be somewhat larger for each category of claims.

There can be no question but that the Brazilian authorities are rather preoccupied with the idea of making adjustments which will be not only satisfactory but as fair and just as possible; but it would appear that the National Foreign Trade Council may be able to make good its insistence upon the terms of the agreement. As previously stated, no suggestion has been made whatever that the Embassy should intervene, and the Embassy on its part has scrupulously and entirely remained aloof from the discussions. After the distribution shall have been effected it is possible that those claimants who shall have only received 70 percent or less of the amounts which they have asserted to be due to them may press for some further provision by the Brazilian Government; and this might result in new appeals to the Department or the Embassy. On the other hand it is quite conceivable that they may decide not to carry the matter further, as some of them perhaps privately admit to themselves that their claims have not been altogether moderate.

Respectfully yours,

HUGH GIBSON

AGREEMENT PROVIDING FOR A MILITARY MISSION FROM THE UNITED STATES TO BRAZIL, SIGNED NOVEMBER 12, 1936

[For text of agreement, signed at Rio de Janeiro, see Executive Agreement Series No. 98; or 50 Stat. 1457.]

AGREEMENT PROVIDING FOR A NAVAL MISSION FROM THE UNITED STATES TO BRAZIL, SIGNED MAY 27, 1936

[For the text of the agreement, signed at Washington, see Executive Agreement Series No. 94; or 50 Stat. 1403.]

INABILITY OF THE UNITED STATES TO SELL WARSHIPS TO BRAZIL
BECAUSE OF TREATY RESTRICTIONS ⁴

832.34/264 : Telegram

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

BUENOS AIRES, March 18, 1936—6 p. m.

[Received 7:30 p. m.]

66. It is rumored with considerable apprehension in Argentine naval circles that Brazil is to purchase cruisers from the United States Navy.

In view of the certain resentment the general circulation of such rumors would arouse in this country toward both the United States and Brazil and in further view of the effect this might have on the coming peace conference here, I would be grateful to be informed whether there is anything I may say to the Argentine authorities in this connection.

WEDDELL

832.34/264 : Telegram

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

WASHINGTON, March 19, 1936—4 p. m.

35. Your 66, March 18, 6 p. m. Strictly for your personal information, the Brazilian Government some time ago suggested to this Government that it would be interested in purchasing ten cruisers of the *Omaha* class over a period of 10 years, such cruisers to be sold by this Government at the rate of one or two each year as they might become available by replacement of newly constructed vessels.

In principle this Government would welcome any arrangement, such as that proposed, with one of the other American republics which would tend to encourage unification of naval standards between the United States Navy and the other navies of this continent. Any such arrangement, however, would only be entered into with the understanding that similar opportunities would be afforded to all of the other American republics should they desire to avail themselves of them. In the present instance, however, it would seem impossible to comply with the request made by the Brazilian Government, both because of the fact that the Navy Department does not believe that cruisers of the category indicated could be relinquished for some years to come, as well as because of the fact that the naval agreement

⁴ For an earlier episode of this character, see *Foreign Relations*, 1931, vol. I, pp. 833 ff.

now pending in London will contain a stipulation⁴⁶ similar to the existing restriction whereby the disposal of naval vessels by the signatory powers in the manner suggested would be prohibited. While this restriction is a contingent prohibition, nevertheless, no steps could be taken by this Government in the manner suggested by the Brazilian Government, even if the cruisers could be relinquished, until after the first of next year.

In view of the circulation of these rumors in Argentine naval circles reported by you, you are authorized to state confidentially and informally that at the present time this Government is not considering the disposal of any naval vessels to any other Government.

PHILLIPS

832.34/265a

*President Roosevelt to President Vargas*⁴⁷

WASHINGTON, July 6, 1936.

MY DEAR MR. PRESIDENT: I wish you to know of my particular personal regret that it has proved impossible to agree to the proposal suggested by your Government last January through Ambassador Aranha, that the United States sell to Brazil ten of its cruisers of the *Omaha* class, to be made available to the extent of one or two each year, as these cruisers were replaced by new vessels. When the proposal was first brought to my attention, I had the hope that a way might be found which would make it possible for this Government to adopt it, since such an arrangement appeared to me to be advantageous to both our Governments. The carrying out of this project would have tended towards a unification of standards in the navies of our two countries and would, at the same time, have promoted friendship between the officers of the Brazilian and United States Navies, which, I am happy to say, has always in the past been very marked. Finally, an arrangement of the character your Government proposed would have permitted the Government of Brazil to acquire serviceable naval vessels at a lower cost than that which would be involved in new construction, and if it had been possible for me to accede to the proposal made by your Government, I should have been glad to make available United States naval vessels to such other American republics as might desire them on similar terms, believing that in this manner closer relations between the navies of all of the American republics would have been encouraged.

⁴⁶ Article 22 of the Treaty for the Limitation of Naval Armament, signed at London, March 25, 1936; for text, see Department of State, Treaty Series No. 919, p. 23; or 50 Stat. 1385. See also vol. I, pp. 22 ff.

⁴⁷ Transmitted to the President of Brazil in covering letter of July 6 from the Assistant Secretary of State to the Brazilian Ambassador.

I may add that the highest officials of the United States Navy Department were unanimous in believing that the proposal made by the Government of Brazil would have been mutually advantageous to both countries.

Unfortunately, however, after the London Naval Conference, it became evident that for reasons of national defense, it would be impossible for this Government to relinquish any of the cruisers of the class desired by the Brazilian Government within the next few years and, consequently, solely for that reason, I have been obliged to inform your Ambassador that this Government finds itself unable to agree to the suggestion made by the Government of Brazil. It is possible, however, that some counter proposal can be found which might prove to be satisfactory to the Government of Brazil as an alternative to the original project. As soon as I can ascertain whether such a counter proposal is in fact feasible, I shall see that it is at once transmitted to you through Ambassador Aranha.

I have desired to write to you thus personally, Mr. President, in order that you might be advised of my own deep interest in this question, and in order that you might further know of my hope that some other means may be found by which this Government may be of service to the Government of Brazil.

May I ask you to convey the friendly greetings of Mrs. Roosevelt and of myself to Senhora de Vargas. It gave us both the greatest pleasure to have the opportunity of knowing her during her recent visit to Washington.

With the assurances [etc.]

Yours very sincerely,

FRANKLIN D. ROOSEVELT

**INTERPRETATION OF ARTICLE VII OF TRADE AGREEMENT BETWEEN
THE UNITED STATES AND BRAZIL WITH RESPECT TO BRAZILIAN
SOCIAL WELFARE TAX ON IMPORTS**

682.003/191

The Ambassador in Brazil (Gibson) to the Secretary of State

No. 985

RIO DE JANEIRO, March 26, 1936.

[Received April 3.]

SIR: I have the honor to refer to the Department's Instruction No. 479, of March 13, 1936,⁴⁸ enclosing copy of a letter from the General Motors of Brazil to the General Motors Export Company at New York, regarding a new social welfare tax of 2% on the imported value of all merchandise entering Brazil.

⁴⁸ Not printed.

Law 159, of December 30, 1935, establishing this tax, is entitled "Regulating the Contribution for the Formation of the Assets of the Institutes and Pension Funds Under the Jurisdiction of the National Labor Council". Article 6 of the law reads: "There is hereby created, under the title of Social Welfare Tax, a payment of 2% of the value, in whatever form it may be made, of all articles imported from abroad excepting, for this purpose, fuel and wheat".

Although this law has been known to the Embassy since its publication in the *Diario Oficial* on January 6, 1936, it was not deemed advisable to make any immediate representations to the authorities, inasmuch as no provision was made for the collection of the tax. However, decree No. 591 of January 15, 1936, regulating the law in question, was published in the *Diario Oficial* of January 24 and, inasmuch as no mention is made in that decree of the exemptions inherent under the terms of the Brazilian American Trade Agreement,⁴⁹ I took this matter up informally with the Foreign Office.

Attention was invited to articles 3 and 7 of our Agreement, which clearly exempt all American imports from a tax of this nature. The Secretary General of the Foreign Office entirely agreed that the law in question constituted a violation of the Trade Agreement and, in view of the fact that the Minister for Foreign Affairs⁵⁰ was absent in São Paulo, personally consulted with the President on this subject. As a result, on January 30, 1936, the President, by Federal decree, suspended the collection of the 2% tax for fifteen days in order to formulate additional legislation which would provide for exemptions not contemplated in the original law.

Subsequently decree No. 643 of February 14, 1936, was issued and published in the *Diario Oficial* of February 21, 1936, specifically exempting all articles specified in Schedule I of the Brazilian American Trade Agreement. This exemption presumably was based on article 3 of the Agreement without taking into consideration article 7, which clearly exempts all American merchandise from any internal taxes, etc., levied after importation, over or higher than those payable on like articles of national or foreign origin.

I again called the attention of the Foreign Office to this question and pointed out that the decree of February 14 was only partly satisfactory inasmuch as only a very small number of the American articles imported into Brazil are included in Schedule I. The Foreign Office was in thorough agreement on this point and stated that they would immediately inform the Ministry of Finance that an additional decree was necessary in order to include the exemption of all American imports as clearly specified in Article 7.

⁴⁹ Signed February 2, 1935; for text, see Executive Agreement Series No. 82, or 49 Stat. 3808.

⁵⁰ José Carlos de Macedo Soares.

The Foreign Office at first felt that this would be a routine matter, but much to their surprise they have encountered rather tenacious opposition on the part of a Treasury Department official who is insisting upon interpreting the Trade Agreement in a manner calculated to deny all American importations exemption of the tax and limiting it to the articles mentioned in Schedule I.

The Minister for Foreign Affairs has now personally interested himself in this case and has presented the views of the Foreign Office to the Minister of Finance, which are entirely in conformity with our own, together with his personal recommendation that a supplementary circular be issued taking care of this additional exemption.

I have purposely avoided any contact with the Ministry of Finance in this connection inasmuch as the Ministry for Foreign Affairs are entirely in accord that all American imports are automatically exempt from the operation of this tax, and because they have taken the stand that under Brazilian law they have the sole prerogative to interpret international treaties and agreements, and desire to make a test case of this issue. I have, however, impressed upon the Minister for Foreign Affairs the importance of getting a favorable decision as quickly as possible. He stated that he would personally speak to the Minister of Finance and, if necessary, the President, within the next few days, and I am therefore hopeful that this matter will be liquidated in the near future.

In compliance with the last paragraph of the Department's Instruction, I am informing the Managing Director of the General Motors of Brazil at São Paulo that inasmuch as the products of his company are listed on Schedule I of the Agreement, they are already exempt from the operation of this tax under decree No. 643 of February 14, 1936.

Respectfully yours,

HUGH GIBSON

632.003/194 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 4, 1936—5 p. m.

[Received 6:05 p. m.]

120. Department's instruction 479, March 13;⁶¹ my 985 March 26 and later correspondence.

I have been pressing in almost daily interviews for the abolition of the 2 per cent social welfare tax on all American imports. The Department will recollect that this tax has not been collected on articles on schedule I of the treaty because of the Brazilian contention that this question was governed by article III of the treaty.

⁶¹ Not printed.

The Minister for Foreign Affairs shares our views fully and has repeatedly expressed them in definite terms (see enclosure No. 4 to my despatch No. 993 of April 1).^{51a}

The real difficulty is the organized opposition of subordinate officials in the Ministry of Finance who maintain that only the articles on schedule I can be exempted from this tax whereas the Minister for Foreign Affairs maintains that the question is governed by article VII. The matter has developed into a fight against the contention of Macedo Soares that in cases like this he will decide Brazil's treaty obligations rather than leave that function to subordinate officials in the Ministry of Finance. Opposition is further strengthened by the knowledge that if this concession is made to us under the most-favored-nation clause similar concessions must be made to other countries. The Minister of Finance himself, is well-intentioned but weak and although he has repeatedly given definite assurances to Macedo Soares, he has not summoned up the courage to sign the necessary orders.

Although the Minister for Foreign Affairs clearly recognizes that this is a violation of the treaty, I am beginning to question whether he can enforce his views unless we furnish him with some ammunition. I would suggest, therefore, that the Department, after examining the question, authorize me to make definite and pointed representations as to this manifest violation of our treaty. Such representations would not be taken amiss by Macedo Soares who already shares our views and I believe he would welcome them as strengthening his hand in dealing with the Minister of Finance.

Once these instructions have been despatched to me, I would suggest that the Department go into the matter with Aranha⁵² and express to him the desire that the Department's views, as conveyed by me, be confirmed by him in order that the Government here may realize the seriousness of the matter.

GIBSON

632.003/194 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, May 8, 1936—7 p. m.

69. Your 120, May 4, 5 p. m. The question has been thoroughly examined and it appears that there has been an unfortunate misapprehension in regard to the applicability of Article VII of the Brazilian-American trade agreement to the 2 per cent social welfare tax.

The Embassy is correct in assuming that Article III of the agreement exempts articles of United States origin which are enumerated

^{51a} Not printed.

⁵² Oswaldo Aranha, Brazilian Ambassador.

in Schedule I from the tax. However, since the tax is in no sense an internal tax, being levied only on imports and being collected in the customs houses before the goods are released from customs custody, the provisions of Article VII of the agreement do not apply in any way to the tax in question.

This tax is in fact and legally a customs duty. With regard to customs duties and all other charges on or in connection with importation the United States bound itself only with respect to Brazilian articles enumerated in Schedule II and Brazil bound itself only with respect to articles of the United States enumerated in Schedule I. In the case of articles not enumerated in the two schedules, respectively, the two countries retain full liberty to increase customs duties or any other charge on or in connection with importation, provided only that the same duties or charges are applied to the like products of third countries. There is no legal basis, therefore, on which to rest a protest against the imposition of the tax on articles not included in Schedule I.

The Department regrets that there has been a misunderstanding in regard to this matter and appreciates the difficulty of the situation in which the Embassy may find itself as a result of that misunderstanding. Nevertheless, it is essential that it be cleared up with as little delay as possible. You are requested, therefore, to explain the Department's views informally, in the sense of the foregoing, to the Minister for Foreign Affairs and to such other officials of the Brazilian Government as you may find it necessary or expedient to acquaint with those views.

HULL

632.003/195 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 10, 1936—4 p. m.

[Received 7:35 p. m.]

122. Department's 69, May 8, 7 p. m. I do not expect to see the Minister for Foreign Affairs before Tuesday evening when I shall be prepared to act upon the Department's order. In the meantime, however, I venture to submit the following restatement of the case for the Department's consideration.

1. The tax is considered by the Brazilian officials who have thus far examined the case (the Minister for Foreign Affairs, Minister of Finance and the economic experts of the Foreign Office) as a purely internal tax.

2. The American Chamber of Commerce and business community have been following this matter closely and the legal opinions taken by them are all in the sense that this is an internal tax.

3. The American Chamber of Commerce has from the outset played a leading role in the case. The views of the Chamber were made known to the Foreign Office by me. The Minister for Foreign Affairs had the question carefully examined with the result that he came to the conclusion that these views were entirely sound and on his own initiative he made representations to the Minister of Finance for the abolition of the tax (the Department will recall that this attitude on the part of the Minister for Foreign Affairs was reported in my despatch 993 of April 1.)⁵³

4. Minister of Finance has repeatedly expressed himself as fully in agreement on this subject his failure to abolish the tax has resulted from no difficulty of principle but merely because certain subordinate officials have succeeded in obstructing the matter because they are reluctant to forego this source of revenue.

5. Prior to law 159 the quota *de previdencia* financed by a tax levied on domestic sales at rates from one-tenth to one-half of 1 per cent. As the present arrangement involved an increase of the tax to 2 per cent it was felt there would be protests from retailers and consumers and therefore resort was had to collection in the customhouse at the time of levying duties. The nature of the tax remains exactly as it was before.

6. The consumption tax which is purely internal is collected at the time of importation of tobacco, liquor, et cetera along with the customs taxes. If the simple expedient of collecting a tax (as a matter of convenience) at the time of importation makes it a customs tax article VII would appear to become void of significance. The Brazilian Government could impose internal taxes ad libitum and collect them on the wharf.

7. I am informed that practically every other nation represented here has made representations to the Foreign Office and all have been given assurances that the Minister for Foreign Affairs is in full agreement that this tax should be abolished.

8. The Argentine-Brazilian trade agreement⁵⁴ is now awaiting ratification. It contains provisions similar to those in our treaty which are interpreted by the Argentine Government as incompatible with the imposition of this tax. There is an informal agreement that pending ratification there should be no increase of duties, taxes, et cetera. Accordingly the Embassy here has been instructed to exert strong pressure for the abolition of this tax.

9. Although this matter has been under discussion for several months this is the first time that the view has been advanced from any source that the tax is not in violation of both the letter and spirit of our agreement; this holds even for the junior officials in the Treasury who have obstructed the action desired by the Minister for Foreign Affairs and promised by the Minister of Finance not only to me but to other diplomatic representatives and the American Chamber of Commerce. It will be obvious that surprise and resentment will be caused if it becomes known that this tax has been maintained on the strength of a communication made by the American Government.

⁵³ Not printed.

⁵⁴ Treaty of commerce and navigation, signed May 29, 1935, Argentine Republic, Ministerio de Relaciones Exteriores y Culto, *Memoria*, 1935-1936, vol. I, p. 715.

I feel I should be remiss if I were not to restate the complications which will arise from the adoption of the course proposed. If however in the light of the foregoing the Department still desires to maintain its instruction under reference I shall of course lose no time in acting upon it.

GIBSON

632.003/196 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 10, 1936—5 p. m.

[Received 6:55 p. m.]

123. For Welles.⁵⁵ I hope you will be able to examine my telegram No. 122 of May 10, 4 p. m. in regard to the 2 per cent tax.

I have no personal feeling whatever on this subject and any possible embarrassment to the Embassy is of distinctly secondary importance. I am troubled, however, by the knowledge that the Department will be subjected to severe criticism by American business interests here if I act on its 69, May 8, 7 p. m.; for that reason I feel that I owe it to you to restate the case in order that action may be taken in full understanding of the problems involved.

I have been unable to make the Department's communication to Macedo Soares over the week end which has afforded me this opportunity for further consultation. I should be glad if you would let me know for my guidance whether the Department's views have been communicated to Aranha as this would mean that they are known to the Brazilian Government before I have an opportunity to communicate them. If the matter has not been discussed with him, I trust you will withhold any communication to him until after final decision has been taken.

GIBSON

632.003/197 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, May 13, 1936—1 p. m.

[Received May 13—12:55 p. m.]

125. Department's 69, May 8, 7 p. m. I saw Macedo Soares last evening but in view of the presence of other people was obliged to defer until this morning communication of the Department's views as set forth in its 69, May 8, 7 p. m.

At Macedo Soares' request I have held aloof from discussing this matter with the Minister of Finance and I, therefore, asked that he

⁵⁵ Sumner Welles, Assistant Secretary of State.

inform the latter of the Department's views. He accordingly called him on the telephone in my presence and made the desired communication.

The Minister for Foreign Affairs understands clearly that he need anticipate no further representations or pressure from us on this subject.

GIBSON

632.003/196 : Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, May 13, 1936—6 p. m.

70. For Gibson from Welles. Your 123, May 10, 5 p. m. I have had the matter of the 2 per cent tax very carefully studied by the Department's competent advisers, all of whom, after a careful reexamination, are convinced of the soundness of their original conclusions. I appreciate that the Embassy may be caused some embarrassment and that the Department may be subjected to criticism by business interests based upon their misapprehension of the terms of the agreement, but hope that perhaps by pointing out that the tax is contrary to the general policy of expanding trade through reduction of tariff barriers espoused by both Governments in the Trade Agreement, the Brazilian Government may decide to abolish it. [Welles.]

HULL

632.003/197

The Secretary of State to the Ambassador in Brazil (Gibson)

No. 512

WASHINGTON, May 25, 1936.

SIR: With reference to the Embassy's telegram No. 122, May 10, 4 p. m., and No. 125, May 13, 1 p. m., and to previous correspondence between the Department and the Embassy in regard to the new social welfare tax imposed in Brazil, the following comments may be helpful to the Embassy.

The source of the misapprehension in regard to the applicability of Article VII of the trade agreement to the tax in question appears to have been the failure to distinguish between the purpose of the tax and its scope and manner of collection. The tax levied on domestic sales to finance the quota *de previdencia* apparently was an internal tax within the meaning of Article VII of the trade agreement. The new social welfare tax is of a different nature, being imposed only on imported products, at the time of their importation. It is not, therefore, an internal tax within the meaning of Article VII. In this connection your attention is invited to the words "after impor-

tation into" in that Article. In further explanation of the line of cleavage between an import duty and an internal tax, it may be pointed out that in *Brown v. Maryland*, 12 Wheat. 419, a charge for a license to engage in the business of importing foreign goods was held to be an import duty; that in *Batjer and Company v. United States*, 11 Ct. Cust. App. 60, an additional tax levied on certain wines, cordials, et cetera, at the time of their removal from the custom-house or bonded premises for sale or consumption was held to be an import duty and not an internal tax; that in *Faber, Coe and Gregg v. United States*, 19 C. C. P. A. 8, a levy on cigars and cigarettes manufactured in or imported into the United States sold by the manufacturer or importer, or removed for consumption or sale, was held to be an import duty and not an internal tax in respect of imported cigars and cigarettes; and that in *United States v. Shallus and Company*, 9 Ct. Cust. App. 168, an additional levy on imported distilled liquor was held to be an import duty and not an internal tax. In this latter case, the Court stated that "when provision is made for a tax on an import, it unquestionably provides for a duty. The definition of a duty is a tax on imports, excise or customs due. When a tax is imposed upon an importation while it is still in customs custody, it is to be inferred that it is intended as duty on imports."

That part of the so-called consumption tax which is collected at the time of importation on imported tobacco, liquor, et cetera, is not an internal tax within the meaning of Article VII. If any product subject to this tax had been included in Schedule I of the agreement, the amount of the charge on such product imported from the United States would have been bound by Article III of the agreement. Superficially it may appear that Article VII would lose its significance as a safeguard if it did not prevent changing the form of a tax from an internal tax to a custom duty. Actually, however, it gives the valuable assurance that whatever difference in treatment there may be between imported and like national products will be made at the time of importation of the imported products. After importation, the imported products may not be taxed more heavily than the like national products. This assurance, together with most-favored-nation treatment, is all that Article VII was intended to provide. With reference to charges on or in connection with importation of products from the United States the agreement provides: (1) [in Article III]⁵⁶ that the ordinary customs duties on products listed in Schedule I shall not be higher than those specified in that Schedule and that all other charges on or in connection with the importation of those products only shall not be higher than those imposed on the day of signature of the agreement or required to be imposed thereafter under laws

⁵⁶ Brackets appear in the original.

in effect on that day; (2) that unconditional most-favored-nation treatment shall be accorded to all products; and (3) in effect, that assurances in respect of products not listed in Schedule I are restricted to the pledge of most-favored-nation treatment.

In the case of products in Schedule I, Article VII provides in the second paragraph that charges imposed after importation shall not be increased except as required by laws in force on the day of signature of the agreement. Thus, as regards products in Schedule I, protection is provided against increases in charges of any kind either on importation or after importation. As regards products not in Schedule I, the agreement provides only for most-favored-nation treatment in respect of charges on importation and for national and most-favored-nation treatment only, in respect of charges imposed after importation.

It seems quite probable that the representations of other governments, mentioned in the Embassy's telegram No. 122, have been based upon the general ground that any such tax will tend to restrict importations or, as in the case of Argentina, that it conflicts with a temporary tariff truce commitment pending the negotiation or ratification of a commercial agreement. Naturally, the Department does not view with pleasure the imposition of additional customs duties on products of the United States not listed in Schedule I, but there is no legal basis for objecting to them, just as the Brazilian Government would have no legal basis for objecting to duty increases in this country on products of Brazil other than those listed in Schedule II. Although it might be held that the tax in question is not in accord with the spirit of the agreement, it clearly does not violate the letter of the agreement. It is realized that surprise and possibly resentment may have been caused in certain quarters by your explanation of the mistake in basing representations on specific provisions of the trade agreement. Nevertheless, this Government could not permit itself to be placed in the position of making representations not based upon sound premises.

At the time the Embassy's telegram No. 125, May 13, was received, it was planned to send the Embassy a telegram in the sense of the foregoing and authorizing the Embassy to point out to the appropriate Brazilian authorities that although no legal basis exists for making representations against the imposition of the tax on products of the United States other than those listed in Schedule I of the trade agreement, the tax constitutes an additional obstacle to the importation of such products at a time when the two governments have but recently placed in force an agreement designed to facilitate trade between the two countries. In view of the understanding reported in the last paragraph of the Embassy's telegram under reference, you may not

regard it as appropriate to make this observation to the Brazilian authorities. However, you may use your discretion in this regard.

If you have any further questions in regard to the interpretation of Article VII of the trade agreement in connection with the tax under reference or in general, or would like to have additional explanatory material in regard to any other provisions of the trade agreement, we would be glad to answer any such questions or to supply such material.⁵⁷

Very truly yours,

For the Secretary of State:
SUMNER WELLES

⁵⁷ There was no further correspondence on this subject during the remainder of the year.

CHILE

NEGOTIATIONS FOR A NEW "MODUS VIVENDI" TO REPLACE THE PROVISIONAL COMMERCIAL AGREEMENT OF MAY 28, 1931

625.5131/65

The Ambassador in Chile (Philip) to the Secretary of State

No. 86

SANTIAGO, January 24, 1936.

[Received February 1.]

SIR: I have the honor to refer to the Embassy's despatch No. 78 of January 18, 1936,¹ transmitting to the Department a copy of the Commercial Convention signed in Santiago on January 16th by the representatives of Chile and France.

This Convention is of particular importance to the United States because (Article 12) "the provisions of the present Agreement replace those of the *modus vivendi* of May 22, 1931,² which will be denounced from the date on which the present Convention enters into effect." With the termination of the *modus vivendi* between France and Chile will end the *modus vivendi* between the United States and Chile of September 28, 1931,³ providing most-favored-nation treatment for the commerce of the United States.

Article 11 of the Franco-Chilean Convention of January 16th reserves to the contracting parties the right to place the Convention into provisional application prior to formal exchange of ratifications, "in conformity with their respective legislation." The French Minister has informed the Embassy that his Government intends so to apply the Convention prior to its ratification; while the Sub-Secretary for Commerce of the Chilean Foreign Office orally informed a member of my staff that his Government would place the new agreement into effect within the next week or ten days. The French Minister informs the Embassy that all that is necessary on the part of his Government to make the treaty provisionally effective is its publication in the *Journal Officiel*,⁴ which he anticipates will be done within a week. The Chilean Government will invoke Article 2 of Law 5,142 of March 10, 1933, which empowers the President "to place into effect

¹ Not printed.

² League of Nations Treaty Series, vol. CXXIV, p. 31.

³ *Foreign Relations*, 1931, vol. I, p. 926.

⁴ The text was published in the *Journal Officiel*, February 16, 1936, p. 1962.

a commercial agreement not yet ratified, and only pending the ratification of such convention." This law was extended by Law No. 5,298 of November 11, 1933, only to December 31, 1934;⁵ but is still being invoked by the Chilean Foreign Office and the Ministry of Finance as the legal basis for the application of commercial agreements *ad referendum*.

Señor García, the Sub-Secretary for Commerce, orally informed a member of the Embassy staff that the Foreign Office considers that the French *Modus Vivendi* of May 22, 1931, will not formally be terminated until ratifications of the new Franco-Chilean Commercial Convention are exchanged, irrespective of the fact that the Convention will shortly be placed into provisional application. He stated that the most-favored-nation treatment now enjoyed by the United States under its *modus vivendi* of September 28, 1931, will be continued to be enjoyed until the actual exchange of ratifications of the Franco-Chilean Convention of January 16, 1936. A memorandum⁶ of Señor García's remarks to Mr. McClintock⁷ of the Embassy staff is enclosed.

The British Commercial Attaché was orally informed to the same effect by a member of the Foreign Office.

The French Minister expressed the opinion that once the Convention of January 16th is placed into provisional effect the *modus vivendi* of May 22, 1931, under the provisions of Article 12 of the Convention, will automatically be denounced. He remarked to a member of the Embassy staff, however, that if the Chileans chose to give another interpretation it was so much the better for the United States.

I would suggest to the Department that I be instructed formally to request of the Minister for Foreign Affairs a written confirmation of the oral statement of Señor García to the effect that the United States will continue to enjoy the benefits stipulated in its *modus vivendi* with Chile of September 28, 1931, until the French *modus vivendi* of May 22, 1931, is formally denounced by the ratification of the Commercial Convention of January 16, 1936.

A detailed analysis of the effect of the Franco-Chilean Commercial Convention with respect to the new rates of duty to be applied to the products of either country listed in the annexes to the Convention, is enclosed with this despatch, together with the interpretative comments of the Commercial Attaché.⁸

It was inferred from the French Minister's references that there are secret protocols attached to the Convention of January 16th, and the Sub-Secretary of Commerce admitted to a member of my staff

⁵ Chile, *Recopilación de leyes por orden numérico, con índices por número, Ministerios y materias* (Santiago, 1934) vol. xx, p. 187.

⁶ Not printed.

⁷ Robert M. McClintock, Third Secretary.

that such ancillary agreements do exist, but attempted to make the point that they were of no great importance and concerned only matters of interest to the French. Thus far it has not been possible to obtain additional information as to the nature of these secret agreements.

The Foreign Office seems to be willing to concede to the United States and Great Britain a continuation of their present status with reference to most-favored-nation treatment, on the basis of an indefinite extension of their respective *modi vivendi* signed in 1931, until such time as the French-Chilean Commercial Convention may be ratified. Obviously, this is a casual and uncertain basis upon which to rest the status of our trade with Chile: a basis thus far dependent only upon the oral assurances of the Foreign Office, and remaining subject to change over night. It would seem advisable to undertake discussions with the Minister for Foreign Affairs with a view to, by exchange of notes here or otherwise, placing upon a concrete, written basis the future policy with regard to most-favored-nation treatment which the Chilean Government proposes to follow vis-à-vis the United States.

Respectfully yours,

HOFFMAN PHILIP

625.5131/63 : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, February 1, 1936—2 p. m.

5. Your despatch No. 78 of January 18, 1936.¹⁰ In order to determine the date on which our *modus vivendi* of September 28, 1931, will terminate, you are requested to ascertain, if possible, and report by cable whether the new French-Chilean commercial convention has been put into force provisionally under the terms of Article 11 thereof, and, if so, whether the French-Chilean *modus vivendi* of May 22, 1931, will be denounced as of the date on which the new agreement becomes effective provisionally or as of the date on which it becomes effective permanently.

HULL

625.5131/67 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, February 4, 1936—6 p. m.

[Received 6:15 p. m.]

16. Department's 5, February 1, 2 p. m. In the absence of the Minister,¹¹ the Undersecretary for Foreign Affairs¹² informs me that

¹⁰ Not printed.

¹¹ Miguel Cruchaga Tocornal.

¹² German Vergara Donoso.

the new French-Chilean Commercial Convention has been put into force provisionally but that the French-Chilean *modus vivendi* of May 22, 1931 will not be denounced until the date of ratification of the new agreement. He added that in any event our *modus vivendi* of September 28, 1931 will remain in force until the date of formal ratification.

PHILIP

611.2531/154

The Ambassador in Chile (Philip) to the Secretary of State

No. 119

SANTIAGO, February 26, 1935 [1936].

[Received March 7.]

SIR: I have the honor to acknowledge the receipt of the Department's cable instruction No. 6 of February 7, 2 p. m., 1936¹³ directing me to address a note to the Minister for Foreign Affairs requesting confirmation of statement made to a representative of the Embassy by Señor García of the Chilean Foreign Office to the effect that the United States will continue to enjoy unconditional most-favored-nation treatment until the French *modus vivendi* of May 23 [22], 1931, shall be denounced by the formal ratifications of the Franco-Chilean Commercial Convention of January 16, 1936.

The Department's instruction apparently was based upon the Embassy's despatch No. 86 of January 24th, last, which reported statements made on the above subject by Señor García, Assistant Secretary of Commerce in the Foreign Office, to a member of the Embassy staff.

As reported in my cable message No. 16 of the 4th instant, I had on that date a conversation with the Under Secretary of Foreign Affairs, in the absence from Santiago of Minister Cruchaga.

Señor Vergara substantiated the information previously transmitted to the Department by positively stating that our *modus vivendi* of September 28, 1931 will remain in force until the formal exchange of ratifications of the French-Chilean Commercial Convention of January 16, 1936.

On receipt, therefore, of the Department's cable instruction No. 7 [6], I addressed on February 8th the note to the Minister of Foreign Affairs, of which I beg to transmit a copy herewith.¹³

In this note reference is made to my conversation with Señor Vergara on the 4th instant with a request for its confirmation.

I now beg to report to the Department that the Embassy has received from the Foreign Office an official Memorandum, dated February 19th, a copy and translation of which are transmitted with this.¹³

The Memorandum states that although the French-Chilean Com-

¹³ Not printed.

mercial Treaty of January 16, 1936 was put into effect provisionally on February 8, 1936, the Chilean Government has believed it best, in view of the better commercial relations with the United States, to consider the *modus vivendi* of September 28, 1931, as still in effect.

It is probable that the Ministry for Foreign Affairs has preferred this means of giving assurance that our *modus vivendi* will be considered as remaining in force until the definite ratification of the new French-Chilean commercial treaty rather than by a formal acknowledgment of my note, as I presume was envisaged by the Department.

I would be glad to learn if the enclosed Memorandum is considered as satisfactory assurance by the Department.

Respectfully yours,

HOFFMAN PHILIP

611.2531/155

The Secretary of State to the Ambassador in Chile (Philip)

No. 69

WASHINGTON, March 26, 1936.

SIR: Referring to your despatches No. 67 of January 8, No. 71 of January 11,¹⁵ and No. 86 of January 24, 1936, you are requested to discuss with the Chilean Minister for Foreign Affairs the desire of this Government to effect a temporary commercial agreement by an exchange of notes which would maintain our commercial relations with Chile on an unconditional most-favored-nation basis from the day on which our *modus vivendi* of September 28, 1931, is automatically terminated by reason of the termination of the *modus vivendi* between Chile and France of May 22, 1931.

You are authorized to propose the conclusion of a new *modus vivendi* to become effective on the day on which our existing provisional agreement of September 28, 1931, is terminated; and if you perceive no good reason to the contrary, you may present to the Minister a note based on the enclosed draft as a basis for negotiations.

Inasmuch as your despatch No. 86 of January 24, 1936, indicates that our present *modus vivendi* will be terminated on the day of the exchange of ratifications of the Franco-Chilean Convention of January 16, 1936, and your telegram No. 16 of February 4, 1936, is to the effect that our *modus vivendi* will remain in force "until the date of formal ratification" of the Franco-Chilean Convention, the Department is not clear as to which of the two or more dates referred to is correct. Please report the correct date in your next despatch on the subject.

As you will note, the draft agreement is broader than our agreement of September 28, 1931, in that it covers the subject of most-favored-nation treatment in more detail, and makes special provision for such

¹⁵ Neither printed.

treatment in respect of import quotas. Also the draft agreement would prohibit Chile from imposing any restrictions or delays in respect of private exchange transactions between the two countries, and provides that purchasers of articles the growth, produce or manufacture of any country with which Chile maintains a clearing arrangement shall not be accorded legal access to foreign exchange sold in the export draft or other exchange markets.

In connection with the paragraph relating to exchange, reference is made to the tentative agreement on this subject which was embodied in the memorandum of [to] the Chilean Government of March 27, 1934, transmitted with the Embassy's despatch No. 77 of March 28, 1934,¹⁶ wherein it is stated that "The Chilean Government agrees to lift as soon as possible all exchange control and trade restrictions as concerns American commerce and interests."

It will be noted that the provisions of numbered paragraph four are not intended to obtain preferential treatment for American interests. It is assumed that the recent relaxation of restrictions on exchange transactions which were reported by the Embassy apply to all countries, with the exception of those which have chosen to conduct their trade with Chile on a basis of bilateral clearing, and that Chile would wish to generalize the freedom of exchange transactions which the paragraph under reference contemplates to the other countries which do not apply restrictions to Chilean trade.

The objectives of the provisions relating to exchange are to insure future Chilean-American exchange transactions against restrictions, to preclude delays occasioned by administrative tactics of the exchange control authorities, and to reserve the export draft and other exchange markets solely to importers of goods from those countries which have not entered into clearing arrangements with Chile.

It is especially desired that the quota and exchange provisions set out in the enclosed draft be included in the new agreement, but the Department is prepared to suggest other provisions on these subjects, particularly in respect of exchange, should Chile steadfastly refuse to agree to the provisions under reference.

If negotiations are now in progress for a commercial agreement between the United Kingdom and Chile, you are requested to endeavor to ascertain discreetly the nature of the provisions relating to exchange being proposed by the British and report thereon.

In your discussions with the Minister for Foreign Affairs, you may find it useful to point out that the proposed *modus vivendi* would assure to Chile all of the benefits of tariff reductions, bindings of duties, and guaranteed free entry on imports into the United States of products included in trade agreements between the United States

¹⁶ *Foreign Relations, 1934*, vol. v, p. 18.

and foreign countries (except Cuba). You may refer further to the fact that the United States so far has extended to Chile the benefits resulting from all of such trade agreements entered into by this Government.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

[Enclosure]

Draft of a Note To Be Presented by the American Ambassador (Philip) to the Chilean Minister for Foreign Affairs (Cruchaga)

EXCELLENCY: With reference to the contemplated expiration of the Agreement between our two Governments, effected by exchange of notes, signed September 28, 1931, providing for reciprocal unconditional most-favored-nation treatment in customs matters, I have the honor to inform you that my understanding of our recent conversations in behalf of the Government of the United States of America and the Government of the Republic of Chile, with respect to the treatment which each Government shall accord to the commerce of the other, is as follows:

1. These conversations have disclosed a mutual understanding between the two Governments which is that, in respect to import, export and other duties and charges affecting commerce, as well as in respect of transit, warehousing and other facilities, the United States of America will accord to the Republic of Chile, and the Republic of Chile will accord to the United States of America, its territories and possessions, unconditional most favored nation treatment.

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 and regulations affecting the sale or use of imported goods within the country, any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America or the Republic of Chile to any article originating in or destined for any third country, shall be accorded immediately and unconditionally to the like article originating in or destined for the Republic of Chile or the United States of America, respectively.

3. In the event that the Government of the United States of America or the Republic of Chile establishes or maintains any form of quantitative restriction or control of the importation or sale of any article in which the other country has an interest, or imposes a lower duty or charge on the importation or sale of a specified quantity of any such article than the duty or charge imposed on importations in excess of such quantity, it shall allot to the other country during any quota

period a share of the total quantity of any such article permitted to be imported or sold or permitted to be imported or sold at such lower duty or charge which is equivalent to the proportion of the total importation of such article which such other country supplied during a previous representative period, unless it be mutually agreed to dispense with such allocation.

4. The Government of the Republic of Chile agrees (a) to impose no restrictions or delays in respect of transactions in foreign exchange between the Republic of Chile and the United States of America, and (b) that any purchaser of an article the growth, produce, or manufacture of any country with which Chile maintains a clearing arrangement of any kind shall not be accorded legal access to foreign exchange sold in the export draft or other exchange markets of Chile.

5. 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.

6. Nothing in this Agreement shall be construed as a limitation of the right of either country to impose on such terms as it may see fit prohibitions or restrictions (1) imposed on moral or humanitarian grounds; (2) designed to protect human, animal or plant health or life; (3) relating to prison-made goods; (4) relating to the enforcement of police or revenue laws; or (5) relating to the control of the export or sale for export of arms, ammunitions, or implements of war, and, in exceptional circumstances, all other military supplies.

7. The present Agreement shall come into force on the day on which the Agreement between the United States of America and the Republic of Chile, effected by exchange of notes, signed September 28, 1931, shall terminate, 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 [etc.]

611.2531/154

The Secretary of State to the Ambassador in Chile (Philip)

No. 72

WASHINGTON, April 2, 1936.

SIR: With reference to your despatch No. 119 of February 26, 1936, you are informed that the Department considers the memorandum of the Chilean Foreign Office of February 19, 1936,¹⁷ to be a satisfactory assurance that the *modus vivendi* between the United States and Chile of September 28, 1931, is still in force notwithstanding the provisions

¹⁷ Not printed.

of paragraph 3 thereof and Articles 11 and 12 of the Commercial Convention between Chile and France signed January 16, 1936.

It is believed however that inasmuch as the memorandum does not refer to the Embassy's note No. 85 of February 8, 1936 to the Minister of Foreign Affairs,^{17a} it should be acknowledged in order to complete the understanding. Accordingly, if in your opinion a formal note of acknowledgment would not embarrass the Foreign Office and if you perceive no other reason to the contrary, you are requested to address the following note to the Minister of Foreign Affairs:

"I have the honor to acknowledge the receipt of the memorandum of the Office of the Minister of Foreign Affairs dated February 19, 1936, in which it is stated that even though interpretation of Article 12 of the Commercial Treaty between the Government of the Republic of Chile and the Government of the Republic of France, signed January 16, 1936, as it relates to the provisions of paragraph 3 of the *modus vivendi* between the United States of America and the Republic of Chile, signed at Santiago September 28, 1931, is open to doubt, the Government of Chile, with a view to the best commercial relations with the United States, considers the said *modus vivendi* signed at Santiago September 28, 1931, to be in force.

"I am gratified to note also the statement that the Government of Chile is certain that before the commercial treaty with France, referred to above, is brought into force definitively (that is to say, after ratification and the formal exchange of ratifications), it will be possible to find a formula whereby commercial relations between the United States and Chile will be maintained on a basis of cordiality and equality.

"I avail myself, etc. etc."

The Department has observed that the memorandum of the Foreign Office does not specifically limit the time during which our *modus vivendi* of September 28, 1931, will be extended. This has been taken into consideration in the foregoing draft. Moreover, the draft acknowledgment does not recognize that commercial relations with Chile have been maintained in the past on a basis of perfect equality. These observations, of course, should not be discussed with Chilean officials at this time.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.2531/156

The Ambassador in Chile (Philip) to the Secretary of State

No. 165

SANTIAGO, April 7, 1936.
[Received April 14.]

SIR: I have the honor to acknowledge receipt of the Department's Instruction No. 69 dated March 26, 1936, regarding the negotiation

^{17a} Not printed.

of a temporary commercial agreement by an exchange of notes. Paragraph 3 of this Instruction indicates a confusion as to the date upon which our present *modus vivendi* will be terminated.

Article 3 of the present American-Chilean *modus vivendi* states as follows: "This provisional arrangement will last while the above mentioned *modus vivendi* remains in force". (The reference is to the Franco-Chilean *modus vivendi* of May 22, 1931.) Article 11 of the Franco-Chilean convention, signed on January 16, 1936, and which was transmitted to the Department in the Embassy's despatch No. 78 of January 18, 1936,¹⁸ states as follows: "The present convention will be ratified and will enter into effect fifteen days after the exchange of instruments of ratification".

According to the interpretation placed upon the status of the American-Chilean *modus vivendi* in the Memorandum of the Chilean Foreign Office dated February 19, 1936,¹⁸ transmitted to the Department with the Embassy's despatch No. 119 of February 26, 1936, our *modus vivendi* with Chile will remain in effect until the Franco-Chilean commercial convention goes into effect. It seems clear, therefore, that our *modus vivendi* will be terminated in accordance with the provision of Article 11 of the Franco-Chilean convention, namely, fifteen days after the exchange of instruments of ratification of that convention.

Respectfully yours,

HOFFMAN PHILIP

611.2531/157

The Ambassador in Chile (Philip) to the Secretary of State

No. 180

SANTIAGO, April 18, 1936.

[Received April 23.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 72 of the 2nd instant relative to the assurances by the Chilean Government as to the temporary validity of its *modus vivendi* of September 28, 1931, with the United States.

The Department kindly embodies a draft of a note to the Chilean Foreign Office confirming the latter's memorandum of February 19, 1936,¹⁸ which it suggests the advisability of delivering as a means of completing the understanding in the matter.

In view of the fact that the assurances of the Foreign Office have been unreservedly and frankly advanced, I have thought it best not to make use of the Department's draft for the present. It has seemed to me that such action might give rise to a possible misunderstanding at the Foreign Office.

In the meantime, I will proceed with the matter of the draft *modus vivendi* furnished me by the Department in its instruction No. 69 of

¹⁸ Not printed.

March 26th as soon as the Minister for Foreign Affairs has recovered from an indisposition which has kept him away from his ministry for some ten days past.

Respectfully yours,

HOFFMAN PHILIP

611.2531/158

The Ambassador in Chile (Philip) to the Secretary of State

No. 192

SANTIAGO, April 25, 1936.

[Received May 2.]

SIR: Adverting to the Department's Instruction No. 69 of March 26, 1936, with which was enclosed the draft of a note embodying the text of a proposed *modus vivendi* to replace that of September 28, 1931, I have the honor to report that I handed this note, with very slight modifications, to the Chilean Under Secretary for Foreign Affairs on the 24th instant.

I had delayed this action in the hope of being able to discuss the matter personally with the Minister of Foreign Affairs on the occasion, as I consider that the headway which hitherto has been made toward a solution of the pending exchange difficulties has been most largely due to his support of the promises made to me by Señor Ross.¹⁹ Señor Cruchaga's illness has rendered such a course impossible for the present, but I will seek the first opportunity to take the matter up with him again.

The proposed *modus vivendi* as drawn up by the Department seems most admirably suited to our requirements.

Señor Vergara read through the text in my presence, and with the exception of paragraph four, seemed to think that it will prove acceptable to his Government. With regard to the paragraph four, he remarked that he quite understood my assurance that our Government is not seeking any special concessions respecting the removal of exchange restrictions but that the subject is fraught with much danger for Chile. For this reason he said he surmised that his Government may desire to propose some changes in the text of that paragraph.

In the course of the conversation, Señor Vergara mentioned the great embarrassment experienced by his Government owing to the lack of exchange to facilitate Chile's foreign trade. He expressed a fear that such removal of restrictions as has already taken place may have the effect of depreciating the peso to an extent which may prove most disadvantageous to foreign exporters to Chile as well as to the Chilean people.

I called attention to the fact that the Government has found it necessary to earmark for purposes related to its clearing agreements with certain foreign countries a large part of its available exchange and that it seemed only just that it should not discriminate against

¹⁹ Gustavo Ross Santa María, Chilean Minister for Finance.

countries without such agreements by placing restrictions on that which remained. In reply, the Under Secretary informed me that his Government, in addition to its formal compensation agreements, was further committed from time to time by informal clearing arrangements with certain other countries which oblige it to augment its exchange requirements. I asked if these clearing arrangements were confirmed by exchange of notes or in other official manner and was given to understand that they were not. I will endeavor to ascertain more complete details regarding the exchange commitments of the Chilean Government with a view to a further report to the Department.

It is known that negotiations, for instance, are being carried on with Argentina and Japan for additional clearing arrangements, and it may well be that in order to facilitate proposed interchanges of commodities with these and other countries the Chilean Government requires available exchange facilities—the amount of which is not generally known.

I have been unable as yet to procure data as to whether conversations are being carried on by the British Embassy with the Foreign Office regarding the nature of possible provisions on the question of exchange, for inclusion in a commercial agreement.

I beg to report that I have this moment been informed by the British Ambassador, over the telephone, that he has received letters today, the 25th instant, from Señor Guillermo Valenzuela, Under Secretary of Hacienda, and Señor Rafael Urrejola, Chief of the Board of Exchange Control, that the regulation which calls for the presentation of documents covering imports prior to the granting of exchange has been definitely rescinded.

I may say that I had been informed by Señor Vergara yesterday that the Minister of Foreign Affairs had addressed a strong note to Señor Urrejola three days previously. I understood that in his note the Minister insisted that the removal of the restriction mentioned be effected at once.

While it may be too much to hope that the lifting of the exchange restrictions will bring about a lasting amelioration of the situation, it is at least satisfactory that the promises made by Señor Ross prior to his departure seem to have been fulfilled at last.

Respectfully yours,

HOFFMAN PHILIP

611.2531/158 : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, May 12, 1936—7 p. m.

24. Your despatch No. 192 of April 25, 1936. The Department notes with interest that in your conversation with Señor Vergara he expressed the opinion that his Government may desire to propose some changes in the text of paragraph 4 of the draft *modus vivendi*.

The Department will appreciate it if you will endeavor to obtain a reply as expeditiously as possible.

It is noted, however, that Señor Vergara expressed fear that such removal of exchange restrictions as have already taken place may have the effect of depreciating the peso to an extent which may prove most disadvantageous to foreign exporters to Chile as well as to the Chilean people.

We are not primarily concerned in connection with the proposed *modus vivendi*, with the value of the peso. Our important objectives are to preclude the sudden arbitrary imposition of exchange restrictions and delays which obstruct importation of the products affected, and to maintain the export draft and other exchange markets free for the use of importers who wish to purchase from countries which have not entered into clearing arrangements with Chile. We are concerned with the elimination of these restrictions because experience has shown that they have operated and do operate primarily to the disadvantage of American trade.

As you are aware, the Department is not impressed with the argument that removal of exchange restrictions would result in depreciating the peso to an extent disadvantageous to foreign exporters to Chile and the Chilean people. It is our view that the removal of exchange restrictions would as a general proposition cause trade to tend toward a more normal flow and thus be advantageous to exporters to Chile, as well as to Chilean importers and exporters and, of course, to the Chilean people.

You may express these views to proper Chilean authorities in any informal conversations you may have with them in respect of paragraph 4 of the proposed *modus vivendi*.

Also report as soon as possible the status of the American blocked funds,²⁰ transfer of which the Minister of Finance promised to authorize just prior to his departure.

HULL

EFFORTS OF THE DEPARTMENT OF STATE TO SECURE EQUITABLE TREATMENT FOR AMERICAN INTERESTS WITH RESPECT TO CHILEAN EXCHANGE RESTRICTIONS ²¹

825.5151/289

The Secretary of State to the Ambassador in Chile (Philip)

No. 21

WASHINGTON, December 9, 1935.

SIR: There is transmitted a memorandum of a conversation ²² between an officer of the Department and Mr. Edgar W. Smith, Vice

²⁰ See section concerning Chilean exchange restrictions, *infra*.

²¹ Continued from *Foreign Relations*, 1935, vol. iv, pp. 398-422.

²² Not printed.

President of the General Motors Export Company, with reference to the exchange restrictions imposed by the Chilean Government on imports of automobiles, tires and parts.

In connection with this complaint, and with reference to report No. 161 dated November 19, 1935, from the American Commercial Attaché in Santiago,^{22a} you are authorized to seek an interview with the Minister for Foreign Affairs,²³ and, in your discretion, with the Minister for Finance,²⁴ and communicate, informally, the concern with which this Government views the fact that liquidation of American blocked funds in Chile continues to be suspended, and that although the exchange restrictions on imports of American automobiles and other products were announced as temporary, they are still being applied.

You may state that this Government realizes the trade and exchange difficulties which confront Chile, but suggests the desirability of an announcement of a systematic plan or schedule for liquidation of American commercial credits blocked by exchange control measures. Some accounts have been awaiting transfer since 1931 with no definite prospects of liquidation. American interests affected by these measures have not failed to point out that other countries have now liquidated, or are systematically liquidating, arrears in exchange accumulated in the earlier years of the depression.

As regards the present exchange restrictions on such typical American export products as automobiles and radios, this Government does not desire to interfere in Chile's efforts to solve its trade and exchange problems in its own way, as long as such efforts do not result in discrimination to legitimate American trade interests. In pursuance of this policy of cooperation, this Government has never resorted to defensive measures, as have certain other countries, when artificial exchange and import control was applied to their trade, believing that the practice of such measures operates to delay recovery from the depression in international trade from which practically all countries suffer.

You may state, however, that because such artificial control measures are injurious to international trade, especially when, as in this case, their application is prolonged beyond a brief emergency period, this Government ventures to inquire whether the Chilean Government as a solution of its present exchange problems is contemplating removing restrictive control on any foreign exchange available for trade with the United States and other countries which do not practice exchange control or compensation against Chilean trade. Such a

^{22a} Not found in Department files.

²³ Miguel Cruchaga Tocornal.

²⁴ Gustavo Ross Santa María.

system would be more nearly in reciprocity to the action of this Government, which has never applied restrictions to remittances to Chile.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

825.5151/294

The Ambassador in Chile (Philip) to the Secretary of State

No. 57

SANTIAGO, December 21, 1935.

[Received December 28.]

SIR: I have the honor to acknowledge receipt of the Department's Instruction No. 21 of the 9th instant, with enclosure, relative to the exchange restrictions imposed by the Chilean Government on imports of automobiles, tires and parts.

On the 19th instant, in the course of an informal conference with the Ministers of Foreign Affairs and Finance, I took up the subject of the Department's instruction and handed to the latter a memorandum which embodied the chief points dealt with therein.

I emphasized the fact that our Government's interest in the matters of exchange restrictions now existing in this country is prompted chiefly by the desire to improve the commercial intercourse between our nations by the elimination of difficulties in the way of the free exchange of commodities. I added that all that is required by the United States is full reciprocity and that fair and equitable treatment be accorded our citizens in their dealings with Chile.

I added that the Embassy has had very many requests for assistance by American merchants and others who have been unable to liquidate their credits in this country owing to the existing exchange restrictions; that these difficulties are especially great in the matter of importations of automobiles, tires and parts.

I appealed to the Ministers to cause some step to be taken by the Chilean Government which would permit of the transfer of pesos credits now held here and the regulation of exchange on such a basis as not to constitute a decided obstacle to, if not a prejudice against, the trade of the United States in this country.

Señor Ross replied to my observations to the following effect: He said that his Government had imposed the exchange restrictions as a means of self preservation but that it realized certain hardships had arisen from them. He assured me that in the near future steps will be taken to improve this situation, as had been suggested by the President in his message to the Congress in connection with the sentence against the Compañía de Electricidad (see despatch No. 55 of December 20, 1935.²⁵)

²⁵ Not printed.

With regard to the blocked credits in Chile mentioned by me, he expressed his belief that all American credits had been liquidated, and that before sending me a reply to the various points noted by the Department, he would appreciate a list of such credits now known to the Embassy.

In speaking of automobiles, the Minister said that his Government, although it would wish to limit the excessive number of these now purchased for use in Chile, would if desired lift all restrictions upon them. He expressed the opinion, however, that this would react disadvantageously for the importer—that the removal of restrictions tending to further depreciate the peso, would ultimately render these conveyances too expensive for popular use.

I spoke of having heard of many German automobiles now entering Chile. The Minister replied that the Germans under their bilateral agreement had the right to import such products as they wished—to a value not exceeding that of their purchases in this country.

The attitude of the Minister of Finance was entirely cordial and he gave the impression of being desirous to do all in his power to cultivate Chile-American relations.

Subsequently, I furnished him with two lists of blocked credits of which the Embassy is aware and which total some 31,557,629 pesos.

In my covering letters with these lists I stated that more of the credits will be sent as they are segregated and that, in addition, there exist large stocks of American merchandise which are held unsold here owing to the inconveniences presented by the exchange restrictions.

I further suggested in one of these letters that if the Chilean Government makes an arrangement for the granting of a certain amount of exchange each month for the liquidation of these credits, I felt sure that such a step would go far toward removing the difficulties and confusion which now confront American merchants and others doing business with Chile.

Respectfully yours,

HOFFMAN PHILIP

825.5151/294

The Secretary of State to the Ambassador in Chile (Philip)

No. 35

WASHINGTON, January 14, 1936.

SIR: The Department acknowledges the receipt of your despatch No. 57 of December 21, 1935, and approves your presentation of the American foreign exchange problem in Chile and your expression of the Department's views as to its solution at your conference with the Ministers of Foreign Affairs and Finance.

It is noted that the Minister of Finance stated that his Government would, if desired, lift all exchange restrictions from importations of American automobiles, although he believed that this would react dis-

advantageously for the importer as tending further to depreciate the peso and increase the local price of automotive vehicles.

You are requested to seek an early interview with the Ministers of Foreign Affairs and Finance and state that it is this Government's belief and policy that artificial restrictions on exchange transactions are detrimental in the long run, and that it accordingly welcomes the suggestion of the Minister of Finance that the Chilean Government will lift present exchange restrictions on the importation of American automobiles and other products.

Please report by air mail or briefly by cable the results of your interview. You are also requested to forward by air mail copies of the list of American blocked credits in Chile, and covering letters, which you state you transmitted to the Minister of Finance. It is assumed that your reference to the exchange restrictions affecting large stocks of American merchandise remaining unsold in Chile refers to the exchange regulation forbidding the reexport of merchandise, without the return to Chile of an amount of foreign exchange equal to the value of the shipment.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

825.5151/299 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, January 23, 1936—6 p. m.

[Received 6:45 p. m.]

14. The Department's 35, of the 14th instant. I had a conference with the Minister of Finance today. He emphatically assured me that all exchange restrictions from importation of American automobiles and other products have been lifted, subject to the presentation of documents prior to the issuance of exchange authorization.

The information received up to date by the Embassy does not indicate that requests for exchange have been freely granted. However, I feel assured that the Minister's intention is to put this change into immediate effect.

Señor Ross promised me that before he leaves Chile for Europe, probably on February 7th, he will cause to be liquidated American funds awaiting transfer.

PHILIP

825.5151/292

The Secretary of State to the Ambassador in Chile (Philip)

No. 42

WASHINGTON, January 29, 1936.

SIR: The Department acknowledges the receipt of your telegram No. 14 of January 23, 6 p. m., reporting assurances from the Chilean

Minister of Finance that all exchange restrictions on the importation of American automobiles and other products have been lifted and that American blocked funds will be liquidated in the immediate future. The Department commends you for this outcome of your conferences with the Chilean authorities.

It would appear from your telegram, however, that the Chilean Government still maintains its recent restriction prohibiting the sale of exchange for payment of imports of American products until the importer exhibits documentary proof that the shipment is en route to Chile. The Department understands that under this regulation Americans desiring to export to Chile cannot require a cash payment upon shipment but must embark the goods and give a certain period of credit whether or not the credit rating of the prospective importer entitles him to such an accommodation. It would seem that in many situations this requirement would be unfair to American exporters and, in addition, according to your despatch No. 71 of January 11, 1936,²⁶ exporters of countries which have compensation arrangements with Chile are not subject to such requirements.

You are accordingly authorized in your discretion to take up this matter with the appropriate Chilean authorities and, expressing this Government's appreciation of their recent action in lifting exchange restrictions on the importation of certain American products, state that this Government hopes that this regulation will also be raised in view of the objections to it mentioned in the preceding paragraph.

With reference to the assurance regarding the liquidation of American blocked funds in Chile and the statement in your despatch No. 57, of December 21, 1935, that you had furnished the Chilean Minister of Finance with lists of blocked credits known to the Embassy, there is transmitted a copy of a letter from the Oil States Petroleum Company, dated December 11, 1935,²⁶ and a copy of a letter from Rear Admiral A. W. Johnson, United States Navy, dated December 30, 1935,²⁷ with reference to their blocked funds in Chile. Will you kindly therefore include these items in the lists submitted by you to the Chilean Government of American frozen credits, and continue to report to the Department as to the prospects of liquidation of these and similar frozen accounts.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

²⁶ Not printed.

²⁷ Not found in Department files.

825.5151/308

The Ambassador in Chile (Philip) to the Secretary of State

No. 103

SANTIAGO, February 12, 1936.

[Received February 24.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 42 of January 29th last, relative to restrictions upon the importation of American products into Chile.

I may say that in my cable message No. 14 of January 23rd., I sought for the purpose of record to convey the precise assurances which had been given me verbally by the Minister of Hacienda on that date.

The Minister left Santiago on the 7th instant for Europe, and I am obliged to report that, with the exception of certain facilities which are now being accorded to the importers of American automobiles and radios, the exchange situation presents the same difficulties for American business as heretofore.

The Department's instruction above acknowledged was received on the eve of Señor Ross' departure and I sent an informal note on the 5th instant, of which I transmit a copy,²⁸ to the Minister for Foreign Affairs, who has assumed the portfolio of Hacienda, requesting him to speak with the former on the subject of my previous conversation with him.

Señor Ross was exceedingly occupied during his last days in Santiago with the debates in Congress relative to his agreement with Mr. Calder, President of the American and Foreign Power Corporation. The final vote which approved the Agreement was taken but a few hours prior to his leaving for France.

I have received the impression from those among the Americans and Chileans who are most intimate with the Minister of Hacienda that he is a man whose word may be thoroughly trusted. In my own dealings with him I have found him apparently frank and very friendly. Undoubtedly he has been under strong pressure by the British, Spanish and probably other Governments as well as our own in the matter of blocked credits, which is an exceedingly embarrassing one for Chile at this time. I am of the opinion that his decision in the course of my conversation with him on January 23rd last, to liquidate the pending credits of American exporters, was genuine and that it was dictated by the desire to facilitate our trade with Chile. It would seem, on the other hand, that the Chief of the Chilean Exchange Control Commission may be retained by the Ministry of Hacienda as a sort of economic bulldog—for the purpose of impeding exchange permits in whatever manner possible. The exigencies and arbitrary difficulties

²⁸ Not printed.

placed by this official in the way of importers seeking foreign exchange are the source of frequent complaints to the Embassy. In the case of one recent request by the representative of an American Bank for a permit to transfer certain blocked American credits, I am informed that the reply of the Exchange Commission embodied requests for information on such points as when the merchandise was sold, the original shipping papers, when the payments were made, etc.; in short, an elaborate documentation covering many points which are now unobtainable.

So far, therefore, it would seem that the promise of the Minister of Hacienda to liquidate our credits before this [*his?*] departure has not been fulfilled.

This is particularly regrettable as Señor Ross is the one member of the Government qualified to carry out energetic measures in the circumstances.

In a brief conversation with the Acting Minister of Hacienda today, the 12th instant, I alluded to this question. Señor Cruchaga's reply was not very explicit. He said that he feared his colleague may have been too occupied with the Ross-Calder Agreement²⁹ debate before his departure to take up the matter of the American credits. He said that on the 13th instant he was entering upon his duties as Acting Minister of Hacienda and that the first matter to which he would devote his attention would be that of the blocked American credits.

Respectfully yours,

HOFFMAN PHILIP

825.5151/310

The Ambassador in Chile (Philip) to the Secretary of State

No. 157

SANTIAGO, March 31, 1936.

[Received April 7.]

SIR: I have the honor to refer to my despatch No. 103 of February 12, and to previous correspondence regarding the restrictions placed upon American trade through the operation of Law No. 5107³⁰ placing control upon foreign exchange. I am now pleased to report that the commercial banks in Chile have been authorized to conduct exchange operations in the free market, or the so-called "black market".

This authorization has been extended by means of Circular No. 211 of March 23, 1936, which bears the signature of the Vice President of the Exchange Control Commission, the Superintendent of Banks

²⁹ This agreement was signed on November 26, 1935, by the Chilean Finance Minister, Gustavo Ross, and C. E. Calder, the president of the American and Foreign Power Company, and provided for a reorganization of the Compañía Chilena de Electricidad Limited and the settlement of its exchange difficulties.

³⁰ Chile, *Boletín de Leyes y Decretos del Gobierno* (Santiago, 1932), vol. 101, p. 659.

and the President of the Banco Central, and a copy and translation³¹ of which are transmitted herewith.

It has long been the contention of this Embassy in its dealings with the Chilean authorities that no real economic necessity existed for maintaining the restrictions on the utilization of free market exchange; in fact, the Chilean officials themselves have on several occasions admitted to members of the Embassy that this contention is true and have often made the assertion that the Government tacitly recognized the right of individuals and firms to utilize the free market for their exchange operations. These verbal assurances, however, were proved of little value in a strictly legal sense as was shown recently by the serious difficulties encountered by the American-owned Compañía Chilena de Electricidad.

As reported to the Department in my cable message No. 14 of January 23, 6 p. m., the Minister of Hacienda promised verbally that facilities for the liquidation of American funds then awaiting transfer, and of which I had furnished him a list of those known to the Embassy, would be facilitated prior to his departure for France. Although such action was not forthcoming when promised, it is a matter of considerable gratification that this free market exchange finally is made available legally to those in the United States carrying on business with Chile.

It is probably impossible to estimate with any degree of accuracy the amount of exchange available in the free market or to forecast what effect the enclosed circular will have upon importations of American merchandise to Chile as well as upon the liquidation of our blocked credits. For the moment, therefore, I can only report that it appears to be a definite step in the right direction from our point of view. I understand that a detailed analysis of the attached circular will be prepared by the Commercial Attaché in a report to the Department of Commerce at an early date.

I beg to transmit herewith a copy and translation of the first press announcement³¹ which has come to my notice relative to the above mentioned circular—from *El Imparcial* of the 30th instant.

There has existed in certain governmental quarters a very strong opposition to action tending to the establishing of free market exchange. This, I understand, is chiefly due to the belief that such a step will lead to exchange speculation and currency depreciation over which the Government will have lost control.

In connection with the general subject of the difficulties encountered by American trade in securing exchange, I believe it is worthwhile to add at this time that although the promise which Sr. Ross made to

³¹ Not printed.

me regarding the removal of the exchange ruling requiring the presentation of shipping documents before authorization is granted by the Exchange Control Commission for export draft exchange (page 3, paragraph 2, despatch No. 87 of January 24, 1936³²), has not been carried out as yet, nevertheless definite assurances have been given to me by the Minister of Foreign Affairs and Acting Minister of Hacienda, that he would insist upon such action, and recently assurances have been given to a member of the Embassy by the Under Secretary for Foreign Affairs that this restriction will be removed in the very near future. It would appear that not only the Foreign Office but the Ministry of Finance itself is desirous of carrying out Sr. Ross' promise, but that Sr. Urrejola, the head of the Exchange Control Commission, has been interposing every possible objection and obstacle to the removal of the restriction in question.

Respectfully yours,

HOFFMAN PHILIP

825.5151/313

The Ambassador in Chile (Philip) to the Secretary of State

No. 197

SANTIAGO, April 29, 1936.

[Received May 9.]

SIR: I have the honor to refer to the report of the Commercial Attaché entitled "Economic and Trade Notes No. 369" of April 21, 1936, in which was set forth the present confusion existing as regards the exchange situation, especially as regards the importation of merchandise from the United States, as well as "Economic and Trade Notes No. 381" of April 28th.³³ I have the honor to refer furthermore to my despatch No. 192 of April 25th in which I informed the Department of the receipt by the British Ambassador of assurances both from the Under Secretary of Finance and from the Chief of the Board of the Exchange Control that exchange restrictions had been definitely rescinded.

For the information of the Department regarding the most recent developments in the Embassy's endeavors to settle this matter, there is enclosed a copy and translation of a letter dated April 24th from Sr. Guillermo Valenzuela, the Under Secretary of the Ministry of Finance, to the Counsellor of the Embassy, together with a copy and translation of the latter's reply dated April 27th.

The occasion for Sr. Valenzuela's letter was the fact that in a conversation between Mr. Scotten³⁴ and Sr. Vergara, the Under Secretary of the Ministry for Foreign Affairs, at the close of a luncheon at the

³² Not printed.

³³ Neither found in Department files.

³⁴ Robert M. Scotten, Counselor of the American Embassy in Chile.

Union Club in honor of Mr. John L. Merrill³⁵ on April 20th, Sr. Vergara stated categorically that since April first all exchange restrictions on the importation of American merchandise had been removed. Mr. Scotten replied that unfortunately, according to information received from American merchants as well as from the National City Bank, this would not appear to be the case.

Sr. Vergara thereupon called Sr. Valenzuela, who was also present at the luncheon, and asked him if it was not true that since April first the restrictions in question had been removed. Sr. Valenzuela replied that this was entirely true.

Mr. Scotten thereupon called the Manager of the National City Bank, who was also present, and asked him to explain to Sr. Valenzuela exactly what the situation was. Mr. Willett, the Manager of the Bank, informed Sr. Valenzuela that it was the custom of the Bank, before sending to the Exchange Control Commission a written request for exchange which had been applied for by a merchant, to telephone the Exchange Control Commission to ascertain in advance whether such request would be granted if applied for in writing. He explained that several requests had been made for exchange by telephone and that in each case the Control Commission had informed the Bank that these requests would not be approved. The Bank, therefore, had not actually made any formal requests for exchange with the exception of two cases where the merchants had personally seen the Exchange Control Commission and had received assurances that the exchange would be granted when the requests were made.

Sr. Valenzuela appeared extremely perturbed at the remarks of the Manager of the Bank, and expressed great annoyance that the Exchange Control Commission was not carrying out the instruction to remove these restrictions which he stated had been given to it by the Acting Minister of Finance, Dr. Cruchaga.

Sr. Valenzuela the next day brought this matter to the attention of Sr. Urrejola and as a result of statements made by the latter addressed the enclosed letter of April 24th to Mr. Scotten. The latter, accompanied by the Commercial Attaché, Mr. Bohan, on April 27th called upon Sr. Valenzuela and handed him the enclosed letter of April 27th, and stated that in case Sr. Valenzuela desired any further clarification regarding the points brought out in the letter, Mr. Bohan or himself would be glad to answer any questions which he desired to ask.

After reading this letter carefully, Sr. Valenzuela stated that he was extremely glad that this matter had been brought to his attention per-

³⁵ Mr. Merrill, the president of the Pan American Society and of the All America Cables Company, and his party were on a good will tour in South America with the object of presenting the gold medal of the society to the Presidents of Brazil, Argentina, Chile, and Peru.

sonally since Sr. Urrejola had received the strictest sort of instructions from Dr. Cruchaga to remove the exchange restrictions upon American Commerce. He added that Sr. Urrejola had told him categorically that there were no restrictions since the first of April and that he, of course, had believed that all such restrictions had been removed.

Mr. Bohan at this juncture pointed out to Sr. Valenzuela the extremely difficult position in which our merchants were placed when they had been given to understand that no further exchange difficulties existed, and yet found their requests for exchange refused by the Exchange Control Commission. He read to Sr. Valenzuela the text of several requests for exchange on the part of merchants both here and in Valparaíso which had been refused by the Exchange Control Commission. Mr. Scotten explained that it was not the Embassy's desire to make an incident of these particular cases as the merchants in question did not desire to incur the displeasure of the Control Commission, and he requested that they not be brought specifically to the attention of Sr. Urrejola. He added that the Embassy was only desirous of smoothing the path for American commerce, and that if as a result of the categorical instructions which Sr. Valenzuela had stated had only been given a few days previous to Sr. Urrejola, the restrictions should in fact be removed, it was better not to make an incident of past cases and to see how this plan worked in the future.

Sr. Valenzuela repeated that he was most grateful that this matter had been brought to his attention and he admitted frankly that he had had his own suspicions regarding the assertions of Sr. Urrejola to the effect that no restrictions had existed since April first. . . . He asked that the Embassy bring to his attention immediately any and all cases which might arise where the Exchange Control Commission in the future caused difficulties regarding requests from our merchants for exchange, which Mr. Scotten assured him the Embassy would be glad to do.

In conclusion, both Mr. Bohan and Mr. Scotten expressed the hope that the Control Commission would actually follow out this new plan of imposing no restrictions whatsoever on exchange, at least for a long enough time to prove whether the Chilean Government was physically able to carry it out. In other words, whether there was a sufficient supply of export draft exchange available to meet the requirements of importers of American merchandise. Mr. Scotten added that we were dealing with a perfectly reasonable request from the American Government to the Chilean Government and that the Chilean Government would doubtless receive from time to time further requests, and that if Chile felt itself unable to accede to these requests and would state so quite frankly, it would find that such a refusal would be treated with sympathy and consideration by the Embassy. However, the

Embassy did expect a frank reply as to whether such requests could be acceded to or not.

Sr. Valenzuela repeated that he understood the situation perfectly and that our complaint was entirely justified and he added that he sincerely hoped that in the future no further difficulties would be experienced with the Exchange Control Commission.

While I am perhaps unduly pessimistic, I am far from convinced that notwithstanding the obviously sincere desire of Dr. Cruchaga, the Acting Minister of Finance, and of Sr. Valenzuela, the Under Secretary of Finance, to comply with the promise given to me by Sr. Ross before the latter's departure for Europe, that these exchange restrictions would be removed, that such will, in effect, be the case. The Exchange Control Commission under the Chilean law is to all intents and purposes an autonomous commission and Sr. Urrejola, the Vice President but actual head of the Commission, is not an official of any Ministry. He acts, therefore, practically as a czar in matters relating to exchange and even though Sr. Valenzuela stated that the Control Commission is subject to the Supreme Government, as regards matters of general policy, it needs a Finance Minister of the force and prestige of Sr. Ross himself to make any instructions given to the Control Commission really effective. Furthermore, even granted goodwill on the part of the Exchange Control Commission considerable doubt exists whether the practice could be followed for more than a short time of granting unrestricted exchange to cover imports of merchandise from the United States and Great Britain without the rate of the peso sliding to such an extent as to seriously embarrass the Chilean Government. As the Department will see from the Commercial Attaché's report referred to above, the free market rate has already fallen from approximately 25 a few months ago to approximately 28 at the present time, and it is felt by competent observers that should export draft exchange be given freely the export draft rate would rapidly fall to the free market rate. It is true that the large majority of importers of American merchandise would prefer to be confronted with a low rate of the peso rather than the innumerable difficulties placed in their way at present by the Exchange Control Commission, but this point of view is not shared by most Chilean officials who believe that it is necessary for the economic welfare of Chile to maintain the peso at approximately 25 to the dollar.

Respectfully yours,

HOFFMAN PHILIP

[Enclosure 1—Translation]

*The Under Secretary of the Chilean Ministry of Finance (Valenzuela)
to the Counselor of the American Embassy (Scotten)*

SANTIAGO, April 24, 1936.

MY DEAR COUNSELLOR AND FRIEND: In the desire to clarify the difficulties on importation of American merchandise which you referred to me last Monday which were being presented to the National City Bank through the Exchange Control Commission, I have asked for information on the case and the said Commission tells me that since the first of this month all the difficulties to which you alluded have been removed and that no shipping documents are required in order to authorize exchange for the exportation of American merchandise.

The Exchange Commission informs me further that the complaint of the National City Bank of which you told me at that time and which the Manager confirmed in your presence, is wholly unjustified because all the "solicitudes" which this Bank has presented during the course of the present month have been despatched, and in this connection, cites one for US\$7,000 for importation of yarn, for Mr. Luis Rocandio, and another of the 18th of April for US\$791.20 for the importation of steel for Mr. Salomon Sack.

Mr. Urrejola informs me moreover, that in spite of the above, he called the Manager and the Exchange Trader of the National City Bank to ask them the origin of the complaint which he made to me last time in your presence, and both answered that they believed that in granting the former "solicitudes" the Commission had made an exception, but they do not add any antecedent in confirmation of their complaint.

In view of the above, I hope that you will realize that the difficulties which you fear do not exist and if any concrete case is presented please inform me of it.

Very truly yours,

GUILLERMO VALENZUELA

[Enclosure 2]

*The Counselor of the American Embassy (Scotten) to the Under
Secretary of the Chilean Ministry of Finance (Valenzuela)*

SANTIAGO, April 27, 1936.

DEAR SIR: I have great pleasure in referring to your letter of April 24th and wish to express my sincere appreciation of the interest you have taken in this matter. I have no hesitation in stating that with your valuable help, so well indicated in your letter, all the difficulties with which we are confronted, will be resolved forthwith.

Concerning the details of your letter, I desire to clarify one very important point which I trust you will explain to Mr. Urrejola. It is not a fact that the National City Bank of New York has made any complaint insofar as I know, regarding this subject. From what I have been able to learn from the Bank, and as you are no doubt aware, the Bank merely acts, in these exchange matters, as an intermediary or agent for merchants who desire to make requests for exchange to cover importations of merchandise. The complaints did not originate from the Bank, but from merchants. They brought their complaints to us direct here in the Embassy. What actually happened is that we, in an endeavor to clarify and confirm these complaints, found it convenient to consult the different banks and among others, we consulted the National City Bank of New York, who finance a considerable amount of imports from the United States, in this matter.

The statement made by Mr. Urrejola to the effect that all formal requests for exchange had been granted, appears to be correct in the strict technical sense of the word. However, you will undoubtedly recollect that at the time of our recent conversation at the luncheon given to Mr. Merrill, I approached the Manager of the National City Bank of New York regarding this matter and it is my recollection that he stated to both of us, that it was quite correct that all formal "solicitudes" had been approved. However, I believe you will also recall that he stated that it was his understanding that his Exchange Trader had received verbal instructions from the Exchange Control Commission not to make "solicitudes" for those exchange transactions which were not covered by actual shipping documents already arrived in Chile and naturally out of deference to the Exchange Control Commission, the Bank did not make formal requests for exchange in those cases where prior verbal approval had been solicited and refused. I understand that from time to time importers request exchange in cases where documents have not yet arrived and as far as I have been able to ascertain, the Bank in each case has refrained from filing formal "solicitudes" with the Exchange Control Commission for export draft exchange, because prior verbal consultation with the Exchange Control has indicated the Control Board's unwillingness to approve them. Naturally, having followed a procedure such as this, the Bank would not be in a position to cite any concrete cases of written refusal on the part of the Exchange Control Commission.

In a conversation I had to-day with the Manager of the National City Bank of New York, I took occasion to inform him of the remarks contained in the third paragraph of your letter. He replied that on the basis of information given him by his Exchange Trader, it was his understanding that the two specific cases mentioned by you in the second paragraph of your letter, had been consulted verbally, as is

their usual practice, with the Exchange Control Commission prior to filing the formal "solicitudes". Verbal approval was received in these two cases from the Exchange Control Commission, and as a consequence, the Bank had filed its formal "solicitudes" and they were approved. The Manager of the Bank also went on to state that he had been recently called in by Mr. Urrejola regarding this matter and that it was quite correct that he did not discuss Exchange restrictions with the Exchange Control Board as he felt that this was a matter more properly concerning merchants and importers. Also that in his conversation with Mr. Urrejola, this gentleman stated categorically that since April 1st, all exchange restrictions in connection with importations from the United States, had been removed. This being the case and in view of the assurances contained in your letter under reply that all obstacles surrounding the acquisition of exchange for merchandise from the United States, have been removed, I now feel confident that there will be no further difficulties regarding this matter.

Very truly yours,

ROBERT M. SCOTTEN

825.5151/317

The Ambassador in Chile (Philip) to the Secretary of State

No. 211

SANTIAGO, May 11, 1936.

[Received May 19.]

SIR: I have the honor to refer to my despatch No. 197 of April 29th regarding the exchange situation with special reference to page 7 in which was discussed the effect the recent depreciation of the peso might have upon the policy of the Exchange Control Commission.

On May 8th at the request of the Minister for Foreign Affairs the Counselor of the Embassy and myself called at the Foreign Office and were received by the Minister accompanied by Sr. Germán Vergara, the Under Secretary for Foreign Affairs. The Minister opened the conversation by stating that the Chilean Government was extremely preoccupied with the alarming depreciation of the peso which had occurred within the last few weeks in relation to sterling and dollars and that it was casting about for every means within its power to stabilize the situation.

He recalled that in compliance with the promises given to me by Sr. Ross and by himself the Exchange Control Commission had on April first removed the restrictions under which prior to that date importers of American merchandise were required to submit shipping documents before receiving the authorization of the Control Commission for export draft exchange. He added that it was a general opinion that the removal of these exchange restrictions was in some degree responsible for the fall of the peso and that the Ministries

of Finance and Foreign Affairs had incurred severe criticism for taking this action. He requested me to help Chile out of her difficulties by consenting to the reimposition of these exchange restrictions. At this point Sr. Vergara recalled the conversation which he had had several weeks ago with Mr. Scotten in which he informed the latter that in his opinion if the exchange control restrictions were lifted the peso would be subject to violent fluctuations which would neither be convenient for the Government of Chile nor for American commerce and that now, as we saw, this situation had actually come to pass.

Sr. Vergara and the Minister were informed at once that in the opinion of the Embassy the relaxation of the restrictions which provided for the presentation of documents could in no way be responsible for the recent depreciation of the peso in view of the fact that the amount of export draft exchange authorized by the Control Commission since April first for the importation of American merchandise prior to the presentation of documents was extremely small.

Sr. Vergara replied that he had no doubt that this statement was accurate but that the fact was that the public believed that the removal of the exchange restrictions was responsible for the depreciation of the peso and that the Chilean Government would greatly appreciate my helping it out of this situation by consenting to the reimposition of the restrictions.

I informed the Minister that this was a matter which would require some consideration and study and that I would prefer to defer my answer to his request to another day in the near future.

I inquired as to what the actual factors were which the Minister considered had caused the sudden depreciation in the peso. He replied that probably the depreciation was not due to any one cause but rather to a multiplicity of causes among which he named the increase in imports, the uncertain political situation, lack of confidence in the peso, speculation on the part of the brokers, etc.

He then added that he had a second request to make of me, namely: that I would use my influence informally with the Manager of the National City Bank to cause the latter to restrict the granting of credits to commercial houses who desired to import American merchandise. I gave the Minister no assurances whatsoever that I would take this step and inquired what the attitude of the British Embassy was regarding these matters. I should add parenthetically that the British Ambassador accompanied by the British Commercial Attaché was leaving the office of the Minister for Foreign Affairs just as I entered. The Minister replied that although the British had no objection to his first request they informed him that the Anglo-South American Bank had extended very few credits to commercial houses.

I inquired whether the Chilean Government contemplated taking action to decrease the importations from countries other than the United States and Great Britain. Sr. Vergara replied very confidentially that the Chilean Government had requested the Banco de Chile to restrict granting credit in sterling to exporters desiring to make shipments of wool to Germany in the hope that a diminution of wool shipments would decrease the amount of exchange available to Germany and consequently restrict to some extent German exports to Chile.

The same evening the British Ambassador, Sir Robert Mitchell, telephoned me and informed me that the Minister for Foreign Affairs had requested his consent to the reimposition of the exchange regulations discussed above, but that in his opinion the relaxation of these restrictions had not had the slightest effect upon the peso and he contemplated informing the Minister that he could not see his way clear to consenting to the reimposition of these restrictions.

After a conference with Mr. Bohan, the Commercial Attaché, and Mr. Scotten, the consensus of our opinion was that I should not accede to the Minister's request without authorization from the Department. It was felt, however, that this matter should be considered from the realistic rather than the legal point of view and that the Embassy's attitude should be based upon an attempt to assist importers of American merchandise in the most practicable way possible. It was brought out in the discussion that the inherent difficulty of the exchange situation is the actual scarcity of availabilities, and that if the Minister maintained his request it might be well, if the Department approved, to accept his request, but impose as a definite condition for our acceptance that the Exchange Control Commission should adopt a radical change of administrative tactics and should give promptly and freely export draft exchange to importers of American merchandise as soon as documents were presented and should furthermore impose no restrictions upon the request of importers to open commercial credits obtained through the acquisition of exchange in the free market. Our attitude was based upon the belief that should we show an intransigent attitude the Chilean Government might in theory maintain the fiction that no exchange regulations have existed since April first, but actually through the Exchange Control Commission place quotas upon the importation of certain classes of American merchandise, especially automobiles and radios, and that our commerce as a result would suffer rather than gain by our non-acceptance of the Minister's request.

I was, therefore, prepared to inform the Minister that in case I received definite assurances that the Control Commission would act as regards the authorization of exchange against documents in the

manner outlined above, I would recommend to my Government that the latter give its consent to the first request. I thereupon secured an appointment with the Minister on the morning of May 9th and called upon him accompanied by Messrs. Bohan and Scotten.

I informed him that after careful consideration of this question I was unable to agree that a relaxation of the exchange regulations had had the slightest effect upon the peso rate and that although I had the greatest sympathy with the problems faced by the Government and desired to do everything in my power to assist the Government, I could not acquiesce to his request without authority from my Government. At this point, much to my surprise, the Minister stated that the British Ambassador felt the same way as I did regarding this question, and that the Foreign Office had decided to withdraw its request. Since this somewhat surprising *volte face* on the part of the Minister made no further discussion necessary nor advisable at the time no further discussion of importance ensued. The Minister, however, informed me that on account of certain measures which the Government had taken the peso rate had improved somewhat during the past twenty-four hours and the Government was much encouraged thereby.

It will be most interesting to observe further developments in this situation and my fear is that unless the peso either improves or remains more or less stable at the present rate, American importers will be subjected to further difficulties on the part of the Exchange Control Commission. Sr. Urrejola, the head of the Exchange Control Commission, has had several talks with the Managers of both of the Anglo-South American and National City Banks and has requested these Banks to assist in the stabilization of Chilean exchange. Mr. Willett, the Manager of the National City Bank, informs me that he told Sr. Urrejola categorically that as long as the local brokers are allowed to deal freely in free market exchange with no control whatsoever on the part of the Government, the National City Bank did not see what action it could possibly take to assist the Government in stabilizing the rate. He informed Sr. Urrejola that if the Government either through administrative action or through a modification of the legislation governing exchange would place the exchange business back where it properly belonged, namely in the Banks, instead of with the brokers and then request the Banks to assist in stabilizing the rate, this would be possible. However, as long as imports of merchandise could be financed through the purchase of exchange at any rate demanded by the brokers and as long as the latter were not controlled by the Government, the Banks were powerless.

I believe it necessary to make this rather long exposé to show the Department how confused and complex the exchange situation in

Chile is at the present time. On the one hand the Control Commission is actually faced with the scarcity of export draft exchange required by the needs of the United States and other countries not included in Chile's compensation agreements. On the other hand, the importers are faced with an extremely difficult personality to deal with in Sr. Urrejola, the Vice President of the Control Commission. Sr. Urrejola, according to the Manager of the National City Bank, actually informed the latter a few days ago that if he found it necessary he was prepared in order to save the peso to impose quotas against the importation of automobiles and radios and would have no hesitation in doing so to conserve Chile's supply of exchange.

Respectfully yours,

HOFFMAN PHILIP

825.5151/321

The Ambassador in Chile (Philip) to the Secretary of State

No. 221

SANTIAGO, May 13, 1936.

[Received May 27.]

SIR: I have the honor to refer to the Department's telegraphic instruction No. 24 of May 12, 7 p. m.,³⁶ with a special reference to final paragraph requesting me to report as soon as possible the status of the American blocked funds, the transfer of which the Minister of Finance promised to authorize just prior to his departure.

In reply reference is made to the Commercial Attaché's report No. 389 of May 4, 1936,^{36a} in which it was stated that no transfers of these funds have as yet been authorized by the Exchange Control Commission. It is, of course, regrettable that no action has apparently been taken by the Exchange Control Commission to carry out the promise made to me by Sr. Ross. However, certain practical aspects of this matter should, I believe, be taken into consideration before any further action is taken on the part of this Embassy to press this matter with the Chilean Government.

Prior to the departure of Sr. Ross on February 7, 1936, and in fact until March 23, 1936, upon which date the Banks were authorized by the Chilean Government to deal in exchange other than export draft exchange (see Embassy's despatch No. 157 of March 31, 1936), the only exchange which could legally have been authorized by the Exchange Control Commission for the liquidation of the blocked funds in question was export draft exchange. Since, however, the Banks are now authorized to deal in free exchange, the latter exchange is available for the liquidation of blocked funds. However, as the Department is aware, both the export draft rate and more par-

³⁶ *Ante*, p. 323.

^{36a} Not found in Department files.

ticularly the peso rate in the free market has fallen off to a considerable extent since the departure of Sr. Ross for Europe.

At the same time, as the Department is likewise aware, from the Embassy's despatches, the utmost confusion prevails in the exchange market at the present time due partially and probably primarily to the scarcity both of free exchange and export draft exchange and partially to the tactics of the Exchange Control Commission which is apparently, during the absence of Sr. Ross, unable to handle the situation in a logical and orderly manner. Importers of American merchandise are having the greatest difficulty in securing exchange of any sort to meet their needs and in spite of the assurances given the Embassy on several occasions that no further restrictions exist regarding the granting of export draft exchange to importers either upon presentation of documents or prior to the same, the fact is that virtually no exchange has been authorized prior to the presentation of documents, and at the date of writing this despatch, importers of automobiles and radios are having difficulty in obtaining export draft exchange even upon the presentation of documents to the Exchange Control Commission. Furthermore, while it is true that the holders of blocked funds would probably have been glad to liquidate those funds at the rate prevailing upon the date Sr. Ross made me the promise referred to, I am not sure, nor is the National City bank which is the chief intermediary for such requests, whether they would be willing to accept the unfreezing of their credits at the present prevailing rate in the free market even if so authorized by the Exchange Control Commission. The fact is that according to the Manager of the National City Bank, since the latter has been authorized to deal in free exchange only one request has been received by the Bank to request authorization to liquidate a blocked account. This request, which came through the head office of the Bank in New York, was made on behalf of the firm of Remington-Rand to liquidate its blocked funds amounting to some \$65,000, at any rate that could be obtained. I may mention that the National City Bank in Santiago has recently received authorization to liquidate its oversold position to the extent of \$100,000 with free market exchange.

With this picture in mind I believe that the most important problem faced by the importers at the present time is to secure sufficient exchange to finance current trade rather than to unfreeze their blocked credits. Should I continue to exert pressure to secure a general liquidation of the blocked credits enumerated in the list submitted to the Foreign Office, and should the Control Commission actually give authorization for the liquidation of these funds, I fear that the use of any considerable quantity of exchange in this way would be a serious detriment to those importers whose chief preoccupation at present is securing exchange to carry on their current trade.

According to the press, Sr. Ross is sailing from Europe on the 22nd instant, directly for South America and should arrive, therefore, in Chile during the first part of June. If the Department will so authorize me, I recommend that I be allowed to defer any further action regarding this matter until he assumes his duties, at which time I will make an effort not only to secure his cooperation in straightening out the confused exchange situation, but in unblocking the funds referred to.

Respectfully yours,

HOFFMAN PHILIP

825.5151/314 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, May 16, 1936—1 p. m.

[Received 3 : 10 p. m.]

40. On the 15th instant Edward Crowley, representative of General Motors, was definitely refused by Señor Urrejola, Vice President of the Exchange Control Commission, exchange permits of any kind for automobiles and chassis against documents. These vehicles which have already passed the customs have an approximate value of \$20,000. Urrejola also stated that no matter what Crowley was told by this Embassy Chile is economically unable to absorb any further automobiles and that consequently no further exchange of any nature will be granted for this purpose. Crowley states that General Motors has some 38 additional units now en route to Chile and that more are expected to be shipped today.

The manager of the National City Bank states this morning that Urrejola has informed the bank that no further exchange of any sort will be authorized for the importation of automobiles and radios until further notice.

I protested on the 14th instant to Dr. Cruchaga against the serious condition arising from the arbitrary and confusing management of the Exchange Control Commission but as Acting Minister of Hacienda he seems unable to bring about a change of Urrejola's methods. I suggested that the Department bring the situation to the attention of the Chilean Ambassador in Washington on the ground that American commerce with Chile is being seriously affected by the attitude of the Exchange Control Commission here.

PHILIP

825.5151/315 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, May 18, 1936—6 p. m.

[Received 9 : 50 p. m.]

45. My cable 40 of May 16, 1 p. m. During a conference with the Minister of Foreign Affairs this morning I requested information on

the following points: (1) Has the Chilean Government decided to refuse all exchange for the financing of imports of automobiles and radios; (2) does this restriction affect countries having compensation treaties with Chile; (3) does the restriction affect any other foreign products and, (4) what will be done in regard to automobiles and radios now in transit to Chile.

Dr. Cruchaga called in Undersecretary Vergara and Mr. Cohen³⁷ and replied in the following sense: (1) His Government has decided upon this measure primarily as a means of preventing depreciation of the peso and the measure probably will remain in force until a contemplated schedule of more or less prohibitive duties on certain types of automobiles and radios can be enacted; (2) the refusal of exchange permits for automobiles, radios, and other products of countries having compensation agreements cannot, it is believed, be made so long as the total of such imports does not exceed that of Chilean products purchased; (3) no decision as to the refusal of exchange for other luxury articles has yet been arrived at; (4) I was requested, if possible, to furnish a list of all American automobiles and radios in transit for or now landed in Chile and was assured that the Foreign Minister will at once take up the question of granting exchange permits for these consignments with the Exchange Control Commission.

Dr. Cruchaga and his assistants were all emphatic in their assurances that no intention to discriminate against the United States exists here. The Minister stated that a very alarming shortage of dollar and pound exchange exists and that the rapidly increasing number of orders for automobiles and radios is believed to constitute a grave danger for the Chilean financial situation. He mentioned in this connection the existence of a great discrepancy in the balance of cash payments between the United States and Chile in favor of the former. Mention also was made of the serious effect upon the peso which had followed the removal of the exchange restrictions urged by me, etc. I replied that a very thorough study of the question by the Embassy had shown that the removal of the restrictions alluded to had affected the value of the peso practically not at all; that I regarded the adoption of the above policy without previous advice as a serious blow to our commercial relations and one which can hardly be contemplated as other than a discrimination against American interests. Commercial Attaché requests Department of Commerce be advised regarding shipments in transit situation.

PHILIP

³⁷ Benjamin Cohen, Chief of the Diplomatic Bureau of the Ministry for Foreign Affairs.

825.5151/315 : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, May 25, 1936—6 p. m.

30. Your 40, May 16, 1 p. m., and 45, May 18, 6 p. m. The Department will discuss this situation with the Chilean Ambassador and instruct the Embassy further as soon as such an interview shall have taken place.

The Department would deeply regret the proposed action of the Chilean Government of making definitive the restrictions on the importation of automobiles and radios. It considers that the effect would be discriminatory to American trade. Furthermore, the Department feels that the contemplated imposition of prohibitive duties on certain types of automobiles and radios would constitute a distinct regression from the present tendency towards stabilizing or even lowering tariff barriers. Such a step would be particularly unfortunate on the eve of the approaching Pan American Peace Conference.⁸⁸

At your discretion you are authorized to express the Department's views to the Chilean Government when an appropriate occasion presents itself.

HULL

611.2531/158a

*The Department of State to the Chilean Embassy*MEMORANDUM⁸⁹

A telegram has recently been received from the American Ambassador in Santiago which states that the Chilean Government has decided to refuse all exchange for the financing of imports of automobiles and radios as a means of preventing the depreciation of the peso, and that this measure will probably remain in force until a contemplated schedule of more or less prohibitive duties on certain types of automobiles and radios can be enacted. The Minister for Foreign Affairs has added that the refusal of exchange permits for automobiles, radios and other products of countries having compensation agreements cannot, he believes, be made so long as the total of such imports does not exceed that of Chilean products purchased.

The information supplied by the American Ambassador is of great concern to the American Government, since it appears that, contrary to the assurances expressed by the Chilean Government, provisional measures in restriction of trade are now to become permanent.

⁸⁸ See pp. 3 ff.

⁸⁹ A copy of this Memorandum was enclosed in instruction No. 93, June 3, to the Ambassador in Chile, with the request that it be left with the Minister for Foreign Affairs when a suitable occasion should arise.

As will be recalled, following a series of protracted discussions concerning exchange matters, the Chilean Government during 1934 and the first four or five months of 1935 pursued a policy of freely according authorization for the purchase of export drafts and other suitable instruments of exchange, for financing the needs of current American trade, and for the repatriation of various types of American credits. However, about May, 1935, because of an alleged threatened shortage of exchange, this policy was changed. Measures were adopted which bore with particular hardship on the commerce and interests of the United States. These measures have included (a) the refusal to authorize the purchase of export drafts for the importation of automobiles and radios, and for a period of several months for the importation of automobile tires, (b) during a certain time the requirement that prospective importers exhibit shipping documents prior to the granting of authorization by the Exchange Control Commission for the purchase of export drafts, and (c) the refusal to grant exchange for American funds of various types awaiting transfer. In addition to the difficulties created by the formal measures referred to above, American commerce has been hampered by the policy of the Exchange Control Commission of delaying or obstructing action on requests (*solicitudes*) for exchange.

In response to inquiries by the American Embassy concerning the increasingly serious situation being created for American commerce, the Chilean Government, apparently recognizing the harmful effect of these measures, has heretofore replied that the restrictions were of a temporary character and that it hoped and indeed expected that they would be lifted in the relatively near future. It now appears that far from removing or lightening these impediments to trade it is contemplating maintaining them until a schedule of prohibitive duties can be imposed upon certain types of automobiles and radios.

The Chilean Government has stated that these measures are for the purpose of maintaining the value of the peso. With respect to the relation between the depreciation of the peso and Chile's requirements for dollar exchange, it should be pointed out that while Chile's monetary policies are matters for its own appropriate consideration, the American Government has every reason to expect that financial policies, whether adopted in defense of the peso or for other reasons, shall not be made of such a nature as to constitute in effect a commercial policy of discriminating primarily against the commerce of the United States and in favor of countries which are parties to a system of discriminating bilateral clearing and payments agreements. With regard to the measures under consideration, the Minister for Foreign Affairs has stated that the refusal of the granting of exchange will not extend to the products of countries having compensation agreements

insofar as exchange is available for their needs through such agreements. Since, aside from countries having compensation agreements, the United States is the only important supplier of the products under discussion it is apparent that American commerce is asked to bear the brunt of the restrictions. Furthermore, in the event that, because of a fall in the value of the peso, the Chilean Government should pursue this principle still further, enlarging the group of articles on which restrictions are placed, it is apparent that the United States would obtain a diminishing percentage of its share of Chile's trade since, under such conditions, an increasingly large proportion of exchange for imports would be supplied by funds accruing in blockage accounts of countries having compensation agreements.

With respect to the transfer of American frozen credits, it is pertinent to note that, in spite of the assurances made by the Minister of Finance to the American Ambassador, just prior to the former's departure for Europe, that steps would be taken to release these funds, to date no substantial portion of such funds has been allowed to leave the country.

With regard to Chile's proposal to place a prohibitive duty on certain articles preponderantly of American origin, the American Government can only view such a move as a distinct regression in the trend which is developing among the American republics of seeking tariff truces or, where possible, or reducing tariffs. Indeed, the Chilean Government itself has signified its concurrence in such a policy when, in setting forth suggestions for the agenda for the coming inter-American conference for the maintenance of peace, it advocated the elimination of the obstacles to inter-American commerce, stating that "it is impossible to ignore the direct influence exercised by disputes of an economic character on international relations" and that this fact "gave rise to the suggestions of the President of the Chilean Republic that the establishment of a policy of increasing exemptions to reciprocal commerce be undertaken with the object of preventing the conflict of economic interests".

In giving consideration to the present representation and to the policy of the United States in seeking that its trade should receive equitable treatment in Chile, the Chilean Government will no doubt wish to consider not only the effects of lending support to policies broadly injurious to the world, but also the ultimate results from a narrower point of view of continuing specific practices which can hardly fail to prove prejudicial to the important trade of Chile with the United States. It is confidently expected that the Chilean Government will bear in mind the fact that under the régime of liberal multilateral trade favored by the United States, the products of Chile enter the United States without being subjected to quota, clearing, or exchange restrictions and that Chile finds a ready market for a very large

proportion of its chief export, nitrate of soda, which, although competitive with American nitrates, is admitted to the United States free of duty. Furthermore, it is felt that the Chilean Government will also give consideration to the fact that it is now receiving, by specific proclamation of the President, the benefits of the tariff concessions which are being made by the United States in the trade agreements negotiated with various countries.

WASHINGTON, May 29, 1936.

825.5151/323 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, June 3, 1936—1 p. m.

[Received 3 : 25 p. m.]

47. My telegram No. 45, May 18, 6 p. m. Motor vehicles and radios ordered prior to embargo of May 16th are fast accumulating on Chilean docks and Embassy is being pressed for assistance. Urrejola informed Bohan⁴⁰ yesterday that he lacks authority to decide question of granting exchange for goods in transit until Ross returns. Have again made representations to Señor Cruchaga but have little hope of rapid solution of this urgent matter in that quarter. Bohan wishes Commerce informed of status.

Would appreciate suggestions by Department.

PHILIP

825.5151/321

The Secretary of State to the Ambassador in Chile (Philip)

No. 95

WASHINGTON, June 6, 1936.

SIR: The Department has received your despatch No. 221 of May 13, 1936, reporting on the status of the transfer of American blocked funds, and requesting that the Department authorize you to defer further action concerning these funds until the return of Señor Ross, the Minister of Finance.

The Department concurs in your idea that it may be desirable to postpone a discussion of this matter until you have had an opportunity to go into it and other exchange troubles with the Finance Minister, and therefore authorizes you to refrain from further action in the matter until you deem the occasion more propitious.

When you discuss this matter with the Finance Minister you may bring to his attention the fact that alone of the major trading nations of South America, Chile has failed to provide for systematic liquidation of blocked balances owned by American nationals.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

⁴⁰ Merwin L. Bohan, Commercial Attaché.

825.5151/831

The Ambassador in Chile (Philip) to the Secretary of State

No. 239

SANTIAGO, June 13, 1936.

[Received June 20.]

SIR: I have the honor to refer to my cable message No. 47 of June 3, 1 p. m., and to previous correspondence relative to the embargo placed by the Chilean Government upon motor vehicles and radios, in general, and in particular to the question of granting exchange permits for such products already in transit when this action was taken.

The Embassy has been besieged by importers and others interested with requests for assistance. Automobiles and radios have been fast accumulating on the docks in Chilean ports where the former are for the most part held in open spaces subject to the inclement weather conditions as well as to insurance and storage charges.

After having unsuccessfully endeavored to see the Minister of Foreign Affairs, I addressed to him a note on the 2nd instant, of which I beg to transmit a copy herewith.⁴¹

Subsequent inquiries at the Foreign Office elicited the information that everything possible was being done to expedite the matter and I was assured that the Foreign Minister was in accord with the justice of my request.

At the same time, I was quite convinced that nothing definite could be accomplished in this quarter until the return of the Minister of Hacienda. The Exchange Control Commission gave every evidence of complete independence of any other source of authority.

Señor Gustavo Ross arrived in Santiago on the 10th instant.

In the meantime I went down to Valparaiso and visited the Customs where I found about sixty American and twelve German automobiles unboxed and standing in the open. Some of the American cars, I was informed, had been there for weeks and had been subjected to five heavy rain storms during that period. In addition there were a hundred Ford cars and many others boxed but also in the open.

On my return to Santiago, I again got in touch with the Foreign Office and was assured that the matter was receiving every attention possible.

I beg also to transmit with this a copy and translation of a note I have now received from the Minister of Foreign Affairs dated the 10th instant.⁴¹

In this note Dr. Cruchaga states that after consultation with Señor Ross it has been decided to permit the importation of motor vehicles

⁴¹ Not printed.

and radios which were shipped to Chile prior to the receipt of notice of the embargo.

The note states also that the Government has decided to prohibit the importation of these articles from all countries, including those with which Chile has compensation agreements.

Since the receipt of the enclosed note I have learned today that one firm of importers of American automobiles has received an export draft permit for a part of its consignments and a promise that the balance will be granted in permits for exchange in the open market. No action has yet been taken with regard to other applicants.

Futher developments in the matter will be reported to the Department.

Respectfully yours,

HOFFMAN PHILIP

825.5151/329 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, June 18, 1936—3 p. m.

[Received 3:17 p. m.]

57. My telegram No. 56, June 13, 3 [6] p. m.⁴³ Entry of motor vehicles and radios in customs and in transit being facilitated but Board of Exchange Control states that such permits will be furnished only as conditions permit. Indications are that this delay will be a question of months.

Will request Minister of Foreign Affairs to endeavor to have this delay shortened as much as possible in order that additional frozen credits may be obviated.

Please inform Department of Commerce.

PHILIP

825.5151/330 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, June 19, 1936—1 p. m.

[Received 1:05 p. m.]

58. My telegram No. 57, June 18, 3 p. m. Delay referred to involves the granting of permits for dollar exchange.

PHILIP

⁴³ Not printed.

825.5151/333

The Ambassador in Chile (Philip) to the Secretary of State

No. 248

[Received June 27.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 93 of June 3, 1936⁴⁴ with which were enclosed copies of a memorandum setting forth our Government's views regarding the exchange situation existing in Chile which was handed to the Chilean Ambassador in Washington.

In accordance with the Department's wishes I handed a copy of this memorandum to the Minister for Foreign Affairs on the 19th instant.

The Minister did not read the memorandum in my presence but indicated that its contents were known to him and remarked that he had hoped that the contents of his note to me of the 10th instant (transmitted to the Department with my despatch No. 239 of June 13th) would have been found a satisfactory reply to the Department's observations.

I said that this could hardly be the case as the memorandum deals with a long pending situation in the course of which the trade of the United States with Chile has been subjected to many discouragements; that this situation seems to be growing worse rather than better; and that in consideration of the fact that the attitude of the United States toward Chile has displayed invariable consideration for the commercial interests of that country, it is but natural that my Government should seek an adjustment which will assure a modicum of equable treatment for our commercial interests. Dr. Cruchaga said that the subject matter of the Department's memorandum was now under consideration by his Government. He deplored my suggestion that should a remedy not be found for the trouble it might give rise, if allowed to continue indefinitely, to the necessity for some form of retaliatory action on the part of the United States, and expressed himself unable to conceive that Chile's difficulties in the matter of Foreign exchange would lead to such an outcome.

I asked if any progress had been made toward a decision in the matter of the Department's draft of a *modus vivendi*⁴⁵ which I had submitted to him on April 18, 1936, and if it had been shown to Señor Ross since his return. The Minister replied that he and Señor Ross found the Department's proposals as to the stabilization of exchange very difficult to reach a decision over, but that otherwise the draft seemed to present no difficulties.

⁴⁴ Not printed, but see memorandum dated May 29 to the Chilean Embassy, p. 347.

⁴⁵ See pp. 318 ff.

I remarked that I had observed in the press of Santiago that the Foreign Office was giving consideration to commercial treaties with Great Britain and other countries and requested confirmation of this. Dr. Cruchaga replied that my information was correct and that the negotiations with Great Britain were proving excessively difficult for Chile. He remarked that the British were extremely exacting people to deal with in such matters and that he much preferred to negotiate with Americans. I said that I did not know whether or not I should take that as a compliment.

Incidentally, although the Minister agreed that much of Chile's difficulty with Great Britain centered upon the question of exchange, I have been unable so far to ascertain any pertinent facts respecting the details of the negotiations. As previously reported to the Department, I have been given to understand that they are being chiefly conducted in London.

I regret not being in a position as yet to advance more useful suggestions as to the best means of dealing with the existing exchange difficulties. The situation is exceedingly involved and is highly complicated by the effect upon it of the various compensation agreements, notably that with Germany.

The Commercial Attaché of the Embassy is now engaged upon an exhaustive study of the shortage of dollar exchange. Up to the present the results of his enquiries indicate a lamentable deficiency of exchange available to cover transactions with the United States.

Respectfully yours,

HOFFMAN PHILIP

825.5151/336

The Ambassador in Chile (Philip) to the Secretary of State

No. 251

SANTIAGO, June 26, 1936.

[Received July 6.]

SIR: Adverting to my cable message No. 57 of June 18, 3 p. m., 1936, and to my despatch No. 247 of June 20, 1936,⁴⁶ relative to the status of motor vehicles and radios ordered prior to the receipt of notice of the prohibition by the Chilean Government against their importation, I have the honor to report that the situation remains without material change.

Importers of these products are receiving permits to clear them from the Chilean customs but, with few exceptions, exchange facilities for the fulfillment of relative contracts in the United States are being systematically refused.

I have as yet obtained no reaction to my note of the 19th instant⁴⁷ to the Minister for Foreign Affairs, although I have reason to believe

⁴⁶ Despatch not printed.

⁴⁷ Not printed.

that the question is under serious consideration by the Chilean Government.

As the matter stands, the immediate situation of the Chilean importer of these products has improved. Indeed, I learn that permits of importation are even being given for consignments of automobiles and radios which were shipped from the United States subsequent to the receipt of notice of their prohibition. Therefore the question of first importance continues to be that of the liquidation of these accounts in the United States.

The all important necessity is dollar exchange. This problem is one of far reaching importance to American exporters to Chile.

The Chilean Government refuses to grant this for the implied reason that there is none available. The Embassy's study of the highly involved exchange situation is not yet completed.

I shall hope that additional information will be available for the Department in the near future.

Respectfully yours,

HOFFMAN PHILIP

825.5151/334 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, June 30, 1936—3 p. m.

[Received 3:50 p. m.]

60. Referring to previous correspondence respecting our exchange difficulties with Chile, I strongly advise that no further action be taken by the Department until after the completion and receipt of the study of the entire question now in preparation by the Commercial Attaché.

The shortage of dollar and pound exchange in this market is most acute and I think that no advantage would be derived from further official emphasis by us at this juncture.

PHILIP

825.5151/342

The Minister in Chile (Philip) to the Secretary of State

[Extracts]

No. 261

SANTIAGO, July 15, 1936.

[Received July 21.]

SIR: I have the honor to report that late in the morning of the 11th instant I was requested to visit the Chilean Minister of Foreign Affairs at the Foreign Office. Arriving there about 11:30 A. M., I was received by Don Miguel Cruchaga and Mr. Benjamin Cohen, Chief of the Diplomatic Department of the Ministry.

The Minister informed me that his Government had prepared a memorandum⁴⁸ in reply to that which was handed to the Chilean Ambassador by Mr. Welles on May 11th [29th?] last.

It is my conception that no useful purpose would be served by any extensive critique of the text of this memorandum.

The main point seems to be that Chile admits a dangerous shortage of dollar exchange, and this condition is indicated by the report of the Commercial Attaché which is being submitted to the Department in this pouch. The memorandum suggests that the only methods by which more of this exchange can be created is by "increased consumption of Chilean products by the United States, or by the acceptance, in payment for American merchandise exported to Chile, of a part of the sums now retained in the United States for the payment of services on capital invested in the nitrate, copper and iron industries".

Doubtless the latter suggestion has been inserted at the instigation of Señor Gustavo Ross, Minister of Hacienda. From all I have gathered here so far, the adoption of this suggestion would seem to me both impracticable and unjust.

Respectfully yours,

HOFFMAN PHILIP

825.5151/356 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, October 2, 1936—2 p. m.

[Received 4:05 p. m.]

103. The International Exchange Control Commission publishes announcement today of which the following is the principal part: from October 1st the Commission will authorize the importation of luxury articles or those not absolutely indispensable, such as automobiles, radios, films et cetera solely from exchange created by the gold production of Chile. Such importations will require as usual prior authorization from the Commission. The importation of automobiles and radios from each country will be subjected to quotas.

It is understood that gold exchange rates will be arbitrarily set by the Government, for the stated purpose of providing means of increasing wages of the gold washers, but no information is yet available as to these rates. The Embassy assumes that the rate will be around 30 pesos to the dollar.

No authoritative information as to quotas as would be available but Ministry of Foreign Affairs states that it is proposed to limit im-

⁴⁸ Not printed. A copy and translation was enclosed with the despatch. The original was transmitted to the Department by the Chilean Embassy on July 20 (625.116 Autos/7).

portation of passenger cars and trucks to a total of 1800 units, of which 1530 units will be assigned to the United States, 180 to Germany, and 60 to France. Amount of exchange to become available for radios not yet computed.

Hope to forward additional information shortly. Please advise Commerce.

PHILIP

825.5151/357 : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, October 12, 1936—8 p. m.

73. Your despatch 357, October 3.⁴⁹ Please call on the Foreign Minister and leave a memorandum stating in substance that this Government having been apprised of the intention of the Chilean Government to establish quotas for automobiles and radios confidently assumes that the proportions of American products provided for in the quotas will not be lower than the proportions of units imported from the United States in recent representative periods for the respective commodities, as this Government would otherwise be obliged to view the quotas as discriminatory against the trade of the United States.

Please report by telegraph quotas as soon as determined and other developments. Also kindly check gold production figures in enclosure 3 of your despatch under reference as they appear to be substantially lower than Department of Commerce figures taken from the Central Bank of Chile Bulletin for last July.

HULL

825.5151/358 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, October 14, 1936—5 p. m.

[Received 7:07 p. m.]

105. Department's telegram No. 73, October 12, 8 p. m. I handed memorandum to Foreign Minister today as instructed. He expressed optimism regarding future commercial relations with the United States and, while confirming the quota figures for automobiles already reported by me, he said confidentially that he believes this Government will eventually increase the quota allotment of the United States.

The Embassy has been assured by the President of the Exchange Control Commission that the quotas for motor vehicles reported in

⁴⁹ Not printed.

my despatch No. 357,⁵⁰ enclosure 1 paragraph 3, are definitive. No quotas for radios have been announced yet.

Gold deposits in the Central Bank against which imports of automobiles, et cetera, are to be authorized are to be drawn from three sources only as follows: mines, placers, and old gold melted at mint. The figures of the Central Bank Bulletin for July included gold content of exported minerals, et cetera.

PHILIP

825.5151/363 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, October 30, 1936—3 p. m.

[Received 4:21 p. m.]

108. My 105, October 14, 5 p. m., and other correspondence in regard to new Chilean exchange regulations:

Announcement is made in the press of today that the gold rate has now been set at 35 pesos to the dollar. The President of the Exchange Control Commission has confirmed this and states that this rate will be applicable to automobiles, radios, and all other products on the list of non-essential items except that trucks, repair parts for trucks, and truck tires will continue to be allotted exchange at 30 pesos. Please inform Commerce of above.

This arbitrary manipulation of the dollar peso rate would seem to involve a flagrant discrimination against American products as compared with those from compensation treaty countries. I am of the opinion that it should be met by the Department with a firm and decisive protest.

PHILIP

825.5151/363 : Telegram

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

WASHINGTON, October 31, 1936—2 p. m.

75. Your telegram No. 108, October 30, 3 p. m. Please telegraph before Monday morning the apparent reason for new gold rate and whether you regard it as discriminatory against American goods because most imports affected come from the United States or because a more favorable exchange rate is given imports of the same commodities from compensation agreement countries.

Also please telegraph any suggestions which you have as to form and content of possible representations.

CARR

⁵⁰ Not printed.

825.5151/364 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, November 1, 1936—6 p. m.
 [Received November 2—12: 16 a. m.]

109. Department's 75, October 31, 2 p. m. There is practically no information obtainable from official sources as to motives of the Government in establishing this new gold rate of 35 pesos to the dollar. The apparent reason is to further restrict imports primarily from the United States. Discrimination is clear and best illustrated by concrete example: tires can be imported from France either through "a" account or private compensation. The rate for the former is placed by Government decree at 135% of official rate—equivalent to 26.14 pesos per dollar—see E and T note 340 of March 27, 1936,⁵¹—and for the latter at rate set by supply and demand. Passenger car tires from the United States arbitrarily subject to 35 peso gold rate. This rate is equivalent to 161% of official rate and is between 5 and 6 pesos higher than value of gold as reflected in extra-legal market where supply and demand sets quotations. Former 30 peso rate, although higher than account "a" rate, was made here on grounds that it reflected approximately true rates and thus made full production legally available.

I believe that prompt action in this matter is most advisable and after consideration I request Department's authorization to send note to the Minister for Foreign Affairs at once which will embody a protest against the new regulation based upon the situation as above indicated to be.

PHILIP

825.5151/366 : Telegram

The Ambassador in Chile (Philip) to the Secretary of State

SANTIAGO, November 5, 1936—1 p. m.
 [Received 1: 20 p. m.]

111. My 110, November 4, 3 p. m.⁵² The Minister of Hacienda states that his government has now found it impossible under its compensation treaties to subject automobiles from compensation treaty countries to the quota system and, as the great majority of such imports come from the United States, the rate of 35 pesos to the dollar was set as a means of checking the ever-increasing public expenditures for these foreign products. Therefore, I assume that the quota on automobiles will be abandoned by the Government. He admits that some discrimination does exist as regards imports from the United

⁵¹ Economic and trade note not found in Department files.

⁵² Not printed.

States under the present regulations and has asked for several days in which to consider the question with a view to finding a means of readjusting the situation on a basis of equality for all foreign countries. He has promised to let me have a reply by Monday, the 9th instant.

PHILIP

825.5151/364 : Telegram

The Secretary of State to the Ambassador in Chile (Philip)

WASHINGTON, November 5, 1936—6 p. m.

78. Your telegram No. 109 of November 1, 6 p. m. You are requested to address a note to the Minister for Foreign Affairs conveying the substance of the following:

“Upon instruction of my Government, I have the honor again to bring to the attention of Your Excellency’s Government the operation of foreign exchange control in Chile as affecting American interests. The policy of my Government in regard to these measures has been, as Your Excellency must be aware, to show all possible consideration to the Chilean Government, notwithstanding the very great burden which has attached to the United States export trade to Chile and to the blocked accounts in Chile of American nationals. My Government has considered it only fair and equitable to expect the same degree of consideration on the part of Your Excellency’s Government towards the problems of American interests adversely affected.

My Government has just been informed of a press announcement stating that Your Excellency’s Government has established a special foreign exchange rate of 35 pesos to the dollar for the importation of certain classes of merchandise, which come chiefly from the United States. I am instructed to state that if this announcement is correct and if, as is understood, imports of the same commodities from countries having compensation agreements with Chile would, in accordance with the terms of such agreements, be granted exchange rates more favorable for importation than the above rate governing imports from the United States, my Government would have no course other than to regard the new rate as discriminatory against the commerce of the United States. The effect of such discrimination would necessarily be to place at a material disadvantage the import trade from the United States, which, following a policy of consistent avoidance of exclusive bilateral trade or exchange agreements in the firm belief that they are injurious to international commerce and world recovery, has not entered into such an agreement with Chile.

In this connection, I am instructed again to bring to the attention of Your Excellency’s Government the practice, established by law, of my Government in generalizing for the benefit of other countries concessions granted in trade agreements provided that discrimination is not made against the commerce of the United States.

Your Excellency’s Government in the concluding paragraph of its courteous memorandum of July 20 last⁵³ stated that it was disposed

⁵³ Not printed; but see despatch No. 261, July 15, from the Minister in Chile, p. 355.

to study with my Government the vast field of the reciprocal economic relations between the United States and Chile.⁵⁴ My Government directs me to inform Your Excellency that it welcomes the opportunity which the Government of Chile is disposed to afford for a study of the particulars of the economic relations between the two countries and that it is hoped that certain of the advisers to the American Delegation at the forthcoming conference at Buenos Aires may visit Chile after the conference for the purpose of holding such discussions.”

The Department is sending to you by air mail an instruction concerning representations to be made later in regard to blocked accounts.

With respect to the negotiations for a new *modus vivendi* you are informed that after careful consideration the Department has concluded not to take up the matter further with the Chilean Government until after the Buenos Aires conference.⁵⁵

HULL

825.5151/367

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

No. 144

WASHINGTON, November 13, 1936.

SIR: There is enclosed for your information and such comments as you may wish to make a copy of a letter ⁵⁶ addressed to the Department on October 28 last by Mr. Frederick L. Herron, Foreign Manager, Motion Picture Producers and Distributors of America, Incorporated, New York City, in regard to the frozen credits in Chile of American motion picture companies.

The Department desires that at this time you again discuss informally with the Minister for Foreign Affairs, and in your discretion with the Minister of Finance, the matter of the blocked credits in Chile of various American interests and the substantial burden which they are to many nationals of the United States. You are requested to state that it is the understanding of this Government that a large proportion, if not the total amount, of the blocked credits of nationals of countries having compensation and clearing agreements with Chile has now been liquidated, while blocked funds of American interests have been released in a much smaller degree, the amount of these not having been reduced for many months. Reference should be made again to the assurances given to you by the Minister of Finance last January to the effect that American blocked accounts would be released prior to his departure for Europe on leave of absence shortly thereafter, and to the failure of the Chilean Government to act in accordance with these assurances. You may advert

⁵⁴ See *Foreign Relations*, 1935, vol. iv, pp. 389 ff.

⁵⁵ See pp. 3 ff.

⁵⁶ Not printed.

to the fact that all of the other principal commercial countries of the Western Hemisphere having exchange arrears have now either entirely liquidated their blocked funds or have provided for their systematic liquidation, and add that it is earnestly hoped by this Government that the blocked credits of American nationals in Chile may be promptly released.

Very truly yours,

For the Acting Secretary of State:
FRANCIS B. SAYRE

825.5151/370

The Ambassador in Chile (Philip) to the Secretary of State

No. 422

SANTIAGO, November 25, 1936.

[Received December 1.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 144 of the 13th instant, with enclosure from the Foreign Manager of the Motion Picture Producers and Distributors of America, Incorporated, which refers to funds of American motion picture companies now blocked in Chile due to the refusal by this Government to grant export draft facilities.

This subject involves the crux of the majority of our trade difficulties with this country. For the past year and a half the Embassy has been constantly occupied with it and has employed all means at its disposal to bring about an improvement in the situation.

It is generally recognized that Chile labors under great disadvantage in the matter of dollar exchange. This may be considered as due in a measure to the fact that the proceeds from the sale of mineral deposits, which form the bulk of Chilean exports to the United States, do not return to Chile in their entirety but are utilized in part for the financing abroad of their large Chilean investments by the American companies carrying on the business. This argument is a favorite theme of those directing Chilean finances. At the same time a part of the exchange which is derived from such sales and which does return to Chile is earmarked by the Government for the servicing of the Foreign Debt, under an arrangement which has not been accepted by the holders of Chilean Government paper in the United States.

The preoccupation of the Embassy is concerned with dollar exchange accruing from these and other sources, and upon which the financing of our export trade to Chile most largely depends.

Information as to the available amount of such exchange is not forthcoming through official channels here. A Board of Exchange Control holds sway over these resources. This Board arbitrarily refuses the majority of requests for the transfer of peso accounts to the United States with the curt statement that no exchange exists. Fre-

quently, however, exchange is granted to firms doing business here in the nature of a favor. This procedure gives rise to the supposition that such dollar exchange as is available is utilized by the Government chiefly for its own confidential interests and not for the equitable liquidation of current trade with the United States.

As a matter of fact the Embassy's investigations lead it to the opinion that a sufficiency of dollar exchange normally accrues here to finance the imports from non-compensation treaty countries were this exchange devoted to that purpose and not to the amortization of depreciated Government paper and other purposes. What becomes of it and how it is employed are matters upon which the Embassy lacks authoritative information.

In a conversation with the Minister of Hacienda some two weeks ago I mentioned the unfortunate impression which has been created by the failure of the Government to cause the liquidation of the blocked funds concerning which he had given me assurances last January. His reply was not satisfactory. He intimated that much had been done in this direction in spite of the extreme scarcity of dollar and pound exchange. I informed him that the total of these blocked funds had considerably increased since last January.

For the Department's confidential information I may say that I have gained the impression that under the direction of an astute Finance Minister the exchange resources of the country are being run on a 'rob Peter to pay Paul' basis and that American interests are frequently called upon to play the role of the unfortunate Peter.

It must be acknowledged, however, that with the possible exception of the Germans, who have made noted temporary advances in their exports to Chile under their compensation arrangement, there are no foreign markets which seem to find the situation to their liking. And I suspect that in the last analysis all countries doing business with Chile labor under very similar difficulties.

The new question which has now arisen, namely, the arbitrary pegging of the peso at thirty-five to the dollar for gold exchange, has overshadowed for the time being those of an analogous nature.

There has been no indication as yet of an intention on the part of the Government to reply to our note of November 6th on that subject and it is possible that it entertains the idea of using this note as a basis for discussions after the conclusion of the Inter-American Conference at Buenos Aires.

I may say that from a confidential and seemingly reliable source I have learned that certain investigations have been carried out in the Ministries of Foreign Affairs and Finance as to the consequences of possible retaliation on the part of the United States. According to my informant the results of these investigations have indicated that such retaliation would entail serious consequences for Chile.

In the meantime, it has been reported to me that Señor Ross has stated that the rate of thirty-five to one will be maintained.

In this connection the Embassy surmises that the Government may be endeavoring to force certain exchange transactions at that rate, prior to a possible reduction of the rate later on.

No general observations regarding the emergencies of the Chilean exchange situation would be complete without reference to those transactions which are carried on in the free, or bootleg, market.

During the notorious persecution of the *Compañía Chilena de Electricidad* by the Government under cover of the technicalities of Law No. 5107, Don Gustavo Ross assured me, before he left for Europe early in 1936, that the sale of foreign drafts in this market would henceforth be tacitly permitted by the Government and that steps would be taken during the ensuing Congress to cause the modification of the law in question. No action has yet been taken in Congress to the latter end, but exchange negotiations are being carried out in the free market without any interference. The amount of foreign exchange thus acquired by independent brokers, at what is known as the free market rate (now around 29 pesos to the dollar), is known to be quite important. This exchange, being outside of Government control, is hence entirely lost as far as imports into Chile are concerned, owing to the fact that since August 20th last the Exchange Commission has refused to authorize such exchange at a rate above 26 pesos to the dollar and brokers were naturally not disposed to sell their holdings at this rate.

Presumably such exchange is chiefly absorbed in the surreptitious transfer of private funds from Chile to foreign countries. I am of the opinion that this practice on the part of well-to-do Chileans is at the bottom of many of the Government's economic difficulties. I am told that no man of large wealth, from the Minister of Finance down, feels justified in keeping his liquid capital in Chile under existing conditions.

To revert to the original subject of this despatch, the estimate of funds owned by American moving picture companies now blocked in this country, as given by Mr. Herron in his letter of the 28th of October to the Department, is considerably greater than is indicated by the Embassy's investigations. It may be mentioned also that in the case of the Metro Goldwyn Mayer Corporation, a large proportion of those funds may have been invested in the recent erection of a new moving picture theater building in Santiago.

Another phase of the situation renders the Embassy's efforts rather more difficult than might otherwise be the case. I refer to the disinclination of individual firms to have their names brought up as having sought the Embassy's assistance. This applies to the representatives of the more important firms in the United States carry-

ing on business in Chile. The reason for this attitude is fairly obvious. Such firms, from time to time, may have been accorded exchange permits by the Government in a more or less confidential manner. They have good reason to believe that if their appeal to the Embassy became known, such authorizations would not be forthcoming in the future.

Nevertheless, it has been my conception that it is preferable to group my representations in the matter of American blocked funds to include them all, rather than to emphasize one, or several only, as requiring attention. By the adoption of the latter method it might be possible, on occasions, to cause favorable action to be taken in individual cases. I understand that this procedure is followed by certain other representatives here. But in the case of American exporters to Chile, their number is very considerable and the former course seems to me the more dignified as well as equitable for our Government to pursue. For the guidance of the Embassy, I would appreciate an expression of the Department's opinion on this point.

At the present moment and until some light is thrown upon the future attitude of the Chilean Government as regards the recent discriminatory ruling in the matter of gold exchange, I think it very doubtful if any headway can be made in the matter of blocked funds.

It has been announced that the Minister of Hacienda will assume the duties of Foreign Minister during the absence of Don Miguel Cruchaga at the Inter-American Conference in Buenos Aires. I will seek the first opportunity to impress upon the latter, before his departure, the importance which the Department attaches to the delayed liquidation of American blocked funds in Chile.

Respectfully yours,

HOFFMAN PHILIP

825.5151/370

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

No. 158

WASHINGTON, December 11, 1936.

SIR: Reference is made to your despatch No. 422 of November 25 last concerning the foreign exchange situation in Chile.

With respect to your request to be instructed whether, in future representations, to group American blocked funds to include all such funds, rather than to single out one or several of them, you are informed that the Department concurs in your opinion that it would be generally preferable to follow the former course. You are requested, therefore, to take such action in the future in making representations to the Chilean Government regarding blocked accounts unless the Department expressly indicates otherwise.

Very truly yours,

For the Acting Secretary of State:

FRANCIS B. SAYRE

825.5151/373

The Ambassador in Chile (Philip) to the Secretary of State

No. 438

SANTIAGO, December 12, 1936.

[Received December 18.]

SIR: Adverting to previous correspondence relative to the exchange situation here, I have the honor to report that in the course of the past week considerable pressure appears to have been brought to bear upon the importers of automobiles from the United States by the President of the Exchange Control Board in an endeavor to cause them to place their orders for the current year on a basis of exchange of 35 pesos to the dollar.

This official is reported to have informed the local dealers that exchange would be granted to them at this rate for the automobiles within the existing quota limits should they make their requests at once. It is further reported that the importers were informed that the Exchange Control Board would grant the permits involved on deposit of 30% of the value of automobiles imported under the quota instead of requiring the payment of the full sums involved by the transactions. Those interested were informed at the same time that the Government is being "obliged" to lower the gold exchange rate in the near future and that if they did not avail themselves of the suggested arrangement no assurances could be given that exchange will be granted for automobiles.

I may say that these reports have reached the Embassy through the importers concerned, who state that the question is still under consideration.

I understand that in a few individual cases orders for automobiles have been placed at the gold rate of thirty-five to one.

I sought an interview with the Minister of Hacienda on the 11th instant and mentioned the fact that no acknowledgment has yet been received of the Embassy's note of November 6th.⁵⁷ Without directly referring to the information received from the importers of automobiles, I requested information as to the exchange situation.

Señor Ross replied emphatically that the Government has definitely determined to fix the rate of gold exchange for all imports, including automobiles, at 26 pesos to the dollar and that he would shortly convey this information to me officially. I said that it seemed regrettable that the free market rate of approximately 29 pesos to the dollar could not be fixed upon for the time being.

The Minister stated that my Government had protested against discrimination and that in consequence the rate 26 pesos had been set and would be maintained for the time being. He went on to say that

⁵⁷ See telegram No. 78, November 5, 6 p. m., to the Ambassador in Chile, p. 360.

his Government has found it absolutely necessary to restrict imports from abroad; that Chile is buying more foreign goods than she can afford and that a halt must be called, in spite of the loss involved—through resulting shrinkage of customs revenues, etc. As for automobiles, Señor Ross said he believed they could well be sold here at the 35 peso rate and he considered the importers were making a great mistake in not availing themselves of that rate while it was offered.

I inquired if this statement meant that there would be less exchange granted for such imports at the 26 pesos rate and he replied this would be the case.

I mentioned the Minister's previous statement to me that the Government would find it impossible to maintain the quotas fixed for the importation of automobiles from compensation treaty countries. He said that, in spite of very strong protests from those countries, it has now been decided to enforce the quota allotments as originally set.

In the course of this conversation I observed that one of our greatest difficulties lay in the lack of authoritative information as to the quantity of exchange actually available to foreign commerce at one period or another. Señor Ross smiled and said it was impossible to furnish me with this information.

I beg to report that I gained the impression from my talk that, under cover of the new rate of 26 pesos to the dollar, the Chilean Government may be planning to restrict or prohibit importations of automobiles by the simple and much used device of refusing exchange permits on the score of "no exchange available".

Respectfully yours,

HOFFMAN PHILIP

COLOMBIA

EXPRESSION OF REGRET TO THE COLOMBIAN LEGATION FOR VIOLATION OF ITS IMMUNITY BY AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION

701.2111/289

The Colombian Minister (López Pumarejo) to the Secretary of State

[Translation]

No. 919

WASHINGTON [undated].
[Received April 4, 1936.]

MR. SECRETARY: Yesterday afternoon [or evening]¹ three Federal police officers (Federal Bureau of Investigation), without previous notice or consultation, entered this Legation without warning and arrested, in one of the rooms assigned to the servants, Mr. . . . a citizen of the United States, whom I occasionally employ as chauffeur of the Legation.

Without any intention of claiming diplomatic immunity for the said employee, and still less desiring to intervene in the matters which Mr. . . . may have pending before the courts, if such should be the case, I feel constrained to advise Your Excellency at once of this unfortunate case, on account of the unusual manner in which it was handled, and with the desire to learn, as a precedent for the future the way in which Your Excellency's illustrious Government believes the offices of foreign Legations should be respected, and the steps that may be taken to avoid a repetition of so clear a case of forcible entry of domicile as the present. These are the circumstances which prompt me to advise your Department immediately of this matter.

I avail myself [etc.]

M. LÓPEZ PUMAREJO

701.2111/290

The Secretary of State to the Colombian Minister (López Pumarejo)

WASHINGTON, April 9, 1936.

SIR: On the morning of April 4, 1936, I received your note No. 919, in which you informed me that during the afternoon of the preceding day three officers of the Federal Bureau of Investigation, without previous consultation or notice, entered the Legation of Colombia and arrested, in one of the rooms assigned to the servants, a

¹ Brackets appear in the file translation.

Mr. . . . an American citizen occasionally employed by you as chauffeur of the Legation. You stated that, although you did not claim diplomatic immunity for . . . and do not desire to intervene in the matter pending in the courts in respect to him, you were bringing the case to my attention because of the unusual manner in which it was handled, and in order to ascertain my Government's views regarding the immunity to which foreign Legations are entitled and the steps that might be taken to avoid any repetition of such an unfortunate incident.

The violation of the immunity of your Legation caused me grave concern. I at once advised an Assistant Attorney General of what had occurred, the Attorney General himself being out of town, and after expressing my surprise and chagrin that such an incident had occurred, requested that a thorough investigation be made immediately in order that appropriate action might be taken at once.

I have now received a letter from the Attorney General dated April 8, 1936, a copy of which is enclosed herewith.² After reciting the facts in the matter as known to his Department it will be noted that the Attorney General states as follows:

"Mr. Joseph B. Keenan, the Assistant to the Attorney General, promptly called on the Colombian Minister and expressed to him the profound regret of the Department of Justice that its agents had violated the immunity of the Legation. This action of agents of the Department is, of course, inexcusable. I desire to make it clear that no responsible officers of my Department had any reason to believe that the agents would presume to enter the Legation improperly, and had they known that any such action was contemplated or was likely, would immediately have given instructions which would have prevented the unfortunate incident. Far from any instructions having been issued to arrest . . . regardless of diplomatic propriety, the standing instructions to agents do not permit such intrusions.

Upon learning to my amazement and chagrin of the indefensible action of these agents contrary to standing instructions, I immediately suspended them from duty for an indefinite period, pending the determination of suitable disciplinary action and gave strict instructions to prevent a recurrence of any such an incident in the future.

I shall be glad if you will be good enough to bring the foregoing information to the attention of the Minister and to convey to him my personal regret for the unfortunate violation of the immunity of his Legation."

The Department of Justice has readily offered to restore the *status quo* by returning Mr. . . . to the Legation and I am informed that this has been done.³ I have every confidence that the measures which

² Not printed.

³ The employee after his return to the Colombian Embassy voluntarily submitted to arrest.

have been taken by the Department of Justice will be effective in preventing the recurrence of any similar incident.

For my part I wish to express to you my profound regret over the violation of the immunity of your Legation and the consequent annoyance occasioned you. Under the leadership of the present Presidents of our two countries, relations between Colombia and the United States have been firmly established upon a cordial and friendly basis. Into this favorable atmosphere of friendship and goodwill, I was shocked to learn of the intrusion of an incident in which officers of this Government, contrary to international practice, so consistently observed by this Government, violated the immunity of your Legation. I sincerely hope that the incident will be regarded as the result of overzealousness on the part of the subordinate officers concerned rather than of any disrespect on their part for the dignity and immunity of the Legation premises. The action was wholly inconsistent with the high respect with which the Government and people of Colombia are regarded by the Government and people of the United States and cannot be viewed with other than the most sincere regret and disapprobation by both the Attorney General and by me.

In expressing my appreciation for the friendly manner in which you have acted in this case, I am hopeful that this regrettable incident will in no way prejudice the continuance of the cordial relations existing between the two countries, which are based upon mutual respect for each other's rights and interests and the fullest measure of friendship and cooperation.

Accept [etc.]

CORDELL HULL

701.2111/292

The Colombian Minister (López Pumarejo) to the Secretary of State

[Translation]

No. 1023

WASHINGTON, April 18, 1936.

MR. SECRETARY: I have the honor to acknowledge the receipt of Your Excellency's kind note of the 9th of the current month, in which you are good enough to reply to mine of the 4th numbered 919.

Your Excellency is good enough, in the note which I am answering, to express to me your regret at the violation of the immunity of my Legation, and relate the steps taken by Your Excellency with the Assistant Attorney General to clear up the facts and adopt appropriate measures to prevent them. Your Excellency adds that you expressed to the said official your surprise and regret at the occurrence, and you communicate to me also the explanations and satisfactions given by the Attorney General to you in a note of the 8th instant, the pertinent part of which you transcribe, in addition to sending me a copy of the said note.

Your Excellency refers to the offer made by the Department of Justice to turn the accused, Mr. . . . over to the Legation to reestablish the *status quo ante*, which was done on the 8th, and you also express the confidence you have that the measures taken by the Department of Justice will tend to prevent the repetition of similar incidents.

Lastly, Your Excellency is good enough to express to me your deep regret for the violation of the immunity of this Legation and for the consequent vexations caused me, expressing also the disquietude caused you by the occurrence of this incident, in the midst of the cordial and friendly relations firmly established between our two countries, and the hope that it might be considered as a manifestation of excessive zeal on the part of subordinate employees and never as an act of disrespect for the dignity and immunity of the Legation.

The steps taken by Your Excellency to establish the facts brought to your knowledge in my note No. 919 dated the 4th instant, the explanations given by the Department of Justice to me personally by the Assistant Attorney General and to Your Excellency directly by the Attorney General; the assurance that you have in the efficacy of the measures taken by the Department of Justice to prevent the repetition of similar occurrences, and the sincere manifestations of regret that Your Excellency makes to me in a manner so cordial and in harmony with the principle of mutual respect for our reciprocal interests, for the cordial relations existing between our two countries and the high degree of cooperation and friendship governing them, are received and accepted by me and by my Government with the most complete satisfaction.

Your Excellency's very satisfactory explanations having been received, I can assure you that this deplorable incident will in no way affect the course of the increasing development of the cordial relations between our two countries, which being based on the principles already established, are destined to be a source of great benefits for them and for the American community.

I desire to express to Your Excellency my very sincere thanks for your friendly interest in this matter, and to renew to you at the same time the assurances of my most distinguished consideration.

M. LÓPEZ PUMAREJO

701.2111/292

The Secretary of State to the Colombian Minister (López Pumarejo)

WASHINGTON, April 24, 1936.

SIR: I wish to acknowledge the receipt of your note of April 18, 1936, with reference to the unfortunate incident involving the illegal entry into your Legation of agents of the Department of Justice. I was happy to learn that the measures taken by this Department and

the Department of Justice, and the assurances given by both Departments are satisfactory to you and to your Government, and that this incident will in no way prejudice the existing friendly relations between our two countries which, it is my hope, may be further strengthened during the coming years.

In expressing my deep appreciation for the friendly manner in which you and your Government have dealt with this unfortunate affair, I desire to inform you that the agents of the Department of Justice who committed the illegal entry have been suspended without pay for a period of sixty days.

Accept [etc.]

For the Secretary of State:
SUMNER WELLES

701.2111/294

The Colombian Chargé (Vargas Nariño) to the Secretary of State

[Translation]

No. 1092

WASHINGTON, April 27, 1936.

MR. SECRETARY: I have the honor to advise receipt of Your Excellency's kind note dated the 24th day of the current month, in which note you were so good as to reply to this Legation's former communication dated the 18th of the same month and add, as a matter of information, that the agents of the Department of Justice who entered the Legation illegally in days past were suspended from their positions for the period of sixty days.

I am very grateful to Your Excellency for this new information, and I am greatly pleased that the manner in which the incident has been treated by the Colombian Government and by this Legation has met with the approval of Your Excellency.

Renewing to Your Excellency the expression of the thanks of my Government and my own thanks for the satisfactory and friendly manner in which Your Excellency, the Department of State and the Department of Justice found an adequate solution and in their turns dealt with the question, I repeat to Your Excellency the assurances of my highest and most distinguished consideration.

A. VARGAS NARIÑO

COSTA RICA

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND COSTA RICA, SIGNED NOVEMBER 28, 1936¹

611.1831/89

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

No. 1013

SAN JOSÉ, February 4, 1936.

[Received February 8.]

SIR: I have the honor to enclose herewith a memorandum² prepared by Mr. Drew³ on the conversations occurring yesterday afternoon between the Foreign Minister, Mr. Gurdíán, the Minister of Hacienda, Mr. Brenes, Mr. Drew and myself, when we called at Mr. Brenes' office yesterday afternoon presumably for the purpose of putting our joint and final approval on the proposed trade agreement between the Government of Costa Rica and the United States. The memorandum recounts additional conversations held this morning between the Foreign Minister, Mr. Drew and myself when we called at Mr. Gurdíán's office.

I am enclosing also the text and translation² of a proposed addition to the general provisions which Mr. Gurdíán submitted to Mr. Drew and myself yesterday as a last minute amendment to the trade agreement.

The proposed amendment by Mr. Gurdíán has the effect of permitting the Costa Rican Government to abandon the "most favored nation" policy in its treatment of steamship lines entering Costa Rica by the granting of special concessions to such companies as in turn grant special concessions in freight rates to Costa Rican shippers. Mr. Gurdíán frankly declared that his proposal is for the purpose of giving his Government a weapon with which to retaliate against those "Conference" shipping lines, which in his opinion impose excessive freight charges on commodities moving in and out of Costa Rica.

Because the principal Conference lines serving Costa Rica are American-owned and operated, it is obvious that his plan is directly aimed at American shipping companies. Under the present Costa Rican law each and every shipping company presumably is treated

¹ For previous correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 449 ff.

² Not printed.

³ Gerald A. Drew, Third Secretary of Legation.

identically and it is of interest to report here that because of the application of the "most favored nation" treatment in relation to shipping companies, the Costa Rican Government and the Grace Line have not as yet concluded a new contract. The Grace Line which at, I am told, a substantial loss in every sailing is bringing its big *Santa* boats into Costa Rica, and in return for this feels that it is entitled to certain concessions by way of reduced port charges, in view of the splendid additional passenger service it is giving to Costa Rica. Privately the Foreign Minister, Mr. Gurdián, agreed with the Grace Line view but he confessed his inability to accommodate the Grace Line because of the provisions of the "most favored nation" clause. Now Mr. Gurdián proposes to abandon the "most favored nation" clause in relation to shipping companies, in order that his Government will be free to grant any concessions or advantages to any company at any time without reference to uniform application of those concessions. Mr. Gurdián seeks to incorporate this theory into the proposed trade agreement.

As pointed out in Mr. Drew's memorandum, to the best of our joint ability we endeavored to convince him that the trade agreement is no place for any contemplated action against shipping companies for alleged discrimination. I offered to cooperate with Mr. Gurdián in transmitting to the Department of State any complaints he had against American companies and any proposals he might care to recommend to remedy the situation he complains of, and I told him that I felt confident that the Department of State would give his request its most sincere and sympathetic consideration. Mr. Gurdián, however, did not believe that my offer would serve Costa Rica's needs.

When I told the Minister that since in my opinion the Department of State would never consent to any modification or elimination of the principle of the "most favored nation" clause and that his insistence for such a modification might very possibly lead to a termination of the negotiations for a trade agreement, Mr. Gurdián nevertheless insisted that he could not recede from his position. Thus our conference ended yesterday afternoon.

This morning I telephoned the Foreign Minister and asked for an early appointment, which he fixed immediately. Accompanied by Mr. Drew I went to his office to ask him if he had not reconsidered his position. Mr. Gurdián replied in the negative and as an alternative he then suggested the removal entirely of Article VIII. I pointed out to Mr. Gurdián this morning that aside from abandonment of the "most favored nation" clause, the inclusion of his proposed modification in the trade agreement might have the effect of some day enabling an unwise government to resort to discriminatory tactics against

American corporations, which tactics might inevitably lead to consequences disastrous to Costa Rica, in that the corporations might in retaliation withdraw their services entirely from Costa Rica. I tried to show him that such a provision meant the arming of a future government with powers to harass American corporations unfairly and to the detriment of Costa Rica's economic development.

Mr. Gurdián told Mr. Drew and me that he would confer with the President and advise us later. At noon President Jiménez with his Cabinet and the members of his personal staff were guests at a luncheon in the American Legation. At that time Mr. Gurdián told me privately that President Jiménez is supporting his attitude.

The President, however, during a brief conversation I held with him seemed not to realize the possibilities of his Foreign Minister's proposal. He informed me that he would discuss it again with Mr. Gurdián because, as he said, "I should hate to see Gurdián insist on anything which might jeopardize the trade agreement with the United States".

The attention of the Department is also invited to page five of Mr. Drew's memorandum reporting Mr. Brenes' proposal to include a provision that the Costa Rican Government will be free to increase present wharfage charges (*muellaje*) for certain specified purposes. Inasmuch as the prevailing dues are uniformly low I do not believe that the proposed increase, even as large as fifty percent, would defeat the purposes of the trade agreement.

Despite the fact that the Spanish and English texts of the proposed general provisions were delivered to Mr. Gurdián in July of last year, and despite the frequent assurances I have received both from Mr. Gurdián and Mr. Brenes, even as late as last week, that the terms of the general provisions were satisfactory, they have at this late date proposed the two modifications discussed above and Mr. Brenes has not yet given me any assurance that additional modifications will not be forthcoming.

Since the foregoing was dictated Mr. Gurdián telephoned me to say that President Jiménez had requested him to tell me that in accordance with his (the President's) promise to me at luncheon he had again discussed the proposed modifications with him, and that the President had told him that in the event the Department of State does not accept the proposed modification, further discussions will be held in an effort to find a formula which will satisfy the Department and at the same time embrace Mr. Gurdián's objectives.

I shall appreciate the Department's advice as to the best method of satisfying Mr. Gurdián's viewpoint if he should continue to feel that my original counter-proposal to communicate his views to the Department of State is not acceptable.

Respectfully yours,

LEO R. SACK

611.1831/90 : Telegram

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

SAN JOSÉ, February 14, 1936—8 p. m.

[Received 10:40 p. m.]

15. Referring to my despatch No. 1013 of February 4. If the Department has not heretofore advised me by air mail and if it perceives no objection, may I suggest a telegram to me along these lines: "please advise the Minister for Foreign Affairs that because the unrestricted most-favored-nation clause is the cornerstone of the Government's tariff policy toward all the nations of the world, it is regretted that we cannot consent to any modification whatsoever of the most-favored-nation clause as he has suggested. You are authorized, however, to inform the Foreign Minister that the Government of the United States views with sympathy the complaint of Costa Rica against alleged excessive freight rates and in an exchange of notes will promise to use its best efforts to assist Costa Rica to attain its objectives".

My reasons for suggesting such a telegram from the Department is the fact that this afternoon in the American Legation, Minister of Foreign Affairs and the Minister of Finance were not so insistent on the inclusion of their proposed amendment to the general provisions as they were at our last conference and Gurdíán emphasized that whether or not his amendment is acceptable to the Department, his Government will sign the trade agreement with the Government of the United States during the present administration. Gurdíán said he appreciated that if the Department of State promised to assist Costa Rica to obtain equitable freight rates, it will do so. I feel, therefore, that Gurdíán, guided by the instructions of President Jiménez as well as by his own better judgment, will withdraw his proposal which was regarded by this Legation as objectionable.

At the conference this afternoon, Gurdíán and Brenes definitely and finally assured us of their acquiescence to every feature of the agreement with the exception of his desire for modification of the freight rate situation and increased wharfage charges, as reported in the despatch referred to above, and a minor modification in article IV with regard to existing slight differences in consumption taxes on certain imported and domestic articles, chiefly beer and cigarettes.

SACK

611.1831/90 : Telegram

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

WASHINGTON, February 19, 1936—7 p. m.

10. Your despatch 1013, February 4, and telegram 15, February 14, 8 p. m., with reference to the proposed amendment to the most-favored-nation clause.

Please inform the Foreign Minister that, since the most-favored-nation provisions of the trade agreement do not apply in any sense to duties or charges on vessels, the question of a possible exception to the most-favored-nations provisions of the trade agreement, with a view to permitting the Costa Rican Government to reduce the charges on vessels of companies which reduce their freight rates, does not arise in connection with the trade agreement.

HULL

611.1831/91 : Telegram

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

SAN JOSÉ, February 20, 1936—10 a. m.

[Received 12:55 p. m.]

16. Referring to Department's telegram No. 10, February 19, 7 p. m., it is my interpretation of article No. XVI of the general provisions of the trade agreement that under its terms, article No. III of the Treaty of Friendship and Commerce of July 10th, 1851,⁵ would continue in force and this would have the effect of providing unconditional most-favored-nation treatment to citizens of the United States "in matters of commerce and navigation". This, I understand, is the viewpoint of the Minister for Foreign Affairs. I feel, therefore, that he may interpret your telegram as countenancing discrimination against American shipping companies in violation of the terms of article No. III of the existing treaty. If, however, he should interpret your telegram as rejecting his proposal then he will naturally inquire as to future attitude of the United States in assisting his Government in an effort to obtain relief from alleged discriminatory freight rates.

If this is the intention of the Department's instruction, may I refer then to second sentence, paragraph 2 of my telegram No. 15, February 14 and also to my informal suggestions as reported in despatch No. 1013 of February 4? We feel that this Government will want some sort of promise of cooperation from the United States respecting clarification of these points before I inform Minister of Foreign Affairs of Department's telegram No. 10.

SACK

611.1831/91 : Telegram

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

WASHINGTON, March 2, 1936—2 p. m.

12. Your 16, February 20, 10 a. m. The Department is sending you a written instruction with reference to its interpretation of the most-favored-nation provisions of the treaty of 1851 and of the proposed

⁵ Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 5, p. 985.

trade agreement; however, the Department's position with reference to a possible amendment to the most-favored-nation clause is that set forth in its telegram 10, of February 19, 7 p. m. The Department sees no reason for its telegram to be misinterpreted as countenancing discrimination against American shipping companies in any form and, of course, depends upon the Legation to see that no such misinterpretation is placed on it.

Furthermore, the question of freight rates charged by private shipping companies is not a matter that can be treated in or in connection with the trade agreement, and this Government is not prepared to give any assurance or even discuss the subject in connection with the proposed trade agreement.

HULL

611.1831/94

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

No. 290

WASHINGTON, March 31, 1936.

SIR: Reference is made to the fourth paragraph of enclosure No. 1 to your despatch No. 961 of December 8, 1935, and to paragraph 6 of your telegram No. 53 of December 30, 1935 (noon),⁶ concerning the desire of the Costa Rican Government to stimulate the exportation of Costa Rican fruits and vegetables to the Canal Zone. This matter was taken up with the Secretary of War and there is enclosed a copy of his letter of February 20, 1936,⁷ on the subject.

Should necessity arise, you are authorized to communicate the statistics of Costa Rican sales to the Canal Zone commissaries informally to the Costa Rican authorities.

The remainder of the letter is for your own information and for background use, but it should not be quoted from.

In view of the considerations set forth in the letter of the Secretary of War, the Department is of the opinion that no commitment with reference to Costa Rican trade with the Panama Canal Zone can be made, either in the trade agreement or apart from it.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.1831/98

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

No. 1078

SAN JOSÉ, April 1, 1936.
[Received April 11.]

SIR: I have the honor to inform the Department that the Minister for Foreign Affairs, Mr. Raúl Gurdián, has proposed that signature

⁶ Neither printed.

⁷ Not printed.

of the pending trade agreement be postponed until after the inauguration of the government of Mr. León Cortés on May 8. It is his plan, however, he says to complete the pending negotiations and approve a preliminary draft of the agreement (before it is prepared in final form for signature) during the remaining five weeks of President Jiménez' administration.

Mr. Gurdián's suggestion was not altogether a surprise to me . . . Mr. Gurdián told me this morning that his object in suggesting further delay was to ensure congressional approval of the agreement, explaining that he felt that as a matter of political strategy it would have a better chance of approval by Congress if it were to be signed in the administration of President-elect Cortés.

The Foreign Minister pointed out that the present administration is drawing to a close and consequently has lost much of its influence in Congress and that many of President Jiménez' former supporters in that body have turned against him. He expressed the opinion that even though it were signed now it would be unwise to submit it to the present Congress. He reminded me that in the next Congress, Mr. Cortés will have thirty-two adherents out of the total of 43 deputies. In this connection Mr. Gurdián wishes to have Mr. Cortés study the treaty even before assuming office, so that once Congress meets, he will be prepared to give the question immediate attention, and also recommend immediate approval by Congress.

Mr. Gurdián was most emphatic in assuring me that he had not in any sense altered his support of the agreement and promised to give it his strongest support as Minister of Finance in the new cabinet. His plan is to have it in final form as soon as possible so that there will be no further delay when the new government takes office. He is confident that the new Minister for Foreign Affairs, Manuel Francisco Jiménez will give his approval to the agreement, as will the new President, Mr. Cortés.

Mr. Gurdián told me in this morning's conversation that he had not as yet discussed the subject with President Jiménez but that he was sure that his proposal would be approved by him, in the best interests of the country.

I believe that Mr. Gurdián's suggestion is sound political strategy. Obviously, one administration would not take as much interest in securing congressional approval of an agreement which had been negotiated by a previous administration as it would in something which it felt to be its own handiwork.

It is my desire, of course, to obtain congressional ratification of the agreement and this, I am confident, will be much easier in the forthcoming Cortés administration than under President Jiménez.

I hope that between now and the early part of May it will be possible to have the agreement ready for signature and if, as I anticipate, Mr. Cortés gives the word, prompt approval by Congress would be practically a foregone conclusion.

Respectfully yours,

LEO R. SACK

611.1831/91

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

No. 291

WASHINGTON, April 2, 1936.

SIR: In its telegram to you, No. 12 of March 2, 1936, 2.00 p. m., the Department stated that it would send you written instructions with reference to its interpretation of the most-favored-nation provisions of the Treaty of Friendship, Commerce and Navigation between the United States and Costa Rica signed July 10, 1851, in its relation to the proposed trade agreement with that country.

You will recall that Article XVI of the proposed trade agreement provides that the agreement replaces any provisions of the Treaty of 1851 inconsistent with it. Article III of the Treaty of 1851 provides for expressly conditional most-favored-nation treatment in respect of both commerce and navigation. Since the engagement of conditional most-favored-nation treatment as to commerce is inconsistent with Article X of the trade agreement, so much of Article III of the Treaty as relates to conditional most-favored-nation treatment in respect of commerce would be superseded. However, there is no engagement in respect of navigation whatsoever in the proposed trade agreement and consequently the provisions for expressly conditional most-favored-nation treatment in respect of shipping contained in Article III of the Treaty of 1851 would continue in force. The Department therefore does not desire you to invoke Article III in any discussion of charges on vessels.

Your attention is invited to Articles V and VIII of the Treaty of 1851, which provide for national treatment of shipping. Under these articles United States vessels are entitled to no less favorable treatment in Costa Rican ports than that accorded to Costa Rican vessels. For your confidential information, you are informed that if Costa Rica established a graduated scale of port charges based on freight rates, resulting in lower port charges for Costa Rican vessels than American vessels, the Department would probably consider such action as contrary to the above cited articles.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.1831/99

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

No. 1099

SAN JOSÉ, April 23, 1936.

[Received April 29.]

SIR: I have the honor to acknowledge receipt of the Department's instruction No. 299 of April 16, 1936,^a transmitting tentative final drafts in English and Spanish of the proposed trade agreement with Costa Rica and to refer to recent correspondence with Department officials on this subject.

I have not yet had an opportunity to go over these drafts with Mr. Gurdíán as I desire first to check the Spanish text of the general provisions with the previous draft to which Mr. Gurdíán had agreed, as well as to have a check made of the Spanish and English texts. I do not believe, however, that there will be any objections to the minor changes in phraseology which have been made.

In the course of a conversation with Mr. Gurdíán on the trade agreement on April 20, I discussed with him, among other things, the Department's point of view with regard to the desire of the Costa Rican Government to increase the wharfage tax (*impuesto de servicio de muellaje*). Mr. Gurdíán expressed the opinion that the proposed increase would receive prompt approval in Congress whenever introduced, explaining that he had not wished to rush the measure through Congress during the course of negotiations, as he felt any such action would have been improper at this time. I also discussed with him the consideration that such an increase would weigh heavily on bulky articles, such as lumber, machinery, et cetera. In reply he pointed out that such articles cause more wear and tear on wharves and dock facilities and should consequently be taxed proportionately. I also discussed with Mr. Gurdíán his interpretation of the nature of this tax. He again explained (see despatch No. 1013, of February 4, 1936) that the purpose of the increase in the wharfage tax was to obtain additional funds for the construction of a new customhouse in Puntarenas, as well as one or more schools in that city, which funds would not otherwise be available due to the stringent financial situation of the Government. He expressed the opinion that this tax would not be reduced after the termination of the projects contemplated but would remain as a permanent tax in order to help finance future public construction.

With regard to the possibility of considering this tax as a service charge and hence not contemplated by the provisions of Article I of the general provisions, neither the information obtained from Mr. Gurdíán nor the terms of the decree creating the tax appear to support

^a Not printed.

this interpretation. The terms of the law establishing the tax (Decree No. 48, April 20, 1931, *La Gaceta* No. 88 of April 22, 1931) are as follows:

“Article 1—The first paragraph of Article 5 of the Customs Tariff is amended as follows: ‘Article 5—The introduction of all merchandise will pay in addition to customs duties, a tax of two cents per kilo as wharfage service tax . . .’”

It may be pointed out that this tax is collected on all baggage and merchandise arriving in the country, including parcel post packages and baggage and express packages arriving by air plane.

It appears to me, therefore, that only two alternatives are available: either to delay signature of the treaty until after the adoption of the proposed law increasing the wharfage tax or to include in Article I of the general provisions a clause authorizing the Costa Rican Government to increase this tax by not more than 50%. I respectfully request an expression of the Department's views on this point.

I also discussed with Mr. Gurdián the question of the differences in the so-called consumption taxes levied on imported beer, wines, liquors and cigarettes, and suggested to him the possibility that as these taxes are paid on or in connection with importation they could properly be considered as not coming into conflict with the terms of the general provisions, in particular Article IV. Mr. Gurdián does not agree with this interpretation, however, and insisted that in his opinion every effort should be made to avoid any possible grounds for subsequent misinterpretation of the terms of the treaty. He explained that these consumption taxes, in so far as they apply to imported articles, are payable in the form of stamps which are affixed to the containers either at the time the merchandise is withdrawn from the customhouses or in the case of cigarettes, at the factory.

As I have previously suggested to the Department, it occurs to me that if it is not considered desirable to provide for these exceptions in the general provisions it might be less objectionable from the Department's point of view to cover these questions in connection with wharfage tax and consumption taxes in an exchange of notes to be annexed to the agreement itself.

With regard to Schedule II of the proposed trade agreement, there now appears to be agreement on its provisions with the exception that Mr. Gurdián still holds out for some concession on dried bananas, as well as on fresh tomatoes. Mr. Gurdián has submitted to me a memorandum setting forth his point of view on these two items, copy and translation of which are enclosed.⁹ In my last conversation with Mr. Gurdián I again informed him, as I have frequently done in the past both orally and in informal memorandums, of the Department's point

⁹ Not printed

of view with regard to concessions on products not actually appearing in the trade statistics between the two countries, as conveyed in telegram No. 43, December 26, 1 p. m.^{9a} He insisted, however, on his desire to obtain some concessions on these two commodities, pointing out that in most of the other trade agreements a concession has been made on a product not included in the concessions to other countries. He argued that these concessions would be of great assistance in securing support of public opinion for the agreement and in obtaining Congressional approval. He also said that all of the commodities included in Schedule II are already included in agreements with other countries and that by virtue of the most favored nation clause in the existing treaty with the United States, Costa Rica would in any case be entitled to the concessions which have been made with other countries. I reluctantly agreed with Mr. Gurdián again to submit his requests to the Department, although I informed him that I was not hopeful of receiving favorable action.

May I also refer to the Department's instruction No. 271 of February 27, 1936, and my reply thereto, despatch No. 1053 of March 6, 1936,¹⁰ with reference to an exchange of letters listing commodities to which "Most Favored Nation" treatment will be automatically extended. As pointed out in my despatch this will be of great value with the Congress and public of Costa Rica.

I hope within the next few days to have an opportunity to go over the tentative final drafts with Mr. Gurdián and shall of course inform the Department promptly of the outcome of these conversations.

In the meantime I respectfully request instructions on the question raised above in connection with: (1) the proposed increase in wharfage tax; (2) consumption taxes and (3) requests for concessions on tomatoes and dried bananas.

Respectfully yours,

LEO R. SACK

611.1831/102

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

No. 1130

SAN JOSÉ, May 14, 1936.

[Received May 20.]

SIR: I have the honor to inform the Department that yesterday afternoon, May 13, I called for the first time on the new Minister for Foreign Affairs, Mr. Manuel Francisco Jiménez.

While I made it clear to Mr. Jiménez, immediately upon my arrival, that I was merely making a courtesy call and had not come to discuss any pending matters with him, he insisted on bringing up the subject of the trade agreement and my brief call became a protracted conversation on this subject.

^{9a} Not printed.

¹⁰ Neither printed.

Mr. Jiménez gave me his most emphatic assurances that he was anxious to wind up the trade agreement as soon as possible and that he had already started to go through the file of correspondence between the Legation and the Foreign Office and was studying the trade agreements which have heretofore been concluded with Central and South American countries. He told me that early next week, as soon as the ceremonies incidental to the inauguration are out of the way, he will be ready to get down to business. He expressed the hope that signature of the trade agreement would "occupy a few hours, and approval by Congress a few days".

While I am not optimistic that Mr. Jiménez' hopes for such accelerated action will be realized, in view of the fact that I have received many similar assurances from his predecessor Mr. Gurdíán and from other officials of the Costa Rican Government during the past two years, I do feel, nevertheless, that he himself is quite sincere in his assurances.

An interesting observation was made by Mr. Jiménez in the course of our conversation. He referred to the unusually strong majority which the new administration now has in Congress and the disposition of that body to ratify any proposal put before it by the Executive, but he stated frankly that this happy situation may disappear at any time and therefore the sooner the trade agreement can be submitted to Congress, with the approval of the Executive, of course, the better will be its chance of ratification.

Mr. Jiménez is obviously well aware of the desirability of securing congressional approval of the trade agreement with the minimum of opposition and in that connection he again referred to the desirability of including in the trade agreement some provision for continuance or stimulation of the sale of Costa Rican fruits and vegetables to the Canal Zone Commissary. While I did not wish to discourage him too much at our first conversation, I made it plain to Mr. Jiménez, having in mind the Department's instruction No. 290 of March 31, 1936, that the question of such sales could not be taken up in the trade agreement and that even apart from the agreement, the Government of the United States could not make any commitment with regard to future purchases of such products.

I explained to Mr. Jiménez that I had been informed that official importations into the Canal Zone were not affected by duties provided for in our tariff and also pointed out to him that a relatively important trade in fruits and vegetables with the Canal Zone Commissary already existed. I also explained to him that it is my understanding that the Canal Zone Commissaries were operated as quasi-commercial organizations and that consequently the Government was not in position to commit that organization to any determined policy in the future.

The Minister for Foreign Affairs received these observations sympathetically but repeated his belief that if the Government of the United States could find some way to embody a reference to the existing situation, either in the trade agreement itself or in an exchange of letters annexed to or entirely separate from it and without assuming any obligation whatsoever, it would be of inestimable value in securing the support of many deputies, particularly those from districts such as Cartago and Heredia, where the growing of fresh fruits and vegetables is important.

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I did not attempt to take up with Mr. Jiménez any pending details of the trade agreement in this conversation as I wished to give him an opportunity to complete his studies of the file, and I am therefore not able to say whether he will have any other changes to propose. I am hopeful, however, that if the Department can find some formula along the lines he suggests which will accomplish his purpose and at the same time not involve any commitment on our part, he will be satisfied and may even be willing to recede from the requests made by Mr. Gurdián with regard to concessions on dried bananas and fresh tomatoes, as reported in my despatch No. 1099 of April 23, 1936. If the Department can find a way to give him satisfaction, we might even make such a concession on condition that these other pending requests be dropped.

Reluctant as I am to appear unduly eager in recommending favorable action on these belated requests of the Costa Rican negotiators, particularly in view of the previous expressions of the Department's policy in that respect, I feel that we must bear in mind the attitude of the Costa Rican negotiators that in this country, Congress, no matter how strong the administration, always contains nationalistic elements embodying latent opposition to the United States and anything advocated by it, and that such opposition might very easily lead to rejection of the trade agreement despite governmental support, a situation which I presume is not comparable to that found in certain other Central and South American countries.

It is because of my realization of the importance of this situation that I have in this and previous instances urged the Department to endeavor to find a way to meet requests of the Costa Rican negotiators for material which they themselves desire primarily for the purpose of enlisting congressional support. It is with this thought in mind, therefore, that I am enclosing a proposed draft of a letter to the Minister for Foreign Affairs which if the Department perceives no objection, I will present to him following the exchange of signatures to the agreement and the Department will note that my letter does not commit the United States to any policy beyond that which is now

being followed by the Canal Zone authorities, as was indicated in the letter of the Secretary of War,¹¹ enclosed with instruction No. 290 of March 31, 1936.

In view of Mr. Jiménez' apparent anxiety to terminate negotiations as promptly as possible, may I request the Department to indicate its final decision in this matter by cable.

Respectfully yours,

LEO R. SACK

[Enclosure]

Proposed Draft of Letter to the Minister for Foreign Affairs

MY DEAR MR. MINISTER: In further reference to our conversations on the subject it gives me much pleasure to inform you that no tariff duties whatsoever are levied by Canal Zone authorities on fruits and vegetables imported from Costa Rica. It also gives me pleasure to inform you that a considerable trade now exists between Costa Rica and the Canal Zone, and that during the calendar year 1935 purchases by the Canal Zone commissaries from Costa Rican producers included large quantities of carrots, wax beans, string beans, lima beans, cabbages, tomatoes, and green peppers among vegetables; oranges and limes among fruits; guava jelly; chocolate and coffee.

As you are aware the utmost of good will prevails among Canal Zone authorities for Costa Rica and purchases are governed by market conditions which include, of course, the factors of supply and demand.

With my kindest personal regards and best wishes, I am,

Very sincerely,

LEO R. SACK

611.1831/100

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

No. 308

WASHINGTON, May 23, 1936.

SIR: With reference to point one raised in your despatch No. 1099 of April 23, 1936, concerning the proposed trade agreement with Costa Rica, you are authorized to suggest the addition to Article I of the general provisions of the following language:

"However, the Government of Costa Rica reserves the right to increase the charge imposed pursuant to the provisions of Decree No. 48 of April 20, 1931, establishing a wharfage service tax, but agrees that no increase in such charge shall be such as to impair appreciably the benefit of any concession granted in this Agreement."

The Department is obviously not desirous that the above language should be incorporated in Article I unless absolutely necessary, and relies on your discretion in this matter. In case it still proves necessary to satisfy the Costa Rican Government on this point, it is believed

¹¹ Not printed.

the language quoted above will do so, since it would allow Costa Rica reasonable latitude. At the same time, it would assure this Government of a substantial measure of protection, particularly in respect of the heavier products, such as lumber, in Schedule I.

With regard to question two, concerning consumption taxes, you may, in case of necessity, agree to embody the following in a letter to the Costa Rican Foreign Minister prior to the signature of the agreement: With regard to the so-called consumption taxes levied by Costa Rica on imported beer, wines and liquors, and cigarettes, the Trade Agreement to be signed between the United States and Costa Rica will not require the reduction of any of these taxes, nor will it prevent an increase in these taxes on imported beer, wines and liquors. The tax on imported cigarettes, however, will be bound against increase. In respect of all these taxes, the Trade Agreement will provide for most-favored-nation treatment.

The provisions of Article I relate only to ordinary customs duties and all other charges imposed on or in connection with the importation of the products of the United States enumerated and described in Schedule I. Under the provisions of Article IX, all products of either country are assured most-favored-nation treatment in respect of all customs duties and other charges imposed on or in connection with importation into the other country. The provisions of Article IV relate only to internal taxes imposed by either country, on products of the other country, after their importation into the country. In other words, Article IV does not relate in any way to charges imposed on or in connection with importation, before imported products are released from customs custody.

The tax on imported beer is levied on importation, hence it will not be affected by Article IV, nor, since beer is not in Schedule I, will the tax be covered by Article I. The same considerations apply to imported wines and liquors, that is, the consumption taxes thereon will not be affected by either Article I or Article IV. The tax on imported cigarettes is a charge imposed "on or in connection with importation". Since cigarettes are in Schedule I, the Costa Rican Government agrees (in Article I) not to increase this tax over the amount collected on the date of signature; this tax will not be affected in any way by Article IV. The provisions of Article IV do not cover such a case of indirect advantage to domestic raw materials over imported raw materials as is involved in the higher internal tax on cigarettes made in Costa Rica from imported tobacco; hence Article IV does not require the Costa Rican Government to bring the internal tax on cigarettes made from foreign tobacco into parity with the tax on cigarettes made from domestic tobacco.

With reference to point three, you are advised that studies are under way on the possibility of granting some concession to Costa Rica on dried bananas. As soon as a final decision has been reached in regard to dried bananas you will be promptly advised.

In view of the fact that the imports of tomatoes have come entirely from countries other than Costa Rica, and in view of the importance of the trade in this product, no concession is possible.

Consideration is also being given to the preparation of a list such as was envisaged in the Department's instruction No. 271 of February 27, 1936,¹² and it now appears likely that the Department will be able to authorize you to present such a list to the Costa Rican Government either before or at the time of signature.¹³

The Department would like to conclude the negotiations at the earliest possible moment, and is encouraged to believe that this may be possible in light of your despatch No. 1123 of May 7, 1936.¹²

Very truly yours,

For the Secretary of State:
SUMNER WELLES

611.1831/100 : Telegram

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

WASHINGTON, May 28, 1936—6 p. m.

20. With reference to the Department's instruction No. 308 of May 23.

1. Trade Agreements Committee this morning approved offering to Costa Rica rate of 17½ percent ad valorem on dried, desiccated or evaporated bananas, which now pay a duty of 35 percent ad valorem under Paragraph 752.

2. Reference your despatch No. 1130 of May 14. The draft letter enclosed may be given the Foreign Minister several days prior to signature of agreement instead of afterwards, as you suggest.

3. The Department, having in mind paragraph 10 of your despatch above cited, leaves to your discretion the utilization of the foregoing.

4. Having now met favorably every important counterproposal Costa Rica has made Department trusts that agreement may be promptly concluded.

HULL

¹² Not printed.

¹³ This refers to a list of tariff benefits which a country would enjoy by virtue of the trade agreements program but which could not be written into the agreement with a particular country.

611.1831/104 : Telegram

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

SAN JOSÉ, June 13, 1936—1 p. m.

[Received 5 p. m.]

34. Foreign Minister Jiménez today proposed the utilization of the Spanish text of the general provisions of the treaty with Guatemala¹⁴ word for word, substituting of course Costa Rica for Guatemala. As heretofore reported this Government has never been satisfied with the Spanish text as prepared originally in the Department and despite efforts under Gurdíán to improve text, Foreign Minister feels that the translation used in Guatemalan treaty is infinitely superior and is fully acceptable to this Government.

If this is satisfactory to the Department, Foreign Minister prefers to have the treaty prepared here with a view to signature perhaps next Saturday, if possible. This Legation will use utmost care in checking English and Spanish texts of documents, and, if Department perceives no objection, I recommend that this procedure be followed to expedite signature. Text printed in *Diario de Centro America* of Guatemala, May 9, this year. As added precaution, am requesting Legation at Guatemala to forward on Monday's plane official Spanish text.

SACK

611.1831/105 : Telegram

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

SAN JOSÉ, June 15, 1936—noon.

[Received 3 : 25 p. m.]

35. Referring to my telegram No. 34, June 13, 1 p. m., detailed comparison of English texts of Guatemalan agreement and proposed Costa Rican agreement disclose differences. For example, article V of Guatemalan agreement is not included in Costa Rican text. There are other differences also in construction of which Department is aware.

Since Foreign Minister, however, seems to prefer Guatemalan text in its entirety and since it may be regarded here as politically desirable to have same provisions as Guatemalan and since this concession will expedite signature, may I again recommend, if Department perceives no objection, that Guatemalan general provisions be substituted in Spanish and English texts understood of course that provisions like article XV peculiarly to Costa Rican agreement will stand.

SACK

¹⁴ Signed April 24, 1936; for text, see Department of State Executive Agreement Series No. 92, or 49 Stat. 3989. For correspondence, see pp. 534 ff.

611.1831/104: Telegram

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

WASHINGTON, June 18, 1936—1 p. m.

26. Your telegrams Nos. 34 and 35.

1. Department sees no objection to your substituting en bloc the general provisions used in the trade agreement with Guatemala for the English and Spanish texts sent you by Department's instruction No. 299 of April 16¹⁵ *mutatis mutandis*. Except for Article XV for which we may have certain amendments. It will be desirable in order to avoid confusion for you to confirm as soon as possible which draft you plan to use for preamble and each article of the final text.

2. Indicate results of Department's instruction No. 308 of May 23 so that appropriate insertions can be made in official texts here if necessary.

3. Does the Costa Rican Government accept Schedule I as sent with instruction 299, including the headnote and the two pharmaceutical notes?

4. Report result of telegram No. 20 of May 28, 6 p. m., so that final Schedule II can be drawn up.

5. Department will take no further action on matter discussed in penultimate paragraph of instruction 308 unless you so request.

6. Administrative approval needed here for agreement before you can be authorized to sign. Essential that you enable Department to draw up final text and thus be in a position to seek such approval at earliest possible opportunity.

HULL

611.1831/106

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

No. 1176

SAN JOSÉ, June 19, 1936.

[Received June 23.]

SIR: I have the honor to acknowledge the Department's telegram No. 26 of June 18, 1 p. m., which was in reply to my telegrams Nos. 34 of June 13 and 35 of June 15, and to report the following developments to the Department:

On last Saturday, June 13th, when I called on Foreign Minister Jiménez with reference to terminating the trade agreement negotiations in accordance with his previous declarations to me and to discuss specifically the general provisions which was then the only pending subject, he told me that his personal efforts to modify and improve

¹⁵ Not printed.

the Spanish translation of the general provisions as submitted by the Department, and which had previously been worked over by Mr. Drew of this Legation and by Mr. Beeche, the former *Oficial Mayor* of the Ministry of Foreign Relations, were proving so discouraging that he would like to substitute the entire general provisions of the agreement recently negotiated with the Republic of Guatemala, a copy of which he had received in the *Official Gazette* of that country.

After glancing over the Guatemalan agreement and making a hasty comparison of its provisions with the text of the proposed agreement for Costa Rica as prepared by the Department, I told him that I, personally, saw no objection to making the substitution if that would prove helpful to him, but that I preferred to telegraph the Department and receive its approval before making the substitution. Mr. Jiménez then added that if the Department did not object to the substitution, that he could have the agreement prepared in proper form by the facilities of his office and that perhaps the formal signature could be affixed on the following Thursday and if not on Thursday surely by Saturday, June 20th. At the same time Mr. Jiménez repeated his previous statement to me, that he desired to sign the agreement as soon as possible and personally advocate its ratification by the Congress. He went out of his way in this conversation to express his appreciation of the patience of the State Department and of the American Minister in Costa Rica as displayed during the two years that the conversations have been in progress and particularly during the past year when the American Government authorities were ready to terminate the negotiations whenever the Costa Rican authorities were ready to sign.

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At a conference with Mr. Jiménez on May 29th, following the receipt from the Department of telegram No. 20, he accepted with pleasure the reduction to 17½% on dried bananas. He also accepted the draft of my proposed letter (See despatch No. 1130 of May 14, 1936), with reference to exports to the Canal Zone. In reference to the points raised by Mr. Gurdían in my despatch No. 1099 of April 23, 1936, and the Department's instruction No. 308 of May 23, 1936, he expressed his disagreement with his predecessor and the changes sought in the general provisions by Mr. Gurdían were dismissed by him as being "of no importance and not necessary".

Anticipating at that time that Mr. Jiménez would conclude his study of the Spanish translation of the general provisions "within a few days" as he promised me and then proceed to approval of the final draft of the agreement, I did not notify the Department of that conversation, preferring not to burden the Department with any more details than necessary. I had hoped to report the final results of my negotiations within a few days thereafter. I believed then that the

Foreign Minister was trying to make good his earlier promise to me to speedily terminate the negotiations.

On yesterday afternoon following the receipt of the Department's telegram No. 26, of June 18, I asked the Foreign Office for an appointment with Mr. Jiménez for today and it was suggested that I call at two o'clock this afternoon. In order that there could be no mistaking of the final conversations with reference to the details of the agreement, I asked Vice Consul Satterthwaite, who speaks very excellent Spanish, to accompany me. I took with me the corrected text of the agreement including the general provisions and Schedules I and II in shape for transmission to the printer. I also wanted Mr. Satterthwaite present because this morning there appeared the attached article from *La Tribuna*, which declared in a streamer headline that the signature of the commercial treaty with the United States would be delayed. The article, which had all the earmarks of an inspired story, asserted that a study of the provisions of the agreement indicated that Costa Rica stood to lose 500,000 colones through decreased customs revenues. Obviously I was disturbed by the publication but I made no reference to it when we arrived at the Foreign Office. I am also enclosing copy of an article from page one of this afternoon's *La Prensa Libre*, the data for which I feel certain came from Mr. Jiménez himself. (Time does not permit the translation of either of these articles in advance of the closing of the air mail tonight).

I informed the Foreign Minister of the Department's acquiescence in his suggestion for a substitution of the general provisions and we then agreed upon the general provisions in this manner:

The preamble of the proposed original agreement with Costa Rica in which the names of the plenipotentiaries of the two governments are set forth at the outset. This is in accordance with the form followed in the existing treaty of July 10, 1851, between Costa Rica and the United States. Then we agreed upon the first fifteen articles of the agreement with Guatemala substituting only the name Costa Rica for Guatemala where such corrections were necessary and the name Guatemala for Costa Rica in the third line of the fourth paragraph of Article 14. For Article 16 we agreed upon Article 15 of the proposed text with Costa Rica as was prepared in the Department. This article refers to the Agreement of 1851.

Up to this point there was every indication that this was the final conference prior to the actual signing of the agreement.

Then Mr. Jiménez with apparent embarrassment said that when President Cortés and he had discussed ratification of the agreement with former President Jiménez and former Foreign Minister Gurdián they had been assured that the anticipated losses of the customs revenues as a result of the concessions made in the agreement would not

exceed 200,000 colones a year. A "very recent" study of the statistics of anticipated losses prepared by the Government last year, he continued, revealed that the concessions previously agreed upon by Mr. Gurdíán and former Finance Minister Brenes would "cause losses" of from 300,000 to 500,000 colones. Mr. Jiménez declared that he was not certain as to the accuracy of this estimate and that a new study of the probable effects of the reductions was being made at his request.

He declared that President Cortés as well as himself had the "utmost goodwill" toward the agreement and were anxious to terminate it as rapidly as possible but that they felt that if the anticipated losses ran in excess of 200,000 colones from world-wide imports, that the Government could not afford to sign the agreement on its present basis. And he added "nor would it"; he described such losses as "an insufferable obstruction." He claimed that the Government now is being forced to impose the strictest economy in many of its departments in order not only to balance its budget but also to raise revenues for other purposes. He asserted that as an economy measure, 80,000 colones have been reluctantly curtailed from the budget of the Bureau of Public Health and that if, as he has been informed, the losses to the Government from the agreement would approximate 300,000 colones "many Government employees would lose their jobs and go hungry".

I told Mr. Jiménez that I did not agree with his estimate and I showed him a copy of a memorandum which I prepared last December on the figures of estimated losses originally prepared by the Treasury Department of Costa Rica. This memorandum showed that on the basis of 1934 customs receipts the loss to the Costa Rican Government from all concessions proposed in the original suggestions of the Department would total 1,814,024 colones. These figures, however, included imports from the entire world and included the then anticipated losses from the then proposed reduction of duty on flour and the then proposed reduction of duty on lard.

Subsequently, as the Department is aware, the United States agreed to bind the duty on flour, an item involving anticipated losses of 1,015,514 colones on the basis of the 1934 customs receipts and also to bind lard at the 1935 figures which involved an anticipated loss of 476,648 colones in the 1934 customs receipts. These two items subtracted from the total left anticipated losses of only 321,862 colones on imports from the entire world.

Subsequent to the preparation of this memorandum Mr. Gurdíán (see my despatch No. 961 of December 8, 1935¹⁷) submitted his counter proposals which accepted in full only seven of the reductions recom-

¹⁷ Not printed.

mended by the United States and bound eight other items, granting partial reductions on twenty-two additional items.

The net result of the reductions granted by this Government and accepted by the State Department reduced the one time estimate by the Government of anticipated losses of 1,814,024 colones to approximately 200,000 colones, as estimated by Mr. Gurdíán and Mr. Brenes.

During all of the period of the negotiations with Mr. Gurdíán and Mr. Brenes I insisted, however, that the proposed reductions sought by the United States would not, in fact, reduce revenues to the Government of Costa Rica but would actually stimulate consumption and thereby increase revenues. I pointed out that this has been the experience of every country which has negotiated trade agreements with the United States and I knew of no reason to anticipate that the result in Costa Rica would be different.

After the submission on December 7, 1935, of the Costa Rican counter proposals there has been no question as to the changing of those concessions or any suggestion from any source that the concessions would involve unbearable losses to the Government of Costa Rica. The newspaper articles today and Mr. Jiménez' declarations to me were the first intimations since last year that the Government would be unable to "assume the losses." As a matter of fact every tariff item upon which concession is granted to the United States affects the cost of living of the people and it is to be assumed that any reductions in the import costs of these commodities would be reflected in their lowered cost to the ultimate consumer. The Costa Rican negotiators, however, as the Department recalls, have never been cheerful over the prospect of any loss of revenue whatsoever nor have they been keen on the theory that lower tariff walls will stimulate consumption, and thereby increase customs revenues.

I told Mr. Jiménez today that I saw no reason to challenge the figures prepared by the Government agencies last year and I reminded him that many months were spent on their preparation by the same men who are now working for the Government. Mr. Jiménez admitted this and agreed that my attitude was correct, but, he declared he has reason to believe that in many instances the statistics previously prepared by the Government are inaccurate or at any rate are in such form that the Congress would have difficulty in accepting them. He said that at this moment the figures, in his opinion, are subject to challenge by congressmen and that it is undesirable to negotiate a treaty which will not overcome the opposition of the Nationalist Congressmen. He told me that his independent audit of figures will be completed by noon on Monday, June 22, 1936, and that he wanted to discuss the figures with me at that time.

"If", he went on, "the audit shows that the original figures are correct and that the loss is only 200,000 colones as we were assured

by Mr. Gurdián and by Mr. Jiménez, I am instructed by President Cortés to sign the agreement with the least possible delay. In such an event the President told me that he would submit the agreement to the Congress with a strong message and would utilize every effort to assure its passage. If, however, the audit shows that our losses will approximate 300,000 colones or more, then I am instructed by the President to reopen the negotiations with a view to curtailing the amount of the concessions given. I do not want to insert a single new word or to seek any additional concessions from you but, if necessary, I am directed to revise the concessions (in Schedule I) on a scientific basis so that the losses to Costa Rica will approximate only 200,000 colones."

Throughout his entire discussion of this subject Mr. Jiménez, while seeking to assure me of his desire to sign a treaty with the United States and of Costa Rica's desire for the maintenance of the utmost cordial relations with the United States, insisted that the financial situation of this country is such that it cannot afford to take a chance on a loss of more than 200,000 colones. Mr. Jiménez asserted also that Costa Rica "is really making great sacrifices to the United States" in that the Government is tying its hands in its ability to protect two "growing national industries", first, the home manufacture of lard and second, the Costa Rican manufacture of medicinal and toilet preparations such as those specified in the agreement will compete with.

I expressed to Mr. Jiménez my disappointment that at this late stage of the negotiations these additional objections should be raised and I told him that unquestionably, in my opinion, the Department of State also would be disappointed as well as greatly concerned.

It is unnecessary for me to inform the Department how personally chagrined I feel at this additional and wholly unexpected last minute objection, particularly as there has been no indication for more than six months that Schedule I was not a closed issue.

I have been loath to believe that the former President of Costa Rica, that the former Foreign Minister who is now the Minister of Hacienda, that the present Foreign Minister and also the incumbent President, whose views on this matter have been conveyed to me informally for him since he became President by Mr. Ricardo Castro, the Costa Rican Minister in Washington, as well as by Mr. Jiménez and by Mr. Gurdián, and also Mr. Gurdián since he became Finance Minister in Mr. Cortés' Government, have been deliberately "stalling" and I am reluctant to hold this opinion today.

I do feel, however, that the Department of State and this Legation have with such great patience met every request of the Costa Rican negotiators throughout the entire period of the negotiations and have given such sympathetic consideration to the economic situation of the

country that the time has now come for the United States to inform Costa Rica that it is forced to reluctantly terminate the conversations and leave them to such time in the future as Costa Rica cares to reopen the negotiations.

This thought is based on the assumption that Mr. Jiménez on Monday will tell me that his revised studies show that the Government stands to lose substantially more than 200,000 colones and therefore it will be necessary for a substantial revision of the concessions provided for in Schedule I.

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In this connection may I remind the Department that this Legation has at all times assured the Costa Rican Government that the United States Government has no desire for Costa Rica to lose a five cent piece through the termination of the trade agreement with the United States and also that this statement was made to Mr. Gurdíán by Secretary Hull, himself, in Washington last fall, so Mr. Gurdíán told me upon his return from the States.

In all of my conversations with the Government I have endeavored to arouse the helpful cooperation of this Government to Secretary Hull's program to restore world-wide commerce by the breaking down of tariff barriers and the removal of artificial obstructions to the free movement of commodities between nations.

Unfortunately the high ideals of the United States Government fall upon deaf ears in this country because Costa Rica's fiscal system is based chiefly on import and export tariff revenues and upon excise taxes. The Government, therefore, is and has been reluctant to lower its tariffs and to seek its revenues from other sources.

I feel however that the commerce of Costa Rica with the United States in comparison with the commerce between the United States and other countries with which the United States has negotiated trade agreements is so small that the time has come for the United States to express its regrets and to declare that it reserves the right to resume its freedom of action, particularly since this Government has at no time showed a genuine desire to cooperate, but to the contrary has repeatedly resorted to dilatory tactics, and, is now, as disclosed by today's inspired newspaper articles, seeking to arouse public sentiment to the dangers of the treaty and in this way encourage vituperative and vociferous opposition in the Congress.

Another factor which enters into my recommendations is the brazen statement made to me this afternoon by the Foreign Minister. He said then "after all Costa Rica is getting very little from the treaty".

When I pointed to Schedule II, which lists nine articles free of all import duties whatsoever, including the three chief crops of coffee, bananas and cocoa, Mr. Jiménez replied:

"We have always had them free and furthermore we know that the United States has guaranteed continued free entry to other countries, so that under the most favored nation treaty which we have with the United States we will continue to enjoy it".

Mr. Jiménez depreciated the value of free entry of coffee into the United States and claimed that coffee sales to the United States were not important since "you buy your coffee from Colombia".

When I called his attention to reduced duties on pineapples, and other Costa Rican fruit products, which his predecessor, Mr. Gurdíán, had been so anxious to obtain, he shrugged his shoulders and replied that "those exports do not, and probably will not, amount to anything".

In other words, the attitude of Mr. Jiménez—and I know that he reflects the attitude of many prominent Costa Ricans—is that Costa Rica is now getting free from the United States most of that which it will get free after the agreement is signed, so why make any concessions at all. He made it clear that in his opinion the bargaining position of the United States is not strong. At the same time he displayed a spirit of national selfishness in direct contrast to the "good neighbor" attitude which motivates the United States Government. I appreciate how very anxious the Department is to conclude trade agreements with every Central American country and with perhaps every nation in Latin America, but on the other hand I feel in view of the great concessions that the United States has traditionally given to Costa Rica on its chief agricultural products, to wit, free entry of bananas, coffee and cacao, and in view of the concessions proposed which have for their purpose the stimulation of other Costa Rican exports to the United States, that the United States Government should refuse to accept any substantial modifications of the concessions heretofore agreed upon.

The Department, as well as the Legation, will be in a better position to judge of this Government's ultimate intentions when we receive Mr. Jiménez' figures which he promises for Monday at noon.

If, as I have written above, Mr. Jiménez advocates on Monday a substantial revision of the concessions heretofore granted by Costa Rica I feel that the United States Government will be making a mistake if it agrees to the Costa Rican request.

If on the other hand Mr. Jiménez' figures should show the need for very slight revision I will then suggest that the Department give its consideration to his request.

Respectfully yours,

LEO R. SACK

611.1831/110 : Telegram

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

WASHINGTON, June 29, 1936—4 p. m.

27. Your despatch No. 1176 of June 19 and telegram No. 36 of June 24, 6 p. m.¹⁸ I believe it will be best under the circumstances for the time being for you not to pursue the negotiations further on your own initiative. While I am naturally most desirous to have Costa Rica participate in the trade agreement program, such participation of course should be the result of a whole-hearted and sincere desire on the part of the Costa Rican Government reached after mature consideration of all factors involved to cooperate in promoting the broad aims of the program.

PHILLIPS

611.1831/114

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

No. 1232

SAN JOSÉ, August 20, 1936.

[Received August 25.]

SIR: For the information of the Department I have the honor to enclose herewith a memorandum written by me on August 11, 1936, following a visit on the day before with the Foreign Minister, and a second memorandum written on August 18, 1936, of a conversation earlier that day with Mr. Jiménez.¹⁹

The memoranda are self-explanatory. It will be noted that Mr. Jiménez of his own accord on August 10th reopened the question of the trade agreement negotiations. This was his first reference to the matter since his conversation with me on Friday, June 19th (see my despatch No. 1176), when he definitely assured me that on the following Monday he would advise me further concerning the new studies the Costa Rican Government was having made of the anticipated alleged losses in customs revenues.

In accordance with my own inclinations and in accordance with the Department's instruction No. 27 of June 29, 1936, I have not initiated conversations with Mr. Jiménez nor any other government official since.

The Department will note that although Mr. Jiménez told me on August 10th that he would write me a letter proposing a modification of the item on lard in the proposed agreement, I have not as of this date (noon on August 20th) received his communication.

The Department will also note in my memorandum of August 18th (two days ago), Mr. Jiménez apologized for his delay in sending me

¹⁸ Telegram not printed.¹⁹ Neither printed.

the proposed letter and he again promised to send it the next day but I have not received it yet.

I assume that he intends to forward the letter and when he does I shall notify the Department by telegraph. In the meanwhile this despatch with its enclosures is for the Department's background information.

Respectfully yours,

LEO R. SACK

611.1831/121 : Telegram

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

SAN JOSÉ, September 2, 1936—3 p. m.

[Received 7:48 p. m.]

48. First. Foreign Minister declares he is deeply grateful for the Department's telegram No. 32.²⁰

Second. Reference telephone conversation yesterday, Foreign Minister expresses the hope Department will be able to receive approval of all parties concerned in order that trade agreement can be signed here on Saturday. With this end in view he is having final draft of the treaty prepared, subject, of course, to the Department's approval.

Draft is in accordance with telegraphic instruction No. 26, June 18, 1 p. m., with Guatemalan text general provisions substituted in accordance with my telegram No. 35 of June 15.

In Spanish text of schedule I Foreign Minister prefers use of note preceding schedule I in Guatemalan treaty. He claims this is better Spanish than translation prepared in Department and I agreed to the substitution assuming, of course, that Department would perceive no objection. As note 3 in schedule I the following is proposed by Foreign Minister in reference to proposed eliminated items concerning pork products: "Note 3. It is agreed that the Costa Rican later report [*Costa Rican law?*] No. 11 of May 21, 1934, and existing customs tariffs which establish duties on hog and vegetable lard and on other pork products shall not be modified during the period expressed in the laws or during the life of this treaty without the agreement of the two contracting countries." I am forwarding in clear Spanish text of this note.²¹

Will appreciate if Department will advise me as soon as possible whether Costa Rican proposals are acceptable.

SACK

²⁰ Dated September 1, 7 p. m.; not printed.

²¹ Telegram No. 49, September 2, 3 p. m.; not printed.

611.1831/121: Telegram

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

WASHINGTON, September 4, 1936—noon.

34. Your telegram No. 48, September 2, 3 p. m.

1. The proposed removal of the concession on lard would eliminate the most beneficial feature of the agreement for American agriculture and one which the Department is most desirous of retaining. Extension to the United States of the proposed rate of 50 centimos per kilo would have resulted in a loss of customs revenue to Costa Rica on the basis of United States export figures for the first 6 months of 1936 (16,750 pounds) of only 760 colones. According to your telegram No. 43 of August 24, 9 p. m.²³ the 50 centimo rate in 1935¹ kept total importations down to 489,000 kilograms, whereas in 1929 for example the United States alone shipped over one and one half million kilograms of lard to Costa Rica. The 50 centimo rate results in protection to Costa Rican lard producers of about 4 cents U.S. per pound, which would appear to be ample. Importations into Costa Rica are today so reduced the Government would lose only an insignificant amount of customs revenue by a restoration of the 1935 rate. These factors plus the consideration that this rate has been raised twice, from 40 to 60 centimos since Costa Rica agreed to negotiate a trade agreement with the United States, justify in the Department's opinion, a reconsideration by the Costa Rican Government of its position on this subject. When this Government is prepared to guarantee duty free entry of Costa Rica's chief exports to the United States the Department believes that Costa Rica should make a reasonable effort to treat major United States exports such as lard as generously as possible. Consideration of note 3 quoted in your telegram No. 49 of September 2, 3 p. m.²³ will be deferred pending a clarification of this whole subject.

2. Consideration will be given to the elimination of item 122 (3) if you report that this is necessary to obtain more favorable action on lard.

3. The Department assumes from what you report that the text of the general provisions is identical with that used in the Guatemalan agreement, *mutatis mutandis*, except for Article XVI (Article XV of draft for Costa Rica), which should be omitted altogether. It is not clear however whether you are including Article V of the Guatemalan agreement. The Department would also prefer to omit the third paragraph of Article IX of the Guatemalan agreement.

²³ Not printed.

4. Report exact differences between Schedule II you are now considering and those sent you under cover of Department's instruction No. 299 of April 16, 1936.²⁴

5. The Department will endeavor to obtain final approval at this end as quickly as possible following definite agreement on text satisfactory to the negotiators.

HULL

611.1831/128 : Telegram

The Secretary of State to the Chargé in Costa Rica (Collins)

WASHINGTON, October 26, 1936—7 p. m.

42. Referring to your telegram No. 59, October 17, 1 p. m.²⁴

1. For your confidential information following conferences with Mr. Sack, the Costa Rican Minister has recommended directly to President Cortés that settlement of lard schedule be made on basis of Department's viewpoint. The Costa Rican Minister, however, has received no definite answer because of illness of President and absence of Foreign Minister. He said last night that he was again telegraphing the President and he indicated that immediately following Foreign Minister's departure for Buenos Aires Acting Foreign Minister will be instructed to facilitate the agreement.

2. Reference your conversations with Gurdián. May we impress on you need for greatest caution in order that Legation may not become involved in local jealousies or appear to be negotiating over the head of the Foreign Minister.

3. You are authorized to present again to the Acting Foreign Minister the arguments outlined in the Department's telegram of September 4, 12 noon, adding thereto the argument suggested in paragraph 4 of your telegram under acknowledgement. Your efforts should be concentrated on obtaining a 50-centimo rate on lard, since the Department is not certain that it will be possible to obtain necessary clearance here for the agreement if it contains a higher rate on this product.

I believe that the elimination from Schedule I of cornstarch on the terms you quote will offer no difficulty. Alternative items to replace cornstarch are now being studied and will be supplied you when needed.

In approaching the Acting Foreign Minister on this subject I believe it will be useful for you to emphasize, *inter alia*, the importance to the permanency and efficacy of the trade agreement program of lowering the tariff barriers which today impede reasonable foreign trade in agricultural products. The United States enjoys as much if not more

²⁴ Not printed.

natural advantages in producing lard as Costa Rica does in growing coffee. Tariff concessions on lard in trade agreements are to our farmers comparable in relative importance to benefits favoring Costa Rican coffee. Agricultural interests in the United States are certain to withdraw their support of the trade agreement program unless worthwhile concessions are obtained on key farm exports such as lard and flour, and the failure of the program is almost sure to entail a return to tariff insularity.

Our agricultural requests of Costa Rica are unusually moderate: despite the desirability of lowering the Costa Rican tariff on flour—a step which would benefit both American agriculture and the Costa Rican consumer—we have reluctantly agreed to binding the present tariff treatment; on lard, we originally requested a rate of 24 centimos, receded to 40 and then to 50, notwithstanding the fact that the rate was only 40 centimos when Costa Rica agreed to negotiate with this Government. All of these considerations convince me that the Costa Rican Government should be able and willing, not solely to gratify this Government, but also to help protect its own vital stake in liberalized world trade—to find some means of meeting our present modest request on lard.

4. The Department assumes that you are keeping in mind contents of Department's telegram No. 36, September 25, 3 p. m.²⁸

HULL

611.1831/137: Telegram

The Chargé in Costa Rica (Collins) to the Secretary of State

SAN JOSÉ, November 20, 1936—11 a. m.

[Received 2:11 p. m.]

73. Violent newspaper controversy between ex-President Ricardo Jiménez and Minister of Hacienda Gurdián, in which trade agreement negotiations in Jiménez' administration when Gurdián was Foreign Minister is major issue, threatens to dispel favorable psychological state we have created in the Government and to embroil the agreement in politics so that it will become highly contentious.

Further, there is possibility that Gurdián will be so wrought up that we shall lose his influence. It is very important, not to say vital, that this situation should be terminated at the earliest moment possible by completion of agreement and public announcement that it has been completed and will be signed by Mr. Sack immediately upon arrival.

(1) I think I can get 55 centimos on lard without conceding on liquors and in view of urgent need for termination of negotiations I

²⁸ Not printed.

respectfully suggest advisability of agreeing immediately on this basis unless Department's decision on liquors can be reached without further delay. (2) Am discussing pork and paper with Foreign Office today and will report results immediately.

COLLINS

611.1831/137 : Telegram

The Acting Secretary of State to the Chargé in Costa Rica (Collins)

WASHINGTON, November 20, 1936—6 p. m.

56. Your telegram No. 73, November 20, 11 a. m. Trade Agreement Committee meeting is set for Monday morning and we expect at that time to settle liquor concessions, prospect for which now seems favorable. If you feel that with these additional concessions it should be possible to obtain the 50 centimo rate on lard we believe a few days' further delay will be worth while. If, however, you feel the 55 centimo rate is apt to be the best obtainable under any circumstances and the events you report threaten to upset the negotiations making immediate action imperative we will endeavor to speed Committee action and instruct you tomorrow.

Endeavor to have a reply to this message reach Department early tomorrow morning.

MOORE

611.1831/139 : Telegram

The Chargé in Costa Rica (Collins) to the Secretary of States

SAN JOSÉ, November 20, 1936—midnight.

[Received November 21—1:45 p. m.]

75. Department's telegram No. 56, November 20, 6 p. m. I had frank and full discussion with the Acting Foreign Minister tonight. While he would have liked liquor concessions and I gather would ultimately have come to 50 centimos to get them, he feels and I agree with him that even a day's delay would be dangerous under the circumstances. In order to forestall an almost certain blast from ex-President Jiménez in Sunday papers and to damp[en] growing contentiousness immediately the Government strongly desires to announce to the press tomorrow afternoon that agreement has been reached. Further it desires to be able to say that it got better terms on lard than Jiménez when President was willing to accept. Accordingly the Minister asked for 55 centimos with immediate action and abandoned liquor. I assented and agreed to transmit this tonight with strong recommendation for immediate approval, such approval should reach me not later than early afternoon Saturday to make possible press release in time for Sunday morning papers.

As a gesture of good will on eve of complete revision of Costa Rican tariff and in order to strengthen the agreement in Congress I would suggest that if practicable we make a present of the liquor concessions early next week.

Elimination of binding of provisions relative to vegetable oil lard, et cetera, definitely agreed to.

The Minister desires to correct a few verbal infelicities in the Spanish text. I will telegraph these tomorrow.

Does the Department desire by air mail copies of the schedules embodying the changes that have been made?

COLLINS

611.1831/139 : Telegram

The Acting Secretary of State to the Chargé in Costa Rica (Collins)

WASHINGTON, November 21, 1936—7 p. m.

58. Your 75 November 20 midnight not received until 1:45 this afternoon, thus precluding the orderly consideration essential to definite commitment until Trade Agreements Committee meets Monday morning. If, however, you consider it essential we are prepared to consider the negotiations closed on the basis of 55 centimos for lard with liquor concessions abandoned and anticipate no difficulty in obtaining final approval on that basis although we cannot definitely so indicate in advance of Trade Agreements Committee meeting Monday morning.

While we find it difficult to believe that if Costa Rica's desire to cooperate with the Secretary's program is genuine a personal feud can be allowed to break down the negotiations at this stage, we nevertheless see no objection to a statement by the Costa Rican Government that substantial agreement has been reached and that signature is expected in the very near future, thus providing a felicitous augury for the international conference about to open at Buenos Aires.²⁷ We feel, however, that it would be embarrassing and in principle undesirable to give out any specific rate prior to signature of the agreement.

MOORE

[The Reciprocal Trade Agreement between the United States and Costa Rica was signed at San José, November 28, 1936; proclaimed by the President of the United States, July 3, 1937; effective August 2, 1937. For text, see Executive Agreement Series No. 102, or 50 Stat. 1582.]

²⁷ For correspondence concerning the Inter-American Conference for the Maintenance of Peace, Buenos Aires, December 1-23, see pp. 3 ff.

611.1831/155

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

No. 1296

SAN JOSÉ, December 4, 1936.

[Received December 14.]

SIR: In further reference to my telegram No. 83 of November 28, 4 p. m.,²⁸ informing the Department of the formal signature of the trade agreement with Costa Rica, I have the honor to enclose the official text of the agreement as signed. (To guard against eventualities in the air mail this text is being forwarded by boat mail.) The agreement was sent to the Congress by President Cortés on December first and has been referred by the Congress to the Committees on Foreign Relations and Finance jointly. I have been informed that it is unlikely that the Congress will take affirmative action until after the Christmas recess. Up to now there has been comparatively little newspaper discussion of the agreement, although the full text has been printed in *Diario de Costa Rica* which on December 3rd had this brief editorial in reference to the agreement:

"The commercial treaty with the United States went to Congress yesterday and passed on to be studied by the Foreign Relations and Finance committees jointly. It will doubtlessly be the object of careful study notwithstanding the fact that the long negotiations it went through with the Executive Power assure that already a great part of the effort required in the sense of public interest has been realized. But according to all probabilities the legislative ratification of this treaty will be left for next January."

From all information received in the Legation it appears that the agreement has been well received by the Costa Rican public and I have been informed by President Cortés that he anticipates little opposition to its ratification by the Congress. This opinion was conveyed to me also by Acting Foreign Minister Fernandez and Finance Minister Gurdián. For the information of the Department I have learned that Mr. Otilio Ulate, publisher of *Diario de Costa Rica* and a member of the Foreign Relations Committee of the Congress, has informed friends that he intends to support the agreement. Mr. Ulate in a courtesy call upon me at the Legation following my return from the United States expressed gratification that the treaty had been signed, and although he had not then seen a copy of the text he declared that "it is a good thing for the country". Mr. Ulate's support, as the Department is aware, will help materially to speed up ratification.

May I take this occasion to express to the Department my appreciation of the considerate telegram No. 67 of November 28, 8 p. m.,²⁸ ex-

²⁸ Not printed.

pressing the gratification of Acting Secretary Moore to me and my associates for the signature of the agreement. It has given me pleasure to convey to the career personnel mentioned in the telegram, as well as to the other members of the staff, the gratification of the Department, as well as my own, for their conscientious devotion in the prolonged negotiation of this agreement. May I take this occasion also to express my own gratification to the Department and particularly to the personnel of the Latin American Division for their kind and sympathetic cooperation, as well as patience, in the negotiations of this agreement.

It is needless for me to review here the ups and downs of these negotiations over a period of approximately two years. It is sufficient to recall that "All's Well that Ends Well".

Respectfully yours,

LEO R. SACK

DOMINICAN REPUBLIC

REPRESENTATIONS TO THE DOMINICAN REPUBLIC RESPECTING ITS FAILURE TO EXTEND MOST-FAVORED-NATION TREATMENT AS PRO- VIDED IN THE "MODUS VIVENDI" OF SEPTEMBER 25, 1924

611.3931/52

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

No. 3405

CIUDAD TRUJILLO, July 10, 1936.

[Received July 14.]

SIR: I have the honor to inform the Department that, in conversation with the Minister of Foreign Affairs today, Señor Bonetti Burgos introduced the subject of a possible trade agreement between the United States and the Dominican Republic by referring to the Dominican Government's impression that a certain aloofness had been noticeable on the part of the United States towards the Dominican Republic in commercial matters and, indeed, generally. This supposed attitude was the more noticeable by contrast with the attitude of the United States towards other countries similarly situated in relation to the United States. The Minister said that the Dominican Government felt that, by virtue of this country's geographical position, which made it natural for trade relations with the United States to be preponderant in Dominican economy, negotiations for a trade agreement with the United States could be undertaken to the mutual advantage of both countries.

The Minister stated that, though he had learned, during his visit at Washington prior to assuming his duties here, that it would be most difficult to obtain a quota for Dominican sugar exports to the United States, the Dominican Government was still hopeful that such a quota might be obtained.

In this relation he mentioned a figure of 300,000 tons which, he stated, would be of the utmost importance to Dominican economy while, at the same time, it would be of only slight importance in relation to the total sugar imports into the United States from foreign countries. The Minister then alluded again to the alleged aloofness (*retramiento*) of the United States towards the Dominican Government and said, speaking "unofficially", that this attitude was not understood here, especially since the Dominican Government was

disinclined to abandon the hope of increased commercial relations with the United States in favor of any intensification of trade relations with Japan. He referred to the rapid increase of imports from Japan into this country in recent years and to the inferior quality of Japanese goods, at the same time mentioning the artificial nature of increased Japanese-Dominican trade, the possibility that such trade would, nevertheless, create vested interests which would be unfavorably affected by any later changes in the trade currents of this Republic and, finally, intimating that the Dominican Government was also conscious of the possibility of unfavorable political implications in such a situation for the United States, with whom the Dominican Government, and especially President Trujillo's administration, desired to maintain particularly close relations.

I said to the Minister that the American Government had indicated more than two years ago its intention of undertaking negotiations with the Dominican Government for a trade agreement. It was my personal impression that attention had been distracted from this matter by subsequent developments in American-Dominican relations in 1934 and in 1935. I referred to the difficulties which had come up in 1934,¹ affecting the protection of American interests established in this Republic, and to further difficulties having similar effects in 1935.² I said that, happily, many of these matters had been eliminated from the field of discussion and that, at the present time, the principal issues which seemed to require settlement were those having to do with the treaty obligations of the Dominican Government under the Convention of 1924,^{2a} including the matter of the Dominican Government's floating debt, which had been the subject of our notes of May 18 and June 18, last, respectively.³ Adding that I was confident these matters would shortly be cleared up, I suggested to the Minister, as I said on my personal initiative, that he let me have, for transmission to the Department, an explicit and reasoned memorandum of the Dominican Government's ideas regarding a trade agreement with the United States. I said that, should I receive such a memorandum, I should be glad to transmit it to my Government with a view, if possible, to expediting consideration of a trade agreement between the two countries. The Minister seemed to consider this suggestion expedient but did not undertake to supply the suggested memorandum, the early preparation of which, presumably, would depend upon the

¹ See *Foreign Relations*, 1934, vol. v, pp. 189 ff., and pp. 202 ff.

² See *ibid.*, 1935, vol. iv, pp. 478 ff.

^{2a} Signed in Washington, December 27, 1924, *ibid.*, 1924, vol. i, p. 662.

³ See enclosure to despatch No. 433, June 13, to the Minister in the Dominican Republic, p. 464.

amount of study given the subject here and its consideration as a matter of policy by the appropriate authorities of the Dominican Government.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

639.5131/17

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

No. 3546

CIUDAD TRUJILLO, October 2, 1936.

[Received October 6.]

SIR: Referring to the Legation's despatch No. 3521 of September 18, 1936,⁴ in relation to the Franco-Dominican Trade Agreement signed in Santo Domingo on September 4, 1936,⁵ and the uncertainty in the mind of the General Receiver of Dominican Customs as to whether the most-favored-nation treatment would be applied to certain American products equivalent to those enumerated in the above Agreement, by virtue of the American-Dominican *Modus Vivendi* of 1924,⁶ I have the honor to report that the matter was submitted by the General Receiver to the Secretary of State for the Treasury for a ruling in a communication dated September 21, 1936,⁴ a copy and translation of which are enclosed. There is transmitted herewith a copy, with translation, of a communication, dated September 29, 1936,⁴ addressed to the General Receiver by the Secretary of State for the Treasury, which has also been supplied to this Legation through the courtesy of the Receivership, replying to the General Receiver's inquiry and stating that the benefits granted by the Franco-Dominican Trade Agreement are applicable, solely and exclusively, to the factory (trade) marks enumerated in the Agreement, or, specifically, to those indicated in paragraphs II, III (bis), IV, V, VI and VII of the Receivership's Internal Revenue Circular No. 154 of September 15, 1936, the only two available copies of which are enclosed (For a translation of the substance and an analysis of this circular, see enclosure to despatch No. 3521 of September 18, 1936).⁴

Under the Dominican Government's ruling, the following groups of American products will apparently be denied the most-favored-nation treatment provided for in the American-Dominican *Modus Vivendi* of 1924, in respect of reduction of or exemption from so-called internal revenue taxes or imposts levied on imported merchandise, when entering the Dominican Republic: (1) vermouths

⁴ Not printed.

⁵ *Journal Officiel de la République Française: Lois et décrets*, September 30, 1936, p. 10298.

⁶ Exchange of notes, September 25, 1924, *Foreign Relations*, 1924, vol. I, pp. 667-670.

and aperitifs; (2) cognacs and armagnacs; (3) perfumes, extracts, perfumed essence, perfumed powders; toilet soaps, shaving soaps and perfumed soaps in all the forms manufactured; (4) toilet and bath water, lotions for the hair and other uses, vinegars and aromatic salts; (5) dentifrices in general (paste, powder or liquid); (6) so-called beauty products such as: creams, cosmetics, face paint, pencils, rouges, brilliantine, depilatory products, preparations for the nails, etc.; pomades for the hair; essential oils for the manufacture of perfumes, soap, etc.; (7) pharmaceutical specialties; (8) medicinal and mineral waters; (9) preserved food, confectionery, bonbons, chocolate in tablet form and preserved food stuffs of meat, fish and vegetables.

As indicated in the Legation's despatch No. 3521 of September 18, 1936, the action reported on the part of the Dominican Government would appear to be a departure from the most-favored-nation treatment stipulated to the United States and would apparently violate the spirit of the American-Dominican *Modus Vivendi* of 1924. The denial of most-favored-nation treatment to certain American products imported into the Dominican Republic, in such apparent violation of the *Modus Vivendi* of 1924, may warrant immediate representations to the Dominican Government in advance of actual cases of discrimination against American products. In this relation, the Receivership informs the Legation orally that, since it would be extremely difficult to obtain reimbursement for taxes paid once they were assessed and collected, it would doubtless save considerable difficulty, if our Government intends to insist on most-favored-nation treatment for American goods, to make its position in this matter known promptly to the Dominican Government.

That the matter is of some urgency will be observed from the visit the Legation received today from Mr. George W. Mitchell, representing the Plough Sales Corporation of Memphis, Tennessee, exporters of certain pharmaceutical specialties, who called for the purpose of making an oral protest against what he termed "the violation of the American-Dominican *Modus Vivendi* of 1924 by the Dominican Government" through its action in denying most-favored-nation treatment to American products similar to those granted preferential treatment under the Franco-Dominican Trade Agreement. Mr. Mitchell said that his principals were going to make a trial shipment of pharmaceutical specialties to the Dominican Republic within the next ten days and, if their products were not accorded the same rates of internal revenue taxes and imposts as similar French articles, a formal protest against this alleged discrimination against American products would be made.

Respectfully yours,

For the Minister:
FRANKLIN B. ATWOOD
Secretary of Legation

639.5131/17 : Telegram

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

WASHINGTON, October 9, 1936—7 p. m.

13. Your despatch 3546 of October 2, 1936. Please call on Foreign Minister and leave with him a note in which you should point out that in accordance with the provisions of the *modus vivendi* between the Dominican Republic and the United States, signed at Washington September 25, 1924, the American Government confidently expects that American goods similar in character to the products of the French firms mentioned in paragraphs 2 to 7, inclusive, of Annex B, *Modus Vivendi* forming part of the Franco-Dominican Trade Agreement will receive equal treatment with the aforementioned French products as respects reduction or abolition of internal revenue taxes.

HULL

611.3931/55

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

No. 3556

CIUDAD TRUJILLO, October 10, 1936.

[Received October 13.]

SIR: Referring to the Department's telegraphic instruction No. 13, of October 9—7 p. m., I have the honor to enclose, for the Department's information, a copy of a note^s handed by me this morning to the Minister for Foreign Affairs expressing the confident expectation of our Government that American goods similar in character to the products of the French firms mentioned in the *Modus Vivendi* which forms part of the Franco-Dominican Trade Agreement, signed here September 4, last, will receive equal treatment with French products, in pursuance of the exchange of notes at Washington September 25, 1924, between our Government and that of the Dominican Republic according mutual most-favored-nation treatment.

When I handed the note to the Minister for Foreign Affairs and apprised him of its contents, the Minister gave no indication of the Dominican Government's attitude, but he referred again to the desire of the Dominican Government to obtain facilities for its products in the United States. I reminded the Minister of my conversation with him as reported in my despatch No. 3405 of July 10, 1936, when I stated my readiness to transmit to the Department, for its consideration, a statement on behalf of the Dominican Government of its desires and ideas regarding an American-Dominican Trade Agree-

^s No. 259, October 10, not printed.

ment. The Minister said, in this relation, that since that conversation he had been assembling the material in the Foreign Office for a study of this matter and he indicated that a memorandum setting forth the Dominican Government's position on this question might sooner or later be prepared.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

611.3931/56

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

No. 3563

CIUDAD TRUJILLO, October 13, 1936.

[Received October 21.]

SIR: Referring further to the Legation's despatch No. 3546 of October 2, 1936, and to the Department's telegram No. 13 of October 9, 1936—7 p. m., in relation to the threatened denial of most-favored-nation treatment to certain American products imported into the Dominican Republic, in apparent violation of the American-Dominican *Modus Vivendi* of 1924, I have the honor to submit below a study of Dominican-American trade, particularly with reference to the character of Dominican exports to the United States, which may assist the Department in determining the practicability of retaliatory action, if this should become necessary.

In the event that the Dominican Government fails to make a satisfactory reply to the representations contained in the Legation's Note No. 259 of October 10, 1936 (see despatch No. 3556 of October 10, 1936), and denies to similar American products the same preferential treatment as is granted by the Dominican Republic to French products imported under the terms of the recent Franco-Dominican Trade Agreement, the Department may wish to consider the advisability of adopting retaliatory measures against Dominican products imported into the United States.

General.

Dominican exports to the United States, exclusive of Puerto Rico, in 1935 were valued at \$4,154,451, as compared with \$2,613,741 in 1934, an advance of \$1,540,710, or 59%. Exports to the United States have continued to advance in 1936, and they were valued at \$2,402,272 for the first six months of the year. In 1935, the United States took 26.83% of all Dominican exports, against 20.27% in 1934, a gain of 6.56%.

Dominican imports from the United States declined from a value of \$6,016,165 in 1934 to \$4,742,194 in 1935, a drop of \$1,273,973, or 21%, chiefly due to larger purchases in Japan, Germany, The Netherlands and British India. Imports from the United States have

continued their downward trend in 1936, and were valued at \$1,152,373 for the first three months of the year. The percentage of total Dominican imports furnished by the United States declined from 56.89% in 1934 to 48.44% in 1935, a drop of 8.45%.

It will be observed from the foregoing figures that, while the United States increased its percentage of purchases of total Dominican exports by 6.56% in 1935, the percentage of total Dominican imports purchased in the United States declined by 8.45% in 1935, when compared with 1934.

Trade Balances.

American-Dominican trade is gradually attaining a state of equilibrium and the visible balance of trade obtaining in favor of the United States is steadily decreasing. The approach to a condition of balance in trade between the two countries has been rapid in 1935 as will be observed from the following figures:

DOMINICAN TRADE WITH THE UNITED STATES

	<i>Imports from U. S.</i>	<i>Exports to U. S.</i>	<i>Balance in favor of U. S.</i>
1930-----	\$8, 545, 988	\$4, 368, 121	\$4, 177, 867
1931-----	5, 882, 655	3, 427, 767	2, 454, 888
1932-----	4, 595, 541	1, 907, 992	2, 687, 549
1933-----	5, 384, 858	1, 928, 170	3, 456, 688
1934-----	6, 016, 165	2, 613, 741	3, 402, 424
1935-----	4, 742, 192	4, 154, 451	587, 741

There are several basic reasons for an approaching balance in American-Dominican trade. The most important of these are: (1) increased Japanese, German and Dutch competition in the Dominican market, resulting in a marked decline in American exports to the Dominican Republic of cotton textiles, cement, chemicals, certain iron and steel products and lard; (2) greatly increased so-called internal revenue taxes on imports, imposed by Dominican Law No. 854 of March 13, 1935,⁹ which has appreciably reduced imports of most commodities other than prime necessities of life; (3) larger American purchases in 1935 and 1936 of certain Dominican products such as crude cacao, molasses and coffee.

Principal Dominican Exports to the United States Exclusive of Puerto Rico.

The enclosed analysis¹⁰ of Dominican exports to the United States discloses that of 15 principal items of export, seven are dutiable under the United States Customs Tariff Act of 1930,¹¹ as revised to January

⁹ Dominican Republic, *Colección de Leyes, Decretos y Resoluciones Emanados de los Poderes Legislativo y Ejecutivo de la República*, 1935, p. 87.

¹⁰ Not printed.

¹¹ Approved June 17, 1930; 46 Stat. 590.

1, 1936, and eight are on the Free List. Dominican products (molasses, sugar, cane syrup, fresh fruits, hides of cattle, yams and coconuts, etc.) imported into the United States subject to duty were valued at approximately \$902,473, in 1934, \$1,607,904, in 1935, and \$908,109, in the first six months of 1936.

It will be observed also from the analysis mentioned that the eight principal Dominican exports to the United States, now on the Free List, attain a value of roughly double that of the dutiable exports. These products (crude cacao, placer gold, yucca starch, coffee, beeswax, goatskins, Lignum Vitae, plantains, etc.) imported into the United States free of duty were valued at approximately \$1,607,288, in 1934, \$2,471,525, in 1935, and \$1,453,047, in the first semester of 1936.

The Problem of Retaliation.

In 1935 three principal dutiable Dominican exports to the United States (molasses, sugar and cane syrup) accounted for \$1,581,935 of total dutiable Dominican exports to the United States valued at \$1,607,904, leaving to other dutiable exports a negligible value of \$25,969. Most of these three principal dutiable items of export are produced in the Dominican Republic by companies that are American-owned or in which American capital is largely interested. For this reason, any attempt on the part of the United States Government to retaliate against Dominican products may be expected to evoke protests from American sugar interests here. Inasmuch, however, as the Dominican Republic's sugar quota in the United States for 1936 is only 6,668,480 lbs. (3,334 short tons), it is apparent that around 90% of all Dominican sugar exported to the United States is for refining and re-export with a duty drawback. After deducting the value of Dominican sugar exports to the United States, there still remained in 1935, dutiable Dominican exports to the United States valued at approximately \$918,217. It is, therefore, upon the value of these exports that calculations should perhaps be based as to whether retaliatory measures against Dominican exports to the United States are feasible.

Another consideration is, of course, the advisability of placing a quota on Dominican crude cacao exports to the United States (the most valuable item of export to that country), which amounted in 1935 to 27,380,475 kilos valued at \$2,020,371. This, perhaps, would be the most feasible method of retaliation against any Dominican violation of the American-Dominican *Modus Vivendi* of 1924, inasmuch as it would not have a direct adverse effect on American sugar interests here, and the charge of discrimination against American interests would thus be avoided.

Dominican Exports to Puerto Rico.

Statistics of Dominican exports to the Island of Puerto Rico are kept separately from those to the United States by the General Re- ceivership of Dominican Customs as well as the Dominican "Direc- ción General de Estadística Nacional". Since the leading Dominican exports to Puerto Rico differ appreciably from those to the United States, no attempt has been made to combine these two sets of figures in this study.

Accordingly, there is transmitted herewith a separate analysis¹² of Dominican exports to the Island of Puerto Rico, disclosing that of nine principal items of export in 1935, five are dutiable under the United States Tariff Act of 1930, as revised to January 1, 1936, and four are on the Free List. Dominican products (corn, sole leather, cattle, bran and dyewood) exported to Puerto Rico subject to duty were valued at \$136,659, in 1935, and \$99,762, in the first semester of 1936. For 1935, these exports add the sum of \$136,659 to the total of dutiable Dominican products (exclusive of sugar) valued at approxi- mately \$918,217 imported into the United States in that year, making the grand total of Dominican dutiable exports (exclusive of sugar) to the United States and Puerto Rico in 1935 approximately \$1,054,876.

Respectfully yours,

For the Minister:
FRANKLIN B. ATWOOD
Secretary of Legation

611.3931/58

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

No. 3579

CIUDAD TRUJILLO, October 23, 1936.

[Received October 27.]

SIR: Referring further to the Department's telegraphic instruction No. 13 of October 9, 1936, and my despatch No. 3556 of October 10 last, regarding formal representations made to the Dominican Gov- ernment with a view to securing for American goods, similar in char- acter to certain French products specified by trade names in the re- cently concluded Franco-Dominican trade agreement, equal treatment with French products in pursuance of the American-Dominican *Modus Vivendi* of 1924, I have the honor to inform the Department that I had a conversation with the Minister for Foreign Affairs this morning on the subject.

I informed the Minister that, as I had learned from the American Consul in this city, shipments of American goods, such as confection- ery for the Christmas trade, were now beginning to arrive here and their treatment by the customs would raise concretely the question of

¹² Not printed.

the most-favored-nation accord of 1924. I said I would appreciate any advice which the Minister might be in a position to give me in the premises. Señor Bonetti Burgos informed me that, since the receipt of my note of October 10,^{12a} the Government had been reconsidering the position taken by the Treasury Department, as reported in my despatch No. 3546 of October 2. This position, as the Department will recall, was that the reductions of and exemptions from so-called internal revenue taxes granted to certain French products bearing trade names specified in the Franco-Dominican trade agreement would not apply to similar American products. He added that the pending reconsideration had not yet been concluded and was now being carried on also by the Consultative Commission of the Foreign Office. He hoped next week to be able to advise me more definitely of the Dominican Government's conclusions.

The Minister of Foreign Affairs went on to say that the beginning of the negotiations for a Franco-Dominican trade agreement had ante-dated his entry into the Foreign Office last February; when he took over the Department of Foreign Affairs he had noted in the French proposals the specification of trade names and had inquired of the French Legation here on the subject. The Minister of Foreign Affairs said he had learned from the French Minister Resident that the proposed specification of trade names later embodied in the agreement was an initiative of the French Government; the French Minister had explained the reason for it as being the circumstance that there were many establishments in France owned by non-French interests (particularly German and Italian) whose products made in France the French Government had desired to exclude from the benefits of proposed trade agreements with foreign countries. The negotiations, consequently, proceeded along the lines initiated by the French Government. The Minister of Foreign Affairs said he had lately been informed that the recently concluded Franco-American trade agreement¹³ also referred specifically to certain French products by their trade names. I took occasion to correct the Minister's impression on this point, at least in so far as the Franco-American trade agreement signed at Washington on May 6 last is concerned.

The Minister of Foreign Affairs again referred spontaneously to the matter of a Dominican-American trade agreement. He informed me that his study of the Foreign Office's voluminous file on this subject was continuing. It was his impression that, while the Dominican Government's views regarding certain aspects of American-Dominican trade had been communicated from time to time semi-officially to our

^{12a} Not printed.

¹³ Signed May 6, 1936; for text, see Department of State Executive Agreement Series No. 146, or 53 Stat. 2236. For correspondence concerning the agreement, see vol. II, pp. 85 ff.

Government, they had never been concretely formulated and conveyed through the regular channels; while he had not completed his study of the file it seemed to him now that it would be highly desirable to present the Dominican Government's standpoint regarding trade relations with the United States in a more definite form. The Dominican Government felt that the American Government, in view of the overwhelming preponderance in Dominican trade of imports from the United States, was under a "moral obligation" to grant increased facilities for Dominican exports to the United States and to grant this country much the same treatment as we grant to Cuba. I also corrected the Minister's impression as to the disparity in American-Dominican trade by supplying to him the figures cited at page 3 of my despatch No. 3563 of October 13, 1936. The Minister referred, as he has done before, to his personal discussion and correspondence on this subject with officers of the Department of State.

He referred particularly to his understanding that an increased quota for Dominican sugar in the American market was an administrative matter with which our Government could, if it so desired, deal to the advantage of the Dominican Republic and without reference to the enactment of further legislation by our Congress. The Minister mentioned also, as he has done before, the largely increased volume of imports from Japan into this country in recent years. He said that President Trujillo was desirous of restricting such imports in view of the fact that the Dominican export trade to Japan was practically non-existent, adding that such purchases as have been made here by Japan were merely a "gesture."

I intimated to the Minister of Foreign Affairs my personal opinion that it would seem regrettable to permit the development at this time of any difficulty with the United States growing out of the application of the Franco-Dominican trade agreement, which might interfere with the eventual success of negotiations between the American and Dominican Governments for a trade agreement. The intimation was not lost upon the Minister of Foreign Affairs. He said again that he hoped next week to have further information as to his Government's position following the representations made in my note of October 10.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

611.3931/59

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

No. 3588

CIUDAD TRUJILLO, October 28, 1936.

[Received October 30.]

SIR: Referring to my despatch No. 3579 of October 23, 1936, reporting a conversation with the Minister for Foreign Affairs regarding

the threatened denial by the Dominican Government of most-favored-nation treatment to certain American products similar in character to those granted reductions of and exemptions from so-called internal revenue taxes in this country by virtue of the recently concluded Franco-Dominican trade agreement, I have the honor to inform the Department that I asked the Minister for Foreign Affairs this morning whether a decision in this matter had been taken, reminding him of his statement to me last week that he hoped during the current week to inform me of the Government's decision.

The Minister for Foreign Affairs answered that a report which had been solicited from the Consultative Commission of the Foreign Office had not yet been received. A final decision had not been taken nor did the Minister indicate when the decision might be expected. He went over much of the ground already covered, principally with emphasis upon the alleged fact that the specification in the Franco-Dominican trade agreement of certain factory brands of French products which were to be given preference here had been a proposal of the French Government. On this point, I intimated to the Minister my belief that the specification of manufacturers' names in an international commercial relations. I suggested further that the explanation he had given of the origin of the French proposal, namely, the French Government's desire to protect strictly French manufacturers as against manufacturers of foreign nationality established in France, seemed to involve an extension of an essentially internal French policy to the foreign field in a manner to which foreign governments making trade agreements with the French Government could hardly be expected to lend themselves.

In a manner which again seemed to leave no doubt of the close connection of the two matters in the mind of the Dominican Government, the Minister referred once more to the possibility of negotiating an American-Dominican trade agreement. I intimated again that, in my opinion, any effort on the part of the Dominican Government to seek to bring pressure to bear on our Government looking to a trade agreement by withholding most-favored-nation treatment from American goods could not but be unfortunate. The Minister denied explicitly any intention on the part of the Dominican Government to connect the matter of most-favored-nation treatment under the American-Dominican *Modus Vivendi* of 1924 with the matter of an American-Dominican trade agreement and, indeed, he said that, despite the inconveniences for the Dominican Government of the American-Dominican *Modus Vivendi* of 1924, this Government intended to abide by it so long as it remains in force. Nevertheless, I am persuaded that there has been some thought in the Dominican

Government's mind of using as a lever in behalf of an American-Dominican trade agreement the issue presented by the threatened denial of most-favored-nation treatment to American goods similar to those specified in the Franco-Dominican trade agreement.

It should soon appear more definitely whether this surmise is warranted, for the Minister indicated this morning that President Trujillo favored the idea apparently submitted to him by the Minister of communicating to our Government a statement of the Dominican Government's views regarding an American-Dominican trade agreement. If such a statement should be forthcoming prior to a decision here on the question of most-favored-nation treatment for American goods, the inference would be palpable that it was intended to use an eventual concession in this respect to obtain a consideration from the United States.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

611.3931/63

*Memorandum by the Minister in the Dominican Republic
(Schoenfeld)*¹⁴

[CIUDAD TRUJILLO,] October 30, 1936.

I called on the Vice President of the Republic ¹⁵ by appointment yesterday afternoon to pay my respects upon his return from his recent absence abroad.

In the course of the conversation the matter came up of most-favored-nation treatment here for American goods similar in character to those specified by manufacturers' names in the Franco-Dominican trade agreement. Vice President Peynado told me in confidence that he had been asked by the Foreign Office to look into the matter. He volunteered the information that in his view the specification of trade names in the Franco-Dominican trade agreement could not operate to exclude from the benefits of most-favored-nation treatment under the American-Dominican *Modus Vivendi* of 1924 American products similar in character to the French products specified. He said, however, that his present opinion was communicated to me in confidence since he did not know what the Government's final decision on the subject would be.

Knowing that I was about to depart on leave of absence, the Vice President asked me when I expected to leave and I informed him that I would sail November 3. I added that I hoped to be advised of the Dominican Government's decision before my departure since I

¹⁴ Transmitted to Assistant Secretary of State Welles by the Minister in his letter of October 30; received November 6.

¹⁵ Jacinto B. Peynado.

feared that undue delay in reaching such a decision would create an unfortunate impression in Washington, especially in view of the fact that Secretary Bonetti Burgos had repeatedly mentioned the interest of the Dominican Government in negotiating a trade agreement with the United States. I pointed out that I had intimated to the Minister of Foreign Affairs the disadvantage from every standpoint of endeavoring to connect the question of the application of the *Modus Vivendi* of 1924, as it had come up in relation to the Franco-Dominican trade agreement, with the possible negotiation of an American-Dominican trade agreement.

I took occasion further to intimate to the Vice President my concern as a result of the apparent failure of our discussions in recent months with the Dominican Government to lead to any conclusion with reference to pending issues involving the Convention of 1924. I mentioned the matter of the public debt and Article III, the floating debt, and the consolidation of customs and so-called internal revenue taxes. The Vice President claimed to be entirely un-informed as to recent developments in these matters but, in view of his thorough knowledge of the Convention and related matters, I spoke to him freely regarding our point of view in the hope that my remarks on this topic would transpire to the President of the Republic. I explained that my concern regarding pending matters was due in some measure to the fear that President Trujillo was perhaps not fully informed regarding recent discussion of the issues with the Foreign Office here and with the Dominican Minister at Washington.

H. F. A[RTHUR] S[CHOENFELD]

611.3931/60

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

No. 3597

CIUDAD TRUJILLO, November 2, 1936.

[Received November 10.]

SIR: Referring to my despatch No. 3588 of October 28, 1936, in further relation to representations made to the Dominican Government under the Department's instructions with a view to securing most-favored-nation treatment here for American products similar in character to those specified in the Franco-Dominican trade agreement recently concluded, I have the honor to inform the Department that in conversation this morning with the Minister for Foreign Affairs the Minister stated to me that the Government was giving this matter "its most careful and benevolent" consideration. The Minister did not indicate what the result of this consideration would be.

The Minister of Foreign Affairs, of whom I was taking leave before departing for the United States tomorrow in pursuance of leave granted me by the Department, again referred to the Dominican Government's interest in obtaining a trade agreement with the United States and solicited my support of the idea upon my arrival in Washington.

Though the Minister also indicated that the "careful and benevolent" consideration which he said was being given the matter of most-favored-nation treatment for American goods was designed to enable the Dominican Government to answer our representations of October 10, and though it seems possible that a note expressing the intention of this Government to grant American goods unconditional most-favored-nation treatment in pursuance of the American-Dominican *Modus Vivendi* of 1924 may be addressed to this Legation subsequent to my forthcoming departure on leave, I now feel it is more probable that a favorable response to my note of October 10 will be deferred pending some indication by the Department of its readiness to enter upon negotiations for an American-Dominican trade agreement.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

611.3931/62

The Consul at Ciudad Trujillo (Reineck) to the Secretary of State

No. 684

Ciudad Trujillo, November 6, 1936.

[Received November 10.]

SIR: I have the honor to refer to the Legation's despatch No. 3597 of November 2, 1936, relative to the "Threatened Denial of Most-Favored-Nation Treatment to Certain American Products Imported into the Dominican Republic in Apparent Violation of American-Dominican *Modus Vivendi* of 1924. Conversation with Dominican Minister for Foreign Affairs" and to report that the delay in obtaining the most favored nation treatment in connection with the French Dominican trade agreement is resulting in serious loss to American trade in this country.

While no comprehensive and detailed study of the effect of this treaty on American trade has been made, largely because it was naturally assumed that similar treatment would be immediately granted to American commodities of the same categories, the following instances in which importers of American goods have consulted the Consulate may be taken as typical of the losses that are resulting from the vacillation of the Dominican authorities in extending the benefits granted to French products to similar commodities of American growth or manufacture.

One small importer of American cosmetics received a shipment of American beauty cream on the SS. *Borinquen* arriving in Ciudad Trujillo on October 21st. The shipment comprised only 87 kilograms and the duty under the rates of Ley 854 (internal revenue) amounted to \$261.52. Under the rates which would obtain if they were adjusted to the terms of the French agreement, the internal revenue tax paid on this shipment would have been \$43.59. The difference and consequently the competitive advantage now enjoyed by French products amount to \$2.50 a kilogram.

The local agent of White Rock mineral water reports that in spite of the relatively low consumption of mineral waters in the Dominican Republic, he has heretofore been able to import annually about 700 cases of approximately 25 gallons each. The internal revenue tax under Law 854 on mineral water is 7 cents a liter. Under the French agreement it is free of this internal revenue tax. Unless the more favorable treatment can be obtained importations of White Rock will cease and the agent is not now placing any orders pending the decision.

A third loser is the firm of Grevatt Brothers, an important grocery and confectionery firm, whose importations of American canned fish, confectionery and similar products are especially heavy at this time of the year on account of the holiday trade. The loss of this firm up to October 21st last, by reason of its being unable to secure treatment similar to that accorded to French products of the same kind was \$1,100 in round numbers and the firm estimates that this amount will be increased to over \$11,000 on importations which it will make for the holiday trade.

Examples of this kind could be multiplied, but it is not deemed necessary to do so. The clause of the French treaty which provides for special treatment for confectionery also provides for the abolition of the internal revenue tax on preserved fish of French origin. The Dominican authorities have extended the benefits of this clause to cod fish of American origin and small quantities have actually been imported, free of the internal revenue taxes. But the taxes have not been waived on American chocolate and confectionery.

It is difficult to see how the extension of the benefits of the French agreement can be denied under the *Modus Vivendi* with the United States, or how the extension of these benefits could be used with any hope of success as a lever to force a new reciprocal trade agreement with the United States. It would seem that failure to recognize the rights of the United States under the *Modus Vivendi* might properly be regarded as an ill omen in any attempt to judge the loyalty with which a more formal agreement would be kept.

Respectfully yours,

WALTER S. REINECK

611.8981/64

The Chargé in the Dominican Republic (Atwood) to the Secretary of State

No. 3617

CIUDAD TRUJILLO, November 12, 1936.

[Received November 17.]

SIR: Referring to the Legation's despatch No. 3597 of November 2, 1936, in further relation to the representations made to the Dominican Government, under the Department's instructions, with a view to securing most-favored-nation treatment here for American products similar in character to those specified in the Franco-Dominican trade agreement recently concluded, I have the honor to inform the Department that this morning I had a conversation with the Secretary of State for Foreign Affairs on the subject.

I asked the Secretary of Foreign Affairs whether, in view of the numerous shipments of American products, such as confectionery, etc., for the Christmas trade, which are now arriving here, he could give me any information as to when a decision might be expected regarding the application of most-favored-nation treatment to American products similar in character to those specified by brands or makes in the Franco-Dominican trade agreement. Señor Bonetti Burgos informed me that the position taken by the Dominican Treasury Department, as reported in the Legation's despatch No. 3546 of October 2 last, was still being reconsidered by the Consultative Commission of the Foreign Office, but that he expected that the Commission would make a decision shortly, and that he hoped to give me a definite reply concerning the Dominican Government's position in the matter within a few days.

The Secretary of Foreign Affairs then went on to cover the same general ground concerning the Dominican Government's attitude towards the matter as has already been reported in previous despatches. He said that it was the firm intention of the Dominican Government scrupulously to respect the letter and spirit of the Dominican-American *Modus Vivendi* of 1924 and, where possible, to grant to American products such most-favored-nation treatment as would not be in conflict with his Government's interpretation of the Franco-Dominican trade agreement.

In this relation, Señor Bonetti Burgos said that the Dominican Treasury Department was strictly enforcing the provisions of the Franco-Dominican trade agreement as regards the preferential treatment to be given specified brands or makes of certain French products and that any French product entering the Republic which did not carry a brand or trade name exactly as specified in the Agreement was charged the full rate of internal revenue tax on the product.

Señor Bonetti Burgos also referred spontaneously to the substantial decline in American exports to the Dominican Republic in recent years, which he attributed chiefly to Japanese competition. He stated that it was the intention of the Dominican Government to take steps to restrict imports of Japanese products inasmuch as Japan was purchasing practically nothing in this country. I took this to mean that the Dominican Government is seeking a bargaining position for possible use in connection with the negotiation of any trade agreement with the United States.

Respectfully yours,

FRANKLIN B. ATWOOD

611.3931/58

The Acting Secretary of State to the Chargé in the Dominican Republic (Atwood)

No. 486

WASHINGTON, November 23, 1936.

SIR: The Department has received the Legation's despatch No. 3579, of October 23, relative to a conversation between Minister Schoenfeld and the Dominican Minister for Foreign Affairs respecting Dominican-American commerce.

The Department notes that on page 4 of the despatch Minister Schoenfeld stated that the Minister for Foreign Affairs "referred particularly to his understanding that an increased quota for Dominican sugar in the American market was an administrative matter with which our Government could, if it so desired, deal to the advantage of the Dominican Republic and without reference to the enactment of further legislation by our Congress".

There is enclosed for your information a copy of a note of October 29,¹⁶ together with a memorandum of the same date,¹⁷ addressed by the Secretary of State to the Peruvian Ambassador in Washington. While the Department does not believe it necessary for you to take up the matter in a special interview with the Minister of Foreign Affairs, you should, upon the next suitable occasion, endeavor to correct the erroneous impression of the Dominican Minister for Foreign Affairs with respect to our sugar policy as quoted above. In doing so, you may make such use as you may deem fit of the information setting forth the attitude of this country and contained in the enclosure to this instruction. Naturally you should not divulge the fact that the information contained in this memorandum was communicated to the Peruvian Ambassador in reply to specific representations made by him for a larger quota for the importation of Peruvian sugar into the United States for consumption.

¹⁶ Not printed.

¹⁷ *Post*, p. 898.

There are also enclosed for purposes of comparison in using the memorandum, figures ¹⁸ on the imports of dutiable cane sugar from the Dominican Republic from 1912 to 1933, inclusive.

Very truly yours,

For the Acting Secretary of State:
FRANCIS B. SAYRE

611.3931/64 : Telegram

The Acting Secretary of State to the Chargé in the Dominican Republic (Atwood)

WASHINGTON, November 24, 1936—7 p. m.

16. Your despatch 3617, November 12, 1936. Please call on Foreign Minister and leave with him a note inquiring when you may expect a reply to the Minister's representations as based on Department's telegram No. 13 of October 9, 7 p. m. You should point out orally that this Government is receiving numerous complaints from American exporters that their products when imported into the Dominican Republic are not receiving treatment equal to that accorded to similar products of French origin covered by brand names as stipulated in the Franco-Dominican Trade Agreement; that the Department is concerned at the apparent hesitancy of the Dominican Government to comply with the clear obligation to extend most-favored-nation treatment as stipulated in the *Modus Vivendi* of 1924; and that the Department feels confident that the Dominican Government, especially at this time when the American states are about to begin discussions of their common problems at Buenos Aires, will desire to continue its support of the movement towards more liberal and non-discriminatory tariff policies, in line with the resolution on economic, commercial, and tariff policy adopted by the Seventh International Conference of American States.¹⁹

MOORE

611.3931/65

The Chargé in the Dominican Republic (Atwood) to the Secretary of State

No. 3638

CIUDAD TRUJILLO, November 25, 1936.

[Received December 1.]

SIR: Referring to the Department's telegraphic instruction No. 16 of November 24—7 p. m., I have the honor to enclose, for the Department's information, a copy of a note ²⁰ handed by me this morning to

¹⁸ Not found in Department files.

¹⁹ *Report of the Delegates of the United States of America, to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933* (Washington, Government Printing Office, 1934), p. 196.

²⁰ Not printed.

the Secretary of State for Foreign Affairs making reference to the Legation's note No. 259 dated October 10, 1936,^{20a} to the Secretary of State for Foreign Affairs, concerning most-favored-nation treatment for American goods similar to those covered by brand names in the Franco-Dominican trade agreement, and inquiring when I may expect a reply to the latter note.

Upon handing the above note to the Secretary of State for Foreign Affairs, I said to him that I had been instructed by my Government to point out orally that the United States Government is receiving numerous complaints from American exporters that their products when imported into the Dominican Republic are not receiving treatment equal to that accorded to similar products of French origin covered by brand names as stipulated in the Franco-Dominican trade agreement; that my Government is concerned at the apparent hesitancy of the Dominican Government to comply with the clear obligation to extend most-favored-nation treatment as stipulated in the *Modus Vivendi* of 1924; and that my Government feels confident that the Dominican Government, especially at the time when the American States are about to begin discussions of their common problems at Buenos Aires,²¹ will desire to continue its support of the movement towards more liberal and non-discretionary tariff policies, in line with the resolution on economic, commercial and tariff policy adopted by the Seventh International Conference of American States. I also asked the Secretary of State for Foreign Affairs when he expected to be in a position to make a reply to our representations.

Señor Bonetti Burgos said that he would give my note his immediate attention and that he confidently expected to be able to give me a reply before December 2. He added that as soon as he could consult with President Trujillo he would call me by telephone and ask me to come to his office to receive his Government's reply. I thanked Señor Bonetti Burgos for his promise to give the matter his prompt attention.

Referring to my oral representations when handing him the above mentioned note, Señor Bonetti Burgos told me in confidence that President Trujillo is sending a message to the Dominican Congress asking for the prompt enactment of legislation to provide for drastic limitation of imports of Japanese goods into this country. He said that when enacted into law this bill would also enable the Dominican Government to grant all American products treatment equal to that accorded to similar products of French origin covered by brand names in the Franco-Dominican Trade Agreement. I took the oc-

^{20a} Not printed.

²¹ At the Inter-American Conference for the Maintenance of Peace, December 1-23, 1936; see pp. 3 ff.

casión to remind Señor Bonetti Burgos that, in my opinion, American products were already clearly entitled to most-favored-nation treatment under the American-Dominican *Modus Vivendi* of 1924, without the enactment of any supplementary legislation.

Respectfully yours,

FRANKLIN B. ATWOOD

611.3931/67

The Chargé in the Dominican Republic (Atwood) to the Secretary of State

No. 3665

CIUDAD TRUJILLO, December 8, 1936.

[Received December 12.]

SIR: Referring to the Legation's despatch No. 3638 of November 25, 1936, and previous correspondence, in relation to the threatened denial of most-favored-nation treatment to certain American products similar to those identified by brand or trade names in the Franco-Dominican Trade Agreement, I have the honor to enclose a copy and translation of note No. 985 of December 7, 1936, received today from the Secretary of State for Foreign Affairs stating that the Department of State for the Treasury has issued the pertinent instructions in order that, by virtue of the stipulations of the American-Dominican *Modus Vivendi* of 1924, all the concessions made by the Dominican Republic to France under the Franco-Dominican Commercial Convention of September 4, 1936, shall be extended to the commerce of the United States.

The Department will observe that the note states that "the Franco-Dominican Commercial Convention makes exemptions and reductions, in so far as concerns internal revenue taxes, to French products whose brands are expressly enumerated for such purpose." It continues: "The Department of State for the Treasury has issued, as a consequence, the pertinent instructions in order that such exemptions and reductions shall be extended to the commerce of the United States of America." The note ends by saying: "But, when these exemptions and reductions have not been expressly made by the Convention to similar French products, they are not extended to those, nor will they likewise be (extended) to similar products of the United States of America."

This is taken to mean that, as pointed out at [on] page 2 of my despatch No. 3617 of November 12, 1936, reporting a conversation with the Secretary of State for Foreign Affairs on the subject, the Dominican Treasury Department is continuing to enforce strictly the provisions of the Franco-Dominican Trade Agreement as regards the preferential treatment to be given specified brands or makes of certain French products and that any French product entering the

Republic which does not carry a brand or trade name exactly as specified in the agreement is being charged the full rate of internal revenue tax on the product. It would appear, therefore, that any American product that is not similar to an article specified in the Franco-Dominican trade agreement by a brand or trade name would not receive any reduction of, or exemption from, internal revenue taxes when entering the Dominican Republic.

Respectfully yours,

FRANKLIN B. ATWOOD

[Enclosure—Translation]

The Dominican Secretary of State for Foreign Affairs (Bonetti Burgos) to the American Chargé (Atwood)

No. 985

CIUDAD TRUJILLO, December 7, 1936.

I have the honor to refer to notes No. 259 of October 10, signed by His Excellency, Minister Schoenfeld, and No. 267, of November 25 last, ^{21a} signed by you, in which it was expressed that the Government of the United States of America expects that, in accordance with the *Modus Vivendi* of September 25, 1924, the products of the United States similar in nature to the products of the French firms mentioned in the Franco-Dominican Commercial Convention recently signed in this capital will receive equal treatment to the said French products as regards the deduction of, or exemption from, internal revenue taxes.

In reply, I have to advise you that the Department of State for the Treasury has issued the pertinent instructions in order that, by virtue of the stipulations of the *Modus Vivendi* concluded between the Dominican Republic and the United States of America, all the concessions that the Dominican Republic has made to France by means of the Franco-Dominican Convention of September 4, 1936, shall be extended to the commerce of the United States of America.

As you will note, the Franco-Dominican Commercial Convention makes exemptions and reductions, in so far as concerns internal revenue taxes, to French products whose brands are expressly enumerated for such purpose. The Department of State for the Treasury has issued, as a consequence, the pertinent instructions in order that such exemptions and reductions shall be extended to the commerce of the United States of America. But, when these exemptions and reductions have not been expressly made by the Convention to similar French products, they are not extended to those, nor will they likewise be (extended) to similar products of the United States of America.

I avail myself [etc.]

E. BONETTI BURGOS

^{21a} Neither printed.

611.3931/69

The Chargé in the Dominican Republic (Atwood) to the Secretary of State

No. 3671

CIUDAD TRUJILLO, December 11, 1936.

[Received December 15.]

SIR: Supplementing my despatch No. 3665 of December 8, 1936, in relation to the extension of most-favored-nation treatment to certain American products similar to those identified by brands or trade names in the Franco-Dominican Trade Agreement, I have the honor to enclose copy of a communication, dated December 10, 1936,²² received today from the General Receiver of Dominican Customs enclosing copy of communication No. 14212 [14213], dated December 8, 1936, from the Secretary of the Dominican Treasury, a copy and translation of which are enclosed, with respect to the extension to commerce of the United States of the concessions made by the Dominican Republic to France under the Franco-Dominican Trade Agreement of September 4, 1936. The Department will observe that the General Receiver states, in referring to the Dominican Treasury Department's communication, that, after very careful consideration and study, it is the opinion of the Receivership that this instruction in nowise changes the situation now in effect with respect to the withholding of equal treatment to certain goods and products of American origin and manufacture similar in character to those mentioned in the Franco-Dominican Trade Agreement by brands, as communicated to the customs service in the Receivership's circular No. 156 of October 2, 1936, a copy and translation of which is enclosed.

It would appear from the General Receiver's interpretation of the Dominican Treasury Department's instruction of December 10, 1936, that, despite the repeated representations made by the Legation to the Dominican Foreign Office, equal treatment for American products similar in character to products of the French firms mentioned in the Franco-Dominican Trade Agreement by brands or trade names is still being withheld by the Dominican Government.

I beg leave to enclose, for the Department's information, single copies of the Receivership's circular instructions Nos. 160, 162, 163 and 164, in which the spelling of certain French brands or trade names is corrected or additions to the list of French manufacturers entitled to preferential treatment under the Franco-Dominican Trade Agreement are made.

Respectfully yours,

FRANKLIN B. ATWOOD

²² Enclosures to this despatch not printed.

611.3931/70

*Memorandum by the Chief of the Division of Latin American Affairs
(Duggan)*

[WASHINGTON,] December 12, 1936.

At my request the Dominican Minister called. I informed him that the Department was puzzled by the delay in according to similar American products the rates recently accorded certain French products, because of the very explicit language of the exchange of notes of September 25, 1924, between the United States and the Dominican Republic by which each country accorded unconditional most-favored-nation treatment in customs matters to the other country. I read the Minister the pertinent provisions of the exchange of notes. I reminded the Minister that this country was according the Dominican Republic the benefits of trade agreements concluded with other countries. I also said that action by the Dominican Government to extend the French rates to similar American products would be in accordance with the resolution adopted at the Montevideo Conference in 1933, for which the Dominican delegation had voted. I concluded by saying that the attitude of this Government with regard to trade agreement negotiations with the Dominican Republic could not help but be influenced by the attitude of the Dominican Government with regard to the extension of the French rates to American products.

The Minister said that he would take the matter up with his Government at once. I informed him that the Legation had discussed the matter on several occasions with the Foreign Office, but that no reply had been made to these representations.

LAURENCE DUGGAN

611.3931/71

*The Chargé in the Dominican Republic (Atwood) to the Secretary
of State*

No. 3681

CIUDAD TRUJILLO, December 17, 1936.

[Received December 22.]

SIR: Referring to the Legation's despatch No. 3671 of December 11, 1936, transmitting a copy of a communication received from the General Receiver of Dominican Customs setting forth the Receivership's interpretation of instruction No. 14212 [*14213*] of December 8, 1936, which it had received from the Dominican Treasury Department concerning the application of most-favored-nation treatment to certain American products similar to those identified by brands or trade names in the Franco-Dominican Trade Agreement, I have the honor to report that in conversation yesterday with the Secretary for Foreign Affairs I said to him that the Legation had been advised by the Receivership

that the instruction received from the Dominican Treasury Department in nowise changed the situation existing as regards the withholding of most-favored-nation treatment to the American products mentioned above.

The Secretary for Foreign Affairs expressed surprise that the Treasury Department's instruction should have been thus interpreted by the Receivership. He assured me that it was the firm intention of the Dominican Government to grant American commerce exactly the same benefits as those accorded France under the Franco-Dominican Trade Agreement and that he had requested the Treasury Department so to instruct the Receivership. I then asked him what American products he had intended to cover in his instructions to the Treasury Department. Señor Bonetti Burgos replied very vaguely to this question and said that this was a matter for the Receivership and the Treasury Department to work out between themselves. I gathered from Señor Bonetti Burgos' remarks that, despite his assurances to the effect that the Dominican Government is desirous of extending most-favored-nation treatment to American products similar in character to those identified by brands or trade names in the Franco-Dominican Trade Agreement, the Dominican Government is, at the same time, overly anxious to avoid any dispute with France concerning the operation of the Franco-Dominican Trade Agreement.

Because of Señor Bonetti Burgos' repeated references to the mutual advantages to be derived from an American-Dominican Trade Agreement, the conviction is steadily growing in my mind that the Dominican Government is deliberately withholding unconditional most-favored-nation treatment to American goods with the express purpose of attempting to oblige the United States Government to conclude a trade agreement with it.

Since it now appears evident that the Dominican Government has no early intention of respecting its obligations under the American-Dominican *Modus Vivendi* of 1924, and in view of the fact that American goods will no longer receive preferential treatment under the Spanish-Dominican Trade Agreement, which was suspended on December 15, 1936 (see my despatch No. 3680 of today's date²³), the Department may desire to consider the advisability of denouncing the American-Dominican *Modus Vivendi*. In so doing, the Dominican Government would stand to lose far more than the United States, inasmuch as the only Dominican trade agreement now in force is the one with France, under which the United States receives very few advantages, whereas the United States has fifteen trade agreements in force with foreign nations the benefits of which are extended to Dominican products by virtue of the American-Dominican *Modus*

²³ Not printed.

Vivendi. At present, because of the state of equilibrium in American-Dominican trade and the nature of Dominican exports to the United States, the United States Government has no sound bargaining position in any future negotiations for a trade agreement with the Dominican Republic. But by taking the initiative and denouncing the American-Dominican *Modus Vivendi*, the United States Government would create bargaining power in its negotiations for a future trade agreement with the Dominican Republic. This action would also remove any opportunity for the Dominican Government to claim that it had scored a diplomatic triumph against the United States by reason of its successful denial of unconditional most-favored-nation treatment to American products similar to those covered by the Franco-Dominican Trade Agreement.

Respectfully yours,

FRANKLIN B. ATWOOD

611.3931/70a : Telegram

*The Acting Secretary of State to the Secretary of State*²⁴

WASHINGTON, December 19, 1936—3 p. m.

127. As you may recall, under instruction from the Department the Legation at Ciudad Trujillo made representations on October 10 stating that this Government confidently expected that Dominican Government would grant equal treatment as respects revenue taxes to American goods similar in character to those identified by brand names in the recent Franco-Dominican trade agreement.

Since no answer was obtained despite numerous oral representations by our Minister and Chargé, the Legation, under instructions from the Department, again made formal representations inquiring when an answer might be obtained to our first representations on October 10. On December 7, a note was received by the Legation from the Minister for Foreign Affairs which was entirely unsatisfactory. It said that the Dominican Treasury had issued instructions to extend the exemptions and reductions granted in the Franco-Dominican treaty to the commerce of the United States, but in a final paragraph nullified any practical value by saying "but, when these exemptions and reductions have not been expressly made by the Convention to similar (apparently those not covered specifically by brand names) French products, they are not extended to those, nor will they likewise be extended to similar products of the United States of America."

Meanwhile, Duggan had called in the Dominican Minister, had reiterated the representations made by our Legation, and had pointed out that our attitude towards possible trade agreement negotiations

²⁴ The Secretary of State was then at Buenos Aires as head of the American delegation to the Inter-American Conference for the Maintenance of Peace.

with the Dominican Republic could not but be greatly influenced by the Dominican attitude in this matter.

Although hesitant to add to your burden, I feel that our position would be greatly strengthened if you or Welles²⁵ could have a friendly conversation with the Chief of the Dominican delegation,²⁶ pointing out to him the disappointment of this Government at the failure of the Dominican Government to extend the most-favored-nation treatment clearly stipulated in the *modus vivendi* of 1924, and the inconsistency of the present policy of the Dominican Government with the resolution on equality of treatment. You may wish to inform him that the clearing up of this matter would facilitate our consideration of the possibility of a trade agreement with his country.

I may add that Schoenfeld, who has just left for his post, indicates that a word from you to the Chief of the Dominican delegation would carry considerably greater weight than would further representations to the Dominican Government either by him or to the Dominican Legation here.

MOORE

611.3931/77

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

No. 3789

CIUDAD TRUJILLO, March 3, 1937.

[Received March 5.]

SIR: Referring to previous correspondence regarding the failure of the Dominican Government to accord to American products imported here and similar to certain French products specified in the Franco-Dominican trade agreement of 1936 unconditional most-favored-nation treatment in accordance with the American-Dominican *Modus Vivendi* of 1924, I have the honor to inform the Department that, in conversation with the Minister for Foreign Affairs today, Señor Bonetti Burgos spontaneously mentioned this matter.

The Minister said that the Dominican Government was concerned to have the American Government understand clearly that the position taken by the Dominican Government regarding the application of the American *Modus Vivendi* in this case was by no means discriminatory in intention. The Dominican Government in taking its position in this matter was no less disposed than ever to comply scrupulously with all its obligations to the United States.

The position taken had been based upon a publication issued by the League of Nations regarding unconditional most-favored-nation

²⁵ Sumner Welles, Assistant Secretary of State and delegate to the Inter-American Conference for the Maintenance of Peace.

²⁶ Max Henriquez Urefia.

treatment and was founded upon a juridical interpretation of the most-favored-nation principle which had been reached not only by the Department of State for Foreign Affairs but by the Consultative Commission of the Foreign Office, to which the matter had been submitted.

Nevertheless, in view of an apparent tendency in Washington to attribute to the Dominican Government's action on this topic purposes which were not in accordance with the Dominican Government's real intention, and bearing in mind that the specification by manufacturers' names of the commodities to enjoy preference here under the Franco-Dominican trade agreement had been an initiative of the French Government, the subject was being again submitted to the Consultative Commission of the Foreign Office for further study. The Minister said he hoped in the near future to be able to advise the American Government of the result of this further investigation.

The Minister alluded to the great interest of the Dominican Government in early negotiations for an American-Dominican trade agreement, pointing out that such an agreement would be in the best interest both of the United States and of the Dominican Republic. He spoke of Secretary Hull's trade agreement policy as one which had the hearty support of the Dominican Government. He referred again, as he has repeatedly before, to Cuban-American trade relations and to the claim of the Dominican Republic for treatment in the American market at least as good as that accorded to Cuba, since the Dominican Republic was bound to the United States by ties in all respects similar to and by no means less significant than those which were responsible for the preferential treatment hitherto given Cuba by the United States. He mentioned, as he has also done before, the reluctance of the Dominican Government to see Japanese goods continue to enter this country in quantity.

I gathered from the spontaneous statements of the Minister of Foreign Affairs that there is some reason to expect that the discrimination against American products entering this market, and similar to French products granted preference under the Franco-Dominican trade agreement, will be lifted in the near future, notwithstanding possible French annoyance.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

611.3931/78 : Telegram

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

CIUDAD TRUJILLO, March 9, 1937—1 p. m.

[Received 1:30 p. m.]

8. My despatch 3789, March 3. General Receiver of Dominican Customs has today received letter from Dominican Secretary of

State for the Treasury dated March 9 to the effect that "most-favored-nation treatment shall be granted without restriction to the commerce of the United States by virtue of the *modus vivendi* of 1924 in so far as it relates to the Dominican-French Commercial Convention dated September 4, 1936". The letter to the General Receiver adds that the interpretation of the Dominican-French Convention contained in letter of the Dominican Secretary of the Treasury to the General Receiver of September 29, 1936, being enclosure No. 3 to this Legation's despatch No. 3546 of October 2, 1936, is revoked and that the present decision shall take effect from today.

SCHOENFELD

REPRESENTATIONS REGARDING THE INTERPRETATION OF ARTICLE III OF THE CONVENTION OF DECEMBER 27, 1924, AS APPLIED TO THE PLEDGING OF FUTURE REVENUES BY THE DOMINICAN GOVERNMENT

839.1541/33

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

No. 3117

CIUDAD TRUJILLO, February 12, 1936.

[Received February 18.]

SIR: I have the honor to acknowledge the receipt of the Department's airmail instruction No. 397 of February 4, 1936 (File No. 839.1541/32),²⁷ instructing me to discuss with the Acting Secretary of State for Foreign Affairs²⁸ in the sense directed the contract signed last October between the Dominican Government and the United States Steel Products Company for the erection of certain steel bridges in this country.

I beg leave to report that, the Acting Minister for Foreign Affairs having been absent from Santo Domingo,²⁹ I was not able until today to comply with the Department's instruction, but that I spoke to him today as instructed and left with him a memorandum of my oral statement, of which a copy is enclosed.³⁰

The Acting Minister for Foreign Affairs said that in his opinion the Dominican Government might consent to notify future arrangements involving the obligations of this Government under Article III of the Convention of 1924,³¹ in advance of the conclusion of such arrangements, to the American Legation in Santo Domingo, which he

²⁷ Not found in Department files.

²⁸ Moises García Mella.

²⁹ The name of the capital of the Dominican Republic was changed from Santo Domingo to Ciudad Trujillo on January 11, 1936.

³⁰ Not printed.

³¹ Signed December 27, 1924, *Foreign Relations*, 1924, vol. I, p. 662.

thought might be regarded as compliance with Article III of the Convention.

The Acting Minister, however, did not definitely undertake so to engage the Government and I gathered the matter will be discussed with the President of the Republic before even such a limited engagement is made.

Meanwhile, it has been announced in the local press that the bridge over the Camú River, one of the bridges mentioned in the contract under reference, is to be officially inaugurated on February 16 next.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4356

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

No. 3141

CIUDAD TRUJILLO, February 24, 1936.

[Received February 26.]

SIR: Referring further to the Department's airmail instruction No. 397 of February 4, 1936 (File No. 839.1541/32),³² and particularly to my despatch No. 3117 of February 12, 1936, reporting representations made by me on that day to the Acting Minister of Foreign Affairs, in respect of a contract entered into last October between the Dominican Government and the United States Steel Products Company and the relation of the said contract to the obligations of the Dominican Government under Article III of the Convention of December 27, 1924, I have the honor now to enclose a copy, with translation, of a note from the Acting Minister of Foreign Affairs, dated February 21, 1936, setting forth formally the views of the Dominican Government regarding the interpretation to be given Article III of the Convention in so far as it purports to make the assumption by the Dominican Government of obligations pledging future revenues subject to the consent of our Government.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

[Enclosure—Translation ³³]

The Dominican Acting Minister for Foreign Affairs (García Mella) to the American Minister (Schoenfeld)

No. 131

CIUDAD TRUJILLO, February 21, 1936.

MR. MINISTER: I have the honor to refer to the memorandum which on the 12th instant Your Excellency delivered to me. It is stated

³² Not found in Department files.

³³ File translation revised.

therein: that the *Gaceta Oficial* No. 4861 [4865] of January 1, 1936, published a contract entered into between the Dominican Government and the United States Products Company for the purpose of providing for the construction in the Republic of three steel bridges over the rivers Chavón, Sanate and Camú, respectively. The Minister refers in his memorandum to the information transmitted to this Department of State in June 1934 that the American Government considered that the payment stipulated in another contract signed in 1934 established an obligation against future revenues of the Republic and was, consequently, in disagreement with the terms of article III of the Convention of December 27, 1924; and that, in compliance with instructions received from your Government, Your Excellency now calls the attention of the Dominican Government to the same point, considering that the contract made in October of last year and the method of payment stipulated therein for the construction of the three bridges constitute an increase in the public debt, and that accordingly the matter should have been treated with the Government of the United States to obtain its consent in accordance with the terms of article III of the said Convention of 1924.

In this respect, the Dominican Foreign Office hastens to state to Your Excellency that, in accordance with the text of article III of the Convention ("until the Dominican Republic has paid the whole amount of the bonds of the debt, its public debt shall not be increased, etc., etc."), what is forbidden, or rather, what is limited, is the capacity of the Dominican Government to increase its public debt, wherefore the Dominican Foreign Office deems it convenient to fix from now and for always the extent of that expression "public debt," in accordance with article III of the convention.

If by public debt is understood "the total of obligations which the State has contracted with its creditors," it becomes evident that the contract which Your Excellency comments on gives no place for any criticism. If, broadening the criterion of that definition, we should establish that the "public debt is the total of obligations contracted by the State, comprising all that the nation recognizes it owes, whatever may be the form and the duration of the obligation signed or the conditions of reimbursement, whether in capital or in interest," then and in spite of such general terms neither could there be comprised in them "the current debts of the State on account of the performance of public services, the maintenance of sea and land forces, payment of public employees, execution of public works, purchase of supplies, etc., etc.," because all this is inherent in the life of the State, in its operation as such and in the condition of the existence of the Republic; wherefore it is necessary to agree that, in accordance with article III of the convention, the expression public debt includes "the obligations expressly stipulated with any creditor."

It is easy to understand that by article III of the convention the Dominican Government did not limit its powers to dispose of the portion of the revenues which might not be necessary for the payment of the bonds issued under the Convention of December 27, 1924, and that it is discretionary with it to apply that portion of its revenues within the terms, conditions and regulations established by the laws; thus, and in relation with the concrete case of the bridges, payment for which is stipulated in the contract on which Your Excellency comments, it is necessary to distinguish that the amount of their cost (\$156,165.00) is stipulated in the budget for the year 1936, submitted to the methods of payment established by the building contract and that, therefore, in the light of the terms of the convention, it is sheltered from all criticism.

If the ideas established by Your Excellency in relation to this contract were correct, we should be obliged to conclude that the said comments, in respect to the bridge contract, could be made regarding all provisions contained in the General Law of Public Expenses; that all the execution of the national budget will, in that case, constitute a future debt since wages, salaries, the maintenance of the sea and land forces, the constructions and acquisitions of all kinds, are provided to be paid after the services have been rendered, the works completed, the monthly payments become due, etc.

In no way and in no circumstances could the American Government claim, as it has never claimed, nor could the Dominican Government consider itself, as it has never considered itself, under the obligation of asking consent to provide for the payment of works, of services, acquisition of implements, wages of employees, etc., in its Law of Public Expenses.

The very terms of article III of the Convention of 1924, on the contrary, explain that the public debt to which the convention refers is that which is contracted to produce obligations that compromise the financial capacity of the State and the interests protected by the convention itself; never the administrative movements dependent upon the execution of the Law of Public Expenses.

With the purpose of being always in a position to respond to the ends contemplated by the convention, that is, not to diminish the financial capacity of the State, nor to sign contracts which might involve future appropriations constituting debts, even though these debts may not have the character of public debt, the Dominican Government on May 1, 2 and 3 of the year 1929 voted Law No. 1114, called "Law of Accounting," which provides in subhead (b) of section 9a that "no contract requiring the expenditure of public funds, though this contract may have all the approval required by the Constitution and the laws, shall have any validity if it be not endorsed with, or if there be not attached to it, a certificate of the Comptroller

and Auditor General in such sense, and the latter shall not sign such certificate unless such contract has been properly authorized by the Government in accordance with the law and there exists an unappropriated balance from an appropriation filling the requirements of the Constitution, sufficient to cover such expenses."

As Your Excellency can see, the Dominican Government has not been satisfied with the support of the principles, or with the interpretation of the convention, to protect itself against all criticism, but it has provided in the law that it will not make contracts with obligations for payment so long as there are no appropriations of funds which may not be necessary for the payment of the public debt.

In requesting Your Excellency to take note for appropriate purposes of the foregoing set forth in the name of my Government, I take the opportunity [etc.]

M. GARCÍA MELLA

839.51/4356

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

No. 426

WASHINGTON, May 12, 1936.

SIR: With reference to your despatch No. 3141 of February 24, 1936, transmitting a copy of the note from the Dominican Government containing the views of that Government with respect to the interpretation to be given Article III of the American-Dominican Convention of December 27, 1924, concerning the pledges of future revenues by the Dominican Government, there is transmitted herewith a draft of a note which you will please address to the Minister of Foreign Relations in answer to his note transmitted with your despatch under acknowledgment.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

[Enclosure]

Draft of Note To Be Addressed to the Dominican Minister for Foreign Affairs (Bonetti Burgos)

EXCELLENCY: I have the honor to inform Your Excellency that your note No. 131 of February 21, 1936, containing the views of Your Excellency's Government regarding the interpretation to be given Article III of the American-Dominican Convention of December 27, 1924, concerning the pledging of future revenues by the Government of the Dominican Republic has been duly transmitted to my Government and I am now instructed to reply as follows:

The Government of the United States as a matter of principle cannot admit the contention of the Dominican Government that the

payments stipulated in the contracts entered into by the Dominican Government for the construction of certain bridges, which formed the subject of representations made by this Legation as far back as June 20, 1928, do not involve violation of Article 3 of the Convention of December 27, 1924. It is the well-considered opinion of the Government of the United States that arrangements of the nature involved in these contracts, and likewise the contract for the port development work in the harbor of Santo Domingo, involving as they do a financial liability undertaken by the Dominican Government and to be liquidated at some future date, constitute in fact an increase in the "public debt", and that, accordingly, they come within the purview of Article III of the Convention of December 27, 1924. Any opinion to the contrary would seem clearly to open the way for the Dominican Government, if it so desired, to avail itself of a method for the financing of projects and undertakings of whatever nature which would be limited only by the willingness of other parties to accept written obligations of the Dominican Government.

The Department of State has gone into this question very carefully and thoroughly. As indicated in the representations made on this subject since June 1928, the Government of the United States desires to give a liberal interpretation to the provisions of the Convention, in order that it need concern itself as little as possible with the fiscal affairs of the Dominican Republic, but it is regretted that it is impossible to interpret Article III of the Convention in such a way as to give a blanket authorization to the Dominican Government to enter into contracts pledging revenues for a period of years in advance. The surplus revenues of any given year are, of course, at the entire disposition of the Dominican Government and it may do with such surplus revenues as it wishes without consulting the Government of the United States, but the pledging in advance of surplus revenues for future years can be looked upon only as an increase in the public debt requiring the consent of the Government of the United States under the terms of Article III of the Convention.

Accept, Excellency, etc.

839.51/4395

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

No. 3318

CIUDAD TRUJILLO, May 20, 1936.

[Received May 26.]

SIR: Referring to the Department's airmail instruction No. 426 of May 12, 1936 (File No. 839.51/4356) enclosing a draft of a note to the Dominican Government setting forth our views of the correct in-

terpretation to be given Article III of the Dominican-American Convention of December 27, 1924, concerning the pledging of future revenues by the Dominican Government, I have the honor to enclose for the Department's information a copy of the note as transmitted under date of May 18, 1936.³⁴

In conversation today with the Minister for Foreign Affairs, who returned yesterday from more than a week's absence in Haiti where he had attended the second inauguration of President Vincent as a member of the official suite of President Trujillo, the Minister informed me that he had not as yet had an opportunity to discuss the subject matter of my note with the President of the Republic as the latter was only expected to return today. Señor Bonetti Burgos, however, said that, speaking only for himself and neither on behalf of the President nor of the Government, he thought it was highly desirable that every effort should be made to adjust the divergent views of the two Governments regarding the interpretation of Article III of the Convention but, more than this, to consider the possibility of a revision of the Convention itself which was "inadequate." I said to the Minister that I was entirely in agreement with him as to the desirability of reaching an agreement between our Governments regarding the interpretation of Article III and that I was at the disposal of himself and of the President of the Republic for a discussion of the subject. As for the suggested revision of the Convention, I told the Minister that, as I understood, successive diplomatic representatives of the Dominican Republic at Washington had been assured of the readiness of the Department of State to consider such revision under proper conditions and at the proper time but, I added, so long as the Convention remained in force in its present form, it should be conscientiously adhered to.

Although the Minister did not undertake to discuss the issue in great detail in our conversation this morning, he did say that he believed the essential point in the controversy as to Article III of the Convention was to determine the precise significance of the phrase "public debt," the increase of which without the consent of the United States is precluded by Article III of the Convention. He said his Government was in agreement with the Government of the United States that the Dominican public debt, though only as the Dominican Government understood this term, could not be increased without the consent of our Government. I said to the Minister that in these circumstances it should not be beyond the resources of those concerned to reach an understanding, but that, if agreement could not be reached through the diplomatic channel, Article VI of the Convention itself provided a method of settling the controversy by arbitration. Ex-

³⁴ Note as transmitted was substantially the same as draft printed *supra*.

pressing the hope that it would be possible to adjust our divergent standpoints by direct discussion, I reiterated my readiness to participate in any consultation on the subject which the President of the Republic and the Minister for Foreign Affairs might deem it appropriate to undertake with me in order to find a mutually satisfactory formula the acceptance of which by both Governments might put an end to controversy as to the meaning of the disputed Article of the Convention.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4403

The Minister in the Dominican Republic (Schoenfeld) to the Assistant Secretary of State (Welles)

CIUDAD TRUJILLO, May 21, 1936.

MY DEAR MR. WELLES: My despatch No. 3318 of yesterday reports a preliminary conversation with Bonetti Burgos regarding the note delivered under the Department's instruction No. 426 of May 12 on the subject of Article III of the Convention. Since that conversation I have tried again to formulate in my own mind a precise statement of the Department's position regarding the interpretation of Article III, in anticipation of a request upon me by President Trujillo or the Foreign Minister to explain its significance. In other words, I may be asked by the Dominicans to lay down for them a rule of practical conduct that would be considered satisfactory to the Department if they should see fit to follow it. The more we go into it, the more difficult it seems to be to give the Department's thought on this subject precise meaning and the records of efforts made in previous years to formulate the Department's position as, for instance, in the memorandum describing conversations in 1928, yield very little light on the subject.

Does Article III mean that the American Government expects to be consulted in order to see that the Dominican Government maintains a balanced budget and that no obligations shall be incurred by the latter beyond service of its external funded debt and current expenses of the Government without accumulation of any floating debt payable after the end of each fiscal year? To illustrate the difficulty, in the matter of the Camú River bridge contract, which called for final payment within a year, does such a contract call for consultation of our Government only because the payments run beyond the end of the fiscal year in which the contract was made? If this is not the meaning of the Department's position, I find it impossible to formulate it in other terms. Besides, the Department may not really be prepared to back up such a formulation and yet we can not see in

what other direction the Department's instructions on the subject tend.

There is a possibility that, by following the line of the interpretation of Article III above indicated, we may find ourselves in an untenable position in which the Dominican Government would be able to argue, as it has before in the history of our relations with this country, that we were seeking to establish budget control. I seriously doubt that we are seeking to do any such thing. I think we should beware, also, of the argument that Article III was meant to preclude the increase without our consent of the Dominican public debt beyond what it was when the Convention was concluded; this argument would be difficult to counter. Would it not be better, by virtue of our obligations to the bondholders under Article III of the Convention, to concentrate our efforts on trying to clear up the floating debt situation here and thereby indirectly contribute to implant in the Dominican fiscal mind the germ of the idea that the indiscriminate accumulation of obligations for which no reasonable assurance of payment exists is undesirable and should be avoided?

Considering particularly the background of the negotiations that led to the agreement of 1934 with the Bondholders Council,³⁵ it seems to me that we are in danger of putting ourselves in a false position by seeming to insist now upon an interpretation of Article III which we in the Legation at least find it impossible to formulate otherwise than as indicated and which does not yet seem to have been formulated with precision by the Department itself.

I should welcome any clarification of the Department's views that you could send me for my guidance.

Sincerely yours,

H. F. ARTHUR SCHOENFELD

839.51/4401

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

No. 3348

CIUDAD TRUJILLO, June 4, 1936.

[Received June 9.]

SIR: Referring to my despatch No. 3318 of May 20, 1936, reporting the delivery to the Dominican Government of the note enclosed with the Department's instruction No. 426 of May 12, 1936, regarding the interpretation to be given Article III of the Dominican-American Convention of December 27, 1924, and reporting also a conversation with the Minister for Foreign Affairs on the subject, I have the honor

³⁵ For the text of letters of August 10 and 11, 1934, exchanged between the Dominican President and the Foreign Bondholders Protective Council, Inc., see the Council's *Annual Report*, 1934, pp. 59-62. See also *Foreign Relations*, 1934, vol. v, pp. 189 ff.

to inform the Department that in conversation yesterday afternoon with the Minister for Foreign Affairs, Señor Bonetti Burgos asked me how our interpretation of the mentioned article of the Convention was to be construed.

I said that our interpretation of this article was set forth in the note which I had delivered under date of May 18, 1936.^{35a} The Minister thereupon inquired, as he said, unofficially, as to my interpretation of the article in question. I answered that I was not authorized to speak on the subject except in the terms used in my note of May 18 but that I had hoped to hear a proposal on behalf of the Dominican Government calculated to meet my Government's contentions as to the significance of the article. The Minister, nevertheless, asked me whether I could state for his information my personal view of the matter in its relation to the Dominican Government's fiscal practice. I replied that as I understood Article III of the Convention, it called in effect for the maintenance of a balanced budget by the Dominican Government and seemed to mean that no obligation should be incurred by the Dominican Government looking to expenditures over revenues in sight beyond the end of any given fiscal year unless such proposed excess expenditures were made the subject of consultation in advance with the Government of the United States. I added that, as stated in my note of May 18 and frequently by my Government in the past, my Government was disposed to be liberal in its attitude towards such matters when consulted by the Dominican Government.

It appeared from the Minister's ensuing statements that, from the Dominican Government's standpoint, the real issue was not considered to be the question as to what particular proposed expenditures of the Dominican Government required the consent of the United States, but rather the necessity of consultation of the United States at all regarding any of the Dominican Government's financial matters outside the scope of the external funded debt now outstanding. This aspect of the conversation prompted an inquiry by the Minister for Foreign Affairs as to the prospects for a modification of the Convention. In this relation he said that the Dominican Government had been informed that the Department of State was already engaged in studying such a modification. In response to his pressing inquiry on this topic, I said that it seemed to me difficult to modify the Convention with a view only to its political aspects and, so to speak, *in vacuo*. I explained that a modification of the Convention might be more easily envisaged as a complement to a financial readjustment which would involve primarily the redemption of the Dominican Government's external funded debt. At this point, I mentioned the fact that Mr. Joseph E. Davies, counsel to President Trujillo in

^{35a} See footnote 34, p. 441.

financial and other matters in the United States, during Mr. Davies' latest visit in this country, had outlined to me his plans for a financial re-adjustment here (see my despatch No. 3322 of May 22, 1936³⁶). I added that, if such plans should materialize, it seemed possible that in relation with their execution some modification of the Convention might be anticipated. I mentioned also that up to this time the Dominican Government, so far as I knew, had not advanced any concrete proposals looking to the modification of the Convention in general nor had it made any suggestion as to finding a rule to govern its consultation of the United States Government regarding proposed increases of its public debt in pursuance of Article III of the Convention. I said to the Minister that if the Dominican Government were disposed to make any concrete proposals regarding these matters I should be very glad to cooperate in considering them with a view to eventual recommendations to the Department regarding them.

The reference made by the Minister for Foreign Affairs yesterday to reports received by the Dominican Government regarding the Department's pending study of a modification of the Convention of December 27, 1924, was the second such reference made by him in recent conversations, the first having been on June 1 when I had occasion to see Señor Bonetti Burgos at the Foreign Office. I respectfully request to be informed what, if any, foundation there may be for the reports which appear to have reached the Dominican Government in this respect and also whether the language held by me in conversation with the Minister for Foreign Affairs yesterday, as above reported, has the Department's approval.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4403

The Assistant Secretary of State (Welles) to the Minister in the Dominican Republic (Schoenfeld)

WASHINGTON, June 9, 1936.

MY DEAR MR. SCHOENFELD: I have received your letter of May 21, 1936, relating to the Department's position regarding the interpretation to be placed on Article 3 of the Dominican-American Convention, in anticipation of a request upon you by President Trujillo or the Minister for Foreign Relations to explain its significance.

In amplification of the Department's position as set forth in the draft of the note transmitted with the Department's instruction No. 426 of May 12, 1936, I believe that the most satisfactory and friendly way to handle this matter at the present time should you be ap-

³⁶ Not printed.

proached either by the President or the Foreign Minister, would be to state that our position is that, if the Dominican Government enters into contracts which involve amounts provided for in the annual budget and which are to be paid within the current fiscal year, this Government has no reason to protest under the terms of Article 3; that if, on the other hand, the Dominican Government enters into contracts which call for the making of a series of payments over a term of years, there can obviously be no assurance that in the years to come the revenues of the Government would be sufficient to meet such payments, and that, consequently, such contracts imply an increase in the public debt of the Dominican Government without the prior consent of the Government of the United States, and are consequently to be construed as to be in violation of Article 3 of the Convention.

As stated in the note transmitted with the Department's instruction No. 426 of May 12, 1936, we desire to give as liberal an interpretation as possible to the provisions of the Convention and we do not think that we would be justified in endeavoring to exercise budgetary control, but should the budget contain provisions for payments to be made beyond the end of the fiscal year and pledging revenues for a period of years in advance, we must, of course, consider such procedure as increasing the public debt and in violation of Article 3 of the Convention.

Sincerely yours,

SUMNER WELLES

839.51/4407

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

No. 3373

CIUDAD TRUJILLO, June 17, 1936.

[Received June 23.]

SIR: I have the honor to inform the Department, with reference to recent despatches on the subject of the interpretation to be given Article III of the American-Dominican Convention of December 27, 1924, that, in conversation today with the Minister for Foreign Affairs, Señor Bonetti Burgos intimated that the Dominican Government was at a loss to reconcile the general policy of the United States as exemplified in revised treaties of general relations negotiated latterly with other countries in the Caribbean area, such as Cuba³⁷ and Panama,³⁸ which he mentioned, with the policy represented by the note I had delivered under the Department's instructions on May 18 last on the subject of the interpretation of Article III of the Convention.

³⁷ Signed May 29, 1934; for text, see Department of State Treaty Series No. 866, or 48 Stat. 1682. See also *Foreign Relations*, 1934, vol. v, pp. 183 ff.

³⁸ Signed March 2, 1936; for text, see Treaty Series No. 945, or 53 Stat. 1807.

The Minister gave me to understand that the policy of our note of May 18 would be interpreted by the Dominican public, if its contents should become known here, as a return to the policy in Dominican financial matters which had served as a "pretext" for the military intervention in this Republic some twenty years ago. The Dominican Government was confident that the American Government entertained no aim in relation to the Dominican Republic which was out of harmony with the policy enunciated in recent years by the American Government in relation to all the countries in this area. In the nature of things, these countries would always be affected for good or ill by their relation to the United States—a circumstance which the Dominican Government recognized and willingly accepted in entire good faith. The Dominican Government, the Minister continued, had reason to believe, from assurances repeatedly given its representatives at Washington and reiterated here, that the American Government looked upon the Dominican Government "without prejudice" (*sin recelo*) against the latter. The Dominican Government hoped that the American Government would not now insist, as it had not heretofore insisted, upon the policy represented by my note of May 18 which implied, the Minister indicated, the subjection of the Dominican Government's proposed expenditures to consultation with the American Government even though the Dominican Government, which had no desire to accumulate debt, should be as scrupulously careful as the present administration in this country was, to incur no financial obligations it could not reasonably expect to meet. The Minister seemed not to consider it practicable on the part of the Dominican Government to consult the American Government regarding the assumption of obligations on the basis of revenues anticipated to be received beyond the end of a fiscal period. He indicated that the Dominican Government is more than reluctant to subject its revenues and expenditures to the kind of supervision implicit in the consultation called for in our representations regarding Article III of the Convention.

I said to the Minister that I believed the Dominican Government rightly assumed that the policy of the American Government enunciated in relation to the countries of the Caribbean area was a settled and primary policy, which would be kept in view in all dealings between the American and Dominican Governments. So far as the new treaties negotiated with Cuba and Panama were concerned, I expressed the view that the relations between the United States and those two countries under previous treaties involved an essentially different degree of obligation on the part of those countries towards the United States than was involved either in the Convention of 1907³⁹ or in the

³⁹ Signed February 8, 1907, *Foreign Relations*, 1907, pt. 1, p. 307.

Convention of 1924 between the United States and the Dominican Republic; and that the right of interposition stipulated to the United States in the old treaties with Cuba and Panama, was certainly more extensive than any conventional powers exercised by the United States in the Dominican Republic. The existing obligation of the United States Government towards the holders of Dominican external bonds and other holders of valid claims against the Dominican Government remained secondary, I said, to the postulates of the so-called Good Neighbor Policy and was in no way incompatible with that Policy. The present special relation of the Dominican Republic to the United States was based upon the conventional engagements of the Dominican Government, which had been again confirmed in the most formal manner in President Trujillo's proposal of August 10, 1934 to the Foreign Bondholders Protective Council, Inc.,⁴¹ and in the note of August 7, 1934, from the Dominican Minister at Washington to the Secretary of State.⁴² In these circumstances, I said to the Minister, it seemed to me that the Dominican Government's position, as he had expressed it, seemed to be influenced to some extent by sentimental rather than by logical considerations. I intimated that the considerations in question perhaps grew out of local recollections of the intervention and thus accounted for the apparent failure to realize that my Government's present attitude was not in conflict with the Good Neighbor Policy in any of its implications. It was the desire of the United States to see the Dominican Government comply effectively with its reasonable obligations under Article III of the Convention that had led to our representations and I was confident of the Dominican Government's eventual comprehension of the justice and expediency of such compliance.

The conversation proceeded no further along the lines above indicated and the Minister turned to the matter of the Dominican Government's floating debt. He gave me to understand that he had urged upon President Trujillo a plan, which I have occasionally alluded to as likely to prove practical, for securing systematic amortization of the floating debt by paying smaller admitted claims indiscriminately and with a minimum of delay in order to be able more rapidly to devote the Government's resources to the payment of larger claims. The Minister said that, in urging such a plan upon the President, he had in mind advising me when it would be opportune for me to urge the same ideas upon President Trujillo. My comment on this topic was that I was confident that the adoption of a systematic and impersonal method for handling the floating debt would do more to create in the business community here and abroad the favorable impression which

⁴¹ Foreign Bondholders Protective Council, Inc., *Annual Report*, 1934, p. 59.

⁴² *Foreign Relations*, 1934, vol. v, p. 199.

the Dominican Government desires to see prevail, than could be accomplished by current publicity regarding the prosecution of an elaborate program of public works. The Minister for Foreign Affairs did not deny the force of this presentation of the matter. After remarking upon the confidence felt by President Trujillo personally in the friendly disposition of the American Minister, he gave me to understand that more could be accomplished in influencing President Trujillo's policy in financial, as on other, matters by friendly personal advice than by "diplomatic notes" or formal diplomatic methods.

I thought I detected in the statements made by the Minister for Foreign Affairs towards the end of our talk some signs of an eventual change in the attitude of the Dominican Government in respect of the matters discussed today. Its attitude towards these matters has been one of substantial indifference for some time past. This attitude of indifference may be attributable to specific causes, including also our own past policy in Dominican affairs, but it now seems unnecessary to dwell on them and I am hopeful—though by no means confident—that a more realistic policy on the part of the Dominican Government can soon be induced.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4407

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

No. 437

WASHINGTON, July 11, 1936.

SIR: The receipt is acknowledged of your despatch No. 3373 of June 17, 1936, reporting your conversation with the Minister for Foreign Affairs relating to the interpretation to be given to Article III of the Dominican-American Convention of December 27, 1924.

The Department approves of the statements you made to the Foreign Minister and desires you to take the opportunity when again in conversation with the Foreign Minister to stress the point that the policy of this Government towards the Dominican Republic is in no way different from that being pursued with every other American Republic; that there is neither partiality nor prejudice but that inasmuch as a convention exists between the two countries it is the opinion of this Government that friendly relations can only be assured and promoted in the way in which it is assumed both Governments desire to further friendly relations if both Governments adhere scrupulously to their treaty obligations so long as the present treaty remains in force and effect. The interpretation given by this Government to Article III of the convention has been given for the purpose of avoiding misunderstandings and disagreements and has been laid down

in no sense for the purpose of interfering in any way with the domestic concerns of the Dominican Government beyond the limits clearly established in the treaty itself.

For your confidential information, Señor Pastoriza⁴⁸ stated to Assistant Secretary Welles on the sixth instant that he personally had already told Señor Bonetti Burgos that he believed the interpretation given to Article III by the United States was entirely sound and entirely in accord with the intent of the negotiators when the treaty was signed and that it was his opinion that Señor Bonetti Burgos coincided in this belief. Señor Pastoriza volunteered the statement that the interpretation given by this Government to Article III was based on "common sense".

Very truly yours,

For the Secretary of State:
SUMNER WELLES

889.51/4420

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

No. 3413

CIUDAD TRUJILLO, July 14, 1936.

[Received July 17.]

SIR: Confirming my telegram No. 19 of today's date,⁴⁴ I have the honor to report, for the Department's confidential information, that on July 11 last I had a conversation with President Trujillo at his office in the course of which he asked me, with reference to the note delivered by me under date May 18, 1936, to the Minister of Foreign Affairs regarding the interpretation of Article III of the Convention of December 27, 1924, to submit to him a statement of what I would consider a practical method for use by the Dominican Government in complying with the provisions of the Article of the Convention mentioned. I told the President that I would gladly comply with this request. He thereupon stated that he would set a day this week when I should visit him at his country estate near the town of San Cristóbal, to discuss the matter at leisure.

This morning I had a visit from the Minister of Foreign Affairs who advised me that the President was precluded from going to his country estate during the current week but desired me to call on him at his office in the capital today. Accordingly, I visited President Trujillo at his office here this forenoon and upon his request handed him a copy of the enclosed formula, together with a copy of the enclosed unguaranteed translation into Spanish of the suggested formula, stating, as indicated in the documents, that the formula was

⁴⁸ Andrés Pastoriza, Dominican Minister in the United States.

⁴⁴ Not printed.

suggested unofficially by me and was subject to the Department's approval.

As reported in my telegram above-mentioned, President Trujillo said he would consult the Minister of Foreign Affairs on the subject and that he believed we would reach an agreement regarding the interpretation of Article III and the method of compliance therewith on the part of the Dominican Government, adding that such agreement, in his opinion, was necessary in the mutual interest of both governments.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

[Enclosure]

Formula Suggested Unofficially by the American Minister and Subject to the Approval of the Government of the United States

With a view to making clearer the practical meaning of Article III of the Convention of December 27, 1924, between the Government of the Dominican Republic and the Government of the United States of America, the Secretary of State for Foreign Affairs, duly authorized, takes pleasure in stating to the American Minister that, by virtue of the said Article, the Dominican Government will communicate to the Government of the United States in advance the details of any financial obligation which the former may propose to incur looking to expenditures by the Dominican Government in excess of fiscal revenues receivable in any current fiscal year. The Secretary of State for Foreign Affairs desires to add that the Dominican Government will transmit the advice of such proposed obligation to the Government of the United States of America either through the American Legation in the Dominican Republic or through the Legation of the Dominican Republic accredited to the Government of the United States.

839.51/4421

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

No. 3416

CIUDAD TRUJILLO, July 16, 1936.

[Received July 21.]

SIR: I have the honor to acknowledge the receipt of the Department's airmail instruction No. 437 of July 11, 1936, (File No. 839.51/4407) in relation to conversations had with the Dominican Government on the subject of the interpretation to be given Article III of the Dominican-American Convention of December 27, 1924, and to inform the Department that I had occasion last evening to speak to the Minister for Foreign Affairs in the terms of the second paragraph of the Department's instruction under acknowledgment.

The Minister for Foreign Affairs seemed to regard my statement to him as most significant and satisfactory. He conducted me to the presence of the President of the Republic who happened to be in the National Palace at the time. I repeated to the President the statement previously made to the Minister for Foreign Affairs. The President answered, as he said in the name of the Government, that he had never had any doubt of the friendly disposition of the American Government towards his Government and that he was confident that any differences of opinion regarding current issues would be adjusted by "frank and understanding" discussion.

President Trujillo further stated, with special reference to the formula which I had submitted to him on July 14, as reported in my despatch No. 3413 of that date, for the guidance of the Dominican Government in complying with Article III of the Convention, that he thought this formula would be acceptable to the Dominican Government "with slight changes," and he indicated that he desired to have a further conversation with me, presumably for the purpose of discussing the "slight changes" he apparently had in mind. In this relation, the President asked me what could now be done by the Dominican Government to consult our Government with reference to the bridge contract with the United States Steel Products Company and the contract with Mr. Félix Benítez Rexach for the construction of the Santo Domingo port works, to both of which reference was made in my note of May 18 last on the subject of Article III of the Convention. I told the President that, off hand and without an opportunity to refer to my Government, I thought that, as the port works were approaching completion and as the Camú River bridge was shortly to be opened (it is to be inaugurated on July 19 next), little could be done to consult the American Government now regarding these contracts and that it might be deemed sufficient if the Dominican Government should undertake, by acceptance of the formula I had submitted, to consider the procedure suggested as governing its future consultations of the American Government regarding proposed increases in its public debt.

During my statement to President Trujillo in the sense of the second paragraph of the Department's instruction under acknowledgment, the Minister for Foreign Affairs explained to the President and to myself that his references in recent conversations with me to the policy of the United States, which were reported in my despatch No. 3373 of June 17 and in other recent despatches, were the expression of a "personal impression" only. I may say, however, that this personal impression appears to have been shared by President Trujillo himself, as I gathered in a conversation with him on July 11 last. The Department's instruction has, therefore, been especially timely in enabling me to confirm my own previous statements designed to correct the evident misapprehension, whether real or assumed, under

which the Dominican Government has been laboring in recent weeks with respect to the nature of the representations we have made. In order to leave no doubt of the precise terms of my statement to the President and the Minister for Foreign Affairs yesterday, and to strengthen the pleasurable impression which it apparently made upon them, I deemed it desirable to leave with the Minister for Foreign Affairs a copy of the second paragraph of the Department's instruction under reference.

I now look for early acceptance of the formula regarding the method of compliance with Article III of the Convention which I submitted to the President on July 14, notwithstanding the influences which may have been exerted upon President Trujillo, more especially by his Minister for Foreign Affairs and perhaps by others, to lead him to continue to disregard certain important obligations under the Convention, as the Dominican Government had been doing.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4421

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

No. 3422

CIUDAD TRUJILLO, July 22, 1936.

[Received July 28.]

SIR: Referring further to my despatch No. 3413 of July 14, 1936, reporting that I had submitted to President Trujillo at his request a formula designed to govern the Dominican Government's action, in pursuance of Article III of the Convention of December 27, 1924, in consulting the American Government regarding proposed financial obligations to be incurred by the former, I have the honor to report that, in conversation this morning with the Minister for Foreign Affairs, Señor Bonetti Burgos said that, without special authorization from the President of the Republic, he desired personally and unofficially to make a suggestion which he believed would facilitate agreement on the procedure to be followed in carrying out Article III. The Minister reminded me that, as President Trujillo had already stated to me, the President was favorably disposed to accept my suggested formula, as he was to coöperate fully at all times in adjusting this and any other issues between our Governments with a view to strengthening friendly relations. The Minister said that, although the President had not advised him of a final decision with regard to accepting the suggested formula respecting Article III, he (the Minister) believed final acceptance would be facilitated if I could indicate more precisely the manner in which the Department would deal with the communications proposed in my formula to be made by the Domin-

ican Government to our Government in compliance with Article III of the Convention.

I said to the Minister that I thought it was important to bear in mind the limited nature of the procedure contemplated in my suggested formula for compliance with Article III of the Convention. The formula had reference only to the procedure which the Dominican Government might wish to follow in making its communications to the American Government regarding financial obligations proposed to be undertaken. The Dominican Government would presumably not desire to be placed in the position of requesting express approval of such proposed obligations, especially in view of the assurances we had repeatedly given of our desire not to interfere unduly in the administrative operations of the Dominican Government. Accordingly, I said to the Minister, I felt it would be difficult for the Department to express itself in advance regarding its possible attitude towards hypothetical financial obligations of the Dominican Government proposed to be incurred by the latter and communicated to our Government in pursuance of my suggested formula. I expressed the personal opinion that if, upon receipt of any future Dominican communication of this kind, my Government should feel that it desired to make any comment to the Dominican Government regarding such proposed obligations, this comment would probably not take the form of an expression of approval or disapproval but would more probably have reference to my Government's view of the possible effects of the particular obligation proposed to be incurred upon the Dominican Government's public debt.

The Minister then asked me what our understanding of the term "public debt" included. I answered that, while I could not speak authoritatively on this point, I understood the significance of the phrase "public debt" had been considered and adjudicated by American courts and it seemed to include all financial obligations assumed by a government and requiring revenue to meet them, regardless of the form in which such obligations might be evidenced.

I said to the Minister that I would gladly communicate his personal inquiry to the Department but that I foresaw some difficulty in obtaining from the Department a statement as to its possible action in the hypothetical situation to which he had referred. I offered to telegraph the Department but the Minister indicated that he preferred I should communicate with the Department more fully than would be possible by telegraph.

I venture to suggest that I be authorized, in response to the inquiry of the Minister for Foreign Affairs above outlined, to make a statement to him on behalf of the Department as to the procedure it would contemplate following in the event that the Department should hereafter receive written communications from the Dominican

Government, in pursuance of Article III of the Convention, regarding certain financial obligations proposed to be incurred by the Dominican Government. I respectfully submit that such a statement might take the form of advising the Dominican Government that, should it communicate to our Government hereafter the details of any financial obligation the Dominican Government proposed to incur looking to expenditures in excess of fiscal revenues receivable in any current fiscal year, our Government would give such communication the most benevolent consideration within the limits clearly established by the Convention itself and with due regard to the then existing financial obligations of the Dominican Government. A statement on behalf of the Department along these lines may serve to minimize further discussion regarding this point with the Minister of Foreign Affairs, who may have brought it up at this time in order to defer President Trujillo's acceptance of the formula submitted by me to the President on July 14, to which, as I have reason to believe, the Minister is opposed.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4427

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

No. 442

WASHINGTON, August 6, 1936.

SIR: The receipt is acknowledged of your despatch No. 3422 of July 22 last, concerning a conversation which you had on the same day with the Dominican Secretary of State for Foreign Affairs on the subject of the interpretation of Article III of the Convention of 1924 between this country and the Dominican Republic.

The Department concurs in your view that it would be difficult for the Department to express itself in advance regarding its possible attitude towards hypothetical financial obligations of the Dominican Government proposed to be incurred by the latter and communicated to this Government in pursuance of the draft formula which you submitted to the Dominican Government on July 14. You are therefore authorized to say informally to the Secretary of State for Foreign Affairs that your Government, while desiring to be as cooperative as possible, does not deem it practicable to attempt to define in advance of the presentation of a concrete instance the position or procedure which it would regard as proper in the particular circumstances. You may add, however, that as has been communicated to the Dominican Government on previous occasions, your Government desires to concern itself in a minimum degree with the fiscal affairs of the Dominican Republic, and that upon being consulted regarding any

increase of the public debt of the Dominican Government, it would be the policy of your Government to give to Article III of the 1924 Convention an interpretation as liberal as might be possible within the limitations established by the guarantees which the Convention was intended to afford the holders of Dominican Government bonds.

In regard to the inquiry of the Secretary of State for Foreign Affairs concerning the interpretation of the term "public debt", you may recall to the Secretary of State that the draft formula which you submitted states that "the Dominican Government will communicate to the Government of the United States in advance the details of any financial obligation which the former may propose to incur looking to expenditures by the Dominican Government in excess of fiscal revenues receivable in any current fiscal year", and that it is believed that the language cited expresses the interpretation that should properly be given the term as it is employed in Article III of the Convention.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

611.3931/61

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

No. 3600

CIUDAD TRUJILLO, November 3, 1936.
[Received November 10.]

SIR: I have the honor to inform the Department that in the course of a call on President Trujillo this morning for the purpose of paying my respects before departing this evening on leave of absence recently granted me by the Department, I had occasion to inquire of the President as to the present status of certain matters which have been the subject of discussion between the Legation and the Foreign Office in recent months. The Minister of Foreign Affairs was present during my visit.

The first matter I brought up was that relating to the application of the American-Dominican *Modus Vivendi* of 1924⁴⁵ to American imports into this country similar in character to those specified in the recently concluded Franco-Dominican trade agreement. The President stated with reference to this matter that the Government had not yet taken a decision in the premises, the matter being under consideration by the Consultative Commission of the Foreign Office.

The Minister of Foreign Affairs, as well as the President, alluded immediately to the interest of the Dominican Government in securing an increased quota for Dominican sugar exports to the United States. On this subject, the Minister of Foreign Affairs went so far as to say

⁴⁵ See pp. 407 ff.

that the preferential treatment accorded Cuba in the existing Cuban-American trade agreement,⁴⁶ and otherwise, was in effect discriminatory against the Dominican Republic in view of the abrogation of the Platt Amendment and the cessation of special political relations between the United States and Cuba. I said I would probably have occasion to discuss this matter in Washington but that I ventured to recommend caution on the part of the Dominican Government in permitting the impression to grow that unconditional most-favored-nation treatment for American goods in this country under the *Modus Vivendi* of 1924, was now to become conditional in any respect.

I believe I am now warranted in stating that the Dominican Government's long standing interest in the possible negotiation of a general trade agreement with the United States has lately been intensified by the belief of President Trujillo and of his Foreign Minister, that such an agreement is an objective which can be obtained under the pressure of the existing tacit denial of most-favored-nation treatment to American imports here, a denial ostensibly based on the new Franco-Dominican trade agreement and ascribed to the French Government's initiative but deemed very opportune to the purpose indicated. Both the President and the Foreign Minister asserted that there was no intentional association between the two matters. Pending a decision by the Dominican Government to comply with the American-Dominican *Modus Vivendi* of 1924, however, and in view of the insistent references lately made on behalf of the Dominican Government to an increased sugar quota in the United States and a trade agreement with us, it seems unquestionable that they have decided to relate the two matters in their present policy.

I asked the President whether he could inform me of any developments in relation to the acceptance of the formula I had submitted to him in July last at his request designed to govern the method of compliance by the Dominican Government with Article III of the Convention. The President answered in the negative but added that, as I would have observed, the Government had made no further contracts like those which motivated our representations regarding Article III earlier this year.

I also mentioned the floating debt matter. The President stated that the budget for 1937, which is now in preparation, would include an appropriation to be applied towards liquidation of the floating debt. The President, however, vouchsafed no information as to the procedure to be followed in determining priority and other open questions involved in the proposed liquidation of the floating debt.

I inquired whether the President had taken any decision regarding the consolidation of the customs and so-called internal revenue taxes

⁴⁶ Signed August 24, 1934; see *Foreign Relations*, 1934, vol. v, pp. 108 ff.

on imports, which was the subject of conversations between the President and myself and between the President and the General Receiver of Dominican Customs in July and August last. I volunteered the statement that a study of this topic recently made in the Legation (See my despatch No. 3511 of September 14, 1936⁴⁷) indicated that it would be advantageous to the Dominican Government to effect the suggested consolidation, not only for the benefit of the revenues and local business in the Republic but also to widen the fiscal field within which the Dominican Government might bargain for commercial agreements with foreign countries. The President told me that a similar study had been made by the Dominican Government itself and had led to similar conclusions. Consideration is apparently still being given to this important matter.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

REPRESENTATIONS TO THE DOMINICAN REPUBLIC RESPECTING
DELAY IN LIQUIDATING FLOATING DEBT OWED TO AMERICAN
NATIONALS

839.51/4379

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

No. 3280

CIUDAD TRUJILLO, April 30, 1936.

[Received May 5.]

SIR: Confirming my telegram No. 12 of April 22, 1936, 1 p. m.,⁴⁷ reporting consideration in the Dominican Congress of a bill transferring for irrigation purposes the amount of \$225,000 from the appropriation in the amount of \$600,000 in the budget for 1936 for the payment of floating debt claims against the Dominican Government, I have the honor to enclose for the Department's information the official publication, taken from the newspaper *Listin Diario* today, of the bill as enacted. I enclose also a translation of the new law, No. 1096,⁴⁸ approved by President Trujillo on April 29.

It will be observed that the law provides for the issuance of Treasury certificates of indebtedness to the holders of approved claims after examination and audit by a special commission to be set up for the purpose. The membership of this commission has not been announced. In somewhat ambiguous language, a period of 180 days from the promulgation of the law is given by Article 2 for effecting

⁴⁷ Not printed.

⁴⁸ Translation not printed; the text of the law also appears in Spanish in Dominican Republic, *Colección de Leyes, Decretos y Resoluciones Emanados de los Poderes Legislativo y Ejecutivo de la República*, 1936, p. 57.

the exchange of evidences of approved claims for the Treasury certificates of indebtedness. By Article 4 of the law the Executive Power is authorized to discount audited claims up to 25% of their amount before issuing certificates of indebtedness which, by Article 1, are to be in such form as to be acceptable by third parties.

The new law provides for the conversion of evidence of admitted claims against the Dominican Government, which has heretofore been in the form of certificates of so-called "analyses," signed by the National Auditor, into new negotiable instruments in the form of certificates of indebtedness to be signed by the National Treasurer and the Auditor of the Republic. The latter certificates will thus constitute new Treasury obligations of the Dominican Government. The negotiability of the proposed new Treasury certificates does not appear to be essentially different from that of the certificates of analyses, which have apparently been assignable to third parties and have in some cases been so assigned, though it may be that the certificates of analyses may have required for validation for the benefit of third parties some form of consent by the Dominican Government. So far as I am aware, the consent of the American Government has not been requested in pursuance of Article III of the Dominican-American Convention of December 27, 1924,⁴⁹ for the increase, if it be an increase, of the public debt of the Dominican Republic represented by the proposed issuance of the new certificates of indebtedness, nor did the Dominican Government request such consent when, by exceeding its budget heretofore, it did increase its public debt and subsequently issue the certificates of analyses above mentioned to cover obligations incurred and unpaid.

The discretionary authority granted in Article 4 of the new law to the Executive Power to discount admitted claims and "audited credits" against the Government up to a maximum of 25% before issuing certificates of indebtedness appears to be inadmissible without the consent of our Government or of the holders of such claims and credits, so far as admitted claims and credits held by American nationals against the Dominican Government are concerned.

The reduction of the appropriation made for the current fiscal and calendar year for paying floating debt of the Dominican Government by the amount of \$225,000 now appropriated for additional public works, brings the appropriation for payment of floating debt down to \$375,000 for the current year. Retaining the existing right of the Executive Power to determine whether claims shall be paid and who shall receive payment, appears to fall short of the need for a plan of systematic and impersonal amortization of the floating debt. This provision of the law may be described rather as a new device in a

⁴⁹ *Foreign Relations*, 1924, vol. I, p. 662.

series of such devices in recent years for deferring comprehensive and equitable action on the floating debt of the Dominican Government and for the continuance of the abusive method employed during this administration in determining priority among floating debt creditors.

Subject to the Department's judgment of the question from the standpoint of our general Latin American policy, the new legislation would seem to afford an opportunity for entering into conversations with the Dominican Government regarding its floating debt. The Department, by virtue of the general provisions of the Convention of 1924, but more especially by virtue of the necessary meaning of Article III of the Convention, appears to have a treaty right to urge upon the Dominican Government its views with respect to the proper disposition of funds applicable to the payment of floating debt, not only to American nationals but to others as well.

The reference in Article 3 of the enclosed law to the eventual appropriation of further funds by the National Congress for the amortization of the floating debt is to sub-head 17 of Article 33 of the Dominican Constitution giving the Congress power, in translation, "to legislate as concerns the national debt." It appears that the new legislation is, therefore, regarded by the Dominican Government as affecting the national or public debt. Hence, the Dominican Government seems to recognize the floating debt as coming within the stipulations of Article III of the Convention providing for the consent of the United States Government to any increase in the public debt of the Dominican Government.

In the present circumstances and in view of the evident inadequacy of the latest Dominican legislation herein reported to effect any substantial progress in settling the floating debt of the Dominican Government within a measurable time, I beg leave respectfully to submit to the Department the question of the advisability of urging upon the Dominican Government at this time a more equitable and effective method of dealing with its floating debt—a course of action which it is believed could be followed without undue irritation of the Dominican Government, without departure from the general policy of the Department regarding assistance to American claimants against foreign governments and also without disregarding the logical intention of the high contracting parties when they agreed on the stipulations of Article III of the Dominican-American Convention of 1924. For this purpose, it would seem to be sufficient to call the Dominican Government's attention to our recognition of its difficulties in the period preceding the Dominican Emergency Law of October, 1931;⁵¹ our having, in consequence, refrained from invoking the Convention

⁵¹ See *Foreign Relations*, 1931, vol. II, pp. 110 ff.

at that time and subsequently in respect of the floating debt, though we had noted the Dominican Government's formal assurances at the time of the enactment of the Emergency Law regarding its intention of liquidating that debt; our subsequent considerate attitude during the period which culminated in the external funded debt agreement of August 10, 1934, with the Foreign Bondholders Protective Council, Inc.;⁵² our observation of the expansion of the Dominican Government's income and its disbursements in recent years for other governmental purposes; and, finally, a friendly inquiry as to the period of time within which the Government now expects to be able to liquidate the floating debt, with an offer of such cooperation as may be welcome to the Dominican Government in working out an equitable and scientific method of taking care of this obligation. At the same time, an intimation might be conveyed to the Dominican Government that the new law herewith enclosed is considered inadequate for the reasons above described.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4384

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

No. 3300

CIUDAD TRUJILLO, May 9, 1936.

[Received May 12.]

SIR: Referring to the Legation's despatch No. 3291 of May 6⁵³ and previous despatches in regard to the enactment by the Dominican Congress of Law No. 1096 of April 29 last concerning the floating debt of the Government, I have the honor to enclose a clipping, with translation,⁵³ from the local newspaper *Listin Diario* of this morning containing an official notice signed by the National Treasurer and dated yesterday, calling upon all creditors of the State, whether their claims have been previously approved or not, to present new claims within a period of 180 days, accompanied by all supporting documents.

It will be observed that the notice declares that claims presented after the termination of the period of 180 days will not be admitted.

With respect to the requirement regarding the submission of all supporting documents, it is to be anticipated that this will be one of the several difficulties attaching to the operation of the new law. It is understood that creditors have been obliged to present such documents in support of their claims previously presented and, although

⁵² For the texts of documents exchanged between the Dominican President and the Council, see Foreign Bondholders Protective Council, Inc., *Annual Report*, 1934, pp. 59-62. See also *Foreign Relations*, 1934, vol. v, pp. 189 ff.

⁵³ Not printed.

many of these creditors no doubt have copies of such documents, the difficulties in the matter are apparent. The local manager of the West India Oil Company, an American concern and the largest creditor, with a claim reported to amount to between \$180,000 and \$230,000, depending upon the adjustment of interest, alluded to this aspect of the law with considerable apprehension in a recent conversation with the American Minister, as his company had already surrendered the signed receipts for gasoline and oil forming the basis of its claim.

Respectfully yours,

For the Minister:
 JAMES W. GANTENBEIN
Secretary of Legation

889.51/4374

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

No. 427

WASHINGTON, May 12, 1936.

SIR: With reference to your telegram No. 12 of April 22, 1936,⁴⁴ reporting the appearance in the local press of an article announcing that the Dominican Chamber of Deputies had passed, and that the Senate was considering, a bill transferring for irrigation purposes \$225,000.00 from the \$600,000.00 appropriated in the 1936 Dominican budget for the payment of floating debt claims, there is transmitted herewith a note which you will please address to the Minister of Foreign Affairs on this subject.

Very truly yours,

For the Secretary of State:
 SUMNER WELLES

[Enclosure]

*Draft of Note To Be Addressed to the Dominican Minister for Foreign
 Affairs (Bonetti Burgos)*

EXCELLENCY: I have the honor to inform Your Excellency that I have duly informed my Government of an article appearing in the local press of April 21, 1936, reporting a project of law now before the National Legislature transferring for irrigation purpose the sum of \$225,000 from the \$600,000 appropriated in the 1936 budget for the payment of floating debt claims and I have been instructed by my Government again to call attention to the repeated assurances of the Dominican Government that at least certain floating debt claims of American citizens would be properly provided for and to express to

⁴⁴ Not printed.

Your Excellency the assumption of my Government that in the event the transfer of such funds is made as contemplated in the project of law, it will in no way interfere with or delay the payment of just debts now due American claimants. My Government has instructed me to state that it would appreciate confirmation of this assumption.

Accept [etc.]

839.51/4374

The Department of State to the Dominican Legation

MEMORANDUM

The Department of State is informed that a project of law has been introduced in the Dominican National Legislature which, if enacted into law, would transfer for irrigation purposes the sum of \$225,000.00 from the sum of \$600,000.00 appropriated in the Dominican budget for 1936 for the payment of floating debt claims.

The Dominican Government having given assurances to the American Legation in Ciudad Trujillo to the effect that at least certain of the floating debt claims of American citizens would be properly provided for, the Department of State is interested in knowing whether, in the event such funds are transferred as contemplated in the project of law referred to, there will be any delay in the payment of the just debts now due American claimants.

WASHINGTON, May 12, 1936.

839.51/4389 : Telegram

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

CIUDAD TRUJILLO, May 18, 1936—4 p. m.

[Received 6:06 p. m.]

13. Department's instruction No. 427, May 12. Respectfully suggest that text of proposed note to the Dominican Government enclosed with your instruction be reconsidered in the light of my despatches 3280 April 30, 3287 May 5, and 3300 May 9⁵⁵ which despatches do not appear to have been before the officers who drafted Department's instructions.

I shall defer delivery of proposed note pending Department's further instructions.

SCHOENFELD

⁵⁵ Despatch No. 3287, May 5, not printed.

839.51/4389

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

No. 433

WASHINGTON, June 13, 1936.

SIR: With reference to your telegram No. 13, of May 18, 1936, suggesting certain changes in the note enclosed with the Department's instruction No. 427, of May 12, 1936, there is enclosed herewith a new draft note which you will please substitute for the one enclosed with the Department's instruction No. 427.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

[Enclosure]

*Draft of Note To Be Presented to the Dominican Minister for Foreign
Affairs (Bonetti Burgos)*

I have the honor to inform Your Excellency that I have duly informed my Government of the enactment of Law No. 1096, of April 29, 1936, providing a method for the payment of the floating debt of the Dominican Republic and authorizing the transfer for irrigation purposes of \$225,000 from the \$600,000 appropriated in the 1936 Dominican budget for the payment of floating debt claims.

My Government has now instructed me to bring to Your Excellency's attention for the friendly consideration of Your Excellency's Government the following comments and observations with respect to the floating debt situation and the Law of April 29, 1936.

Since the period preceding the enactment of the Dominican Emergency Law of October 1931, the Government of the United States has given sympathetic consideration and recognition of the difficulties encountered by the Dominican Government, and as a consequence not only refrained at the time the Emergency Law was enacted from invoking the convention of 1924, but thereafter refrained from any representation in respect to the floating debt, although the Government of the United States had noted the Dominican Government's formal assurances at the time of the enactment of the Emergency Law regarding its intention of liquidating that debt. Subsequently the Government of the United States maintained a very considerate attitude during the period which culminated in the agreement made with respect to the external funded debt with the Foreign Bondholders Protective Council, Incorporated, in August 1934. The Government of the United States has observed the expansion of the Dominican Government's income and its disbursements in recent years for governmental purposes. With these considerations in view the Govern-

ment of the United States desires to bring now to the attention of the Dominican Government, in the most friendly manner, the question of the liquidation of the floating debt, particularly in view of the enactment of the Law of April 29, 1936. In view of the passage of this law, which is obviously intended to liquidate the floating debt, my Government ventures to inquire regarding the period of time within which the Dominican Government now expects to be able to liquidate the floating debt.

In this relation my Government wishes to make the following observations with respect to those features of the Law of April 29, 1936, providing for the submission of claims and the payment thereof. My Government is unable to perceive that the plan contemplated by the Law of April 29, 1936, offers substantial benefits to claimants and considers that, on the other hand, it subjects them to the disadvantage of a probable reduction in their claims by a considerable amount and the further disadvantage of the delay and expense involved in submitting evidence to support the claims which at least in some cases and probably in many cases has heretofore been submitted to the Dominican Government, and, therefore, may not now be available to claimants. The official notice by the Treasury Department dated May 8, 1936, requires that claims be submitted within 180 days and provides that any claims not presented within that period will not be admitted. It would seem that this requirement might be interpreted as designed to bar from payment claims not so presented. At any rate it clearly appears that it is designed to bar such claims from the advantages, if any, of the plan contemplated by the Law.

In view of the foregoing, my Government desires me to state in all frankness that, at least with respect to claims which have already been liquidated by the issuance of certificates or "analyses", it will not regard failure on the part of an American claimant to submit his claim to the Dominican Government under the Law in question as changing in any way the attitude of his Government with respect to the claim, or as altering the international responsibility of the Dominican Government to deal with such claim without exercising discrimination against it.

With respect to the transfer of funds for irrigation purposes, my Government has also instructed me to call to the attention of the Dominican Government the repeated assurances given this Legation that at least certain floating debt claims of American citizens would be properly provided for and to express to Your Excellency the assumption of my Government that the transfer of the funds in question will in no way interfere with or delay payment of just debts now due American claimants. My Government would appreciate confirmation of this assumption, and also the comment of Your Excellency's Government with respect to the observations set forth hereinabove.

839.51/4409

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

No. 3384

CIUDAD TRUJILLO, June 24, 1936.

[Received June 30.]

SIR: Referring to my despatch No. 3375 of June 18, 1936,⁵⁶ reporting delivery to the Dominican Government of a note regarding the floating debt of the Dominican Republic, in pursuance of the Department's airmail instruction No. 433 of June 13, I have the honor to inform the Department that in the course of a visit at the Foreign Office this morning the Minister for Foreign Affairs brought up the subject matter of my note and inquired as to the significance of this representation.

In response, I summarized the points of the note. In the ensuing conversation I received the impression that the Minister for Foreign Affairs had not adequately studied the language of the Dominican Law No. 1096 of April 29 last or of the related Treasury notice dated May 8, regarding the procedure to be followed by holders of so-called certificates of analyses of floating debt claims against the Dominican Government. The Minister referred to but showed no disposition to insist upon the alleged superior value of the proposed new Treasury certificates to be exchanged for existing certificates held by floating debt creditors. He asserted that the Dominican Government had already reduced its floating debt from approximately three and a quarter million dollars to less than two million dollars. He said it was difficult to set a time limit for the liquidation of the debt and then added that the Dominican Government had paid \$1,600,000 on its floating debt. I did not pursue the discussion of figures but stated that the friendly representations we had made in our note of June 18 regarding the floating debt might, as we hoped, facilitate the Dominican Government's further formulation of a practical administrative policy looking to the liquidation of its floating debt.

It was apparent from my conversation with the Minister for Foreign Affairs that, while he was not personally well informed regarding the floating debt question, this matter may now emerge from the relative obscurity to which it had been relegated among the problems of the Dominican Government to a more conspicuous place among the major problems which should have sustained attention. In this event, the representations we have made should be salutary for holders of admitted claims against the Dominican Government, as well as for the Dominican Government's own guidance and for improved relations

⁵⁶ Not printed.

both with our Government and the governments of other foreign claimants.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4412

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

No. 3396

CIUDAD TRUJILLO, July 3, 1936.

[Received July 7.]

SIR: Referring further to my despatch No. 3375 of June 18, 1936,⁵⁷ reporting the delivery to the Dominican Government of a note regarding the floating debt of the Dominican Republic, in pursuance of the Department's airmail instruction No. 433 of June 13, I have the honor to inform the Department that in conversation yesterday with the Minister for Foreign Affairs he returned to the subject of this note, intimating that, upon careful examination of its language, the Dominican Government was led to the conclusion that the note indicated a change in the American Government's policy towards the Dominican Government. Señor Bonetti Burgos said this was considered to be implied by that part of the note dealing with the American Government's past attitude towards Dominican financial matters, especially when taken in conjunction with our note of May 18 on the subject of the interpretation of Article III of the Convention.⁵⁸

The Minister for Foreign Affairs proceeded to say that the Dominican Government did not admit the right of the American Government to interpose in the administrative operations of the former, which must be within the free discretion of the Dominican Government. So far as the settlement of the Dominican Government's floating debt was concerned, most of this debt had been inherited by the present administration from the previous administration and it had been substantially reduced, the Government intending further to reduce it within the limits imposed by the need of meeting current expenditures. The Minister for Foreign Affairs implied that the expenditures required for the elaborate public works program of President Trujillo were considered an essential part of these current needs. It was plain from the statements of the Minister for Foreign Affairs that our note of June 18 has definitely had the effect, referred to in the last paragraph of my despatch No. 3384 of June 24, of reminding the Dominican Government pointedly of the existence of the floating debt and of suggesting the expediency of giving it more active attention.

⁵⁷ Not printed.

⁵⁸ Note of May 18 was substantially the same as draft of note printed on p. 439.

I said to the Minister for Foreign Affairs that his reference to a changed policy on the part of the United States in Dominican affairs seemed unjustified. Our recent representations had been made in a spirit of the utmost friendliness and in the hope that they would serve, not as intimations of opposition to the Dominican Government in any respect, but rather as a guide (*orientación*) in formulating its policy. I said that it appeared clearly from my note of June 18 that my Government had withheld representations regarding the floating debt because of its considerate realization of the difficulties of the Dominican Government in recent years. Both by virtue of the Convention and by virtue of our legitimate interest in the protection of American nationals having valid claims against the Dominican Government, we had deemed it necessary to seek a statement of the Dominican Government's attitude in the matter of the liquidation of the floating debt and to point out, for the guidance of the Dominican Government itself, our views with regard to some of the features of the latest legislation enacted here on the subject. We had done so at this time because it was known that the Dominican Government's income was now more than adequate, with prudent management, to provide for its current needs and for effective liquidation of its floating debt. We had explicitly and repeatedly emphasized our desire not to interfere in the administrative operation of the Dominican Government in financial matters, which we were anxious to leave to the Dominican Government's own discretion. It was our confident expectation that, in view of the conventional obligations of the Dominican Government, the latter would wish spontaneously to correct any exceptionable procedure that may have been adopted in disregard of those obligations. Our having pointed out these obligations in our recent notes, I concluded, was in fact a further demonstration, among many previously given, of the American Government's friendly purposes arising out of the special relations between the two countries.

At the conclusion of the interview the Minister for Foreign Affairs thanked me for my explanatory statements, which he said were helpful to him.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4413

The Dominican Legation to the Department of State

[Memorandum—Translation]

The Legation of the Dominican Republic has the honor to refer to the memorandum of May 12, 1936, from the Department of State in which there is expressed an interest in knowing whether the application of \$225,000.00 to the irrigation service of the Dominican Republic might cause some delay in the payment of some claims of citizens of

the United States of America, concerning which claims notes have passed between the Legation of the United States of America at Ciudad Trujillo and the Dominican Foreign Office; and in reply it is a pleasure to advise the Department of State that for the examination and payment of credits and claims against the Dominican public treasury—among which there figure the said claims of citizens of the United States of America—there has been voted Law No. 1096 of April 29, 1936, and that application of the amount of \$225,000.00 to roads, highways and irrigation canals, contemplated in the same law, will cause no delay in the execution of the system established by the said law before the examination and payment of credits and claims against the Dominican public treasury, and it is a pleasure to add as evident proof of the interest with which my Government gives attention to the cancellation of the floating debt, that down to date there have been paid \$1,700,000.00 in a relatively short space of time.

WASHINGTON, July 6, 1936.

839.51/4433

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

No. 3452

CIUDAD TRUJILLO, August 5, 1936.

[Received August 11.]

SIR: Referring further to the Department's airmail instruction No. 433 of June 13, 1936, (without file number), and to my despatch No. 3375 of June 18, 1936,⁵⁹ reporting the delivery to the Dominican Government on the latter date of a note in the terms directed by the Department in its instruction mentioned, regarding the floating debt of the Dominican Government and Dominican law No. 1096 of April 29, 1936, affecting the floating debt, I have the honor to enclose for the Department's information a copy and translation of note No. 598, dated July 30, 1936, received today from the Minister of Foreign Affairs, in answer to my note above mentioned.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

[Enclosure—Translation]

The Dominican Minister for Foreign Affairs (Bonetti Burgos) to the American Minister (Schoenfeld)

No. 598

CIUDAD TRUJILLO, July 30, 1936.

MR. MINISTER: I have the honor to acknowledge the receipt to Your Excellency of your note No. 249 of June 18 last past, in which Your

⁵⁹ Not printed.

Excellency states that you have received instructions from your Government to solicit the friendly consideration of the Dominican Government regarding the opinion held by it of the law of the Republic No. 1096 of April 29, 1936. In the said note inquiry is made regarding the period of time within which the Dominican Government hopes to be able to liquidate the debt to which the said law refers; it is stated that the Government of Your Excellency can not consider changed the international responsibility of the Dominican Government with respect to creditors who may not take advantage of the term of 180 days which the law provides for audit of the credits; and that Your Excellency's Government expects that the transfer of funds provided in the law under reference will not prevent or delay the payment of certain credits to which the said Government had previously referred.

In reply, I am pleased to state to Your Excellency that the Dominican Government, in its effort to liquidate within the shortest possible time the said debt, promulgated the law of April 29, 1936. This law will not only determine the perfect auditing of all claims against the Public Treasury but will make it possible to put in the hands of creditors certificates of credit which will constitute negotiable values. The same law, in its Article 3, states that after all the analyses and all the accounts and claims have been centralized and all recognitions of credits issued that may be recommended by the Examining Commission and approved by the Executive Power, the National Congress will be asked to regulate and vote the sums necessary for its amortization: so that the period of time within which the floating debt will be liquidated depends upon the total amount of claims which may be accepted and the amounts which can be applied to said amortization within the possibilities of the Treasury. I must point out that, notwithstanding that this floating debt did not originate in the administration of the present Dominican Government, this Government has made the greatest efforts in the sense of cancelling it, as is shown by the fact that it has paid more than fifty percent of it notwithstanding the tight economic condition in which it has developed. There is, thus, evident the interest of the Government in cancelling this debt, but without this being felt by the public services of the administration or lessening the impulse which the Government gives to the national economy in order to conjure the prejudices [*conjurar los perjuicios*] the latter suffers from the protectionism enjoyed by the production of neighboring countries (which is) similar to ours, since if it should do this essential prejudices for the life of the nation would be induced and the interest of the creditors of the State would consequently be prejudiced.

I have also to state to Your Excellency that the Dominican Government can accept none of the considerations which are made in

Your Excellency's note regarding the cited period of 180 days since they are in contradiction with a law of the Republic, (which is) inspired in honest principles of equity and which leaves open an ample opportunity to all creditors of the State to justify their credits.

Finally, I am pleased to say to Your Excellency that the transfer of funds referred to will not only not prevent payment of approved claims but will rather favor it, since the works which will be carried out by virtue of that transfer of funds are productive works that determine an increase in the national production and consequently in the resources of the State.

In conclusion, the Secretary of State for Foreign Affairs has to bring to the notice of His Excellency the Envoy Extraordinary and Minister Plenipotentiary of the United States of America that, notwithstanding the fact that in the note which is being answered it is stated that the statements it contains are presented by the Government of the United States of America to the friendly consideration of the Dominican Government, the Dominican Government desires to record that this answer it gives to the said note for reasons of loyal friendship, of international courtesy and of legitimate interest of the citizens of the United States of America having credits against the Dominican Government, does not in any wise carry with it either express or tacit acceptance of any expression in the said note of Your Excellency which might be considered in conflict with the sovereignty of the Dominican State.

I take this opportunity [etc.]

E. BONETTI BURGOS

839.51/4434

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

No. 3454

CIUDAD TRUJILLO, August 5, 1936.

[Received August 11.]

SIR: Referring to my despatch No. 3452 of today's date transmitting to the Department a copy and translation of a note received today from the Dominican Government dated July 30 answering my note of June 18, 1936, on the subject of the Dominican Government's floating debt, I have the honor to report that in conversation later today with the Minister of Foreign Affairs I called his attention to the fact that, in his note, no mention had been made of subhead (c) of the official advertisement of the Treasury Department dated May 8, 1936 (see enclosure to my despatch No. 3300 of May 9, 1936), giving public notice that no further claims would be admitted for consideration after the end of the period of 180 days contemplated in Article 2 of Law No. 1096, which provided for the submission of admitted claims

against the Dominican Government within that time for re-examination and re-audit. I inquired of the Minister of Foreign Affairs whether, in view of the silence of his note on this subject, the provision of the Treasury notice above mentioned, and also mentioned in my note of June 18, was to be considered definitive. The Minister answered in the negative and stated that the provision in question was included in the Treasury notice merely for the purpose of expediting submission of claims for re-examination and would not really exclude admitted claims not so submitted. He admitted his previous oral statement to the same effect made to me some weeks ago.

The Minister went on to say that, inasmuch as Law No. 1096 was still the governing legislation in this matter, his note of July 30 to me could take formal cognizance only of the existing law. He added that, for the same reason, no official information could be "advanced" (*adelantada*) regarding the Government's plans for "amplification" (*ampliación*) of the legislation touching the floating debt. He was in a position, however, to state to me, as President Trujillo had himself intimated to me on July 11 last, that the President was giving personal attention and study to the possibility of further legislation designed to attain the purpose the President had definitely in mind, of eliminating the floating debt question as rapidly as possible from the problems facing the administration. In this relation the Minister alluded to the fact that consideration was being given to a method of providing for payment of smaller claims indiscriminately with priority over larger claims, and to a method of selecting by lot the claims to be paid and other possible procedure to facilitate the settlement of the floating debt problem within the limits of available resources.

The Minister referred to the opinion I had expressed to him, as well as to President Trujillo, regarding the happy effect both here and abroad of eventual action by the Dominican Government for the settlement of the floating debt on an equitable and impartial basis, and repeated to me a statement made by President Trujillo in a conversation I had with him on July 11, to the effect that the President must necessarily consider the floating debt problem not as an isolated question but from the standpoint of how its settlement could be fitted in with other administrative problems, such as unemployment and public works. The Minister again assured me of the President's purpose to give the floating debt problem a "firm" and "definitive" solution.

The above reported oral explanations of the Minister of Foreign Affairs were supplemented by his general statement that the Dominican Government was giving our representations regarding the floating debt the reciprocally friendly consideration we had solicited in our note of June 18 and that it fully accepted the assurance we had given

that our representations had been made in a spirit of friendliness. In view of the unresponsive nature of the Dominican note of July 30, I consider the oral statements of the Minister of Foreign Affairs above outlined as being intended to have special significance.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4433

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

No. 449

WASHINGTON, August 18, 1936.

SIR: With reference to your despatch No. 3452, of August 5, last, enclosing a copy of a note dated July 30, 1936, from the Dominican Secretary of State for Foreign Affairs, in regard to the floating debt of the Dominican Government, and referring also to your despatch No. 3454 of the same date, reporting a conversation on this subject with the Foreign Secretary, the Department encloses a draft note with the request that you communicate its contents to the Dominican Government.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

[Enclosure]

*Draft of Note To Be Presented to the Dominican Minister for
Foreign Affairs (Bonetti Burgos)*

EXCELLENCY: By instruction of my Government, I have to acknowledge the receipt of Your Excellency's note of July 30, last, which was in reply to my note of June 18, respecting the floating debt of the Dominican Government.

My Government desires me to say that it was not without surprise that it found in the penultimate paragraph of Your Excellency's note the statement that the communication did not "in any wise carry with it either express or tacit acceptance of any expression" in my note of June 18 "which might be considered in conflict with the sovereignty of the Dominican State". My Government is at a loss to understand how any expression or implication contained in my note could possibly be construed as being in any way inconsistent with the recognition of the full sovereignty of the Dominican Republic, a condition which my Government has consistently recognized. The communication which I had the honor to address to Your Excellency by instruction of my Government was confined solely to bringing to the attention of the Dominican Government in the most friendly spirit the question of the liquidation of a debt held largely by American na-

tionals who have received small or no payments upon the amounts due them, notwithstanding the substantial amounts made available to the Dominican Government by the Emergency Law of October, 1931, and by the settlement with the Foreign Bondholders' Protective Council, Incorporated, in August, 1934, and despite the materially increased income of the Dominican Government from other sources during the last five years. In this regard, my Government was reassured to note in Your Excellency's communication under acknowledgment that the Dominican Government was making efforts to liquidate the floating debt within the shortest time possible.

With respect to Law No. 1096 of April 29, 1936, and its effect upon American claimants of the floating debt, I am directed by my Government to reiterate to Your Excellency what I said in my note of June 18, namely, that my Government will not regard failure of American claimants to re-submit claims already approved and evidenced by certificates or "analyses" as altering in any way the attitude of my Government concerning the claims or as changing the international responsibility of the Dominican Government in the matter. These claims had been submitted, it will be recalled, in accordance with the prescribed requirements of the Dominican Government, and after consideration by the appropriate Dominican authorities, they were approved for the amounts indicated in the certificates or "analyses".

839.51/4451

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

No. 3505

CIUDAD TRUJILLO, September 9, 1936.

[Received September 15.]

SIR: Referring further to the Department's instruction No. 449 of August 18, 1936, (File No. 839.51/4433), and to my despatch No. 3486 of August 26⁶⁰ reporting the delivery of a second note on the subject of the Dominican Government's floating debt, as directed in the instruction referred to, I have the honor to report that, in conversation today with the Minister of Foreign Affairs, I brought up the recent exchange of notes between our Government on this subject. I alluded to the Minister's note of July 30, with particular reference to its penultimate paragraph, as having been susceptible of the interpretation that the Dominican Government considered our note of June 18 on the same subject as defining an attitude of opposition to the Dominican Government in respect of the floating debt. I added that, as I had had occasion to explain to the Minister, our representations with reference to the floating debt were not to be so interpreted and that

⁶⁰ Letter not printed.

our note of August 24 confirmed the oral statements I had repeatedly made to him in this sense. I asked the Minister, therefore, to advise me what the Dominican Government had in mind when it made reference in its note of July 30 to the "sovereignty of the Dominican State" and spoke of expressions in our note of June 18 which "might be considered in conflict with" that sovereignty.

The Minister of Foreign Affairs said that at the time of its receipt our note of June 18 had given the Government great concern, both with respect to its account of the "historical" background of the floating debt question and with respect to its comment on a law of the Dominican Republic duly enacted and approved. This concern had been relieved in the course of the subsequent oral exchanges of views between the Minister of Foreign Affairs and myself. These conversations had shown that our representations were designed to apprise the Dominican Government in the friendliest spirit of our views on this question. The Dominican Government fully accepted this assurance. Inasmuch, however, as the conversations which had confirmed this understanding were not a matter of record, it was deemed desirable to include in the Dominican note of July 30, in a subjunctive and hypothetical form, the "saving" expressions contained in its penultimate paragraph. Our subsequent note of August 24 confirming, in turn, the assurances on the part of the American Government previously expressed orally by me, had given the Dominican Government great satisfaction. It was felt that the views of the two Governments on this topic were now clearly recorded as involving no fundamental issue between them.

I asked the Minister of Foreign Affairs whether there were any new developments of which he could apprise me with regard to the floating debt matter. He answered in the negative but stated that he expected next week to be able to inform me of further developments. These, I hope, will take the form of advice that the Dominican Government has decided to institute satisfactory measures for systematic and equitable settlement of the floating debt.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4473

The Chargé in the Dominican Republic (Atwood) to the Secretary of State

No. 3661

CIUDAD TRUJILLO, December 7, 1936.

[Received December 15.]

SIR: With reference to the Legation's despatch No. 3486 of August 26, 1936,^{60a} in relation to the delivery of a second note to the Secretary

^{60a} Not printed.

of State for Foreign Affairs on August 24, 1936, regarding the floating debt of the Dominican Republic, I have the honor to enclose for the Department's information, copy and translation, of note No. 940 of November 29, 1936, received today from the Secretary of State for Foreign Affairs, advising me that President Trujillo has submitted to the Dominican Congress for its approval a bill to concede creditors of the Dominican Treasury a further period of six months, commencing January 1, 1937, in which to present the so-called "analyses" of their respective credits in order that they may be examined and exchanged for "certificates of credit."

Respectfully yours,

FRANKLIN B. ATWOOD

[Enclosure—Translation]

The Dominican Minister for Foreign Affairs (Bonetti Burgos) to the American Chargé (Atwood)

No. 940

CIUDAD TRUJILLO, November 29, 1936.

MR. CHARGÉ D'AFFAIRES: In acknowledging the receipt of your note No. 256 of August 24 last, signed by His Excellency Minister Schoenfeld, I have to inform you that my Government has received with pleasure what was said in that note in order to clarify the intention of note No. 249 of June 18 from your Legation, as well as the recognition that was made in the said note No. 256, of August 24, of the interest that the Dominican Government is evidencing in favor of the payment of the floating debt of the Republic.

At the same time, and referring to the last paragraph of the cited note No. 256 of August 24 last, I must point out to you that, in connection with the examination and payment of credits and claims against the public treasury, the Dominican Government can only be governed in accordance with the stipulations of Law No. 1096 of April 29, 1936.

Finally, I am pleased to advise you that the Executive, desirous of facilitating compliance with the cited Law No. 1096 and esteeming that the period of one hundred eighty days indicated in Article 2 of the same has been found insufficient especially as applied to creditors residing outside of the country, has submitted to the National Congress a project of law whose sole article is drafted as follows:

"There is hereby conceded a new period of six months, which shall commence the first of January and shall terminate the thirtieth of June 1937 in order that the persons who are creditors of the public treasury and to whom were forwarded analyses of their respective credits, may proceed to exchange them for the certificates of credits to which Law No. 1096, promulgated the 29th of April 1936, refers."

I avail myself [etc.]

E. BONETTI BURGOS

339.11/141

The Chargé in the Dominican Republic (Atwood) to the Secretary of State

No. 3668

CIUDAD TRUJILLO, December 9, 1936.

[Received December 15.]

SIR: Referring to the Department's instruction No. 489 of December 2, 1936 (File No. 339.11/140), in relation to a memorandum dated May 4, 1936,⁶¹ concerning claims and cases in the nature of claims against the Dominican Government, which was handed to the Dominican Minister at Washington, and directing me to discuss informally with the appropriate Dominican authorities the matter of the Dominican floating debt and endeavor to ascertain when payment of approved claims thereunder might be expected, I have the honor to report that I had a conversation this morning with the Secretary for Foreign Affairs on the subject.

I asked the Secretary for Foreign Affairs whether the proposed extension of six months from January 1, 1937, during which the so-called "analyses" of approved claims against the Dominican Government might be presented for examination and exchange for "certificates of credit," as reported in my despatch No. 3661 of December 7, 1936, meant that the Dominican Government had no intention of making any payments on its floating debt until all such claims were presented and duly exchanged for "certificates of credit." Señor Bonetti Burgos said that this was not the intention of the Dominican Government, but he was unable to state definitely when payments might begin to be made. I then asked him if any steps were being taken by the Dominican Government to pay claims covered by former "certificates of analyses" that had already been presented to the Commission created by Law No. 1096 of April 29, 1936, and exchanged for "certificates of credit." Señor Bonetti Burgos said that so far as he knew no such action had as yet been taken by the Dominican Government.

Referring to the existing balance of \$375,000 in the appropriation of \$600,000 made in the budget for 1936 for payment of floating debt claims against the Dominican Government, I asked Señor Bonetti Burgos whether it was the intention of the Dominican Government to utilize that sum for the payment of floating debt claims in 1936 or whether this sum would be carried forward to the 1937 fiscal year. Señor Bonetti Burgos replied that he was not in a position to answer this question.

With respect to the budget for the fiscal year 1937, commencing January 1, 1937, I said to Señor Bonetti Burgos that I had noted that the

⁶¹ Neither printed.

appropriation in the budget for the payment of floating debt claims had been reduced to \$337,800 and that the appropriation for the Treasury Department had been increased for 1937 in the amount of \$419,000. I asked Señor Bonetti Burgos whether he thought that this \$312,200 reduction in the appropriation for payment of floating debt claims might be met from the increased Treasury Department appropriation. Señor Bonetti Burgos replied that he had not as yet examined the Dominican budget for 1937, but that he would look into the matter and give me further information on the subject at a later date.

In concluding our conversation Señor Bonetti Burgos assured me that the main reason for extending for a period of six months the time in which holders of admitted claims against the Dominican Government could present them for examination and exchange for "certificates of credit," was solely in order that persons residing outside the Republic might have ample time to exchange their approved claims for new "certificates of credit."

Despite Señor Bonetti Burgos' assurances regarding the intention of the Dominican Government to begin payment of floating debt claims at an early date, I gathered the impression that he was not at all well informed on the subject. It is also felt that the Dominican Government's purpose in extending for a further period of six months the time during which approved claims may be presented for examination and exchange for "certificates of credit" is to defer making payments on its floating debt as long as possible, as it is reported that the Dominican Treasury is faced with a large deficit for 1936. From past experience, it would appear evident that any unexpended balance in the Dominican Treasury chargeable to floating debt payments in 1936 will be used to finance the reported deficit.

Respectfully yours,

FRANKLIN B. ATWOOD

PROTEST BY THE DOMINICAN GOVERNMENT REGARDING THE EXHIBITION OF THE MOTION PICTURE FILM "THE MARCH OF TIME"

811.4061 March of Time/15

The Dominican Minister (Pastoriza) to the Secretary of State

[Translation]

WASHINGTON, July 11, 1936.

MR. SECRETARY OF STATE: I take the liberty of bringing to your knowledge [the fact] ⁶² that a film of "The March of Time" has begun to be shown today at numerous theaters in this country which is devoted exclusively to attacking the personality of President Trujillo Molina

⁶² Brackets appear in the original translation.

in a disrespectful and unjust manner and to giving a completely false impression of the Dominican nation and the political situation prevailing therein.

In order that the Department of State may understand the disintegrating and unsound purpose which guided the authors of that film, I am giving below a copy of the synopsis of it which "The March of Time" made public for the purpose of advertising its presentation within a short time.

"An American Dictator

"Oldest city in the New World is Santo Domingo, 900 miles south of Miami. Here Columbus lies buried. Today, after four centuries, it has a new name. It is the City of Trujillo, headquarters of the man who since 1930 has been running the Dominican Republic, as President but with full powers of a dictator—Rafael Leonidas Trujillo. Dictator Trujillo owes his rise, after a youthful jail term, to the U. S. Marines, for during their eight-year occupation of the island he rendered valuable service as an informer. When they sailed away he became through hard work and sly intrigue the army's commander, later the country's President. Wise Dominicans, including Liberal Angel Morales, fled, many to New York; but even there they were not safe. One day, former Dominican Secretary of War, Sergio Bencosme, mistaken for Morales, was found mysteriously slain. Meanwhile, in Trujillo City, new names are given to ancient bridges, avenues and cafes, and a servile congress even nominates its man of the hour for the Nobel Peace Prize. Over the Vice President's home a new sign blinks cheerfully, 'God and Trujillo'. But to exile Morales has come a secret report that all is not well with Trujillo; that a kinsman is wanted by the U. S. State Department for the Bencosme murder; that money is short; that in the harbor the President's yacht lies with steam up. March of Time points to these things, sure signs of tension, perhaps sudden collapse in the tightest little tyranny in the Caribbean".

This Legation, reserving the right to take the proper action under the protection of the ordinary courts, wishes to express to the Department of State again its most profound displeasure over the improper manner in which certain American journalists, in a strange alliance with Dominican revolutionaries residing here, are devoting themselves to the task of defaming with impunity a friendly ruler and a country which has always striven to maintain relations of sincere cordiality with the United States and to perform, despite business depressions and unjustified hostilities, the duties of friendship imposed by the actualities of geographic vicinity and the spirit of true internationalism.

I am convinced that that disruptive campaign by certain sensational newspapers is working powerfully against the brilliant Pan American ideals enunciated in the "good neighbor policy" proclaimed by President Roosevelt, and it is in view of that conviction I have decided to put on record this new protest.

I understand that the Dominican Legation has not been the only one to make similar statement to the Department of State, due to the unjust attacks of "The March of Time" or the yellow newspapers, and that this circumstance shows that the evil which is denounced is assuming proportions which hardly fall within the most elastic idea of tolerance, particularly in the case of malicious criticisms directed at matters that concern other nations exclusively.

It is the wish of this Legation that the Department of State, basing itself so much on your cordial formulas and spirit of conciliation, can find a way to keep the attacks from being repeated which are being made systematically and in a community of petty interests against President Trujillo and the Dominican people by certain American journalists and Dominican revolutionaries who are living [here],⁶³ manifestly violating the well-known hospitality afforded them in this country.

I avail myself [etc.]

A. PASTORIZA

811.4061 March of Time/17

The Secretary of State to the Dominican Minister (Pastoriza)

WASHINGTON, July 15, 1936.

SIR: I have the honor to acknowledge the receipt of your recent note by which you state that a film of "The March of Time" is now being exhibited "devoted exclusively to attacking the personality of President Trujillo Molina in a disrespectful and unjust manner and to giving a completely false impression of the Dominican nation and the political situation prevailing therein." You express your profound displeasure over the "improper manner in which certain American journalists, in a strange alliance with Dominican revolutionaries residing here, are devoting themselves to the task of defaming with impunity a friendly ruler and a country which has always striven to maintain relations of sincere cordiality with the United States and to perform, despite business depressions and unjustifiable hostilities, the duties of friendship imposed by the actualities of geographic vicinity and the spirit of true internationalism." In conclusion you state that "it is the wish of this Legation that the Department of State, basing itself so much on your cordial formulas and spirit of conciliation, can find a way to keep the attacks from being repeated which are being made systematically and in a community of petty interests against President Trujillo and the Dominican people."

There is no one more than I who deprecates the publication of any article or the exhibition of any film which causes offense to any foreign government. It is the policy of this Government to strengthen friendly

⁶³ Brackets appear in the original translation.

ties between this and other countries and to that end this Government is conducting its foreign relations on a basis of complete respect for the rights and sensibilities of other nations. My Government, therefore, deplors any actions of private citizens that are in discord with this policy and that cause offense to the peoples of other countries. Such actions sometimes occur, however, for the reason that in this country, unlike many other countries, freedom of speech and of the press is deeply imbedded in our tradition; is cherished by every citizen as part of the national heritage; and is guaranteed under our Constitution.

Although appreciating your desire to prevent any occurrences which might reflect upon your country's name I am sure you understand that for the reasons just expressed this Government is not in a position to prevent the matters complained of by you. I can only repeat that I shall deeply regret any such occurrences that might reflect upon the cordial ties of friendship that unite the people of our two countries, particularly since it is likely that representatives of the republics of this hemisphere will soon be meeting in a common effort to promote the maintenance of peace and of friendly relations on this hemisphere.

Accept [etc.]

CORDELL HULL

811.4061 March of Time/23

The Dominican Minister (Pastoriza) to the Secretary of State

[Translation]

WASHINGTON, July 28, 1936.

MR. SECRETARY OF STATE: In your reply to my note on the exhibition of the film "March of Time" and on the systematic attacks which are being made by some journalists of this country against President Trujillo and the Dominican people, you reproduce the final paragraph thereof, but, surely through an involuntary error in translation, the part with which I close the said paragraph is omitted. I venture, therefore, to transcribe to you in full the paragraph in question translated into English, for the purpose of giving you the exact idea which I meant to convey by using the phrase "*y en comunidad de intereses mezquinos*". The complete paragraph reads as follows:

"It is the wish of this Legation that the Department of State, basing itself so much on your cordial formulas and spirit of conciliation, may find a way to keep the attacks from being repeated which are being made systematically and in a community of petty interests against President Trujillo and the Dominican people by certain American journalists and Dominican revolutionists who constantly and openly violate the remarkable hospitality which this country offers to them."

I wish to avail myself of this opportunity, Mr. Secretary of State, to declare to you that I am one of those who admire with true enthusiasm the traditional respect existing in this country for the freedom of the press and that I could never make any suggestion which would tend to solicit a limitation of the enjoyment of that freedom. I believe, however, that a campaign with revolutionary aspects such as is being carried on in this country by certain Dominicans in complicity with American journalists and film enterprises tends to pervert the high purpose of that freedom and to mock the noble essence of the principle on which it is based, as the said campaign results in prejudice to the moral interests of a friendly nation and may finally weaken, through the alarms produced by its misrepresentations, the benefit of the commercial relations between the two countries.

When certain American newspapers persistently depict the Dominican political situation as threatened by a sudden collapse and the health of President Trujillo as seriously impaired; when in the film "March of Time" perverse scenes are invented which give a completely false impression of the political and social conditions existing in my country and words are put into the mouth of the revolutionist Angel Morales containing a veiled threat of coming hostile action against the legally constituted Dominican Government, impressionable American business firms might feel it their duty to restrict and even to stop, as a precautionary measure, their business with the Dominican Republic.

Such restriction, at the same time that it would mean an evident loss to American and Dominican merchants, would lower the economic capacity of my country and would contribute to render more difficult the fulfillment of its international financial obligation, an obligation which, by force of unheard-of sacrifices and thanks to the spirit of economy imposed by President Trujillo, has been met up to the present in such a brilliant way as to have won the public congratulations of your Department of State to the Dominican Government.

The reasons stated above show clearly, Mr. Secretary of State, that the systematic campaign of lies which is being carried on against President Trujillo and the Dominican Republic does not affect solely the ruler of a friendly state and a nation which is constantly giving significant proofs of cordiality toward the United States, but also extends as to commercial interests of both countries.

It was for these reasons that I stated my profound displeasure in my note on the exhibition of the film "March of Time", and it is in the light of those reasons that I feel it my duty and I feel disposed, as representative of the Dominican Republic and of President Trujillo's

Government, again to declare this gross campaign unjust and harmful and to repeat to you respectfully the wish that the Department of State may find a way to prevent the continuation of attacks and insults of an evidently revolutionary character against the Dominican Government and people.

I avail myself [etc.]

A. PASTORIZA

811.4061 March of Time/34

The Secretary of State to the Dominican Minister (Pastoriza)

WASHINGTON, August 8, 1936.

SIR: I have the honor to acknowledge the receipt of your note of July 28, 1936, in which you refer to a previous exchange of notes with regard to a recent film of "The March of Time" concerning the Dominican Government and express the wish, as you did in your note of July 11, that my Government "may find a way to prevent the continuation of attacks and insults of an evidently revolutionary character against the Dominican Government and people."

As I stated in my note of July 15, 1936, I deeply regret the exhibition of any film or the publication of any article that causes offence to the sensibilities of any foreign government, but in view of the guarantee of freedom of speech contained in the fundamental charter of this country I am not in a position to take the preventive action which you have suggested in your two communications.

If the Dominican Government should at any time come into possession of evidence tending to prove the existence of revolutionary activities within the United States designed to overthrow the Dominican Government by force, my Government would of course be grateful to be apprised of such evidence in order that an appropriate investigation might be made with a view to possible prosecution under existing law.

Accept [etc.]

For the Secretary of State:
SUMNER WELLES

ECUADOR

PROVISIONAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND ECUADOR, SIGNED JUNE 12, 1936¹

611.2231/37

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

No. 225

QUITO, January 10, 1936.
[Received January 21.]

SIR: I have the honor to acknowledge the receipt of the Department's confidential instruction No. 84 of December 24, 1935,² with which was transmitted a copy of the note addressed to the Ecuadorean Legation in Washington presenting a draft of a *modus vivendi* which would establish unconditional most-favored-nation treatment in the commerce between Ecuador and the United States. The primary purpose of the proposed agreement is to remove the discrimination against American commerce which has arisen as a result of the Ecuadorean-French *modus vivendi* of July 12, 1935.³ However, in considering the efficacy of the suggested arrangement, the Department must now also take into consideration the Convention recently concluded between Germany and Ecuador^{4a} which provides for the same reductions in import duties accorded to France, as well as other advantages (see despatch No. 224 of January 10, 1936⁴). In view of the latter agreement I deem it desirable to examine the suggested American-Ecuadorean *modus vivendi* in the light of existing circumstances.

In the first place, Article 5 of Decree No. 1 of January 8, 1935, (*Registro Oficial*, No. 108, January 12, 1935), must be taken into consideration. This provides that in order to apply the preferential tariff to existing commercial treaties, it will not be sufficient that the latter contains the most-favored-nation clause. Rather the decree contemplates that the existing treaties will be amplified by extending specific customs advantages to Ecuador which will be at least equivalent to those granted by Ecuador. After reciting the advantages already conceded by the United States to Ecuador, as outlined in the

¹ For previous correspondence see *Foreign Relations*, 1935, vol. iv, pp. 506 ff.

² *Ibid.*, p. 512.

³ Signed July 12, 1935; for Spanish text, see Ecuador, *Registro Oficial*, June 9, 1936, p. 348.

^{4a} Effected by exchange of notes dated December 12 and 17, 1935; for Spanish texts, see Ecuador, *Registro Oficial*, June 9, 1936, p. 324.

⁴ Not printed.

third paragraph of the Department's instruction under acknowledgment, it should not be difficult to convince the authorities that Ecuador is now obtaining from the United States advantages at least as great as it would accord under the proposed agreement. Moreover, the present Government has ample authority to interpret them in that sense, but it would appear essential to make a statement to that effect in the proposed agreement.

The proposed agreement would remove the present discrimination, in so far as concerns France, by obtaining that the import duties imposed by Ecuador on all articles originating in the United States will not be greater than those imposed on similar articles imported from France. However, the French-Ecuadorian *modus vivendi* goes much further than this in that the reduction of thirty percent in customs duties is accorded on every article imported from France falling within the preferential tariff. Our proposed agreement would obtain this reduction only with respect to those American articles similar to the French ones. Therefore, certain French articles not competing with American merchandise but still coming within the preferential tariff, will obtain the corresponding reduction, whereas American articles of export to Ecuador falling within the preferential tariff but of which a similar article is not imported from France, will not enjoy the reduction provided for.

The Department undoubtedly realized that the proposed measure would not obtain privileges identical with those now enjoyed by France and that it was intended simply to restore equality of treatment as concerns those articles originating in the United States and competing directly with similar French articles.

It is clear from the Department's Press Release of April 1, 1935,⁵ relative to our policy on the generalization of tariff concessions, that the United States neither asks nor accords preferential discriminatory treatment—it seeks only that a foreign country treat American commerce no worse than it treats the commerce of any third country and it, in turn, accords equality of treatment to the commerce of foreign countries. The question therefore arises whether, should we endeavor to obtain the thirty percent reduction upon all articles originating in the United States and falling within the preferential tariff, we would be seeking a preferential discriminatory treatment. I do not consider that we could necessarily be accused of doing so since if we obtained this concession we would enjoy a treatment no more favorable than that already accorded to French and German exports to this country. However, it is questionable whether it would be worth while to seek this particular advantage. In most cases the articles specified in the preferential tariff, with the exception of automobiles and a few

⁵ *Foreign Relations*, 1935, vol. I, p. 536.

other articles, would in all probability be imported from either France or Germany and we would thus obtain by virtue of our agreement the treatment sought. Moreover, we would not wish, nor can we afford, to adopt the policy which France has instituted in its commercial relations with those countries of South America enjoying a favorable trade balance as a result of being the source of supply of raw materials. The Department is aware that in such cases France has not hesitated to impose its demands under the threat of closing its markets. Under the circumstances these countries have found themselves in the position where they must either accede or run the risk of losing the French market. In fact, it has not been a choice on their part; it has been simply necessity. In considering the problem from this point of view I feel that should we insist on the general thirty percent reduction we would place ourselves in the same position as France. Of course, it would be somewhat different in the sense that we would take the measure solely to protect our interests and to endeavor to re-establish equality of treatment for American exports. The point, however, appears to be too finely drawn and in the long run it might work against our best interests. Under the circumstances it may be more expedient if we limit our demands to the points covered in the proposed *modus vivendi*. However, I feel that the occasion should not be allowed to pass without our pointing out to the appropriate authorities that the more advantageous concession accorded to France has not escaped our notice and that we expect that Ecuador will take the steps necessary to restore equality of treatment.

With regard to the German-Ecuadorean *modus vivendi* the situation is somewhat more complex in view of the provision made therein for the use of the "Aski" mark as the unit for determining the value of German exports to this country. In my despatch No. 224 of January 10, 1936, I have pointed out that the employment of this monetary unit will permit a saving to the importers of German goods of approximately twenty-two percent on Ecuadorean consular fees and an equal percentage on ad valorem duties. In products so closely competitive as are German exports with those of the United States, this difference will be very appreciable and I consider that we should endeavor to remove this discrimination immediately. In this connection I venture to point out a possible method of counteracting this ingenious scheme to increase German exports to this country, principally at the expense of American exports. Article 2 of the proposed agreement provides that "Accordingly, it is understood that . . . 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 the United States of America or the Republic of

Ecuador to any article originating in or destined for any third country shall be accorded immediately and unconditionally to the like article originating in or destined for the Republic of Ecuador or the United States of America, respectively". I believe that this provision could be interpreted and applied so as to accord to American exports the same advantage which Germany has obtained by the use of the "Aski" mark monetary unit. For the information of the Department I would add that the Consulate General has learned from a confidential source that instructions have been received by the Customhouse at Guayaquil that all dollar values of imports from Germany should be converted at the "Aski" mark rate of 3.15 sucres instead of the Reichsmark rate of 4.02 sucres. I perceive no reason why a similar instruction could not be issued for a corresponding reduction in the value of imports from the United States for consular and customs purposes. However, it is quite obvious that such an understanding should be clearly established in an exchange of notes upon the conclusion of the proposed agreement.

Another point which might be dealt with advantageously in the proposed agreement is the question of national treatment. The situation at present existing in Ecuador is anomalous. The Ecuadorean Constitution grants national treatment to foreigners, but this Constitution has been suspended in so far as it conflicts with the policies of the Administration. Therefore, should the Government see fit, it can adopt a measure contrary to the guarantee of national treatment contained in the fundamental document. An example of this attitude occurred as recently as December 31, 1935, when a tax law was enacted against foreign companies providing an impost of one per mil on their working capital. The subsequent cancellation of this measure (see my despatch No. 226 of January 10, 1936¹) was due to the fact that Mr. Eduardo Salazar, the Financial Counselor of the Ecuadorean Legation in Washington, who is here in Quito, was able to convince the authorities of the inexpediency of the measure.

In regard to the negotiation of a *modus vivendi* or a definitive commercial treaty with Ecuador, it should be pointed out that the present Ecuadorean Government, and particularly the Foreign Minister, is very favorably disposed to meet the suggestions of the American Government. In this connection I consider relevant the remarks of the Minister for Foreign Affairs concerning the Japanese Delegation which is about to visit this country. He stated that he has no illusions whatever concerning Japanese commerce with Ecuador inasmuch as he considers the quality of Japanese merchandise very inferior and that in particular it is unnatural for Ecuador to establish strong commercial bonds with the Far East. He feels that commercial relations

¹ Not printed.

with the United States should be improved and strengthened and that as long as he is Foreign Minister, Japan can expect to receive no great advantage.

Respectfully yours,

ANTONIO C. GONZALEZ

611.2231/38

Memorandum by the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] January 31, 1936.

I saw the Minister of Ecuador⁸ yesterday and inquired regarding the proposed commercial *modus vivendi*. Captain Alfaro, who was away at the time the *modus vivendi* was forwarded to the Legation here, said that he was not familiar with the matter but that he would look into it.

Captain Alfaro came in today and stated that he had looked into the correspondence of the Legation and found that the *modus vivendi* had been forwarded to the Minister of Foreign Relations of Ecuador promptly. No reply or comment has yet been received. Captain Alfaro said that he would send an air mail letter on Monday requesting information as to the attitude of the Minister of Foreign Relations with regard to the *modus vivendi*, and that he would send another air mail letter later on next week enclosing copies of all the trade agreements signed and proclaimed.

I believe that Captain Alfaro will press this matter. He is a close personal friend of the Minister of Foreign Relations, having been in the Ecuadoran Army with him and served abroad with him in various capacities. I do not believe that any protest should be made to the Ecuadoran Government with regard to the recently concluded German-Ecuadoran agreement until after some indication is received of the attitude of the Ecuadoran Government towards the *modus vivendi*.

LAURENCE DUGGAN

611.2231/41

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 262

QUITO, February 14, 1936.

[Received March 3.]

SIR: With reference to the Department's confidential instruction No. 84 of December 24, 1935,⁹ transmitting a copy of the note addressed to the Ecuadorean Legation in Washington proposing a most-favored-

⁸ Colón Eloy Alfaro.

⁹ *Foreign Relations*, 1935, vol. IV, p. 512.

nation *modus vivendi* pending the outcome of further discussions concerning the possibility of initiating trade agreement negotiations, I have the honor to report that I have not been approached in regard to this proposal and that, in compliance with the instruction under reference, I have not had an opportunity to endeavor to expedite consideration of the proposed *modus vivendi* by the authorities.

I would state for the information of the Department that my British colleague recently inquired of me what we propose to do with respect to the Ecuadorean-French *Modus Vivendi* and the Ecuadorean-German *Modus Vivendi*. He said that his Government apparently is indifferent with regard to this matter inasmuch as its trade relations with Ecuador leave a balance of trade very favorable to it. It appears that Ecuador does not include in the trade balance the exports of Ecuadorean petroleum to Great Britain on the grounds that a British Company operates the oil fields and that not more than forty percent of the proceeds returns to the country. The British Minister further stated that he had been informed that on the other hand, Ecuador is disposed to conclude as soon as possible an agreement with the United States granting treatment to American products equivalent to that already accorded to French and German exports to this country, provided that we are willing to secure Ecuadorean products on their present tariff basis. I replied that these negotiations are being conducted in Washington but that in all probability we would seek only equality of treatment.

Yesterday evening I had an opportunity to converse with Mr. Eduardo Riofrio, Technical Adviser of the Ministry of Finance, and I inquired what effect he thought the German and French *modus vivendis* would have upon the foreign trade of Ecuador. He stated that the underlying purpose of these agreements according preferential treatment to imports from those countries, is a mutual endeavor to increase the trade between those countries and Ecuador. He added that in September of this year it would be possible to determine the effective results of the German Treaty and that, if it did not work out as anticipated, Ecuador would immediately denounce it effective January 1, 1937. At this point he referred to Ecuadorean-American trade relations and said that his country was disposed to conclude an agreement with the United States according it the same preferential treatment now granted to Germany and France. He stated that the trade relations between the two countries are very good, but that there must be deducted from the apparently large favorable Ecuadorean balance of trade the value of petroleum and gold ores. He holds that Ecuador profits little in the sale abroad of these two products inasmuch as they are produced by British and American capital, respectively, and that no more than forty per centum of the proceeds remains in the country. However, even after deducting these items the balance is favorable to

Ecuador. He further stated that he understood that a proposal from the United States had been received by the Foreign Office, but that it had not yet been brought to his attention.

It will be observed from the foregoing that those responsible for recommendation in the matter of the proposed Ecuadorean-American *modus vivendi* are apparently in accord with the terms thereof. However, it is evident that the matter is being handled in a dilatory fashion.

Respectfully yours,

EDWARD J. SPARKS

611.2231/44

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 289

QUITO, March 3, 1936.
[Received March 14.]

SIR: With reference to my despatch No. 262 of February 14, 1936, relative to the most-favored-nation *modus vivendi* which the Department proposed to Ecuador pending the outcome of further discussions concerning the possibility of initiating trade agreement negotiations, I have the honor to state that I had an opportunity yesterday to discuss this matter with Mr. Eduardo Riofrio, Technical Adviser of the Ministry of Finance. He stated that the proposal had not yet been submitted to him for consideration. However, he immediately communicated with the officer in the Ministry of Finance who had this document in his possession. It appears that the latter was holding it pending the formation of a special committee which would act as an advisory council to the Ministry on all matters involving commercial treaty agreements. Mr. Riofrio requested that the matter be brought to his attention immediately so that he could make the necessary recommendations. He added that he had already studied the trade relations between the United States and Ecuador and that he had found them very satisfactory. He pointed out that at first glance the trade seems to leave a very favorable balance for Ecuador, inasmuch as exports in 1935 amounted to 52,873,066 sucres, whereas imports from the United States were only 28,140,109 sucres. He maintains, however, that the value of gold precipitates and petroleum exported to the United States, amounting last year in excess of 26,000,000 sucres, must be deducted in order to reach the real balance of trade, since these two exports are produced, respectively, by American and British companies, and less than half of the proceeds remains in the country. I argued that it would not be fair to make this deduction in view of the fact that the export of gold precipitates and petroleum represents a definite gain to Ecuador. In the first place, the Ecuadorean Government collects very heavy taxes on the production of these items, and secondly, these industries are definitely an integral part of the economy of the country and give considerable

occupation to Ecuadorean labor. He admitted the soundness of this reasoning, but observed that these two products could be sold in any market. He added, however, that he considers that Ecuadorean-American trade relations are eminently satisfactory to his country, that the United States should be accorded at once equality of treatment with France and Germany, and that he would immediately recommend such action.

I had an opportunity this afternoon to discuss this matter with the Under Secretary for Foreign Affairs who has only recently returned from the Labor Conference in Santiago, Chile.¹⁰ He told me that the proposal arrived during his absence and that he had not known of its existence. However, Mr. Riofrio had discussed it with him this morning by telephone and he had since had occasion to study it. He explained that the cause for delay in giving consideration to the proposal had been due to the fact that the Ministry of Finance intended to appoint an advisory council on matters of this kind, and that action on our proposal had been withheld pending the appointment of the council. He agreed with Mr. Riofrio that the matter was urgent and that immediate consideration should be accorded. He added that in November, 1935, when I brought to his attention the question of the discrimination which had arisen as a result of the French-Ecuadorean *Modus Vivendi* (See the Legation's despatch No. 177 of November 8, 1935¹¹), he had consulted with the Ministry of Finance concerning the expediency of reaching an agreement with the United States to remove this discrimination, and that it had agreed to the necessity of such a measure. The Under Secretary therefore expressed the opinion that as a commitment had already been made by the Ministry of Finance and as the Foreign Office is in accord, a favorable decision should be forthcoming immediately.

Respectfully yours,

EDWARD J. SPARKS

611.2231/46

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 306

QUITO, March 17, 1936.

[Received March 24.]

SIR: With reference to my despatch No. 296 of March 10, 1936,¹² regarding the proposed commercial *modus vivendi* between Ecuador and the United States, I have the honor to report that I saw the Under Secretary for Foreign Affairs at lunch on March 11th when he in-

¹⁰ The First Labor Conference of American States Members of the International Labor Organization met at Santiago, Chile, January 2-14, 1936.

¹¹ *Foreign Relations*, 1935, vol. IV, p. 510.

¹² Not printed.

formed me that his scheduled conference on our proposed *modus vivendi* for that morning with Mr. Riofrio, Chief of the Technical Department of the Ministry of Finance, had been postponed on account of discussions of a commercial arrangement with Chile. In view of the fact that I had learned that Chile is requesting preferential treatment on certain products originating in that country but which compete with similar American products, and that it was desirable to ascertain the effectiveness of our agreement vis-à-vis the contemplated arrangement with Chile and to expedite consideration of our proposal, I again approached Mr. Riofrio that same afternoon.

Mr. Riofrio stated that he had finished preparing his report on the proposed agreement and that he would submit it on the following morning to the Minister of Finance. He added that four months previously he had given an opinion to the Foreign Office that the preferential tariff must be extended to the United States. Therefore, his present report was a confirmation of that opinion with the exception that he considered, in conformity with Ecuador's commercial policy, that the suggested *modus vivendi* should be modified to indicate that the preferential tariff was being extended to the United States, not because of the most-favored-nation provision of the *modus vivendi*, but simply because the United States had fulfilled the requisites of the Ecuadorean Government for granting the preferential tariff.

I expressed my appreciation of the favorable report made by Mr. Riofrio, but I added that I felt that any modification of the proposal made by my Government might not necessarily be acceptable, regardless of the friendly and favorable spirit in which it might be made. In explanation of this statement, I pointed out effectively that the commercial policy of the United States at the present time is not to seek any particular or specific advantages in any country, but simply to assure equality of treatment in the sense that the commerce of any third country is not obtaining advantages greater than those accorded to the commerce of the United States. I also expressed the fear that any modification of the agreement might affect unfavorably the purpose of my Government in proposing the convention under consideration. I reiterated that the object of the convention was simply to obtain and maintain equality of treatment and, therefore, if a statement were made in the agreement to the effect that the preferential treatment was being accorded to the United States not by virtue of the unconditional most-favored-nation clause, but simply because we had fulfilled the immediate requisites of Ecuador, the agreement itself might not be sufficient to provide for future changes in the Ecuadorean tariff, such as those at present under consideration with the Republic of Chile. Mr. Riofrio assured me that his purpose in making the suggested amendments to the agreement was simply to make the agree-

ment conform to Ecuador's commercial policy, namely, as pointed out in the first paragraph on page 2 of the Legation's despatch No. 225 of January 10, 1936, that the preferential tariff cannot be accorded by his Government simply because of the existence of a most-favored-nation clause in a treaty of commerce with a foreign country. In other words proof must be established, and recognition thereof given, that the country to whom the preferential tariff is accorded, has conceded advantages to Ecuador. I pointed out that it seemed unnecessary to reiterate that the United States had already conceded special advantages to Ecuador by extending to that country the concessions already made in the agreements concluded by the United States with Brazil, Colombia, Haiti and Honduras,¹³ which involve the binding on the free list of bananas, coffee, cacao, raw reptile skins, ginger root, platinum and tagua nuts. I carefully reiterated that under our commercial policy we had *ipso facto* extended these same concessions to Ecuador. Mr. Riofrio assured me that he recognized and appreciated these concessions. Notwithstanding, he felt that the statement indicated should be included in the proposed agreement in order to prevent other foreign nations having trade treaties with the most-favored-nation clause from demanding the preferential tariff simply by virtue of such clauses. I expressed my appreciation of this explanation, but suggested that he revise his opinion in such a way that it would not be incumbent upon his Foreign Office to insist upon the inclusion of such a statement in the event that it should be found unacceptable. In this connection I stated that I was not sure that the proposed modification might not be considered by Washington as a substantial change or amendment of our general policy in which case it would not be acceptable. Mr. Riofrio stated that he would change his report so that the Foreign Office might have latitude in discussing this point with the Department.

It is important to point out that Mr. Riofrio is insistent upon this point only as concerns the preferential tariff for the reasons already stated. In connection with any special advantages which might be accorded separately to Chile in a special arrangement, for example, he stated that these would be *ipso facto* extended to the United States by virtue of the unconditional most-favored-nation clause in the proposed *modus vivendi*.

It will be seen from the foregoing that the desire of the authorities is to accord us immediately the same preferential treatment at present granted to France and Germany. The only difficulty is as to the man-

¹³ Reciprocal trade agreements were concluded with Brazil, February 2, 1935, Department of State Executive Agreement Series No. 82; Colombia, September 13, 1935, *ibid.*, No. 89; Haiti, March 28, 1935, *ibid.*, No. 78; and Honduras, December 18, 1935, *ibid.*, No. 86. See also *Foreign Relations*, 1935, vol. iv, pp. 300 ff., 430 ff., 642 ff., and 729 ff.

ner in which the treatment should be extended in view of the provisions of the local law. The Minister of Finance left Quito last Thursday, for reasons of health, and is not expected to return until March 20th. He was unable to pass upon the report before his departure, but I intend to ascertain the exact authorization granted the Foreign Office so that the Department may be informed when discussing this matter with the Ecuadorean Legation in Washington.

During the course of my conversation with Mr. Riofrio he referred to the exigencies of France. He recognized that the purchases of France are far in excess of the importation into Ecuador of French products, in view of which he considers that France is entitled to preferential treatment. He added that the French Minister had already approached the Ecuadorean Government and pointed out this very advantageous trade balance between the two countries and had objected to the extension to Germany of the same privileges already granted his country. Mr. Riofrio stated that he recognized as just this objection and was contemplating certain means of extending further advantages to France. He added that he thought of recommending an increase in the rate on the preferential tariff from 30 to 40 percent for French products, maintaining it at 30% with countries such as the United States, 20% with countries such as Belgium, and the regular tariff for countries such as England. I pointed out to Mr. Riofrio that any such policy could not be viewed with favor by the United States Government since it involved from its very inception a discrimination against the products of the United States. In view of the fact that Ecuador must, as a result of the exigencies of France, extend apparent preference to the products of that country, I suggested that it might be possible to apply the policy adopted by the United States in its trade negotiations with other countries. I then pointed out that where we find it necessary or desirable to accord special treatment in compensation for advantages granted, we select articles of special interest to American trade and to the trade of the foreign country and then fix preferential or special import duties on those specific products. Under our policy of the most-favored-nation we immediately extend those advantages to other foreign countries and no discrimination exists. However, as the articles are specially selected, the advantages are not really extended to all countries. I therefore suggested in lieu of his proposal, that he, in conjunction with the French Legation might pick out items of special interest to France and non-competitive with products of other countries, and apply reductions in the import duties on those articles. I added that under our proposed most-favored-nation *modus vivendi* we would obtain these same benefits but naturally as we do not produce such articles we would not enjoy the benefits of these reductions nor could we claim it a discrimination against the commerce of the United States. Mr. Riofrio considered

this suggestion applicable and stated that he would substitute it for his previous ideas as to how to concede special advantages to France.

Another point of interest is that Ecuador in conceding to the United States the advantages accorded to France and Germany, is not contemplating the extension of the reduction in duties only on such products imported from those countries which are also imported from the United States. I have been given to understand that we shall be granted the whole preferential tariff without any discussion as to whether France and Germany may at present be availing themselves of all the articles included therein. I have not yet had an opportunity to investigate this particular question to determine whether we would obtain any special advantage by this treatment, but I feel that it is certainly a gain in principle and that it will simplify considerably the whole question.

Respectfully yours,

EDWARD J. SPARKS

611.2231/49 : Telegram

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

QUITO, April 14, 1936—6 p. m.

[Received 11:15 p. m.]

16. Department's telegram No. 9, April 13, 7 p. m.¹⁴ The Foreign Office is sending today new air-mail instructions to the Ecuadorian Legation. The copy of the Spanish text handed to me appears identical with the Department's draft with the exception of the addition of an article reading in translation as follows:

"The Republic of Ecuador also accords to the United States the preferential tariff inasmuch as the requirements set forth in the executive decrees establishing the said tariff have been fulfilled."

The statements of the Under-Secretary, as concerns the application of the agreement in specific cases, convince me that it will assure us automatic enjoyment of lowest rates granted to any third country now or in the future. He states that the additional article is mandatory for the purpose of according us the preferential tariff.

GONZALEZ

611.2231/50

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

No. 330

QUITO, April 14, 1936.

[Received April 22.]

SIR: With reference to this Legation's despatch No. 306 of March 17, 1936, regarding the proposed commercial *modus vivendi* between

¹⁴ Not printed.

Ecuador and the United States, I have the honor to report that the Foreign Office handed the Legation on Wednesday, April 8th, a copy of its airmail instruction on this subject to the Ecuadorean Legation in Washington. A copy of the instruction with its enclosure, and a translation of the instruction and the pertinent part of the proposed draft are transmitted herewith.¹⁵

The Department will observe that the text approved by the Foreign Office is unacceptable and also inconsistent with the views expressed by the Ministry of Finance as reported in the Legation's despatch under reference. In view thereof the Under Secretary for Foreign Affairs was immediately consulted as to this discrepancy. At first, he stated that the policy of his Government was not to accord the most-favored-nation treatment to any country. However, after informing him of the conversations had with the Ministry of Finance on this subject, he said that he would study the matter again and, if an error had been made, he would instruct Minister Alfaro to disregard the instruction pending the receipt of new ones. He added that he considered mandatory the inclusion in the agreement of a separate statement relative to according the United States the preferential tariff. This question was also discussed in the Legation's despatch just referred to. However, as the Legation had not yet received the Department's views on this proposed addition, I sent my telegram No. 15 of April 9, 5 p. m., 1936,¹⁶ inquiring whether it was considered an insuperable objection. The Legation was convinced that the Foreign Office would restore in the agreement the unconditional most-favored-nation treatment for the United States, but it did not desire to press on this point if the Department found unacceptable the addition proposed by Ecuador. For reasons of economy I did not give more detailed information in my telegram. However, I interpret from the Department's reply (telegram No. 9 of April 13, 7 p. m., 1936¹⁶) that the addition suggested by Ecuador is not unacceptable provided that the *modus vivendi* assures us automatic enjoyment of the lowest rates granted to any third country now or in the future. However, I have not indicated in any conversation the Department views on the proposed addition.

The Under Secretary stated this morning that new instructions were being drafted to the Ecuadorean Minister in Washington and that he would be pleased to furnish a copy this evening. I enclose herewith a copy with translation of the draft which is going forward in this airmail to the Ecuadorean Legation in Washington. I do not know what instructions have been given the Minister, but I do not

¹⁵ Instruction not printed; the draft of the proposed *modus vivendi* presented to the Department by the Ecuadorian Legation is printed *infra*.

¹⁶ Not printed.

anticipate that they are substantially different from those set forth in enclosure No. 3.

The Department will observe that the draft is to all intents and purposes identical to that submitted by the Department. An exception is the addition of a new paragraph immediately following No. 2 which reads in translation as follows: "3. The Republic of Ecuador also accords to the United States of America the preferential tariff inasmuch as the requirements set forth in the Executive Decrees establishing the said tariff have been fulfilled". I do not consider that this proposed addition can be construed as a departure from our announced principles of commercial policy since it is solely a unilateral statement by Ecuador. The purpose thereof, as already explained, is to prevent other countries having commercial treaties with Ecuador containing the most-favored-nation clause, from invoking that clause to obtain the preferential tariff. I realize that this purpose is contrary to our policy, but I feel that we can accept it since it is a unilateral statement, we make no commitment, and it affects only the preferential tariff.

Another question in the draft which appears to require an explanation is the expression in the first line of Article 2 reading ". . . *con respecto a los derechos de aduana existentes . . .*" (with respect to existing customs duties). The Under Secretary stated that "existing" in the sense used means the customs duties which may be in effect at any time the agreement is in force. In other words, the expression is comprehensive and includes present and future customs duties. This same explanation applies as concerns the omission of any percentage in the preferential tariff which was included in the old draft. In this connection the Under Secretary stated that the United States will be accorded the maximum percentage of reduction in effect at the time the duties are assessed.

With the purpose in view of testing the effectiveness of the agreement, I called to the attention of the Under Secretary the agreement recently concluded with France. This provides for the inclusion in the Preferential Tariff of the specific liquors listed therein which are of exclusive French production, and provided that they are shipped from French ports directly to Ecuador and that they do not come from other nations, notwithstanding they may have been produced in France. As a matter of principle, since we have no special interests in the items listed, I inquired specifically whether the terms of the agreement with France would limit solely to that country the rebates accorded under the Preferential Tariff. The Under Secretary replied that under our *modus vivendi*, as drafted by the Foreign Office, these same advantages will be automatically extended to the United States when our agreement comes into force. When the specific restrictive wording of the agreement with France is considered, I feel that the

Department will agree with me that Ecuador appears disposed to give the broadest and most liberal meaning to our most-favored-nation clause. I also inquired as to the application of the agreement with respect to future arrangements between Ecuador and third countries. The Under Secretary replied that we would automatically obtain all advantages which Ecuador might concede to such countries.

The only way that this treatment might be adversely affected is in the event that Ecuador should make further general reductions in its customs tariff in the same manner as it did for the Preferential Tariff and specifically provided that the reductions cannot be accorded to a country simply by virtue of the existence of a most-favored-nation clause. The enactment of such a measure seems highly unlikely at the present time and, in fact, no indication has been given that it is even being contemplated. However, I cite this possibility as the only apparent way whereby we would not be assured, by virtue of the agreement, the automatic enjoyment of the lowest rates granted to any third country in the future.

In view of the foregoing I expressed in my telegram No. 16 of April 14, 6 p. m., 1936, the conviction that the agreement will insure us the automatic enjoyment of the lowest rates granted to any third country now or in the future.

Respectfully yours,

ANTONIO C. GONZALEZ

611.2231/54

*The Ecuadoran Legation to the Department of State*¹⁸

[Translation]

The Government of the United States of America and the Government of the Republic of Ecuador agree to conclude the following Trade Agreement:

1. With respect to import and export duties and other imposts and charges affecting commerce, as well as with regard to transit, warehousing and other facilities, the United States of America shall accord to the Republic of Ecuador and the Republic of Ecuador shall accord to the United States of America, its Territories and Possessions unconditional most-favored-nation treatment.

2. It is therefore understood that with respect to the customs duties in existence or which are related to importation and exportation, to the method adopted in the imposition of such duties or taxes, to all the rules and formalities in connection with importation and exportation; to the laws or regulations which affect the sale or use within

¹⁸ Spanish text of the proposed commercial *modus vivendi* handed to the Chief of the Division of Latin American Affairs by the Ecuadoran Minister, April 20, 1936.

the country of imported articles; any advantage, favor, privilege or exemption, which the United States of America or the Republic of Ecuador may have granted or may in the future grant to any article originating in or destined to a third country, shall immediately and unconditionally be granted to the similar articles originating in or destined for the Republic of Ecuador or the United States of America, respectively.

3. The Republic of Ecuador also grants to the United States of America its preferential tariff, insofar as the requirements indicated by the Executive Decree, which created the said tariff, have been fulfilled.

4. It is understood that the advantages now granted or which may in the future be granted by the United States of America, its Territories or Possessions, the Philippine Islands or the Panama Canal Zone, among themselves, or to the Republic of Cuba, shall be excepted from this Agreement.

5. Nothing in this Agreement shall be interpreted as a limitation on the right of the two countries to establish in the terms which they may consider fit, provisions or restrictions based on moral or humanitarian principles, for the purpose of protecting human, animal or plant life; relative to prison-made articles, to the execution of police or revenue laws; and to the control of exportation or sale for exportation of arms, munitions, or implements of war, and under exceptional circumstances of any kind of military furnishings.

6. This Agreement shall begin to work its effects on the and shall continue in force until replaced by a broader Commercial Agreement, or by a definitive treaty of commerce and navigation, or until it is denounced by either of the two countries by written notice at least thirty days in advance.

611.2231/51

Memorandum of Conversation, by the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] April 20, 1936.

At my request the Ecuadoran Minister called. I informed him that the Department appreciated the favorable response to its suggestion for a *modus vivendi* according unconditional most-favored-nation treatment. I said, however, that the Department did not wish to include the amendment included in the Ecuadoran draft. I suggested that the purposes of the Ecuadoran Government in this regard might be met by including the amendment in the preamble of the proclamation approving the *modus vivendi*. I also called attention to the fact that the *modus vivendi* could be terminated upon thirty days' notice.

The Minister said that he would send a cable immediately transmitting these comments to his Government, and requesting authorization to sign the *modus vivendi* as drafted by the Department.

L[AURENCE] D[UGGAN]

611.2231/54

The Department of State to the Ecuadoran Legation

MEMORANDUM

Careful consideration has been given to the Spanish text of the proposed commercial *modus vivendi* between Ecuador and the United States, which was handed to the Chief of the Division of Latin American Affairs by the Minister of Ecuador on April 20, 1936, and the Department of State desires to suggest two changes in that text.

The English text of the proposed agreement submitted for the consideration of the Ecuadoran Government reads in part as follows:

"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 . . ."

The Spanish text reads as follows in the corresponding part:

"2. En consecuencia, queda entendido que, con respecto a los derechos de aduana existentes o que tienen relación con la importación y exportación . . ."

The first change suggested is that the Spanish text of Article 2 be made to read as follows:

"2. En consecuencia, queda entendido que, con respecto a los derechos o tasas de aduana de cualquier clase o que tienen relación con la importación y exportación . . ."

This change is deemed desirable because the word "existing" in English might be construed to mean that the Article relates only to customs duties or charges in force on the day of the signature of the agreement. Since it is understood that the Ecuadoran and American Governments are in agreement upon the sense and interpretation of this part of Article 2, the change is one of language and not of intent. The suggested change in the Spanish text also makes the language of Article 2 correspond to that of Article 1.

The second and more important change suggested is that Article 3 of the Spanish text be omitted entirely. The deletion of this Article is desired for the reason that it might be subject to misinterpretation in the United States and by other countries as a restriction upon the application of the most-favored-nation principle. Such a misinterpretation would be unfortunate at a time when the American Government is engaged upon a broad program of trade restoration on the basis of the unconditional most-favored-nation principle.

The policy of the Government of the United States in this respect is in accord with the resolution adopted at the Seventh International Conference of American States, which reads in part:

“The subscribing governments undertake, moreover, that their aim will be substantial reductions of basic trade barriers and liberalization of commercial policy as aforesaid and not merely the removal of temporary and abnormal restrictions and increments imposed for bargaining purposes.”

The Government of Ecuador also subscribed to the policy set forth in the resolution, only making the reservation indicated in the following quoted vote of the delegate of Ecuador:

“La Delegación del Ecuador simpatiza profundamente con los propósitos de liberación de la política comercial universal, mediante la reducción substancial de las barreras aduaneras y la eliminación de las restricciones y prohibiciones actualmente en vigencia, enunciados por el Presidente de la Delegación de los Estados Unidos de Norte América en la proposición en debate.

“Declara expresamente que no renuncia al derecho de pactar con los demás Estados Hispanoamericanos convenios por los que se otorguen entre sí un tratamiento de ventajas exclusivas, cuyos beneficios o favores especiales no podrán ser reclamados por otras naciones en virtud de la cláusula de la nación más favorecida, a que se hace referencia en la aludida proposición.”

It is hoped that the Ecuadoran Government can meet the desires of the Government of the United States in this regard in a way which will satisfy the requirements of Ecuadoran law and commercial policy.

WASHINGTON, April 24, 1936.

611.2231/56

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

No. 377

QUITO, May 19, 1936.

[Received May 27.]

SIR: With reference to my despatch No. 370 of May 12, 1936,¹⁹ concerning the memorandum which the Department presented to the Ecuadorean Legation in Washington under date of April 24, 1936, and which set forth certain changes desired in the text of the American-Ecuadorean *modus vivendi* submitted by Ecuador, I have the honor to transmit herewith a copy with English translation of an instruction in the premises to the Ecuadorean Minister in Washington, dated May 13, 1936.¹⁹ It will be observed that the Ecuadorean Minister has been instructed to change the text of Article 2 to conform with the suggested text contained in the Department's memorandum under reference.

¹⁹ Not printed.

As concerns Article 3 which sets forth the reasons for granting the preferential tariff to the United States, the Ecuadorean Minister is authorized to eliminate this Article from the proposed *modus vivendi*. However, he is instructed to send a second note to the Department in which he will make reference to the one transmitting the copy of the *modus vivendi* and outline the reasons why the preferential tariff is being accorded to the United States. It will be noted that the Foreign Office has directed that this step be taken simply to avoid the interpretation by any third country that the preferential tariff has been accorded to the United States as a result of the most-favored-nation clause.

I expressed regret to the official of the Foreign Office that it had not been found feasible to take care of this point in the manner previously suggested to him, namely, an order of the Minister of Finance to the Customshouses. Doctor Borrero stated that he had made this suggestion to the Permanent Committee, but that it had not considered that procedure proper under Ecuadorean commercial policy and laws.

The Foreign Office also furnished a copy of the proposed text of the agreement which was sent to the Ecuadorean Legation in Washington under cover of the instruction in question. It appears to conform with the one previously furnished, with the exception of the modification made in Article 2 and the suppression of the old Article 3. In view thereof it would not appear necessary to transmit a copy.

Respectfully yours,

ANTONIO C. GONZALEZ

611.2231/60a : Telegram

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

WASHINGTON, June 12, 1936—4 p. m.

19. The commercial *modus vivendi*²⁰ between the United States and Ecuador became effective on June 12th by means of an exchange of identic notes between the Secretary of State and the Ecuadoran Minister in Washington. The text of the agreement, which is the same as that transmitted with the Department's instruction No. 84 of December 24, 1935,²¹ will be made public in the United States. You will advise the Consulate General at Guayaquil accordingly.

Please express to the Ecuadoran Minister for Foreign Affairs the gratification with which the Government of the United States views this further step toward a liberalization of policies affecting international trade.

HULL

²⁰ Signed June 12, 1936; for text, see Department of State Executive Agreement Series No. 93, or 49 Stat. 4013.

²¹ *Foreign Relations, 1935*, vol. iv, p. 512.

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT
BETWEEN THE UNITED STATES AND ECUADOR

121.5622/12 : Telegram

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

WASHINGTON, June 9, 1936—1 p. m.

18. The Trade Agreements Committee has approved carrying forward studies on Ecuador, and a skeleton committee has been set up for that purpose. This information is to be regarded as strictly confidential until the Department instructs you to open conversations on the subject with the Government of Ecuador, which it does not contemplate doing for some time.

In this connection the Department is instructing the Consulate General in Guayaquil to forward certain statistical material. The purpose of this or any other similar report should not be revealed and the Consulate General should cooperate closely with Assistant Commercial Attaché Crilley to avoid duplication. Mail paraphrase of this message to the Consul General in Guayaquil.

PHILLIPS

611.2231/78

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 565

QUITO, October 13, 1936.

[Received October 20.]

SIR: I have the honor to state that in the course of my conversation today with the Director of the Commercial Section of the Foreign Office, reported in my despatch No. 563 of October 13, 1936,²² Dr. Banda expressed the hope that we might be able soon to place American-Ecuadorean trade relations on a definitive basis. I told him that the question is now being given consideration by the Department, but that no decision has as yet been taken.

He added that his Government is particularly interested in obtaining a more favorable treatment for certain Ecuadorean products. As I realized that the Department would like advance information as to the products in which Ecuador is interested in obtaining concessions, I inquired further. Dr. Banda stated that his Government is interested in obtaining the maximum reduction of 50% of the existing duties on:

Panama hats;
Naranjilla juice;
Mineral waters;
Carbonic gas; and
Lentils.

²² Not printed.

I do not think that this is an exhaustive list of the products, but it is undoubtedly the principal ones since the binding on the free list of cacao, bananas, and other tropical products.

Respectfully yours,

EDWARD J. SPARKS

611.2231/81a

The Secretary of State to the Chargé in Ecuador (Sparks)

No. 186

WASHINGTON, November 11, 1936.

SIR: With further reference to the Department's telegram No. 18, of June 9, 1936 (1 p. m.), concerning a trade agreement with Ecuador, you are now informed that the Trade Agreements Committee has approved the initiation of preliminary conversations with the Government of Ecuador for the purpose of determining whether there exists a basis for proceeding with detailed negotiations. I enclose an excerpt²³ from the minutes of the meeting of September 9, 1936, at which the Committee reached this decision. You will observe from them that the Committee attaches particular importance to obtaining concessions on wheat flour and hog lard in a possible agreement with Ecuador. I am also enclosing a copy²³ of a preliminary trade study dated September 5, 1936, prepared by the Country Committee on Ecuador.

You are instructed to take this matter up on the first favorable opportunity with the Foreign Minister and to report results promptly, using the telegraph for important developments. In your interview, you may point out that in line with this Government's sincere desire to continue to work for liberalized international trade it wishes to give at this time sympathetic consideration to a review of trade relations between the United States and Ecuador. If this review, which should be treated in a confidential way to avoid premature publicity, discloses substantial agreement in the positions of the two Governments, the Government of the United States will be disposed to make public announcement of intention to negotiate a trade agreement with Ecuador and to proceed with such negotiations.

In order that this Government's position may be clearly defined in advance, you may inform the Foreign Minister that the Government of the United States wishes the agreement to be predicated on the unconditional most-favored-nation principle, and, so far as the general provisions are concerned, to follow the trade agreements recently concluded by this Government with Guatemala,²⁴ Honduras,²⁵ and Nica-

²³ Not attached to file copy.

²⁴ Signed April 24, 1936; for text, see Department of State Executive Agreement Series No. 92. For correspondence, see *post*, pp. 584 ff.

²⁵ Signed December 18, 1935; for text, see Executive Agreement Series No. 86. For correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 729 ff.

ragua.²⁶ Copies of these agreements are enclosed herewith and may be provided the Foreign Minister for his information.

As regards the concessions which this Government might wish to obtain from the Ecuadoran Government, you may advise the Foreign Minister that it attaches special importance to substantial reductions of the present duties on wheat flour and hog lard. There will be requests on other products as well, of course, but this Government is particularly interested at this time in ascertaining what the Ecuadoran Government is prepared to do with reference to flour and lard. For your own confidential information, it would be desirable to obtain 50 percent reductions on each.

In return, this Government will be prepared to consider reducing the duty on handwoven palm leaf hats, (for your confidential information, by 50 percent), binding on the free list Ecuador's principal exports to the United States, such as annatto, bananas, cascarilla, cacao, coffee, kapok fibre, reptile skins, tagua nuts, and balsa wood. In connection with the last-named item, this Government will also consider binding against increase the present import tax of \$1.50 per M feet on sawed balsa lumber. If there are any other products now being exported to the United States in which Ecuador is interested, full data thereon should be supplied.

In connection with naranjilla juice, which was mentioned in your despatch No. 565 of October 13, 1936, it will be necessary, before a decision can be reached, to furnish further details, such as data on actual shipments to the United States and to whom consigned, in order to determine how this product is classified under the United States Tariff.

The Department believes both Governments should have a clear-cut understanding in advance with regard to the scope and content of the trade agreement, in order that they may be assured that subsequent negotiations could be successfully held.

You should emphasize the desirability of keeping confidential the conversations which you are authorized to hold.

There will be no objection to incorporating the pertinent portions of this instruction in a confidential memorandum to be left with the Foreign Minister. You should make it clear to the Foreign Minister, however, that your preliminary negotiations will of course have an *ad referendum* basis.

If you have any suggestions to propose on any phase of this matter you are requested to acquaint the Department with them by telegraph.

Very truly yours,

For the Secretary of State:

FRANCIS B. SAYRE

²⁶ Signed March 11, 1936; for text, see Executive Agreement Series No. 95. For correspondence, see *post*, pp. 782 ff.

611.2231/82 : Telegram

The Chargé in Ecuador (Sparks) to the Secretary of State

QUITO, November 23, 1936—5 p. m.
 [Received November 24—1:55 a. m.]

55. Referring to Department's instruction No. 186, November 11th. It is the policy of the Ecuadorian Government to facilitate the importation of lard and particularly flour which are considered prime necessities. At present it has authorized the temporary entry of flour free of duty to be sold at cost. This policy, however, is applicable only to the quantity required to fill the deficiency between national production and absolute minimum consumption. Once this deficiency is supplied political and economic considerations will probably again dictate the prohibition of further imports thus preventing the increase of consumption beyond the margin of deficiency. Ecuador is now a price market for the shift of the source of supply to the Argentine Republic and Chile can be traced principally thereto. Consequently any benefits arising from reductions in import duties would accrue to those countries unless we can compete in price.

Under the circumstances the Department may desire to give further consideration to the expediency of emphasizing the importance attached to concessions on flour and lard. I shall await further instructions.

SPARKS

611.2231/84 : Telegram

The Acting Secretary of State to the Chargé in Ecuador (Sparks)

WASHINGTON, December 10, 1936—7 p. m.

41. Referring to your telegram No. 55, November 23, 5 p. m. and despatch No. 607 of November 23, 1936.²⁷ Even though advantages from possible concessions by Ecuador on flour and lard may temporarily be shared by the United States with other suppliers statistics show that even under present conditions we are able to supply enough of these commodities to Ecuador to make concessions worthwhile. Furthermore, as exportable supplies of lard and flour accumulate in the United States, as they are expected to do in 1937 in the case of wheat and perhaps in 1938 for lard, there is the probability that we will eventually regain the supremacy which we enjoyed in these products in the Ecuadoran market until a few years ago.

As regards the policy which Ecuador has recently been following as respects flour imports, involving removal of import duties during specified periods in order to make up deficiencies in domestic supplies,

²⁷ Despatch not printed.

the Government of the United States believes that with good will on both sides, a mutually satisfactory arrangement of some kind can be worked out.

You are therefore requested to open preliminary conversations with the Ecuadoran Government on the first favorable opportunity and to report the results as soon as possible.

MOORE

611.2231/89

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 631

QUITO, December 11, 1936.
[Received December 18.]

SIR: In compliance with the Department's telegram No. 41 of December 10, 7 p. m., 1936, directing that I open preliminary conversations with the Ecuadorean Government for the purpose of determining whether a basis exists for proceeding with detailed negotiations for the conclusion of a trade agreement, I have the honor to report that I took up the matter with the Minister for Foreign Affairs this afternoon.

I opened the conversation by recalling that the Ecuadorean Government had formally indicated at the end of last year a disposition to initiate negotiations for the conclusion of a trade agreement, and that the *modus vivendi* signed on June 12, 1936,²⁸ contemplates its substitution by a more comprehensive commercial agreement. I added that my Government had given considerable thought to this subject and that now, in line with its sincere desire to continue to work for liberalized international trade, it desires to give sympathetic consideration to a review of the trade relations between the United States and Ecuador. I further stated that if the review discloses a substantial agreement in the positions of the two Governments, the American Government will be disposed to make public announcement of intention to negotiate a trade agreement with Ecuador, and to proceed with such negotiations. I then informed the Foreign Minister that, with this end in view, I had been instructed by my Government to initiate preliminary negotiations which, of course, will have an *ad referendum* basis and which should be treated in a confidential way to avoid premature publicity. I had occasion later to emphasize the desirability of keeping confidential the conversations, with which he was entirely in accord.

I then proceeded to explain that my Government wishes the agreement to be predicated on the unconditional most-favored-nation

²⁸ For text, see Department of State Executive Agreement Series No. 93; for correspondence, see *ante*, pp. 484 ff.

principle and to follow, so far as the general provisions are concerned, the trade agreements recently concluded with Guatemala, Honduras and Nicaragua, copies of which I furnished him. I added that the unconditional most-favored-nation principle was, of course, simply a continuation of the principle already agreed to in our *modus vivendi*, to which he expressed his conformity.

In referring to the concessions which the United States might wish to obtain, I pointed out that my Government attaches special importance to substantial reductions of the present duties on wheat flour and hog lard. I added that there will, of course, be requests on other products as well, but that my Government is particularly interested at this time in ascertaining what the Ecuadorean Government is prepared to do with reference to flour and lard. I deemed it desirable to emphasize at this point that while the present duty rates are about twenty centavos per gross kilogram on flour and sixty centavos per gross kilogram on lard, consideration must be given to the fact that Ecuadorean consular fees and other fiscal charges on these imports bring up the amount of the duties to the approximate ad valorem equivalents of 45% and 34%, respectively. My reason in emphasizing this point was to convey that the percentage reduction on the duty proper must be sufficiently large to show an appreciable reduction in the total fiscal charges now being assessed.

I then informed the Foreign Minister that in return my Government will be prepared to consider reducing the duty on handwoven palm leaf hats; binding on the free list Ecuador's principal exports to the United States, such as annatto, bananas, cascarilla, cacao, coffee, kapok fibre, reptile skins and tagua nuts; and binding against increase the present import tax of US\$1.50 per M feet on sawed balsa lumber. I indicated that if the Ecuadorean Government is interested in other products now being exported to the United States, I would appreciate it if the Minister would furnish me full data thereon.

I concluded with the statement that the Department is of the opinion that both Governments should have a clear-cut understanding in advance with regard to the scope and content of the agreement so that they may be assured that subsequent negotiations could be successfully held. At the same time I delivered a strictly confidential memorandum incorporating the principal points of the conversation, a copy of which is enclosed herewith for the information of the Department.

The Minister for Foreign Affairs exhibited both pleasure and satisfaction at the disposition of the American Government to initiate the negotiation of a trade agreement, and indicated that his Government is desirous of giving the question immediate and favorable consideration. With regard to the principal point raised, namely, the substantial reductions desired on flour and lard, the Minister stated that these products are prime necessities and that it is the policy of his Govern-

ment to endeavor to reduce the cost of such articles. In this connection he recalled the fact that at present flour is being permitted to enter the country free of duty. Naturally, the Minister made no commitment at this time as to what his Government might be prepared to do in the way of concessions on these products, but I did receive the impression that he himself anticipated no particular obstacle to meeting our wishes. Moreover, I am inclined to believe that the present shortage of certain foodstuffs, particularly flour, makes the present time opportune for Ecuador to give favorable consideration to this request.

With regard to products other than those already enumerated in which Ecuador might be interested in obtaining concessions in the United States, the Minister was not prepared to make any observations at this time. As concerns naranjilla juice, however, I have reached the conclusion that this is rather an aspiration than a reality. It appears that some two years ago samples were sent to the United States for analysis and to determine whether a market might exist. Considerable difficulty was experienced in shipping the samples so as to arrive in good condition, but the principal deterrents would appear to be the outlay necessary for advertising and introducing the juice in the American market and, more important, the fruit is not now available in the quantities that the importers would require. In other words, the export of naranjilla juice to the United States is simply a potential industry for Ecuador. However, it is one in which more than just a passing interest is being evinced, and if we could do something to meet their wishes I consider that it would prove most helpful. I have suggested that as naranjilla juice is "not otherwise specified" it would probably fall under the general classification of fruit juices, thus requiring a reduction in the duty on this classification with the resulting benefit to other exporting countries, and no positive advantage to Ecuador. The question was then raised as to whether the specification of naranjilla juice in the agreement would restrict the concession solely to that product. It occurs to me that it would not, but were that possible it would afford us an excellent opportunity to make a concession to Ecuador which would be highly esteemed and, I am sure, facilitate the negotiations.

In compliance with the Department's instruction No. 186 of November 11, 1936, I have requested the Foreign Office to furnish me data on actual shipments of naranjilla juice to the United States and to whom consigned. In this connection I would add that when Mr. Cyril A. Crilley, Assistant Commercial Attaché at Lima, was in Ecuador last year, I understood that he made a study of this product and that he sent his findings, together with samples, to the Department of Commerce.

I am reporting the results of this first conversation by air mail. However, I shall use the telegraph to report any important developments.

Respectfully yours,

EDWARD J. SPARKS

[Enclosure]

The American Legation to the Ecuadoran Ministry for Foreign Affairs

MEMORANDUM

In line with the sincere desire of the Government of the United States to continue to work for liberalized international trade, it wishes to give at this time sympathetic consideration to a review of the trade relations between the United States and Ecuador. If this review, which should be treated in a confidential way to avoid premature publicity, discloses substantial agreement in the positions of the two Governments, the American Government will be disposed to make public announcement of intention to negotiate a trade agreement with Ecuador and to proceed with such negotiations.

The Government of the United States wishes the agreement to be predicated on the unconditional most-favored-nation principle and, so far as the general provisions are concerned, to follow the trade agreements recently concluded by it with Guatemala, Honduras and Nicaragua, copies of which are enclosed.

As regards the concessions which the American Government might wish to obtain from the Ecuadorean Government, it attaches special importance to substantial reductions of the present duties on wheat flour and hog lard. There will, of course, be requests on other products as well, but the American Government is particularly interested at this time in ascertaining what the Ecuadorean Government is prepared to do with reference to flour and lard.

In return, the American Government will be prepared to consider reducing the duty on handwoven palm leaf hats, and binding on the free list Ecuador's principal exports to the United States, such as annatto, bananas, cascarilla, cacao, coffee, kapok fibre, reptile skins and tagua nuts. The American Government will also consider binding against increase the present import tax of US\$1.50 per M feet on sawed balsa lumber. If there are any other products now being exported to the United States in which the Ecuadorean Government is interested, full data thereon should be furnished.

It is the opinion of the Department of State that both Governments should have a clear-cut understanding in advance with regard to the scope and content of the trade agreement, in order that they may be assured that subsequent negotiations could be successfully held.

QUITO, December 11, 1936.

611.2231/91

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 632

QUITO, December 14, 1936.

[Received December 22.]

SIR: With reference to my despatch No. 631 of December 11, 1936, relative to the contemplated trade agreement with Ecuador, I have the honor to report that the Minister for Foreign Affairs informed me on Sunday that his Government desired to expedite as much as possible the study of the points raised in my conversation with him. He added that Dr. Francisco Banda, the Chief of the Commercial Section of the Foreign Office, is now studying the proposal preparatory to submitting it to the Treaty Committee.

This afternoon I called upon Doctor Banda to ascertain what progress was being made. He stated that he had studied our proposal and that he found it most reasonable. With regard to the concessions desired on flour and lard, he informed me that his Government would communicate to me its willingness to reduce the present duties by 30%. I replied that I did not believe that my Government could consider sufficient a reduction of 30% since Ecuador collects customs duties, consular Fees and other fiscal charges on these imports of a total ad valorem equivalent of approximately 45% and 34%, respectively. On this basis a reduction of 30% on the customs duties alone would be equivalent to solely a 20% concession on the total fiscal charges. I suggested that his Government in giving consideration to this request might find it expedient to bear in mind that under the American tariff system the basic charge is the customs duty since the consular invoice fee is purely a nominal one. Therefore, any percentage reduction conceded to Ecuador is virtually that percentage of the total charges. Doctor Banda argued that the suggested 30% reduction is based on the authority conferred under the Preferential Tariff and that in view thereof this maximum percentage could be conceded without further legislative authority. In this connection I deemed it pertinent to recognize that while the Ecuadorean Preferential Tariff might be construed to establish the principle of a maximum reduction of 30%, the legislative authority is now vested in the Executive and that, therefore, the Ecuadorean Government would seem to have the authority to accord a reduction greater than 30%. I suggested that in view of the several fiscal charges on imported articles, a reduction to be considered substantial must be at least 50% of the existing duties. After further conversation Doctor Banda expressed his conviction that the United States is entitled to a 50% reduction on these items. He added, however, that it would be necessary to obtain authority from the President to make this commitment and that he would endeavor to do so tomorrow.

Doctor Banda then discussed informally some of the minor export products in which Ecuador is interested in obtaining concessions. He first referred to naranjilla juice which has been the subject of previous despatches by this Legation. I pointed out that my Government desires particularly to give sympathetic consideration at this time to those products of Ecuador now being exported to the United States. I observed that this is not the case with naranjilla juice which is solely a potential export. I added that, as he is aware, "Fruit Juices" is a general classification under the American Customs Tariff and that, it seemed to me, any reduction on a particular fruit juice must necessarily be extended to all other fruit juices. Therefore, should Ecuador seek a reduction in the existing duty on naranjilla juice, any benefit obtained would immediately accrue to a number of other countries whereas it is now problematical whether Ecuador will be able to take advantage of such a concession.

Doctor Banda said that his Government would also be interested in obtaining a concession on lentils. I observed that the export of Ecuadorean lentils to the United States is practically in the same class as is naranjilla juice, and Doctor Banda recognized that any such benefit would accrue principally to Chile.

Doctor Banda further stated that Ecuador is interested in the sale of natural carbonic gas to American Government agencies in the Canal Zone. He said that this product in the past was shipped in relatively large quantities to the Canal Zone for use by the American Navy; that the price thereof was reasonable; and that the quality was especially high. However, this market had been entirely closed as a result of the American law prohibiting the purchase of foreign products by American Government agencies when analogous American products are obtainable, notwithstanding the price of the latter may be higher. I explained that this measure was one of domestic policy and concerned only purchases by the American Government. I added that the modification of the law to permit the sale of Ecuadorean carbonic gas to the United States Navy would seem to be beyond the scope of the authority contained in the Trade Agreements Act, and that a special act of Congress would have to be enacted to amend the law.

Respectfully yours,

EDWARD J. SPARKS

611.2231/92

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 633

QUITO, December 15, 1936.

[Received December 22.]

SIR: In confirmation of my telegram No. 59 of December 15, 8 p. m., 1936,²⁹ and with reference to my despatches No. 631 of December 11,

²⁹ Not printed.

1936, and No. 632 of December 14, 1936, I have the honor to transmit herewith a copy with English translation of a note received this evening from the Minister for Foreign Affairs relative to my conversation with him on December 11th concerning the bases for a trade agreement between the United States and Ecuador.

The Department will observe that the Ecuadorean Government has no objection to concluding an agreement on the basis of the unconditional most-favored-nation clause, recognizing that the policy of our recently concluded trade agreements is based thereon. Also, in view of the concessions which the American Government is prepared to consider granting to Ecuador it will accord a 50% reduction in the duties on wheat flour and hog lard proceeding from the United States. The Minister expresses the belief that this will facilitate the increase of exports of these products to Ecuador as in previous years.

In return, the Government of Ecuador would be pleased to see bound on the free list its principal export products, such as annatto, cacao, coffee, cascarilla, rubber, reptile skins, kapok fibre, bananas, tagua nuts, and other products at present on the free list. With the purpose in view of developing exports of other products to the United States, the Government of Ecuador would be pleased if the United States granted a reduction of 50% in the existing duties on the following products:

Palm leaf hats,
Sawed balsa lumber,
Lentils,
Carbonic gas,
Mineral waters,
Naranjilla and its juices.

The Foreign Minister anticipates that the granting of these reductions would not have any great repercussion in the United States but, on the contrary, would facilitate their introduction in the American market. He then expresses the belief that the conclusion of a trade agreement on these bases would undoubtedly facilitate trade between the two countries, maintain the cordial relations which have always existed, and give great amplitude to the principles of an economic and commercial character which President Roosevelt announced in his program of the "Good Neighbor" Policy.

I have reported in my despatch No. 632 of December 14, 1936, my conversation with Doctor Banda concerning lentils, naranjilla juice and carbonic gas. I shall appreciate it if the Department will inform me whether it is feasible to grant reductions on naranjilla juice without making the concession applicable to all other juices.

With regard to sawed balsa lumber, I am unable to determine whether the duty listed of \$1.50 per M feet in the Department's instruction No. 186 of November 11, 1936, is a typographical error or

the new rate obtaining under the Trade Agreement with Canada. The 1936 Custom House Guide (page 530) states the internal revenue tax to be \$3.00 per M feet. If this is the new reduced rate it will be an easy matter to make clear that no further reduction can be granted.

I have reported in my previous despatches that I have already pointed out to the Ecuadorean authorities that the Department is primarily interested in products now being exported by Ecuador to the United States, and that articles such as lentils, mineral waters and carbonic gas, would involve benefits principally to other countries and only potential advantages to Ecuador.

Respectfully yours,

EDWARD J. SPARKS

[Enclosure—Translation]

The Ecuadoran Minister for Foreign Affairs (Chiriboga) to the American Chargé (Sparks)

No. 60

QUITO, December 15, 1936.

MR. CHARGÉ: I have read carefully the courteous memorandum of the 11th instant, which you addressed to me confidentially with respect to the general bases on which a commercial treaty could be concluded between Ecuador and the United States.

In reply I have pleasure in informing you that my Government would not have the least objection to concluding the agreement on the basis of the unconditional most-favored-nation clause on which is based the policy of commercial treaties recently concluded by the Government of the United States.

Moreover, and in view of the concessions which your Government proposes to accord to Ecuador, a reduction of 50% of the general tariff will be granted to wheat flour and hog lard proceeding from the United States, which reduction will undoubtedly facilitate the increase of the exports of these products to Ecuador, such as occurred in previous years.

In return, the Government of Ecuador would be pleased to see continued on the free list the products which it is at present exporting to the United States, such as: annatto, cacao, coffee, cascarilla, rubber, reptile skins, kapok fibre, bananas, tagua nuts, and the other products which now appear in the free list of the customs classification.

As Ecuador is interested in encouraging the export trade of other products which have a market in the United States, it would be pleased if, taking advantage of the authority which the Congress of the United States has granted to His Excellency, the President of your country, a reduction of 50% on the existing customs duties were granted for the following products:

Palm leaf hats,
Sawed balsa lumber,
Lentils,
Carbonic gas,
Mineral waters,
Naranjilla and the juice of this fruit.

As you will see, Mr. Chargé, the concessions which Ecuador asks in this last paragraph, will not have any great repercussions in the great (*gran*) economy of the United States but, on the contrary, will facilitate the introduction of these products which, as I have previously stated, have been well received in that market.

I should be very grateful to you if you would be good enough to communicate this information to the Department of State by air mail, if possible, in order to see whether on these bases a trade agreement can be concluded, which undoubtedly will facilitate the commercial interchange between both countries, maintain the cordial relations which have always existed, and give greater amplitude to the principles of an economic and commercial character, especially applicable in Latin America, which on more than one occasion have been enunciated in the program of the "Good Neighbor" policy formulated by His Excellency President Roosevelt.

I avail myself [etc.]

A. I. CHIRIBOGA

611.2231/92a : Telegram

*The Acting Secretary of State to the Secretary of State*³⁰

WASHINGTON, December 21, 1936—8 p. m.

138. The Ecuadoran Government has notified our Chargé d'Affaires in Quito that it is willing to negotiate a trade agreement on the basis of the unconditional most-favored-nation clause and will grant 50 percent reductions in the customs duties on flour and lard in return for concessions and assurances on its chief exports to the United States.

On the basis of this information the Trade Agreements Committee this morning recommended that public announcement of intention to negotiate a trade agreement with Ecuador be made with the least possible delay. We feel here that it would be desirable to proceed with announcement as soon as possible since we are anxious to inaugurate the new procedure for public hearings (which we discussed with you before your departure for Buenos Aires) prior to opening of discussion in Congress of renewal of the Trade Agreements Act. In this manner we believe we may forestall objectionable amendments to the Act.

³⁰ Secretary of State Cordell Hull attended the Inter-American Conference for the Maintenance of Peace, held at Buenos Aires, December 1-23, 1936 (see pp. 3 ff.), as the Chairman of the American delegation.

This agreement has the important and practically unique advantage at the moment of not involving consideration of any controversial product in Schedule II.

In view of these considerations we believe we should press forward with Ecuador and would greatly appreciate receiving your instructions on the subject.

MOORE

611.2231/93 : Telegram

The Secretary of State to the Acting Secretary of State

BUENOS AIRES, December 22, 1936—2 p. m.

[Received 6 : 03 p. m.]

73. I approve of proceeding on the basis indicated in your 138, December 21, 8 p. m. to announce as soon as possible intention to negotiate a trade agreement with Ecuador. Watch exchange control features of agreement carefully.

HULL

611.2231/94 : Telegram

The Secretary of State to the Acting Secretary of State

BUENOS AIRES, December 21 [23rd], 1936—1 p. m.

[Received 2 : 13 p. m.]

76. My 73, December 22, 2 p. m. Immediate public announcement of intention to negotiate with Ecuador while delegation in Buenos Aires might well affect opinion here adversely since it is not probable that any similar announcement will be made regarding negotiations with Argentine before our departure. Please, therefore, postpone announcement regarding Ecuador until after January 1.

HULL

611.2231/88 : Telegram

The Acting Secretary of State to the Chargé in Ecuador (Sparks)

WASHINGTON, December 24, 1936—3 p. m.

44. Your 59, December 15.³¹ Please inform the Ecuadoran authorities that we are now prepared to initiate negotiations with a view to the conclusion of a mutually beneficial trade agreement and that we accordingly desire on January 2nd or shortly thereafter to make public announcement of intention to negotiate with Ecuador. This announcement will include the statement that at a later date public an-

³¹ Not printed ; see despatch No. 633, December 15, p. 512.

nouncement will be made of the articles under consideration as subjects for concessions to be granted to Ecuador. This second announcement will constitute a formal invitation to our domestic interests to submit briefs with respect to the listed articles and will set a date for public hearings before the Committee for Reciprocity Information. Meanwhile, it is expected that negotiations will actively be proceeding with respect to the general provisions as well as the reciprocal concessions with a view to the conclusion of an agreement as soon as practicable following completion of the above mentioned public hearings in this country which the Trade Agreement Act³² requires.

If you find it essential, you may point out to the Ecuadoran authorities that the foregoing involves only our own procedure here and that it does not involve our making public announcement, prior to conclusion of agreement, of the products on which we shall seek concessions from Ecuador. We therefore do not believe that the Ecuadoran authorities need have any particular concern over this procedure but merely desire their acquiescence in order that we may make public announcement of intention to negotiate on January 2 or shortly thereafter.

For your confidential information we are instituting certain modifications in our general procedure here, with particular reference to public announcement of intention to negotiate and opportunity to interested persons to be heard as required under Section 4 of Trade Agreements Act. You will be fully instructed by mail as to nature of and reasons for these changes. Department desires to proceed on the basis of the revised procedure as soon as practicable. Early negotiations with Ecuador will afford a most convenient opportunity.

Please inform Department by telegram as early as possible next week whether the proposed announcement of intention to negotiate, as outlined in paragraph 1, is agreeable to the Ecuadoran authorities.

MOORE

611.2231/95

611.2231/95 : Telegram

The Chargé in Ecuador (Sparks) to the Secretary of State

QUITO, December 29, 1936—7 p. m.
[Received 11 : 40 p. m.]

63. The Foreign Office is agreeable to the proposed announcement of intention to negotiate as outlined in paragraph 1 Department's telegram No. 44, December 24, 3 p. m.

SPARKS

³² Approved June 12, 1934; 48 Stat. 943.

REPRESENTATIONS REGARDING THE REIMPOSITION BY ECUADOR
OF EXCHANGE AND IMPORT CONTROLS³³

822.5151/294

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

No. 469

QUITO, August 1, 1936.

[Received August 7.]

SIR: In confirmation of my telegram No. 39 of July 31, 11 a. m., 1936,³⁴ I have the honor to report that a control over all exchange operations, excepting those of mining companies, was established and became effective immediately by a decree dated July 30, 1936,³⁵ and published in the press of July 31, 1936. The corresponding *Registro Oficial* has not yet appeared but it is believed that the text contained in the local press is accurate.

The decree provides that only the Central Bank of Ecuador may purchase, sell and hold foreign currencies; and that local banks having deposits in foreign currencies, either in Ecuador or abroad, must transfer those deposits to the Central Bank at the rate of 10.50 sucres to the dollar. It further provides that no one, excepting mining companies which are governed by special laws or contracts, may export products of the country unless the corresponding proceeds in foreign currency are first delivered to the Central Bank. In the case of consignment shipments, irrevocable orders covering the same must be delivered to the Central Bank. The rate of exchange shall be fixed by the latter, but for the moment it shall be maintained at the current rate of 10.50 sucres to the dollar. Article 11 provides that imports in the future may be made only upon the authorization of the Central Bank of Ecuador "which will pass upon the petitions, being empowered to refuse to grant the permission and to sell the corresponding draft when it is in the public interest." Article 12 directs that the customhouses shall refuse to clear any shipment the importation of which has not been authorized. Article 14 provides that all merchandise entering in the customhouses and the importation of which has not been duly authorized, shall be confiscated. Substantial fines and imprisonments are established for violations of the Exchange Control Law.

This drastic measure has come as a very great surprise to the country which has not been familiar with the heavy drain on the gold stocks due to excessive imports and, to some extent, a lack of confidence in the financial policy of the Administration. Needless to say, confusion was

³³ For previous correspondence regarding Ecuadoran exchange restrictions, see *Foreign Relations*, 1933, vol. v, pp. 672 ff.

³⁴ Not printed.

³⁵ Decree No. 596; text printed in Ecuador, *Registro Oficial*, No. 256, August 4, 1936, p. 18.

the key-note yesterday which necessitated a statement in the press this morning by the Secretary of the President which reads as follows:

"Alarming and unfounded rumors having been spread relative to the scope of the decree issued on Drafts, I have been directed by the President to state that this measure is due solely to the purpose of the Supreme Government to protect the present exchange of the sucre with relation to foreign currencies.

"The only purpose is to prevent the speculation which some institutions of the country were endeavoring to make, which institutions with only this object and without any real necessity, have been withdrawing large sums in dollars, to the extreme that one of them in less than 25 days has requested more than Two hundred thousand dollars; as well as to restrict the importation of luxury articles which because of their very nature are unnecessary and only cause the emigration of gold abroad.

"The present law does not establish, nor will it establish, two rates of exchange, as a malicious attempt has been made to interpret it, but it will only safeguard the collective interest by maintaining, at least, the present equivalent of the dollar with the sucre and avoiding, in this manner, a difficult situation for the country as would have been caused if the Government had not decided to impose this measure which high national interests required."

The issuance of his decree coincided with a meeting of the Chambers of Commerce of Ecuador which is now taking place in Quito. Immediately a motion was proposed that in view of the ruinous results on previous occasions of exchange control laws, including the one of last year which destroyed in part Ecuadorean credit abroad, which retarded the development of exports and which profoundly affected national industry and caused the flight of capital, the Conference should address the President petitioning him to annul the Exchange Control Decree. After some debate the motion was left pending until a committee interviewed the recently appointed Minister of Finance, Alberto Wither Navarro, who is to take office today, and ascertained the reasons which induced the Government to take this measure.

In my political despatch No. 418 of June 30, 1936, as well as my financial despatch No. 419 of the same date,³⁶ I indicated the precarious position in which government finances were as a result of immoderate expenditures, and the acute situation of the sucre because of excessive imports and a lack of public confidence. The Department will also recall the measures which former Finance Minister Avilés was endeavoring to impose against foreign companies in order to obtain from them deposits to the order of the Central Bank of Ecuador which would increase the gold reserves of the latter. Upon the resignation of Mr. Avilés these measures were immediately discarded

³⁶ Neither printed.

and there was a slight improvement in the general situation. However, it is now apparent that public confidence had been seriously undermined and, according to the statement of the Secretary of the President, that certain interests were taking steps to protect their sucres, if not speculate, in the event of the depreciation of the currency. The international balance of payments was most unfavorable to Ecuador in 1935, and it was reported that the situation had been worse during the first five months of the current year. Therefore, if in addition to this condition there had been a run on the sucre, the exchange control measure was essential to prevent an immediate fall in its international value.

This development in Ecuadorean financial policy which creates a new barrier to trade and which will, in all probability, have an immediate adverse effect on our export trade with this country, is most regrettable especially since it is the direct repercussion of the immoderate policies of the former Finance Minister. However, I cannot help but feel in the light of all the circumstances, that a temporary drastic measure of this nature is far more desirable than would have been the complete collapse of the local currency as would certainly have occurred if immoderation and speculation had been allowed to continue uncurbed. I shall follow the situation closely and report promptly any discriminations against American trade.

Respectfully yours,

ANTONIO C. GONZALEZ

822.5151/296

Memorandum by the Assistant Secretary of State (Welles) to the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] August 6, 1936.

I had an interview with the Minister of Ecuador³⁷ this morning and gave him as an *aide-mémoire* a copy of the attached draft. I spoke with the Minister at some length indicating my belief that the considerations advanced were of the utmost importance and that it was my urgent and very sincere hope that the Government of Ecuador would find some way to avoid embarking upon this restrictive and, in my judgment, suicidal policy.

The Minister said that he was entirely in accord with the point of view which I maintained and added that he would write by air mail to President Páez personally and that he believed that Páez would see the necessity for reconsidering this policy.

The Minister also stated to me that he had received a cable this morning advising that the Government would send a representative

³⁷ Colón Eloy Alfaro.

to New York to discuss with the bondholders the question of the Guayaquil-Quito Railway controversy.³⁸ Perhaps you will advise the Council on the latter point.

S[UMNER] W[ELLES]

[Annex]

The Department of State to the Ecuadoran Legation

AIDE-MÉMOIRE

The Department is interested in the report received that Ecuador has decided to reimpose restrictive control over exchange transactions and imports. While it is not desired to interpose in Ecuador's efforts to solve its trade and payments problems in its own way, this Government hopes that the measures will be temporary. Ecuador's decision of last year to abolish exchange restrictions was regarded here as an act of economic statesmanship and one of the outstanding steps in fulfillment of the economic resolution adopted at the Montevideo Conference.³⁹ This action gave much encouragement to forces working for the establishment of liberal commercial policy and the removal of obstructions hampering the recovery of international trade. The reimposition of restrictions on trade and exchange by an important trading country like Ecuador is particularly to be regretted at this time in view of the forthcoming Inter-American Conference in Buenos Aires,⁴⁰ for the agenda of which various proposals have been submitted recognizing the necessity, in the interest of peace, of lessening economic tension by the reduction of barriers to trade and exchange.

822.5151/296

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

No. 164

WASHINGTON, August 14, 1936.

SIR: Referring to your telegram No. 39, July 31, 11 a. m.,⁴¹ the Department transmits a copy of an *aide-mémoire* handed to the Ecuadoran Minister in Washington by Assistant Secretary of State, Mr. Welles, during the course of a conversation upon the new Ecuadoran exchange control regulations. The *aide-mémoire* is for your informa-

³⁸ See pp. 536 ff.

³⁹ Resolution V, Economic, Commercial, and Tariff Policy, *Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933* (Washington, Government Printing Office, 1934), p. 196.

⁴⁰ See section entitled "Inter-American Conference for the Maintenance of Peace, Held at Buenos Aires, December 1-23, 1936," pp. 3 ff.

⁴¹ Not printed.

tion only and the Department does not desire to have you discuss the subject with the Ecuadoran authorities in the absence of further instructions.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

822.5151/302

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

No. 502

QUITO, August 26, 1936.

[Received September 4.]

SIR: With reference to my despatch No. 489 of August 18, 1936,⁴² summarizing the interpretative regulations⁴³ of the Ecuadorean law establishing a system of exchange control and licensing of imports, I have the honor to report that the importers of American merchandise and American interests in Ecuador are very apprehensive as to the manner in which this law will be enforced. Considerable concern is expressed with regard to Article 23 of the Regulations which provides that the Ministry of Finance must classify the different items of import as "indispensable, useful and superfluous". Since the Commission has authority to refuse licenses for merchandise not of urgent necessity and as sufficient exchange will probably not be available for all purposes, importers of American automobiles, radios, electrical appliances and other articles which are considered as necessities in the United States, are convinced that these will be classified as superfluous or luxury items and, therefore, it will not be possible to obtain the necessary licenses for their importation. I realize that in the absence at this time of any denial of permission to import these items, the question is in the nature of a hypothetical one. However, it would be most helpful if the Department could give some indication as to what stand might be taken in the event that these articles are classified as luxuries and permission is refused for their importation.

It is anticipated that another problem will arise in connection with the remittances of American interests. The Department is aware that the electric plants in Guayaquil, Riobamba and Quito, and other important holdings in the country are owned by American interests. Also, the Singer Sewing Machine Company has been actively engaged in a time installment business during the past two years. These interests anticipate that their remittances will be restricted to negligible amounts and later when the control is lifted, as in the previous systems, they will be faced with liquidating their accumulated balances at a much lower rate with the consequent loss.

⁴² Not printed.

⁴³ The regulations of August 15 are published in *Registro Oficial*, August 19, 1936, p. 105.

The other two important American interests, namely, The South American Development Company and the subsidiary of the United Fruit Company, will probably experience, at least for the present, no appreciable difficulties. The former is exempted from the provisions of the control whereas the latter need only conduct its exchange transactions through the Central Bank.

It is not possible at this time to set forth the exact position of the Government as concerns its budgetary requirements, or of the country in the matter of its international balance of payments. However, it is indicative that very much concern is felt with regard to both of these problems. Incidentally, the financing of the expenses of the boundary negotiations ⁴⁴ in Washington is a major problem which is being solved temporarily by the sacrifice of other necessities.

It is openly said that the large purchases abroad of munitions (roughly estimated at US\$2,000,000) are principally responsible for the present acute situation in fiscal finances as well as the foreign exchange value of the sucre. The Minister of Finance is reported to have said that the Government will suspend these contracts for the time being. He is said to have added that this measure is necessary not only for reasons of international exchange, but also because of the excessive budget deficit. In this latter connection a very difficult situation appears to have already developed in that the armed forces are said not to have been paid during the past thirty days (payments of salaries are made ordinarily every ten days). There have been indications that the Government may correct this deficiency by borrowing from the Central Bank. This is a step, however, that it has been loath to take because of the consequent repercussions on the general political situation. Nevertheless, it would appear that the continued failure to make the scheduled payments to the armed forces would imminently endanger stability.

Respectfully yours,

ANTONIO C. GONZALEZ

822.5151/302

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

No. 173

WASHINGTON, September 12, 1936.

SIR: Careful consideration has been given to the request contained in your despatch No. 502, dated August 26, 1936, that the Department give some indication as to what stand might be taken in the event that certain articles of import into Ecuador, which are supplied principally by manufacturers in the United States, are classified as luxuries and, as a consequence, permission is refused for their importation.

⁴⁴ See pp. 106 ff.

The Government of the United States is continuing to make every effort in support of its policy to bring about a revival of international trade by reducing artificial barriers to that trade. With that end in view, the particular situation in each country where such barriers exist is being followed closely. You will appreciate, of course, that other factors of importance in the international relations of the United States must be taken into consideration in each individual case.

The Department is of the opinion that, for the present, you should confine your action to reporting promptly by telegram all important developments arising from the new Ecuadoran regulations affecting the control of exchange and the licensing of imports; especially the classification of imports as provided for in Article 23 of the new regulations, the remittance of funds accumulated by American interests, and any action that may be taken in connection with pending commercial accounts due for merchandise already imported into Ecuador.

Further instructions will be sent you when future developments and additional study of the situation by the Department make them appear advisable.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

822.5151/306

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

No. 540

QUITO, September 25, 1936.

[Received October 6.]

SIR: With reference to my despatch No. 502 of August 26, 1936, in which I reported on certain problems which may arise in connection with the application of the Ecuadorean law establishing a system of exchange control and licensing of imports, I have the honor to state that the French Minister and the German Chargé lodged protests with the Ecuadorean Government in anticipation of the application of this measure in a manner which would affect unfavorably their commerce with Ecuador. The French Minister, in particular, anticipated that in the classification of imports a large proportion of French products, especially wines, liqueurs and perfumes, would be placed in the luxury class and their importation prohibited. Accordingly, he demanded that 70% of French exports to Ecuador be exempted from the import licensing system.

I had occasion this week to inquire informally of the Minister for Foreign Affairs as to what action had been taken in the matter of the French protest. The Minister stated that the French were justified in the position taken and that in view of the appreciable commercial

balance favorable to Ecuador it would be necessary to comply with the request. He added that under our commercial *modus vivendi*⁴⁵ the United States will obtain any concessions or privileges conceded to France. It appears that he took this matter up with the Central Bank of Ecuador, which has charge of enforcing the Exchange Control law, and I enclose herewith a copy of his communication with English translation addressed to me on September 23rd⁴⁶ communicating the results of his action. It will be observed that he pointed out to the Minister of Finance and the President of the Central Bank of Ecuador the expediency of carrying out the provisions of the American-Ecuadorean *modus vivendi*, and that statistics for the years 1934, 1935 and the first six months of 1936, show a balance of trade with the United States favorable to Ecuador. It will also be noted that the Central Bank of Ecuador has definitely instructed the Director of Exchange and Import Control not to hinder imports from countries whose balance of trade is favorable to Ecuador, except such items as may be absolutely superfluous and undesirable.

I would add in this connection that in an informal conversation with the Under Secretary of Finance he referred to the protest lodged by France against the exchange control. He said that when this demand was received by the Exchange Control Commission, it was not disposed to meet it. The argument was advanced that French commerce is not important to Ecuador and that a large share of Ecuadorean exports to France are eventually consumed in Switzerland and other inland countries of Europe. The Under Secretary added that he was able to convince the Minister of Finance and the Central Bank of Ecuador that Ecuadorean exports to France are a most important item in Ecuadorean commerce and that Ecuador could ill afford to take any measure which would certainly result in the curtailment of French imports from this country. He anticipated that a failure to meet the French demands would mean the immediate establishment of a system of absolute compensation and that consequently Ecuadorean exports would be reduced to a fraction of their present value. He also pointed out that in his opinion Ecuador could not, and should not, take measures against any foreign country whose trade balance is favorable to Ecuador, and that the measures contemplated in the Exchange and Import Control Law might be applied only to those countries whose trade balance should be unfavorable to Ecuador.

No information is as yet available concerning the results of the operation of the exchange control. In view of the restrictions in the granting of foreign currency for the past month and a half the gold

⁴⁵ Provisional commercial agreement between the United States and Ecuador, signed June 12, 1936; for text, see Department of State Executive Agreement Series No. 93. For correspondence, see pp. 503 ff.

⁴⁶ Not printed.

stocks of the Central Bank have probably increased. However, there is no confidence that this will continue. In fact, the concensus of opinion is that the measure will not achieve the purpose in view and that it will at least be necessary to modify its provisions to a point where the effect will be nugatory.

Respectfully yours,

ANTONIO C. GONZALEZ

822.5151/310

*The Consul General at Guayaquil (McDonough) to the
Secretary of State*

No. 328

GUAYAQUIL, November 6, 1936.

[Received November 10.]

SIR: I have the honor to report that according to information obtained today from an undoubtedly reliable source, there is to be no important change in the present Ecuadoran system of control over exchange, imports and exports. The Minister of Hacienda is opposed to any change at present, taking the view that the system should be continued in full force or abolished. Minor administrative changes may be made from time to time.

During two months of the control system petitions for permission to import goods amounting to \$1,000,000., United States currency, have been filed with the control authorities and permits amounting to \$400,000. have been granted. As imports before the control system was put into effect were about \$1,000,000. monthly, the comparatively small amount of imports asked for would seem to indicate that large stocks of imported goods are still available.

Owing to shortage of the Ecuadoran wheat and sugar crops, rather large imports of flour and sugar are being made. Large orders for sugar at low prices have been placed in Peru.

The obligations to American and other foreign exporters which are being paid very slowly are those for goods already shipped before July 31, 1936. The exchange control regulations place on the importer the burden of applying for exchange to pay for these pending obligations. The importer often is not interested in seeing that payment is made. The collecting banks may not be very active in trying to obtain exchange especially as the effort involved probably costs them more than the amount of their commission. The American exporter should urge his clients, agents and collecting bank to take steps to obtain payment of these pending obligations at once.

The right of tourists to spend their foreign money freely in Ecuador has been reaffirmed. Through some misunderstanding, the passengers and sailors of an American passenger ship recently were not permitted to bring any American money ashore with them and there was no place where they could change their funds into sucres. Steps have

been taken by the local officials to prevent a recurrence of such an incident. The officials desire that complete freedom shall be given to tourists to spend money or traveler's checks so that dollars may be left in Ecuador. A tourist is not permitted to cash a check or draft.

The rumors about possible changes in the control system were mentioned on page 3 of report No. 389 of October 23, 1936, entitled "Monthly Economic Report, October, 1936",^{46a} and in despatch No. 326 of November 2, 1936, on the subject of "Exchange, import and export control".⁴⁷

The best opinion at present seems to be that the control system might eventually be terminated suddenly just as it was adopted suddenly without notice to the public.⁴⁸ The main factor seems [to?] be extent of the need of the Government of Ecuador for foreign currency to meet its obligations.

Respectfully yours,

DAYLE C. McDONOUGH

EXPRESSION OF CONCERN BY THE UNITED STATES GOVERNMENT
REGARDING ECUADORAN FISHING REGULATIONS PURPORTING
TO EXTEND THE TERRITORIAL WATERS OF ECUADOR BEYOND
THE THREE-MILE LIMIT⁴⁹

822.628/45

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 560

QUITO, October 9, 1936.

[Received October 16.]

SIR: I have the honor to transmit herewith a copy with English translation of a note⁵⁰ received from the Foreign Office concerning American fishing vessels which are alleged to have gone to the Galapagos Islands for the purpose of fishing clandestinely in Ecuadorean waters in order to evade the payment of the fishing tax. The note sets forth that the Ecuadorean Government is determined to take energetic measures to repress this practice and to assert its sovereignty in the Islands. The request is therefore made that the American Government caution the fishing companies of the necessity of avoiding disagreeable situations in the future.

Since a similar accusation was made last year relative to the American fishing vessel *Ariadne* (see despatch No. 160 of October 24, 1935⁴⁷),

^{46a} Not found in Department files.

⁴⁷ Not printed.

⁴⁸ The Consul General at Guayaquil reported in despatch No. 517, August 18, 1937, that the principal features of the import, export, and exchange control decree of July 30, 1936, were revoked by a decree dated July 31, 1937 (822.5151/356). See decree No. 322, July 31, 1937, printed in *Registro Oficial*, No. 559, August 7, 1937, pp. 1528-1530.

⁴⁹ Continued from *Foreign Relations*, 1935, vol. IV, pp. 514-517.

⁵⁰ Note No. 134, October 6; not printed.

and upon investigation it was established that the vessel in question had no intention of proceeding to the Galapagos Islands, I deemed it desirable to obtain more detailed information from the Under Secretary for Foreign Affairs. He stated that the Ministry of National Defense, which has jurisdiction over the Islands, had learned that several American fishing vessels have been operating in the vicinity of the Islands without complying with the provisions of the Ecuadorean Fishing Regulations. Therefore, as the Government is determined to enforce those Regulations, the Foreign Office had been asked to request the American Government to apprise the fishing companies of the pertinent Ecuadorean Law so as to avoid any incident which might arise if these vessels should be apprehended and detained because of violation thereof.

I deemed it desirable to point out informally that it is my understanding that no fishing vessel clears from American ports with the express intention of proceeding to the Galapagos Islands for commercial fishing. In fact, these vessels are said to start fishing off the Mexican coast and that they usually have a sufficient catch long before reaching the vicinity of the Galapagos Islands. Consequently, it seemed unreasonable to expect that a fishing vessel which has not a previous intention of proceeding to, and in all probabilities will not reach the Islands, should pay prior to its departure the tax of \$5.00 per registered ton (see despatch No. 259 of February 13, 1936⁵¹). I added that if this were a correct statement of the situation it would seem more practical for all concerned if a station were established on the Islands where the tax could be paid in the event that a vessel desired to fish in Ecuadorean territorial waters.

The Under Secretary considered this a practical solution of the problem and proposed to submit it for the consideration of the Minister of National Defense. I suggested, however, that another phase of the problem should first be settled, namely, the controversy arising out of the definition of Ecuadorean territorial waters and marginal seas referred to in the Legation's note No. 16, of June 7, 1935, (see despatch No. 74 of June 18, 1935⁵²). I recalled that Ecuadorean law defines territorial waters as comprising those within fifteen miles of the most projecting points, which definition would extend the territorial waters of Ecuador far beyond the three mile limit recognized by a majority of states as delimiting the waters in which a state may properly exercise its jurisdiction under the rules of International Law. I then expressed the thought that while my Government undoubtedly would be pleased to invite the attention of interested fishing companies to the pertinent provisions of the Ecuadorean Fishing Regulations and caution them against any violation thereof, it would be constrained to add

⁵¹ Despatch not printed; for text of Note No. 16, see instruction No. 23, June 1, 1935, to the Minister in Ecuador, *Foreign Relations*, 1935, vol. iv, p. 514.

at the same time that it cannot admit the right of the Ecuadorean Government to apply these Regulations to American vessels beyond the three mile limit. I further stated that I had gathered from previous exchanges of views on this subject that the Foreign Office does not hold the same opinion as the Ministry of National Defense. Therefore, as the matter is now in the hands of the Attorney General for decision which, should he sustain the present law, would result in many difficult situations in American-Ecuadorean relations, the Under Secretary might desire to discuss the question in this light with him. While the Under Secretary made no commitment as to the Foreign Office's views on the subject, he agreed to discuss the matter immediately with the Attorney General.

The Under Secretary concluded that he would send me a further note within the next two weeks relative to the request contained in the enclosure herewith. However, in the meantime the Department may desire to instruct me to make a formal acknowledgement of the note with such observations as may seem desirable.

Respectfully yours,

EDWARD J. SPARKS

822.628/45

The Secretary of State to the Chargé in Ecuador (Sparks)

No. 182

WASHINGTON, October 23, 1936.

SIR: The Department has received your despatch No. 560, of October 9, 1936, transmitting a note No. 134, of October 6, from the Ecuadoran Foreign Office, with respect to the operations of American fishing vessels in the territorial waters and marginal seas of Ecuador.

In acknowledging this note, you are instructed to include the following observations:

"My Government has noted the request of the Ecuadoran Government that it caution certain American fishing companies as to the necessity of avoiding disagreeable situations which might arise should they fish in Ecuadoran waters without complying with Ecuadoran regulations governing such fishing.

"The United States Government would be most happy to comply with this request of the Ecuadoran Government, but before doing so desires to point out that it must insist on its contention raised in the Legation's note No. 16 of June 7, 1935, that the United States Government 'can not admit the right of the Ecuadoran Government to apply its fishing regulations to American vessels beyond the belt of three miles from low water lines on Ecuadoran territory'. My Government is awaiting with considerable interest the final reply of the Ecuadoran Government to the above-mentioned note, and desires to express the hope that the Ecuadoran Government will find it possible to accept the contention of my Government, thus harmonizing Ecu-

doran regulations respecting the exercise of jurisdiction over territorial waters with the practice followed by most foreign nations and generally recognized under the rules of international law.

"I am also instructed by my Government to inquire when I may expect a reply to the points raised with respect to the specific case of the American fishing vessel *Seaboy*, contained in my note above mentioned and later referred to in the Legation's note No. 70, of May 22, 1936."⁵⁵

Very truly yours,

For the Secretary of State:
SUMNER WELLES

822.628/54

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 590

QUITO, November 7, 1936.
[Received November 13.]

SIR: With reference to the Department's instruction No. 182 of October 23, 1936, directing that I acknowledge the receipt of a note No. 134 of October 6, 1936, from the Ecuadorean Foreign Office with respect to the operations of American fishing vessels in the territorial waters and marginal seas of Ecuador, I have the honor to transmit herewith for the information of the Department a copy of my note No. 121 of October 31, 1936.

I have the honor further to report that at the regular diplomatic reception on Thursday, November 5th, I availed myself of the opportunity to express to the Foreign Minister the hope that his Government might find it possible to accept the contention of the American Government in the premises. He replied that he would look into the matter personally, but that he was in doubt with regard to the practice followed by the United States during prohibition when we exercised jurisdiction within twelve miles rather than the usually accepted three-mile limit. I explained that the United States has never asserted the right to exercise jurisdiction beyond the three-mile limit and that in the case in question we had sought, by the conclusion of conventions, the consent of individual maritime states to board their vessels within the distances specified therein solely for the purpose of ascertaining whether or not the vessels were endeavoring to import intoxicating liquors into the United States in violation of the laws there in force. I considered it desirable to furnish the Minister a copy of one of these conventions, and I enclose herewith a copy of my third person note⁵⁵ transmitting the convention concluded with Chile⁵⁶ on this subject.

Respectfully yours,

EDWARD J. SPARKS

⁵⁵ Not printed.

⁵⁶ Convention signed May 27, 1930, *Foreign Relations*, 1930, vol. I, p. 545.

[Enclosure 1]

*The American Chargé (Sparks) to the Ecuadoran Minister for
Foreign Affairs (Chiriboga)*

No. 121

QUITO, October 31, 1936.

EXCELLENCY: I have the honor to acknowledge the receipt of note No. 134 of October 6, 1936, in which Your Excellency informs me that certain vessels of American registry have proceeded to the Galapagos Islands for the purpose of fishing clandestinely in Ecuadorean territorial waters. Your Excellency adds that the Government of Ecuador is determined to take repressive measures against such vessels and requests that my Government caution the fishing companies of the necessity of avoiding disagreeable situations which might arise should they fish in Ecuadorean waters without complying with Ecuadorean regulations governing such fishing.

Acting under instructions from my Government, I hasten to inform Your Excellency that the United States Government has noted and would be most happy to comply with this request of the Ecuadorean Government, but before doing so desires to point out that it must insist on its contention raised in the Legation's note No. 16 of June 7, 1935, that the United States Government "can not admit the right of the Ecuadorean Government to apply its fishing regulations to American vessels beyond the belt of three miles from low water mark" on Ecuadorean territory. My Government is awaiting with considerable interest the final reply of the Ecuadorean Government to the above-mentioned note, and desires to express the hope that the Ecuadorean Government will find it possible to accept the contention of my Government, thus harmonizing Ecuadorean regulations respecting the exercise of jurisdiction over territorial waters with the practice followed by most foreign nations and generally recognized under the rules of international law.

I am also instructed by my Government to inquire when I may expect a reply to the points raised with respect to the specific case of the American fishing vessel *Seaboy*, contained in my note above mentioned and later referred to in the Legation's note No. 70, of May 22, 1936.

I avail myself [etc.]

EDWARD J. SPARKS

[Enclosure 2]

*The American Chargé to the Ecuadoran Minister for Foreign Affairs
(Chiriboga)*

The Chargé d'Affaires ad interim of the United States of America presents his compliments to His Excellency the Minister for Foreign Affairs and, in referring to his conversation of yesterday relative to the

definition of territorial seas, has the honor to enclose herewith an extract from the Spanish text of the Convention concluded between the United States of America and the Republic of Chile on May 27th, 1930,⁵⁷ for the prevention of smuggling of intoxicating liquors. This Convention is along the lines of similar ones concluded with other maritime nations for the same purpose. His Excellency will observe that the Government of the United States of America does not assert the right to exercise its jurisdiction over the waters beyond the three mile limit. On the contrary, the express purpose of the Convention is to obtain from the Republic of Chile its consent to the boarding of its private vessels within the distance provided in Article II, with the end in view of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States in violation of the laws there in force.

Edward J. Sparks avails himself [etc.]

QUITO, November 6, 1936.

822.0145/7

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 624

QUITO, December 2, 1936.

[Received December 12.]

SIR: With reference to the last paragraph of my despatch No. 601 of November 17, 1936,⁵⁸ concerning the definition of Ecuadorean territorial waters and marginal seas, I have the honor to report that an occasion was afforded me this afternoon to inquire informally of the Under Secretary for Foreign Affairs as to what progress had been made in the premises. He stated that the Legal Adviser of the Foreign Office was just completing a very voluminous report on the subject and that it, together with the reports of the Attorney General, the Minister of National Defense, and this Legation's notes, would be transmitted within the next two days to the President for his consideration and decision.

In response to my inquiry as to the probable opinion of the Legal Adviser in the premises, I gathered that the report will support the present definition on the grounds that countries such as the Argentine and Uruguay provide in their constitutions for a marginal sea of six miles. However, it would seem that the fundamental reason is that of national economy, since the Under Secretary referred repeatedly to the fishing resources in the Galapagos Islands and how prejudicial it would be if Ecuador acceded to our contention of a three-mile limit.

Respectfully yours,

EDWARD J. SPARKS

⁵⁷ *Foreign Relations*, 1930, vol. I, p. 545.

⁵⁸ Not printed.

ENGAGEMENT OF AMERICAN NAVAL OFFICERS BY THE ECUADORAN
GOVERNMENT TO SERVE AS ADVISERS AND INSTRUCTORS IN THE
ECUADORAN NAVAL SCHOOL

822.80/4

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

No. 228

QUITO, January 13, 1936.

[Received January 21.]

SIR: I have the honor to transmit herewith for the information of and appropriate action by the Department, a copy with English translation of a note from the Ecuadorean Foreign Office, dated January 9, 1936,⁵⁹ containing the text of a communication addressed to it by the Ministry of National Defense. The latter Ministry desires to engage the services of a line officer and an engineer officer of the American Navy for duty as instructors in the Ecuadorean Navy and, accordingly, it has requested the Foreign Office to cause that unofficial inquiries be made of the Navy Department in Washington as to the possibility of engaging two officers with the qualifications indicated whose services, it is understood, would be contracted unofficially. The question of compensation and other details would be discussed directly with the interested officers by the Ecuadorean Legation in Washington. The Minister for Foreign Affairs has forwarded the request to the Legation with the observation that the employment of these officers would undoubtedly serve to strengthen the bonds which unite our two countries.

I also enclose herewith a copy of a Memorandum on the subject⁵⁹ prepared by Commander George L. Weyler, Naval Attaché to this Legation, who is at present in Quito. It will be observed that he considers that it would be advantageous to the United States if the services of retired American naval officers could be made available to the Ecuadorean Government for the purpose in view. I concur in the recommendation made by Commander Weyler.

It appears to be the plan of the present Government to develop a naval force with the primary purpose in view of patrolling the mainland seacoast and the territorial waters of the Galapagos Islands. I do not believe that this plan contemplates the development of a navy to the point where it might eventually be a source of danger of future aggression since the authorities themselves are fully cognizant of the financial incapacity of the country to meet the expenditures which such a program would demand. Rather it appears to be the intention to form the nucleus of a patrol fleet whose exclusive activities would be police duties in enforcing Ecuadorean sovereignty and jurisdiction along its coasts and in its island possessions. The latter is considered

⁵⁹ Not printed.

to be of particular interest and importance to Ecuador since up to the present it has had no means of exerting its control over the Galapagos and preventing unauthorized persons entering those possessions. I have in mind a recent report of an unauthorized visit of a Japanese squadron of submarines accompanied by a mother ship. The possibility that this may have been a Peruvian, Chilean or American squadron appears to have been completely refuted and the authorities themselves are fully convinced that the vessels belonged to the Japanese Navy. The purpose of the visit is unknown but the vessels are reported to have been engaged in making soundings in and around the Islands. What use the Japanese Government may intend to make of this information would be pure conjecture on the part of the Legation. The important point is that if Ecuador could establish an efficient maritime patrol service under the direction of retired American naval officers, it would be impossible to make visits of this kind by countries having ulterior interests in the Islands, or in the event that they should do so the information would be immediately available to our Government.

The importance of the Galapagos Islands in any offensive movement directed against the Panama Canal is generally recognized by naval strategists. In fact, the consensus of opinion appears to be that even the temporary possession of the Islands by a foreign belligerent force would imminently endanger the security of the Panama Canal. I feel confident that the policy of the Ecuadorean Government today is to prevent the Islands in any way coming under the control of a foreign country, particularly Japan. Under these circumstances the presence of competent and discreet retired American naval officers in the service of the Ecuadorean Navy, especially in the private capacity in which they would be engaged, might prove of invaluable assistance to the United States. Certainly it would be a gracious courtesy involving no expenditure upon our part. Moreover, it would be deeply appreciated by Ecuador and would contribute appreciably to strengthening our prestige and influence in this country. I therefore recommend strongly that the Department accord favorable consideration to the request with a view to making available the most competent officers.

Respectfully yours,

ANTONIO C. GONZALEZ

822.30/7

The Secretary of State to the Chargé in Ecuador (Sparks)

No. 99

WASHINGTON, February 14, 1936.

SIR: Referring to the Legation's despatches No. 228, of January 13, 1936, and No. 232, of January 21, 1936, and to telegram No. 3,

January 20, noon,⁶¹ you are informed that the Navy Department has advised the Department that it will be glad to give favorable consideration to the request of the Ecuadoran Government that two retired naval officers be appointed to act as instructors in the Ecuadoran Navy. The Department will notify you as soon as the Navy Department has made its recommendations regarding the officers to be designated.

You may, in your discretion, transmit the above information to the appropriate Ecuadoran authorities.

Very truly yours,

For the Secretary of State:
WILLIAM PHILLIPS

822.30/15

The Ecuadoran Minister (Alfaro) to the Secretary of State

[Translation]

No. 27

WASHINGTON, August 17, 1936.

MR. SECRETARY: I have the honor to request Your Excellency to be so good as to take the appropriate steps to the end that the head of the proper Department deem fit to grant its authorization and permission for two officers of the United States Navy to render their services at the new Naval School of Ecuador as instructors in that arm.

In the Navy Department they have been so good as to indicate to me, among other officers, Commander James Coe van de Carr and Lieutenant Commander Carl Erling Hoard, who might be the persons with whom my country would make a contract for the purpose indicated, provided, of course, that the competent superior authority should approve.

I shall be grateful to Your Excellency if you will be so kind as to communicate to me the decision which the appropriate authorities of the Government of the United States may have reached regarding this request.

I avail myself [etc.]

C. E. ALFARO

822.30/15

The Secretary of State to the Ecuadoran Minister (Alfaro)

WASHINGTON, August 27, 1936.

SIR: The receipt is acknowledged of your note No. 27, dated August 17, 1936, in which you request that the appropriate Department of this Government authorize Commander James Coe Van de

⁶¹ Despatch No. 232 and telegram No. 3 not printed.

Carr and Lieutenant Commander Carl Erling Hoard, U. S. Navy (Retired), to sign contracts with the Ecuadoran Government to act as instructors at the Naval School of Ecuador.

This Department has been informed by the Navy Department that the two officers mentioned were authorized to undertake the services referred to, and that the corresponding contracts were signed on August 19, 1936.

Accept [etc.]

For the Secretary of State:
SUMNER WELLES

GOOD OFFICES OF THE UNITED STATES RESPECTING A SETTLEMENT OF THE FIRST MORTGAGE BONDS OF THE GUAYAQUIL AND QUITO RAILWAY

422.11G93/1688

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

No. 411

QUITO, June 22, 1936.

[Received June 30.]

SIR: In confirmation of my telegram No. 25 of June 20, 12 noon, 1936,⁶² reporting developments in the matter of The Guayaquil and Quito Railway Company subsequent to my despatch No. 392 of June 9 [2], 1936,⁶² I have the honor to furnish details and later developments. On Thursday morning, June 18th, Mr. Alfonso Terán, Secretary-clerk of the British Minister in Quito, was requested by the Minister of Finance to call at his office. Mr. Terán has a general authorization from the British Minister to discuss with the authorities matters relating to The Guayaquil and Quito Railway. A copy of a memorandum prepared by him giving the substance of the ensuing conversation is enclosed, together with a copy with English translation of the memorandum⁶³ furnished him by the Minister of Finance which outlines the bases for a debt settlement of the First Mortgage Bonds of The Guayaquil and Quito Railway Company.

It will be observed that the Finance Minister stated that the Government had almost terminated the civil action against the Railway; that it will be declared in bankruptcy and sold at public auction; and that as the Government owns the majority of interest it will be adjudicated to the State. Thereupon, a new company will be formed and the bondholders will be given 20% of their bonds and coupons in new bonds which will be guaranteed by the Government and with the Railway as a mortgage. The Finance Minister emphasized that the bondholders would have to accept the exchange of bonds in accordance with paragraph 2 of the memorandum on the grounds that

⁶² Not printed.

⁶³ Enclosures not printed.

the Railway will have become the exclusive property of the Ecuadorean Government and that, according to a legal opinion from the United States, a government can offer as settlement whatever amount it considers compatible with its economic resources; "that the creditors can accept or reject such an offer, but that should they reject, they will hold the obligations of a non-existing company".

Apparently Mr. Ayala, Minister of Public Works, was not in agreement with the Finance Minister and he inquired what the Government would do in the event that the bondholders rejected the offer and kept the old bonds. To this the Finance Minister replied that the bondholders would be the losers. The point was then made that the offer was not at all attractive in the absence of a cash payment. The Finance Minister then inferred that a cash payment might be feasible since he has about terminated an arrangement with an American Bank which will advance US\$10,000,000 to the Central Bank. Two representatives of the Chase National Bank are arriving in Ecuador today and it is understood that the Government will discuss with them a possible loan.

It will be noticed from the memorandum (enclosures Nos. 2 and 3) that a discrepancy exists as to whether the new bonds would cover 20% of the total amount owed, or only 20% of the face value of the principal of the bonds. In view thereof the British Minister interviewed the Minister of Finance on the afternoon of June 18, 1936, and specifically inquired as to what was the correct statement as to this point. The British Minister states that the Finance Minister unhesitatingly expressed that he meant 20% of the amount owed. The British Minister reiterated the question in the sense whether the payment would thus involve more than US\$4,000,000 in bonds of the new company, and to this the Finance Minister again said, "Yes!" However, the Minister had hardly returned to his Legation when the Finance Minister called by telephone and stated that he had made a mistake and that he was sending a corrected memorandum, a copy of which with English translation is also enclosed.⁶⁴

This memorandum contains the plan of debt settlement which the Government of Ecuador apparently is prepared to offer to the bondholders. It will be noted that the bondholders will be given bonds of the new company in the amount of 20% of the principal of the ones they now hold, or US\$2,236,380. As concerns the interests in arrears on the First Mortgage Bonds they will be given scrip in the amount of US\$235,942, one-half of which will be paid in cash upon the exchange of the coupons, and the balance six months after the issuance date of the new bonds. The interest on the Salt Certificates, amounting to US\$128,772 will be paid in cash. The new bonds will

⁶⁴ Not printed.

earn 4% interest, payable semi-annually, and will be amortized in twenty years by means of semi-annual drawings in the event that they are quoted above par, or by purchase in the open market if they are below par. These bonds will be guaranteed by a first mortgage on the Railway and the Government will constitute itself as guarantor to cover any deficit in the service. The funds necessary for the payment of the service will be obtained from a special 3% ad valorem consular invoice stamp tax, which the Government proposes to have sold and affixed to all invoices. The net profits from the operation of the Railway will be employed for extraordinary amortization of the bonds. The statement in paragraph 8 concerning the establishment of a stabilization fund is not clearly understood since the separate memorandum referred to has not been made available.

In view of the foregoing which indicated an apparent desire to prepare the stage for a unilateral debt settlement, I availed myself of the opportunity afforded by contradictory press reports to approach the Minister of Public Works who is the cabinet officer in charge of the Railway. I had a long interview with him on the afternoon of June 19th and he stated that he was not at all in accord with the plans of the Minister of Finance. He said that the latter intended to foreclose the Railway under Ecuadorean law which, it is alleged, is now permitted under the new American Federal Bankruptcy Act.⁶⁵ He added that the Finance Minister insisted that under such a foreclosure action instituted in Ecuador, the Government had the right to have the Railway delivered to it immediately, and that it would then distribute to the bondholders, whether they liked it or not, new bonds of a value of approximately US\$2,000,000. The Minister of Public Works objected to this proposal on the grounds that he considered the proposed action fraudulent and confiscatory. He remarked that the Minister of Finance is continually placing the Ecuadorean Government in a delicate position, and that this latest measure would create a very delicate situation for his Government with the United States and Great Britain. He further stated that the Minister of Finance intended to proceed without giving notice of any kind to the bondholders and, therefore, he had refused to become a party to it and would take the matter up with the President.

I gathered from this interview that the Minister of Finance intended to proceed in a precipitate manner without affording the bondholders an opportunity to protect their interests and, under the circumstances, I approached the Minister for Foreign Affairs and expressed informally my concern with regard to this procedure. The Foreign Minister assured me that the Government of Ecuador did not contemplate any procedure which would injure the rights of the foreign bond-

⁶⁵ Approved August 27, 1935; 49 Stat. 911.

holders. He added, however, that he would discuss the matter with the President and inform me later.

In the afternoon the Minister of Public Works telephoned me that he had talked over the situation with the President but that he was afraid that it was too late since the matter had advanced to a stage where the Government would be obliged to go through with the scheme. However, the Foreign Minister called me later and stated that he had been instructed by the President to assure me "that the interests of the bondholders would be protected and guaranteed". He added that the President would be pleased to confirm personally these assurances in view of which I expressed a desire to interview him on the following morning which was duly arranged.

During this interview the President made it clear that it was not the intention of the Government of Ecuador to violate its guarantee to the bondholders. Moreover, the bondholders would be legally served with notice of the proposal to the end that they could make arrangements to protect their interests. He added, however, that while the Ecuadorean Government was financially unable to meet its commitments under the bonds, it desired to reach a settlement within its financial capacity which was approximately that set forth in the proposed settlement, which had been formulated by the law firm of Carter, Ledyard and Milbourne of No. 2 Wall St., New York. In conclusion he stated that he would furnish me a memorandum, copy and translation enclosed,⁶⁶ from which I would see that the notification of the bondholders has been and is contemplated.

The memorandum in question was received on Saturday afternoon and does set forth that notice will be served on the bondholders before the auction sale is effected. However, it is apparent that the purpose of the notice is simply to conform with Article 2410 of the Civil Code of Ecuador⁶⁷ since in the absence of such notice the mortgage against the property would subsist, the State would acquire a Railway with liens, and the State, now the guarantor, would convert itself into the principal debtor.

The memorandum also reveals that those attending the meeting called on June 20 by the President were of the opinion "that the wisest thing would be to obtain the public auction of the Railway by continuing the suit instituted by the Central Bank". It is added that an executory judgment has already been rendered in this suit ordering the Railway Company to pay the amounts demanded and providing that the arrears of interest shall be determined in a summary oral hearing. According to a statement made by the Minister of Finance today this latter step has been completed and the public auction can now be petitioned.

⁶⁶ Not printed.

⁶⁷ Ecuador, *Código Civil de la República del Ecuador* (Quito, 1930), p. 539.

The penultimate paragraph of the memorandum states that "surely the State will be the only bidder since nobody would be interested in purchasing a railway whose value is less than the credit of the Republic of Ecuador (£2,364,266-10-05, US\$1,433,400) and that of the Central Bank (US\$661,200)". The obvious inference is that in distributing the proceeds of the public auction sale, these credits of approximately US\$14,000,000 would be given precedence over any other credits.

After studying very carefully the memorandum and in the light of previous information, I reached the conclusion that the plan was manifestly unethical since priority was apparently to be granted the claim of the Ecuadorean Government and the bonds purchased in the open market at default prices by the Central Bank, over those held by the foreign bondholders. However, I felt that the underlying purpose of the plan was not to obtain for the State the extinguishment of the mortgage and guarantor obligations, but rather to place the Government in a position to dictate the terms of a debt settlement which the bondholders could accept or leave, in other words, a unilateral debt settlement.

In view of these conclusions I decided that it was necessary to approach the President again in order to obtain his confirmation or correction of this understanding. Accordingly, and at the invitation of the British Minister to accompany him, I interviewed the President this afternoon. The attached memorandum⁶⁸ sets forth briefly my oral statement of my understanding of the plan of the Government and my inquiry as to the grounds on which the State and the Central Bank would be accorded priority in their claims over those of the bondholders. The President replied that obviously a misunderstanding existed since it is not the intention of the Ecuadorean Government to violate its guarantee of the mortgage bonds. He explained that the Republic of Ecuador is not in a position to fulfill its commitments under the First Mortgage Bonds and that steps now must be taken to liquidate those bonds in accordance with the financial capacity of the country. He stated that the Government proposed to conclude the prosecution of the Central Bank suit and then to petition the public auction of the Railway and its properties. However, the Government at no time will repudiate or extinguish its guarantor obligations, but after the auction it will offer the bondholders the settlement already referred to. In answer to an inquiry as to whether the claims of the Government, totaling approximately US\$14,000,000, would be the bases for the minimum bid at the public auction, the President replied that the procedure under Ecuadorean law is to appoint two experts to evaluate the Railway and that the minimum acceptable bid must be

⁶⁸ Not printed.

a cash offer of two-thirds of that evaluation. He added that the Government has two prior claims against the Railway, namely, the Prior Lien Mortgage Gold Bonds issued by the Railway in February, 1909 (US\$2,486,000), and the Ecuadorean Government Salt Bonds issued at the same time (US\$1,075,000), both of which issues were subsequently redeemed by the Government itself. The precedence of the remaining claim of the Government and of the Central Bank will be determined in accordance with Ecuadorean Law, but it will not have priority over the bondholders. He also stated that the Government now owns 48% of the outstanding bonds. The President agreed to furnish me tomorrow a complete memorandum setting forth the plan and explaining the points which are now obscure.

I gather that it is the intention of the President to attempt to reach an amicable settlement with the bondholders, based on the financial capacity of Ecuador. However, it also appears that if the bondholders are intransigent, the legal set-up will be such that they will have no alternative. However, I shall refrain from making any recommendation in the premises until I have received the memorandum which the President has promised to furnish me.

Respectfully yours,

ANTONIO C. GONZALEZ

422.11G93/1689

The Executive Vice President and Secretary of the Foreign Bondholders Protective Council, Inc. (Francis White) to the Chief of the Division of Latin American Affairs (Duggan)

NEW YORK, July 3, 1936.

[Received July 6.]

DEAR MR. DUGGAN: I have received your strictly confidential letter of June 30th ⁶⁹ (LA 422.11 G 93/1686) with reference to the question of a possible settlement of the First Mortgage Bonds of The Guayaquil and Quito Railroad.

I very much appreciate your courtesy in sending the Council this full information.

The disturbing element in the matter is the apparent disposition on the part of the Ecuadoran authorities to ignore the American bondholders.

The Guayaquil and Quito Railroad is an American company and its bonds are dollar bonds. It seems likely that approximately half of these are held by British investors. It is true that there are three American bondholders who hold large blocks, but there are many other American bondholders as well. If the Ecuadoran Government

⁶⁹ Not printed.

concludes an agreement with the British Minister regarding these bonds and then that arrangement is offered to the American bondholders either to accept or reject, the maximum amount to be assigned to the service of these dollar bonds and other details with regard thereto would have been determined without consulting the American bondholders concerned. This would seem to be grossly unfair and discriminatory against these holders. I, therefore, venture to hope that the Department will be so good as to instruct the Legation at Quito to make representations in the above sense.

We have recently had experience with the British where they have made settlements regarding sterling bonds without consultation with the representatives of American bondholders although a similar proposal was to be made for another sterling loan of which a *tranche* was sold in this market to American investors. In the case of the Province of Buenos Aires you will remember an agreement was concluded with the sterling bondholders and a similar settlement was sought to be imposed upon the dollar bondholders, without their having much to say in the matter. It is going one step further, however, for the British Minister to negotiate a settlement on dollar bonds of an American Company guaranteed by a foreign government to the exclusion of the American bondholders, and I trust that the Department will take such steps as may be necessary to see that this is not done and that an agreement is made only in consultation with representatives of American bondholders.

With many thanks for your help in this matter, I am,

Faithfully yours,

FRANCIS WHITE

422.11G93/1688 : Telegram

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

WASHINGTON, July 7, 1936—2 p. m.

23. Reference your despatch 411, June 22, 1936. Please seek an early interview with the Minister for Foreign Affairs and say to him that it is the long-established policy of this Government to consider difficulties in regard to governmental securities held by Americans as primarily matters for direct discussion and settlement between the holders thereof acting through agencies of their own choice, and the governments which have issued the obligations. To provide a disinterested central organization to represent American holders of foreign securities, the Foreign Bondholders Protective Council, a non-profit making organization, was formed in 1933 with the encouragement of this Government.⁷⁰

⁷⁰ See section entitled "Organizing the Foreign Bondholders Protective Council," *Foreign Relations*, 1933, vol. I, pp. 934 ff.

This Government, when suitable opportunity appears to offer, lends its good offices to facilitate discussions between interested parties. In accordance with this policy, and in view of the consideration which the Ecuadoran Government is now giving to the matter of the Guayaquil and Quito Railway Mortgage Bonds, you should state that your Government expresses the deep hope that the Ecuadoran Government will consult with the Council and receive its views prior to presenting any settlement to the bondholders.

In this relation please refer to diplomatic serials Nos. 2386 of June [*January*] 3, 1934,⁷¹ and 2661 of May 11, 1936, and mimeographed instruction of June 10, 1936.⁷²

Please report results of your conversation briefly by telegram.

HULL

422.11G93/1690 : Telegram

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

QUITO, July 10, 1936—noon.

[Received 10:58 p. m.]

29. Referring to Department's telegram No. 23, July 7, 2 p. m., the Minister for Foreign Affairs recognized unqualifiedly the reasonableness of our position but as he was unfamiliar with recent developments he referred me to the Minister of Public Works who is also Acting Minister of Finance. The latter is in accord with the hope expressed and he will discuss the matter in that light with the President today.

GONZALEZ

422.11G93/1691 : Telegram

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

QUITO, July 10, 1936—6 p. m.

[Received (July 11?)—10:15 a. m.]

30. Referring to my telegram No. 29, July 10, noon, the President informed me that he today telegraphed Sherwell of the Manufacturers Trust Company to confer immediately with the council and that he has suspended all proceedings pending the results of the consultation. He added that he desires to reach an amicable settlement and that he is convinced that this is feasible provided the bondholders are willing to accept the best terms that Ecuador can offer.

⁷¹ *Foreign Relations*, 1933, vol I, p. 939.

⁷² No. 2661 of May 11 and instruction of June 10 not printed.

Undoubtedly the recent resignation of Avilés has removed the cause for concern as to precipitate action. However, it has not lessened the determination of the President to dispose of the question at this time on the basis of Ecuador's financial capacity. It is my opinion that the council should bear this in mind in its discussions.

GONZALEZ

422.11G93/1708

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

No. 446

QUITO, July 16, 1936.

[Received July 27.]

SIR: With reference to the Department's telegram No. 23 of July 7, 2 p. m., 1936, concerning the position taken in connection with the Foreign Bondholders Protective Council in New York, and to my conversational comment despatch No. 437 of July 10, 1936,⁷³ in which I reported conveying to the Minister of Foreign Relations and the Minister of Public Works the substance of the Department's said instruction, I have the honor to state that an article appeared in the local newspaper, *El Comercio*, of the 15th instant, relative to further steps having been taken by the Banco Central against The Guayaquil and Quito Railway Company, a translation of which is enclosed.⁷⁴

In view of the fact that the *Jefe Supremo* himself had given me to distinctly understand that all proceedings would remain in *status quo* until the Foreign Bondholders Protective Council in New York had been consulted, I deemed it advisable to discuss the matter today with the Minister of Public Works, who is the cabinet officer in charge of the Railroad. As he was not available I called on the *Jefe Supremo* to exhibit to him the article above mentioned and to verify my understanding of his agreement in the matter.

He read the article and stated that, of course, the Central Bank owned some bonds as well as the Government. I responded that, according to the memorandum submitted to me by him through the Minister of Public Works, it did not appear that the Central Bank was in fact the owner of any bonds but that they all belonged to the Government. He stated that he himself, in addition to the telegrams heretofore sent to Mr. Sherwell of the Manufacturers Trust Company, had stated that nothing would be done detrimental to the rights of the Bondholders and that the Ecuadorean Minister in Washington⁷⁵ had conferred with Secretary Welles⁷⁶ in the matter and had expressed this to him. I informed the *Jefe Supremo* that my understanding of

⁷³ Latter not printed.

⁷⁴ Not printed.

⁷⁵ Colón Eloy Alfaro.

⁷⁶ Sumner Welles, Assistant Secretary of State.

the conversation had been that all proceedings would remain in *status quo*; that I had furnished this information to the State Department showing the desire of the Ecuadorean Government to comply with the suggestion made in the recent telegram; and that it did not seem to me that the action taken the day before yesterday by the Central Bank was in accord with this agreement. The *Jefe Supremo* stated that if I had so understood him he would communicate immediately with the Attorney General and direct that all proceedings be suspended until the Foreign Bondholders Protective Council had had an opportunity to be consulted and to express their opinion in the matter, instead of proceeding as heretofore and then advising the bondholders of the result. He added that he was in fact just writing to Minister Alfaro and that he would request him to notify Secretary Welles that all matters would be left in *status quo* under the agreement.

Respectfully yours,

ANTONIO C. GONZALEZ

422.11G93/1711 : Telegram

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

WASHINGTON, July 27, 1936—6 p. m.

27. By airmail instruction⁷⁷ Department is sending a copy of a memorandum⁷⁸ of conversation between officers of the Department, the Ecuadoran Minister and Mr. Sherwell, a representative of the Manufacturers Trust Company of New York. Mr. Sherwell stated that he had received word from the Ecuadoran Government that this Government had lodged a protest with the Government of Ecuador concerning the proposed settlement of the Guayaquil and Quito Railway bonded indebtedness. The Department informed the Minister and Mr. Sherwell that it was not aware that you had made any protest and gave them the gist of the Department's telegraphic instruction No. 23 of July 7. Unless the Ecuadoran authorities themselves should raise the matter it is not believed advisable that any further observations be made by you without previous instructions from the Department.

HULL

422.11G93/1718

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

No. 457

QUITO, July 28, 1936.
[Received August 4.]

SIR: With reference to the Department's telegram No. 27 of July 27, 6 p. m., 1936, concerning a conversation between officers of the Department and the Ecuadorean Minister and Mr. Sherwell, a representative

⁷⁷ Instruction No. 157, July 28, not printed.

⁷⁸ Not printed.

of the Manufacturers Trust Company of New York, I have the honor to confirm my telegram of today No. 35, July 28, 12 noon, 1936,⁸⁰ to the effect that the information conveyed to the Department by Mr. Sherwell that I had lodged a protest was incorrect. I added that, as I had stated in my despatch No. 437 of July 10, 1936,⁸⁰ my action in this particular case had been limited to a statement of the Department's policy and an expression of the hope that the Ecuadorean Government would consult with the Council prior to presenting any settlement.

In view of the fact that a misunderstanding appears to exist, I venture to report more fully the steps taken by me in conveying to the Ecuadorean Government the substance of the Department's telegraphic instruction No. 23 of July 7, 2 p. m., 1936. With the very end in view of avoiding any possible misunderstanding as to our position, I prepared a memorandum setting forth the substance of the Department's telegram, copy enclosed,⁸⁰ which I permitted the Minister for Foreign Affairs and also the Minister of Public Works to read, but without leaving a copy. The Department will observe that the memorandum contains only a statement of the policy of the American Government with respect to difficulties arising in regard to government securities held by Americans, and an expression of the deep hope of the American Government that the Ecuadorean Government would consult with the Foreign Bondholders Protective Council and receive its views prior to presenting any settlement to the bondholders. Moreover, the note of the Minister for Foreign Affairs of July 18, 1936, a copy of which was transmitted with my despatch No. 452 of July 21, 1936,⁸⁰ indicates conclusively that the Government of Ecuador understood fully and correctly our position. Under the circumstances I am at a loss to explain on what grounds Mr. Sherwell could possibly have based his statement that we had lodged a protest with the Ecuadorean Government concerning the proposed settlement of the Guayaquil and Quito Railway bonded indebtedness. In the light of the foregoing it would appear unnecessary for me to reassure the Department that I lodged no such protest.

Respectfully yours,

ANTONIO C. GONZALEZ

422.11G93/1714 : Telegram

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

QUITO, July 29, 1936—8 a. m.

[Received July 30—12:55 a. m.]

37. I was formally notified yesterday evening that the President had issued orders to continue prosecuting the suit against the railway.

⁸⁰ Not printed.

As this was contrary to the assurances given me that all proceedings would remain *in statu quo* pending consultation with the Council reported in my despatch No. 446, July 16, I requested further information. The President stated that the Ecuadorean Minister had reported that the Department of State perceived no objection to continuing the suit.

An opinion of the Attorney General forwarded with my despatch No. 454 of July 25st confirms my belief that this will permit throwing the railway into bankruptcy; that in the certain absence of a bidder at the auction sale the railway will be adjudicated to the mortgage creditors holding judgments; and that the claims of the bondholders not parties to the suit will be extinguished.

Then the Government may offer *ex gratia* in discharge of its moral obligation as guarantor the settlement it considers expedient.

How far the foregoing may be carried into execution I cannot say but with Avilés again actively engaged in directing proceedings, I am concerned. Minister of Public Works informed me that this new development is a source of surprise and embarrassment to him and he expressed an apprehension that the Ecuadorean Minister has misunderstood the Department. Instructions are urgently requested.

GONZALEZ

422.11G93/1716 : Telegram

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

QUITTO, July 31, 1936—11 a. m.

[Received 4:23 p. m.]

38. Referring to Legation's telegram No. 37, July 29, 8 a. m., Minister of Public Works informed me this morning that the President has instructed him to proceed with the suit but that he is withholding action pending confirmation from me that the Department indicated to Ecuadorean Minister that it has no objection thereto.

GONZALEZ

422.11G93/1714 : Telegram

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

WASHINGTON, August 1, 1936—1 p. m.

28. Your 37, July 29, 8 a. m. The Department had held a further conversation with the Ecuadorean Minister and has again laid before him the desirability of consultation with the Foreign Bondholders

^a Not printed.

Protective Council in connection with any proposal for the settlement of the default of the Guayaquil & Quito Railway. The Department endeavored to impress the Minister with the fact that it would be in the interest of his Government for the FBPC to be in a position to recommend to the bondholders acceptance of any settlement which it might find itself unable to do if confronted by a *fait accompli* in important particulars. In this connection specific reference was made to the suit of the Banco Central against the Railway, but no request was made of the Minister that the Government refrain from continuing the suit.

The FBPC has been apprised of the contents of the note from the Minister of Foreign Affairs transmitted by your despatch 452 of July 21,⁸² requesting the Council to appoint a representative to discuss the Railway matter with the Government.

HULL

422.11G93/1717 : Telegram

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

WASHINGTON, August 4, 1936—2 p. m.

29. Department's 28, August 1, 1 p. m. Please transmit the following message from the Foreign Bondholders Protective Council to the appropriate Ecuadoran authorities:

"The Foreign Bondholders Protective Council, Inc., has learned with great satisfaction that the Government of Ecuador is prepared to discuss with the Council an adjustment of the matters concerning the Guayaquil and Quito Railway Company. The Council wishes to express its appreciation of this decision of the Ecuadoran Government. The Council regrets it must say that it is not possible for the Council to send a representative to Ecuador to carry on its negotiation and the Council has no one already in Ecuador whom it might appoint as its representative. In view of the foregoing the Council ventures to suggest that the Government of Ecuador be good enough to designate someone in the United States with whom the Council might carry on the negotiations. The Council will approach these negotiations with no desire other than to reach an adjustment which shall be fair and equitable both to the government and the holder of the company's securities."

Please send by telegraph for transmission to the Council the reply of the Ecuadoran Government.

HULL

⁸² Not printed.

422.11G93/1726

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

No. 472

QUITO, August 4, 1936.

[Received August 14.]

SIR: I have the honor to refer to the Department's telegram No. 28 of August 1, 1 p. m., 1936, informing me of the substance of a further conversation held with the Ecuadorean Minister in Washington concerning The G. & Q. Railway. It is noted that the Ecuadorean Minister was informed that if the Council were in a position to recommend to the bondholders the acceptance of a settlement, it would be in the interests of the Ecuadorean Government, whereas were the Council confronted by a *fait accompli* as concerns important particulars, it might then find itself unable to recommend acceptance.

In view of the fact that the Minister of Public Works had informed me that he would withhold action in the matter of continuing the suit against the Railway pending confirmation from me that the Department had indicated to the Ecuadorean Minister that it perceived no objection thereto, as reported in my telegram No. 38 of July 31, 11 a. m., 1936, and that the Ecuadorean Minister had not yet reported to his Government the substance of his further conversations with the Department when an endeavor was made to correct this impression, I deemed it necessary to bring this information to the attention of the Minister of Public Works yesterday. I prepared the attached memorandum⁸³ which I permitted him to read, but I left no copy of it with him. The Department will observe that I simply added that a situation might develop as a result of the continuation of the suit which would be incompatible with the friendly consultation with the Council looking to an amicable settlement of this long-standing problem. My primary purpose was to point out that if such a situation arose it would nullify the Government's desire to seek an amicable settlement through consultation with the Council. I made no request of him that his Government should desist in the suit.

The Minister of Public Works told me that he would take up the matter with the President. He advised me today that he had not had an opportunity to go into the matter thoroughly with the President, but he intimated that the latter was convinced from reports received from the Ecuadorean Minister in Washington and Mr. Sherwell of the Manufacturers Trust Company that the Department had no serious objection to the prosecution of the suit and, furthermore, that

⁸³ Not printed.

bankruptcy proceedings were the only possible solution of the problem. He agreed to inform me as soon as he had more definite information on the subject.

Respectfully yours,

ANTONIO C. GONZALEZ

422.11G93/1727

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

No. 473

QUITO, August 4, 1936.

[Received August 14.]

SIR: With reference to the Department's cable No. 29 of August 4, 1936, relative to the Guayaquil and Quito Railway Company bond settlement, I delivered this morning to the Under Secretary of Foreign Relations, Dr. Arroyo, my note (copy enclosed)⁸⁴ setting forth said cable and requested that I be furnished information as soon as possible concerning it in order to telegraph the Department. He stated that in his opinion the plan suggested was a perfectly fair one, and one which his Government should take advantage of accepting.

I then called on the Minister of Public Works whose Ministry presides over the Railway and I gave him a copy of said note which he read. He stated that at a joint meeting held yesterday with the President by himself, the Ministers of Foreign Relations and of Hacienda, the President exhibited various letters addressed to him by the Ecuadorean Legation at Washington and other letters had between the Legation in Washington and the Ex-Minister of Hacienda. The Minister of Public Works stated that from these letters it was clearly shown that meetings had been had by the Ecuadorean Minister with the Chief of the Latin American Division, Mr. Laurence Duggan, and that the latter had stated that handbills had been unofficially sent to the various bondholders stating that the Government of the United States would not be able to make any direct representations in connection with their holdings since that was a matter for them to deal directly with the Government of Ecuador, or through the Foreign Bondholders Protective Council; also that it had been stated by Mr. Duggan that the Bondholders Protective Council was in no position to force the respective bondholders to deal through it; that it was only a voluntary matter for them to decide as to whether they would or not; and that it had been intimated by Mr. Duggan that he could see no objection to the continuation of the suit by the Government or that it would affect the interests of the bondholders either one way or another. Under these circumstances the President appeared, at the meeting held yesterday, to be determined to continue with the

⁸⁴ Not printed.

suit and further expressed the belief, basing his opinion upon the alleged opinion from the New York lawyers, that upon the liquidation of the Railway and the Government taking it over that not only all stock interests but also all the bond interests would be extinguished, as well as the guarantee made by the Government to service and/or pay the Railway bonds if in default.

In view of the foregoing, the Minister of Public Works did not believe that much could be done to change the opinion of the President in his desire to proceed but, however, he would confer further with him today as well as with the Minister of Foreign Relations and at the same time present our note of even date. He further stated that the State Department had conferred with Mr. Hewitt in the matter and that it seemed as if nothing could be done with him as he had exaggerated demands and, therefore, it was not believed that a settlement could be made in view of this obstacle; or with the British bondholders who the Ecuadorean Government understood from other sources, were dealing with the matter entirely along legal lines, and hence it was useless to send anyone to London to negotiate with the British bondholders for any amicable settlement since they would constantly bring up legal arguments and any settlement contemplated along amicable and practical lines could not be accomplished with the interjection of legal principles.

The Minister of Public Works stated that he would advise me later in the day so that I could advise the State Department.

Respectfully yours,

ANTONIO C. GONZALEZ

422.11G93/1719 : Telegram

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

QUITO, August 5, 1936—5 p. m.

[Received August 6—10:40 a. m.]

40. With reference to the Department's telegram No. 29, August 4, 1 [2] p. m., I delivered Council's message this morning but I fear that it will receive unfavorable action. Consultation is favored by the Minister for Foreign Affairs and the Minister of Public Works but the matter is entirely in the hands of the President who has been convinced by the Ecuadoran Minister and Sherwell that the Council is a nonentity without any authority; that Hewitt, the largest American holder, is intransigent and will not consider a reasonable settlement; that the British Council will approach the question only from a legal point of view; and that under the circumstances the only solution is bankruptcy proceedings under which, according to alleged opinion of the American attorneys, the stock bond and guarantor obligations would be extinguished. I have just been informed that the

President has determined to continue bankruptcy proceedings immediately.

It is my opinion that these proceedings concern only the obligations of the railway and that the guarantor obligation can be extinguished solely by fulfillment, mutual agreement or similar proceedings against the Government. An opinion to that effect and an expression of a fear that the grounds are now being laid for a future claim might possibly deter the President.

GONZALEZ

422.11G93/1730

Memorandum of Conversation, by the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] August 6, 1936.

I had a further talk with the Ecuadoran Minister about the Guayaquil & Quito Railway matter. I informed the Minister that further information from our Legation at Quito indicated that the Ecuadoran Government has determined upon continuing bankruptcy proceedings at once, and inquired whether the Minister had any information in the premises. Captain Alfaro said he did not, but that he had requested specific information on this point in a letter which the President should have August 8. He said that in his letter he had requested a telegraphic reply and would inform the Department immediately upon its receipt of its nature.

I reiterated my belief that the Ecuadoran Government would probably wish to consider the advisability of taking action prior to consultation with the Bondholders Council, stating that I assumed the Government would wish to have the recommendation of the Council for any settlement it might offer to the bondholders, which might not be forthcoming if the Council were to be presented with a *fait accompli* in one important particular. Captain Alfaro understands this point of view, I believe, and said that he would communicate further with his Government.

In passing I mentioned that I would communicate to the Council the information that the Government proposes to send Señor Avilés, former Minister of Finance, to New York to discuss the matter. Captain Alfaro requested me to defer doing this until he received a reply to a further telegram he had sent inquiring as to when Señor Avilés might be expected. He said that there have been so many false starts that he would prefer that the Council not be advised until definitely assured that Señor Avilés is coming.

LAURENCE DUGGAN

422.11G93/1732

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

No. 476

QUITO, August 12, 1936.

[Received August 18.]

SIR: I have the honor to confirm my telegram No. 41 of August 11, 7 p. m., 1936,⁸⁵ reporting that no steps appear to have been taken by the President of the Republic to continue the bankruptcy proceedings against The Guayaquil and Quito Railway Company, notwithstanding that the Minister of Public Works informed me on the evening of August 5th that the President had then determined and directed the immediate continuation of those proceedings.

Inasmuch as I have carefully avoided making any reference to the subject, I am unable to explain the exact significance of this inactivity upon the part of the Government. It is possible that the President has delayed the continuation of the suit awaiting further information from the Ecuadorean Minister in Washington and Mr. Sherwell of the Manufacturers Trust Company of New York. On the other hand, the attention of the Government has been fully occupied during the past week with financial matters in connection with the recent establishment of a system of exchange control and the licensing of imports. I would add parenthetically that this measure is encountering resistance and that the corresponding regulations for its enforcement have not yet been issued. The Ecuadorean national holidays have also interrupted the conduct of Government business. The occasion was availed of by the commercial, industrial and agricultural interests of the country to manifest to the Government their adherence to the Lima Agreement providing for the immediate negotiation in Washington of the boundary question.⁸⁶

However, I am inclined to believe that the matter of money is at least in part responsible for the apparent delay in the continuation of the legal proceedings. In my despatch No. 447 of July 16, 1936,⁸⁵ I reported that the sum of 50,000 sucres, equivalent to US\$5,000, had been appropriated for the expenses of the Manufacturers Trust Company in connection with the settlement of the Railway debt. On the morning of August 7th the Minister of Public Works informed me that the Government had just received a further request for US\$5,000 for Mr. Sherwell and of US\$20,000 for the attorneys in New York. While these amounts are small, they are important items in Ecuador. In view thereof it may be that the President is endeavoring to check up on certain details of the plan, especially with relation to the

⁸⁵ Not printed.

⁸⁶ See pp. 106 ff.

eventual cost to the Government of the services of Mr. Sherwell and the American attorneys.

I also reported in my telegram under reference that the British Minister in Quito, acting under instructions from his Government, was expressing the earnest hope that Ecuador would consult with the British Foreign Bondholders Council. This was communicated today in a formal note to the Ecuadorean Minister for Foreign Affairs. The Minister added that in the opinion of His Majesty's Government the continuation of the suits against the Railway of the Central Bank and the Government would seem inopportune at this time. He availed himself of the occasion to express the satisfaction of his Government that Ecuador is giving serious consideration to the matter, but that it was also concerned because of the statements of the former Finance Minister, Mr. Avilés, to the effect that the object of the scheme was to oblige the bondholders to settle.

With reference to my despatch No. 473 of August 4, 1936, relative to the message of the Foreign Bondholders Protective Council communicated to the Foreign Minister, I have the honor to report that no reply has as yet been made. I assume that this question is being considered in connection with the Government's general policy towards the Railway.

Respectfully yours,

ANTONIO C. GONZALEZ

422.11G93/1735b

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

No. 171

WASHINGTON, August 26, 1936.

SIR: There are enclosed, for your confidential information, copies of a memorandum⁸⁸ of a conversation with Mr. Walter H. Merritt,⁸⁹ regarding the Guayaquil and Quito Railway Company bond case, and of the Department's letter to Mr. Merritt.

Upon Mr. Merritt's arrival in Quito, you will please extend to him all proper assistance in his effort to obtain complete and accurate information regarding the present status of the case referred to. In view of the well-established policy of this Government regarding defaulted foreign securities,⁹⁰ as set forth in the Department's circular instruction of May 11, 1936, (Diplomatic Serial No. 2661),⁸⁸ the Department desires that you confine such assistance principally to helping Mr. Merritt meet people who are in a position to give him the

⁸⁸ Not printed.

⁸⁹ Attorney representing bondholders.

⁹⁰ See section entitled "Policy of the Department of State With Respect to Defaulted Foreign Securities Held by American Citizens," pp. 149 ff.

information he desires. You will not, therefore, take any other action regarding this matter without consulting the Department.

You will also advise the American Consul General at Guayaquil of Mr. Merritt's arrival and repeat to him the instructions contained in the preceding paragraph.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

422.11G93/1737

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

No. 514

QUITO, September 2, 1936.
[Received September 11.]

SIR: With reference to my despatch No. 473 of August 4, 1936, transmitting a copy of my note to the Foreign Office which embodies the message of the Foreign Bondholders Protective Council suggesting that the Government of Ecuador designate someone in the United States with whom the Council might carry on negotiations, I have the honor to report that in view of the statement made by the President to the British Minister to the effect that Mr. Avilés would proceed to London via New York, but that he would not negotiate with the American bondholders, I deemed it desirable to endeavor to remove, if possible, any limitation as to authority or intention with respect to discussions with the American bondholders.

This afternoon in a conversation with the Foreign Minister in connection with the Department's telegram No. 30 of September 1, 2 p. m., 1936,⁹¹ the opportunity was afforded me to refer to the fact that Mr. Avilés had presented at the Legation for legalization the authorization of the President conferring authority upon him to negotiate with the bondholders in the United States as well as in England. I suggested to General Chiriboga that in view of this authority it would now seem possible to reply to the Legation's note on this point so that it, in turn, could inform the Foreign Bondholders Protective Council of the forthcoming visit to New York of Mr. Avilés. The Foreign Minister replied that the note under reference had been transmitted to the respective Ministry, but in view of this recent action by the President he thought that a reply could now be made. He added that he would take up the matter immediately with the President.

While the written authorization of the President to Mr. Avilés (see enclosure No. 4 of my despatch No. 513⁹¹) contemplates negotiations with the American as well as the British bondholders, it is quite evident from the British Minister's conversation with the President that Mr. Avilés intends to conduct his negotiations only with the British

⁹¹ Not printed.

Council. Under the circumstances I consider that a favorable reply at this time to the Legation's note should serve to prevent an embarrassing situation. This is the purpose I had in mind when I suggested to the Foreign Minister that, in view of the authorization granted to Mr. Avilés, his Government might now be prepared to reply.

Respectfully yours,

For the Minister:
EDWARD J. SPARKS
Secretary of Legation

422.11G93/1949

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 610

QUITO, November 26, 1936.

[Received December 4.]

SIR: I have the honor to refer to my despatch No. 604 of November 17, 1936,²² reporting my conversation with the Minister of Public Works relative to the news items which appeared in the local press indicating an intention upon the part of the Ecuadorean Government and the Central Bank of Ecuador to press the lawsuits pending against The Guayaquil and Quito Railway Company. The Minister of Public Works stated at that time that he was unaware of any change in the policy of the Government with respect to those suits or of any intention to take action pending the termination of the mission of Mr. Avilés looking to a settlement of the controversy. He added that if he learned anything in the matter he would immediately communicate with me.

This morning Mr. Ayala called me by telephone and stated in connection with our conversation the other day that the matter of the Railway is now entirely in the hands of the President. I can only interpret this message to mean that the President is contemplating some action contrary to the point of view of his Minister of Public Works. I intend to endeavor to make an occasion within the next few days when I may have an opportunity to elicit some information informally from the President with regard to his plans.

Respectfully yours,

EDWARD J. SPARKS

422.11G93/1954

The Chargé in Ecuador (Sparks) to the Secretary of State

No. 639

QUITO, December 18, 1936.

[Received December 28.]

SIR: With reference to my despatch No. 610 of November 26, 1936, concerning the activities of the Ecuadorean Government in the matter

²² Not printed.

of the suit brought by the Central Bank of Ecuador against The Guayaquil and Quito Railway Company, I have the honor to report that *El Comercio* of December 16, 1936, carried an item relative thereto. The headlines would indicate that orders have been issued "to suspend the embargo of the properties of the Railway". However, the body of the item explains that after the embargo had been decreed, proceedings were instituted to enforce it and to liquidate the judgment credit, and that the suit had advanced to the point of evaluating the embargoed property. However, *El Comercio* is now informed that when these latter proceedings were about to be concluded, the Government ordered their suspension until further orders.

An opportunity has not been afforded me to obtain official information on this reported development. However, it is probable that the decision of the Government to suspend proceedings temporarily is due in part to the negotiations for a settlement of the Railway debt that Mr. Avilés is now carrying on in London, and possibly to some development in the negotiations for the same purpose that Mr. Sherwell apparently is conducting with the bondholders in New York in representation of the Manufacturers Trust Company of New York. In any case, this suspension will remove temporarily the possibility of precipitate action by the Government, and may be indicative that a serious attempt is now being made to reach an amicable settlement of this vexatious problem.⁹³

Respectfully yours,

EDWARD J. SPARKS

⁹³ No part was taken by the Department of State in subsequent negotiations.

EL SALVADOR

NEGOTIATIONS RESPECTING A RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND EL SALVADOR¹

611.1631/138a

The Secretary of State to the Minister in El Salvador (Corrigan)

No. 201

WASHINGTON, February 27, 1936.

SIR: The Department is giving consideration to the possibility of making a matter of record in some way, in connection with the proposed trade agreement with El Salvador, the concessions which the latter will enjoy by virtue of generalization of concessions made by the United States in other trade agreements but which cannot for reasons of policy be included in Schedule II² of the agreement. For your information, a product cannot ordinarily be considered for inclusion in Schedule II unless the country concerned is the chief or an important supplier of the product to the United States. In cases where a commitment on an article has already been made by this Government in another agreement, such commitment cannot ordinarily be written into a second agreement unless there is adequate trade justification.

The Department has been aware of the difficulty in the pending trade agreement negotiations with the Latin American Republics of finding products which can be, consistent with the policy outlined above, included in Schedule II. The fact that such products are limited in number (with most of them on the free list) may affect the negotiations unfavorably or perhaps later militate against Congressional ratification.

The suggestion has been made, therefore, that in connection with the pending negotiations with the Latin American Republics notes be prepared by this Government which will list those concessions of interest to each of the other Governments selected from other trade agreements but which cannot be written into Schedule II of the agreements because of failure to meet the requirements referred to above. The purpose of such notes would be to further the success of the negotiations and after their conclusion, to aid in obtaining Congressional ratification. It would be primarily an accommodation to the various Governments with which we are negotiating.

¹ Continued from *Foreign Relations*, 1935, vol. iv, pp. 539-568.

² Tariff rates conceded by the United States on Salvadoran products imported into the United States.

On the basis of its studies so far, the Department is not entirely convinced of the necessity of sending such a note. Before deciding the matter definitely, however, it wishes to learn the opinion of the various missions concerned. You are therefore requested to report fully on this subject, emphasizing whether or not you believe that the negotiations which you are now conducting with the Salvadoran Government would be materially influenced by the plan under consideration.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.1631/139

The Minister in El Salvador (Corrigan) to the Secretary of State

No. 615

SAN SALVADOR, March 4, 1936.

[Received March 11.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 201, of February 27, 1936, requesting an expression of opinion as to the advisability of pointing out to the Salvadoran Government, by note, in connection with the trade agreement negotiations, the advantage which would accrue to it from the generalization of the concessions granted in trade agreements already signed.

As the Department is aware, the first study of the suggested Schedule I,³ made by Doctor Alfonso Rochac, pointed out that coffee was El Salvador's principal export; that it entered the United States free of duty; that under the Trade Agreements Act,⁴ the President had no authority to change any commodity from the free to the dutiable list; that even if coffee were subjected to import duties, by Congressional action, continued free entry had been granted other countries (Brazil) in trade agreements already signed; and that similar treatment was insured to El Salvador through the most-favored-nation clause of the Treaty of Friendship, Commerce and Consular Rights, signed in San Salvador on February 22, 1926⁵ (Treaty Series No. 827.).

While the Salvadoran Government has indicated its willingness to sign a trade agreement, its attitude has been that such action would be a gesture of good will, rather than in order to insure positive commercial advantages to El Salvador. In the conversations now being conducted with the Undersecretary of Finance, Doctor Max. P. Brannon, relative to Schedule I, there has been a tendency to grant unimportant concessions grudgingly; and to withhold concessions on nearly all the important items, for example, wheat, flour, lard, cotton piece

³ Tariff rates conceded by El Salvador on American products imported into Nicaragua.

⁴ Approved June 12, 1934; 48 Stat. 943.

⁵ *Foreign Relations*, 1926, vol. II, pp. 940, 943.

goods, et cetera. While the conversations are still continuing, Doctor Brannon's attitude is one of giving ear, but not serious consideration, to the other factors to be considered; the atmosphere being that he is not willing to be convinced, nor seriously to consider the possibility that reduced duties will result in increased imports to such an extent as to offset the possible loss of revenue. His position is also that of refusing any concession when the question of protection of any Salvadoran industry is concerned; no matter how unimportant or uneconomic the industry, or the amount of protection (sometimes excessive) now granted.

It is consequently considered that the submission of a note, pointing out the advantages which will accrue to El Salvador through generalization of the concessions already granted in trade agreements signed up to this time, would be of material assistance in obtaining further and important concessions, not only in discussion of the matter with Doctor Brannon, but also in conversations with the President.

Respectfully yours,

FRANK P. CORRIGAN

611.1631/142

The Minister in El Salvador (Corrigan) to the Secretary of State

No. 637

SAN SALVADOR, March 26, 1936.

[Received April 2.]

SIR: I have the honor to refer to the Legation's despatch No. 618 of March 5, 1936,⁷ on this same subject, and particularly to the last paragraph thereof, reporting that President Martínez had promised to arrange an interview with the Minister, and to concede sufficient time for a thorough discussion of the various items covered by the tentative Schedule I (forwarded with the despatch under reference), before the Government should make a final decision relative to the concessions to be granted.

The conversations with the Ministry of Finance have reached the point where very little in the way of further concessions is to be expected; and according to the Report of the Ministry read to the Legislative Assembly on March 19, 1936, (covered by despatch No. 633 of March 25 [23], 1936 from this Legation⁷), Minister Samayoa is opposed to the principle of most-favored-nation treaties. In the circumstances, it appeared desirable to discuss the present status of the negotiations with the President.

Minister Corrigan, accompanied by Secretary Cochran,⁸ went by appointment to the Casa Presidencial on the morning of March 24th, and in a lengthy interview with President Martínez, reviewed Sched-

⁷ Not printed.

⁸ William P. Cochran, Jr., Third Secretary of Legation.

ule I item by item. Certain further concessions were accepted by the President, with the proviso that they be referred back to the Ministry of Finance for approval.

As the Department is aware, every problem in El Salvador is considered by the Government primarily from a political angle; and the President was quite frank in explaining that his inability to grant certain concessions, which appear desirable on purely economic grounds, was due to political considerations. For example, the concession requested on dried milk is of relative unimportance to the economy of the country. The President pointed out, however, that the economic condition of the dairy farmers is bad, and that they would oppose and resent any reduction of the duty on dried milk, however small its actual importance. Another complicating factor, to the President, is the evil of smuggling from the neighboring countries of Guatemala, Honduras and Nicaragua, if Salvadoran tariff rates are too high in relation to the duties applied by those countries. He expressed a desire to study the duties applied, in those countries, to the items included in Schedule I, before making a final decision as to the concessions which El Salvador may grant. Steps have been taken to obtain this information from our Missions in those countries, and a table will be prepared for the President's consideration.

A pleasant feature of the interview was the friendly spirit and obvious desire to cooperate which the President manifested during the conversation. His actual concessions were made with extreme caution, and he was obviously actuated by a fear that the possible loss of revenue might upset the present economic balance of the country's and the Government's finances.

Negotiations with regard to Schedule I are now apparently drawing to a close, although study of the tariff rates of the contiguous countries will be a necessary preliminary to completion thereof. The time required to obtain this information will bring us to Holy Week when, as the Department is aware, all government offices are closed, and nothing can be accomplished.

Two details arose on which the Department's advice is requested. While the President considered it impracticable to grant a reduction on dried milk, he was favorably inclined towards a reduction affecting only dried and powdered milk which has been modified or treated especially for baby food. It is desired to draft an item covering such products as dried milk irradiated by the Steinbock process of the University of Michigan, "S. M. A.", lactic milk, et cetera.

The President also offered to consider a concession on phonograph records other than current "jazz". It is thought that an item reducing or abolishing duties on classical records, or those by deceased composers or musicians, would meet with his approval. It would be

appreciated if the Department would suggest possible wordings for these items, for submission to the Salvadoran Government.

In the meantime, the question of Schedule II having been broached by Doctor Max P. Brannon, the Undersecretary of Finance, he was furnished with an informal memorandum based on the Department's instruction No. 91 of March 27, 1935.⁹ It was pointed out that the United States offered concessions covering over 99% of its importations from El Salvador; and he was assured that any additional requests made by the Government of El Salvador will be given careful and sympathetic consideration by the Department. In this connection, it is believed that the Government of El Salvador is considering asking, not a special increase in its sugar quota as previously reported; but a special preferential tariff-rate concession on sugar. Should it do so, its request will be forwarded to the Department, although it would appear to involve a concession to a country which at present supplies the United States with no sugar; and one which would have to be generalized to all other sugar producing nations.

The assurances requested, in connection with Schedule I, by the Government of the United States, have been discussed most informally with Doctor Brannon, who indicated that the desired guarantees relative to the charges for the analysis and registration of patent medicines had been referred to the Commission of Chemistry and Pharmacy for study. It is thought that there will be opposition from this agency.

Doctor Brannon was also asked if he had considered the general provisions suggested by the Department. He replied that he had read them, but had not studied them, and that from his cursory examination, it was impossible for him to make any statement concerning them. It is apparent, however, that no insuperable difficulties presented themselves to him on first reading.

In the meantime, the tentative Schedule I, forwarded to the Department with the despatch first referred to, has been referred to the *Comisión Financiera*, for study. This means that the whole trade agreements program will have to be explained once more to three new individuals. The Legation has, with Doctor Brannon's knowledge, offered its services in this connection; but the Commission has not as yet expressed its readiness to avail itself of this offer.

The Legation is not entirely satisfied with the results obtained but it is felt that a definite step has been made towards removing the barriers to our trade with El Salvador, and that the Government now has a broader viewpoint, and one more in sympathy with the foreign trade policy of the United States, than it had at the beginning of the conversations. At times, the outlook has been discouraging, and it seemed that no further concessions could be obtained, but slow and

⁹ *Foreign Relations*, 1935, vol. iv, p. 539.

patient negotiations appear to have met with a certain amount of success.

The Legation will continue to press for early consideration of the remaining factors.

Respectfully yours,

FRANK P. CORRIGAN

611.1631/143

The Minister in El Salvador (Corrigan) to the Secretary of State

No. 654

SAN SALVADOR, April 20, 1936.

[Received April 27.]

SIR: I have the honor to inform the Department that I today sought and obtained an interview with President Martínez, for the purpose of enlisting his aid in concluding the conversations and negotiations relative to the proposed trade agreement.

During my last discussion of this matter with the President (see this Legation's despatch No. 637 of March 26, 1936), he requested a comparative study of the tariffs applied by the neighboring countries to the articles on which El Salvador is to grant concessions. This table, which was prepared with the assistance of the Legations in Guatemala, Honduras and Nicaragua, was presented to the President at the beginning of the interview. He studied the memorandum carefully, and it was pointed out to him that in no case was El Salvador lowest in its rate of duty, even after granting the concessions so far approved.

The President was told that the tentative list of concessions, and the suggested general provisions, had been in the hands of the *Comisión Financiera* for some three weeks, and the hope was expressed that he would help to bring its studies to a conclusion in the near future, in order that final action might be taken, inasmuch as the Government had now practically determined its position with regard to Schedule I. The President agreed with this latter statement, and promised to lend his support to speedy termination of the negotiations.

Other subjects, which were discussed with the President at the same interview, will be reported in separate despatches.

Respectfully yours,

FRANK P. CORRIGAN

611.1631/142

The Secretary of State to the Minister in El Salvador (Corrigan)

No. 217

WASHINGTON, May 1, 1936.

SIR: The receipt is acknowledged of your despatches Nos. 618 and 637 of March 5, 1936, and March 26, 1936, respectively.¹⁰

¹⁰ Despatch No. 618, March 5, not printed.

The Department has given preliminary examination to the table enclosed in despatch No. 618 listing progress made to date on Schedule I. The showing made is considered very creditable and I wish to commend you and Secretary Cochran for the thorough way in which you have conducted the negotiations thus far.

The Interdepartmental Committee which examined the table referred to above was of the opinion that you should not yet abandon your efforts to obtain some duty reduction on lard, flour and lumber in view of the importance of these products in our export trade in general. The Committee was influenced in making this recommendation by the very high duty rates now affecting lard and flour and by the fact that El Salvador does not appear to be in any sense self-sufficient so far as these two staples are concerned. The Department is well aware of the opposition to be expected in further discussion of concessions on these products but wishes you to exhaust every effort to obtain some adjustment of these rates.

With regard to the detailed remarks concerning nomenclature in despatch No. 618, I believe that it will be more satisfactory if final revision be postponed until agreement on Schedule I is definite enough to permit a tentative schedule to be drawn up. Only a few suggestions concerning the nomenclature will, therefore, be made at this time. One concerns the desirability of eliminating the word "pure" in describing a possible concession on hog lard. The Department is informed that use of this word might possibly lead to difficulties of interpretation. The proposed translation of corn starch is believed to be somewhat inadequate and the Legation may find it desirable to add the word "maicena" after "Almidón de maiz". An alternative would be to insert the words "edible or inedible".

Accurate information is not available covering Salvadoran imports of sanitary ware of the type described in the concession proposed by El Salvador. You are, therefore, requested to ascertain the position of the United States in this trade and to forward the respective import statistics to the Department.

Referring to the questions raised on pages 3 and 4 of your despatch No. 637, I am enclosing copies of memoranda¹¹ on milk products and phonograph records which are believed to be self-explanatory.

In an effort to expedite the negotiations, it is suggested that you again urge the Salvadoran Government to submit a draft Schedule II as well as any suggestions which it may have on the general provisions in order that these matters may be studied by the Department.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

¹¹ Not attached to file copy.

611.1631/152 : Telegram

The Minister in El Salvador (Corrigan) to the Secretary of State

SAN SALVADOR, September 30, 1936—noon.

[Received 4:06 p. m.]

45. The Salvadoran Government today through the Foreign Office presented its answer and acceptance with modifications of the trade agreement proposed by the United States. The answer submits two lists of concessions: No. 1, containing 16 classifications on which the concessions requested by the United States are granted in full, No. 2, a larger list containing 23 classifications on which the concessions asked for by the United States are granted in part, the average concession being 77 per cent. Bound list to be fully conceded in either case.

The most important concessions in both lists are: (1) cotton grey goods and prints, (2) lumber, (3) tires, (4) paints.

Translation of the note and lists will go forward by the next air mail.¹²

CORRIGAN

611.1631/153 : Telegram

The Acting Secretary of State to the Chargé in El Salvador (Fisher)

WASHINGTON, November 7, 1936—1 p. m.

29. Referring to Legation's despatch No. 804, October 1.¹³ Trade Agreement Committee finished deliberations on El Salvador accepting Table A assuming List 4 of bindings is included. Schedule 2 as approved is as follows:

Peru Balsams	5% ad valorem
Prepared guavas	17½% ad valorem
Mango and guava pastes and pulps	28% ad valorem
Coffee	Free
Unprocessed tortoise shell	Free
Deerskins	Free
Reptile skins	Free
Cacao beans	Free
Honey	2 cents per pound.

Department regrets that it will be impossible to bind henequen on free list for El Salvador due to its unimportance as a supplier of this market. I believe it would be highly desirable to complete and sign the agreement before the Buenos Aires conference¹⁴ ends. You may

¹² Forwarded with despatch No. 804, October 1, 1936; not printed.

¹³ Not printed.

¹⁴ The Inter-American Conference for the Maintenance of Peace, Buenos Aires, December 1-23, 1936; see pp. 3 ff.

point out desirable publicity for Salvador. Have Cochran sound out Rochac on probability of Hacienda's cooperation in completing agreement while conference is in session.

Amplifying instruction with statistical material will follow by airmail.

MOORE

611.1631/157

The Chargé in El Salvador (Fisher) to the Secretary of State

No. 855

SAN SALVADOR, November 12, 1936.

[Received November 17.]

SIR: I have the honor to refer to the Department's telegram No. 29 of November 7, 1 p. m., relative to the trade agreement negotiations.

In accordance with the instructions contained in the last portion thereof, Mr. Cochran had an informal conversation with Dr. Alfonso Rochac, Head of the Office of Customs Income. Dr. Rochac approved the idea of terminating and signing the treaty during the Buenos Aires Conference, thought that it was a good opportunity for El Salvador to show her friendly feeling for the United States, and said that he believed that the Ministry of Finance would be entirely disposed to give the matter immediate consideration, as soon as it should have received the Department's reply to its proposals (to arrive shortly by air mail). Dr. Rochac stated that the Ministry of Finance considered the trade agreement as a settled matter; and added that, were he called in for consultation, he would lend his efforts to securing early and favorable action. He suggested, however, that the most pressing item was the matter of the phraseology of the general provisions.

Immediately upon the receipt of the Department's telegram, Mr. Cochran went to see Dr. Arturo Ramón Avila, the Undersecretary of Foreign Affairs, to whom the general provisions have been referred for study. Dr. Avila said that his report thereon was almost ready, awaiting only his final revision, and the approval of the Minister for Foreign Affairs. He stated that the changes to be suggested were all minor, and in general were to bring the terms of the treaty into conformity with the revised Schedules I and II. He thought that the note on this subject would be delivered to the Legation within a week.

Dr. Avila was of the opinion that the tables, as approved by the Department, would be referred again to the Ministry of Finance, and that the matter would now be handled by Dr. Rodrigo Samayoa, the Minister, (in the absence of Dr. Brannon), and suggested that Mr. Cochran call on him as soon as the actual proposals had been received. Dr. Avila added that the Ministry for Foreign Affairs was

entirely inclined to bring the negotiations to a prompt conclusion, in order to be able to announce the signing of the treaty during the Buenos Aires Conference.

The Department will of course be kept fully advised of developments.

Respectfully yours,

DORSEY GASSAWAY FISHER

611.1631/153

The Acting Secretary of State to the Chargé in El Salvador (Fisher)

No. 258

WASHINGTON, November 16, 1936.

SIR: In amplification of the Department's telegram No. 29 of November 7, 1936, (1 p. m.), outlining the reply of this Government to the proposals presented by the Salvadoran Government looking toward the conclusion of a trade agreement, you are now advised as follows:

The Department regrets that it will not be possible to bind henequen on the free list for El Salvador as originally planned. This is due to the fact that Mexico is overwhelmingly the chief supplier of henequen to this market. El Salvador shipped only 20 tons to the United States during the three years from 1933 to 1935, inclusive. It had earlier been considered possible to extend to El Salvador the binding on the basis of the commitment to Haiti on sisal, but the difference between the two products appears sufficient to warrant distinguishing between them and reserving each for the principal supplier. It is trusted that the Salvadoran Government will understand the circumstances affecting this withdrawal.

Your attention is called to that part of the Department's instruction No. 91 of March 27, 1935, stating that it will be possible to offer to El Salvador assurance that sugar imported into the United States from El Salvador on which a drawback of duty is allowed will not be charged against El Salvador's sugar quota so long as the quota provisions of the Act of May 9, 1934,¹⁵ are operative. In the event that this matter has not already been taken up with the Salvadoran Government, it is suggested that you do so without further delay in connection with the other concessions which this Government is prepared to make.

On the basis of information now at hand, the Department does not see how any further concessions can be granted El Salvador. There is enclosed a report¹⁶ prepared in the Tariff Commission giving United States import statistics and certain other information on the products

¹⁵ Jones-Costigan Act, 48 Stat. 670.

¹⁶ Not attached to file copy.

listed by El Salvador as those on which she was desirous of obtaining concessions. This should be helpful in explaining why no further concessions seem possible.

I am also enclosing a copy of recommendations approved on April 1, 1935,¹⁷ with respect to the Salvadoran consular invoice fee, which you are requested to take up with the Salvadoran Government in connection with the general provisions, unless you perceive objection to doing so. It is hoped that you will shortly be able to report definitely as to the status of the general provisions. The Department will supply definitive texts of the entire agreement in English, with suggested Spanish translation, to be used in preparing the engrossed copies of the agreement as soon as it is possible to do so.

In conclusion, I wish to express the hope that it may be possible for you to reach an agreement with the Salvadoran Government promptly enough on all of the remaining pending questions to permit signature of the agreement within the very near future. I believe, as stated in the Department's telegram referred to above, that it would be particularly appropriate if signature could take place while the Peace Conference in Buenos Aires is in session and I should appreciate the cooperation of the Salvadoran Government to this end.

Very truly yours,

For the Acting Secretary of State:
FRANCIS B. SAYRE

611.1631/162

The Chargé in El Salvador (Fisher) to the Secretary of State

No. 882

SAN SALVADOR, December 10, 1936.

[Received December 14.]

SIR: I have the honor to refer to this Legation's despatch No. 877 of December 4, 1936,¹⁸ and to previous correspondence on the subject of the trade agreement negotiations.

There has been received from the Ministry of Foreign Relations this morning a note No. 1896 dated today relative to the general provisions and the other items still pending. A copy is enclosed.¹⁸

El Salvador accepts Schedule II as approved by the Department and forwarded with its instruction No. 258 of November 16, 1936.

El Salvador approves the general provisions in the form attached in Spanish, which is the same as the informal text forwarded with the Legation's despatch No. 877 of December 4, 1936, except in the following instances:

1. Article XII is redrafted, but the essential meaning is unchanged. The reasons for this are pointed out in the memorandum relative to the general provisions prepared by Dr. Rochac, one copy of which is

¹⁷ Not attached to file copy.

¹⁸ Not printed.

attached.¹⁹ The phraseology suggested by the Department appeared, from his reading and interpretation, to conflict with the Law of Contraband. The article has been reworded to cover only errors of documentation; since good faith is always claimed when the charge of intent to defraud the customs is made. Dr. Rochac stated further that the question of good faith was beyond the power of the customs authorities to determine; that in past practice, the courts had waived penalties when it was satisfactorily proven; and that the present law, which he considered inequitable, was to be revised in the fairly near future in a manner which would, in effect, satisfy the Department's desires on this point.

2. There is included as an additional article the assurance offered by the Department, that Salvadoran sugar imported into the United States, and on which a drawback of duty is later granted, will not be included in the Salvadoran sugar quota.

El Salvador is indisposed to grant any reduction of the consular invoice charge of 6%, for reasons of revenue; and is disinclined to provide for its collection in El Salvador. The reasons for this attitude were explained in the Legation's despatch No. 877 of December 4, 1936.

El Salvador also objects to the reference to coconut oil in Article IV, since no similar exemption has appeared in the Central American trade agreements already signed.

Comments on this point will be found in Dr. Rochac's memorandum.

The Foreign Office has failed to supply officially a copy of the draft of the general provisions mentioned in Dr. Rochac's memorandum, although the Undersecretary of Foreign Relations states that this study refers to the clauses as already forwarded to the Department informally. A formal copy of the general provisions, with note, will be sent to the Department by the next air mail.

No attempt has been made to translate the note or memorandum, as the time involved would delay their transmission for two days.

Respectfully yours,

DORSEY GASSAWAY FISHER

611.1631/162

The Acting Secretary of State to the Chargé in El Salvador (Fisher)

No. 266

WASHINGTON, December 17, 1936.

SIR: As stated in the Department's telegram No. 33 of December 15, 1936, 7 p. m.,¹⁹ I am transmitting herewith copies of a tentatively final draft,²⁰ in English and Spanish, of the trade agreement with El Salvador.

¹⁹ Not printed.

²⁰ Not attached to file copy.

1. You will notice that in the attached Spanish text of the general provisions the alternate is observed; in other words, this is the Spanish text and not the Spanish translation of the English text in which, of course, no transposition of the countries' names should be made. If the agreement is engrossed and signed in San Salvador, you are requested to make certain that there is no deviation in this respect from the enclosed English and Spanish texts.

2. I am enclosing a memorandum²¹ listing the most important changes which have been made in the Spanish text submitted under cover of the Legation's despatch No. 877 of December 4, 1936.^{21a} On the basis of this memorandum and the observations made in the Department's telegram No. 33, it is trusted that you may be able to work out an agreement with the Salvadoran Government on the various pending differences.

3. Tomato paste has been deleted from items Ex214-1-04-001 and Ex214-1-10-001. As soon as you report what El Salvador is prepared to do regarding tomato juice, the description of this item can be completed.

4. The note concerning pharmaceutical products, included by El Salvador as paragraph No. 3 of Article VII, has been, as you will observe, deleted from that article. The Department prefers to have this appear at the end of Schedule I. In this connection, however, the language suggested by El Salvador is not considered acceptable by this Government, since it specifies certification requirements which cannot be satisfactorily complied with in all localities of this country. It is therefore requested that El Salvador insert following the phrase, "expedido por," the following: "una Cámara de Comercio u otra semejante o por." It is hoped that El Salvador can see its way clear to agreeing to this insertion. You are also requested to ascertain what is meant by the phrase, "debidamente autenticado." The Department is not clear as to just what requirements this phrase might entail.

5. You are requested to consider the attached texts as master texts, on the understanding that any further changes which must be made will be made therein.

Very truly yours,

For the Acting Secretary of State:
FRANCIS B. SAYRE

611.1631/165 : Telegram

The Chargé in El Salvador (Fisher) to the Secretary of State

SAN SALVADOR, December 28, 1936—5 p. m.

[Received 10 p. m.]

60. With reference to the Department's instruction 266, December 17th, Dr. Avila Sub-Secretary of Foreign Affairs informed the Le-

²¹ Not attached to file copy.

^{21a} Not printed.

gation verbally today that while the formal note will not be ready for 2 days Salvador accepts the new general provisions enclosed with the instruction referred to, including the most-favored-nation clause, with the following changes in the Spanish text:

(a) Article I Salvador suggests deletion of the word "impuestos" from line 9 not line 8 holding that its repetition is confusing and omission would give clearer Spanish.

(b) Article II last paragraph, lines 7 and 8, Salvador wishes to delete the words "un 'drawback' de derechos (de aduana)" and substitute in line 8 after the words "este permitido" the following "una devolucion o descuento (drawback) de derechos de aduana".

(c) Article VI second paragraph, section (a) Salvador suggests that the figures 1 to 4 should be followed by small o's to indicate 1st, 2d, et cetera in order to avoid confusion.

(d) Article XIII, paragraph 1, lines 7 and 8, the Ministry of Finance still desires that the last phrase read "provided that good faith be proven", claiming the whole legal structure of the present law of contraband is based on this presumption of guilt. It rejects our use of "or when good faith can be proved" but is willing to compromise by simply deleting the last phrase "o cuando pueda establecerse la buena fe".

Salvador accepts the revised text of schedule I and the inclusion of tomato juice under section 214-1-04-001 of the tariff.

Salvador also accepts the Department's suggested changes in the wording of the pharmaceutical assurance and its inclusion as a note to schedule I. The phrase "debidamente autenticado" means authenticated by the appropriate Salvadoran Consul.

Salvador approves the omission of Panama from the penultimate paragraph of article XIV. Salvador agrees to the release of the text and analysis at the time of signature. The note will be forwarded by open air mail as soon as received.

FISHER

611.1631/166 : Telegram

The Chargé in El Salvador (Fisher) to the Secretary of State

SAN SALVADOR, December 30, 1936—noon.

[Received 2:32 p. m.]

61. With reference to my telegram 60, December 28, 5 p. m., the Salvadoran Foreign Office delivered to the Legation this morning its note accepting the draft of the trade agreement enclosed with the Department's instruction No. 266, December 17, with certain changes in the Spanish text. A copy and translation of the note are being sent by open airmail today.

The changes requested by Salvador are as given in the Legation's telegram 60 except as follows:

[Here follow certain changes in Spanish text.]

The only question still pending is whether Salvador is disposed to grant any of the other pharmaceutical assurances originally requested, on which a reply is expected within one or two days.

FISHER

[For text of reciprocal trade agreement between the United States and El Salvador, signed February 19, 1937, see Department of State, Executive Agreement Series No. 101, or 50 Stat. 1564.]

INFORMAL ASSISTANCE BY THE DEPARTMENT OF STATE TO REPRESENTATIVES OF THE HOLDERS OF THE SALVADORAN BONDS UNDER THE LOAN CONTRACT OF JUNE 24, 1922²²

816.51C39/432 : Telegram

The Secretary of State to the Minister in El Salvador (Corrigan)

WASHINGTON, January 10, 1936—7 p. m.

1. Your 61, December 31, 3 p. m.²³ Mr. Fred Lavis of the Bondholders Protective Committee called at the Department yesterday to say that at the last moment the Salvadoran Government had stated that its agreement for settlement of the regular issues of the external debt was dependent upon the cancellation of the "C" scrip.

Mr. Lavis was informed that the negotiation of a settlement regarding the scrip, just as a negotiation regarding the regular funded debt issues, was a matter between the Government and the holders thereof or their representatives. You may, however, inform the Salvadoran authorities that this Government has learned with pleasure of the substantial progress that has been made for the settlement relating to the external funded debt, and that it hopes that an agreement satisfactory to both participants to the negotiations may be arrived at.

HULL

816.51C39/434

The Minister in El Salvador (Corrigan) to the Secretary of State

No. 555

SAN SALVADOR, January 16, 1936.

[Received January 22.]

SIR: I have the honor to refer to the Department's telegram no. 1, of January 10, 7 p. m., and to report that, in accordance with the instructions contained therein, there has been informally indicated to the Salvadoran Government the pleasure of the United States Government at the substantial progress which has been made towards a

²² Continued from *Foreign Relations*, 1935, vol. iv, pp. 568-584.

²³ Not printed.

settlement relative to the external debt; and the hope expressed that the negotiations might lead to a successful conclusion.

For the Department's information, there is provided a short review of the present stage of the negotiations. This information was supplied informally and confidentially by Mr. Douglas Bradford, Secretary and representative of the Bondholders' Committee, and the views presented are, in general, his opinions.

The face value of the bonds outstanding at the present time, of all series, is approximately \$16,900,000. According to the terms of the original contract, annual payments for interest and amortization amount to \$1,750,000. Mr. Bradford and the Ministry of Finance are in substantial agreement, on the following basis: Payment of interest at the flat rate of 4% on the total amount of bonds outstanding (or \$680,000) plus 1% amortization (\$169,000) or a total of \$849,000 per year. This is to be an unvarying annual payment, so that, as the bonds are retired, the amount no longer required for interest on them will be devoted to making the sinking fund cumulative. The agreement is to have effect as of July 1, 1935, with payment of the coupon due on that date.

It will be seen that this is a substantial recession on the part of the Salvadoran Government from its demand, last May, of interest rates of 3%, 2% and 2% on the three series of bonds. (Actually, the 4% interest referred to above will be divided so as to pay 5½%, 4% and 3½% on the "A", "B" and "C" bonds.) In consideration of this concession, the Government is insisting on the cancellation of the scrip issued in payment of interest on the "C" bonds. It is understood that the British Bondholders Committee has indicated its willingness to accept this arrangement; but the American Committee feels unable to do so, as it does not hold nor represent the scrip, and as much of it has been sold in the open market, by the bondholders, and is widely held.

The amount of scrip now outstanding is about \$1,080,000. It is now quoted in New York at about 24%. Mr. Bradford has suggested to the Government that it might agree to pay half the annual amount specified in the original contract, or \$875,000, using the difference (\$26,000) between that sum and the amount already agreed on, for retirement of the scrip, presumably in the open market at reduced quotations. While expressing its appreciation of the fairness of this offer, the Government has indicated its inability to accept such a settlement. Last May, it took the loan negotiations into the newspapers and continually emphasized its stand for interest rates of 3%, 2% and 2%. In order to obtain popular acquiescence in the flat 4% rate as now agreed upon, it requires some important *quid pro quo*, in order to explain and justify its action to the public. The issue, therefore, is a political one, from the Government's point of view.

The American Bondholders Committee has still not indicated its willingness to recommend the cancellation of the scrip to the bondholders, and a settlement apparently hangs on this one point alone, for the Government is understood to have receded from its insistence on re-writing the contract in Spanish and the deletion of the "safety" clauses. To call the Government's demand "repudiation" of the scrip is to use a perhaps unnecessarily ugly word. El Salvador regards such cancellation as part of the negotiated settlement, and as an essential *quid pro quo*, required by local politics.

Mr. Bradford has prepared an extremely interesting graph, of total receipts from import revenues in El Salvador, and world prices for Santos No. 4 coffee. The two lines are exactly parallel; and he rather inclines to the opinion that present low coffee prices, coupled with the highly unfavorable coffee outlook, according to its world statistical position, and the probable impossibility of obtaining better terms, should induce the American Bondholders Committee to recommend to the bondholders the cancellation of the scrip (perhaps with some arrangement to purchase scrip sold by bondholders), pointing out that if negotiations are again unsuccessful, it is highly probable that there will be no further efforts to reach a settlement during the remainder of the administration of President Martínez, or longer. Any agreement reached five or ten years from now, he believes, would hardly include payment of interest for the intervening period; so that the choice to be presented to the bondholders is that of sacrificing the old scrip in consideration of resumption of payment of interest and amortization as of last July; or of receiving nothing for the next five or perhaps ten years.

Respectfully yours,

FRANK P. CORRIGAN

816.51C39/437

The Minister in El Salvador (Corrigan) to the Secretary of State

No. 579

SAN SALVADOR, February 8, 1936.

[Received February 12.]

SIR: I have the honor to refer to my telegram of February 5, 3 p. m.,²⁴ reporting that the Cabinet had approved the bases for an agreement amending the Loan Contract of 1922.²⁵ As reported, the Cabinet decision was taken at a special meeting, and provided for complete condonation of the outstanding scrip. After the meeting, the Minister and Subsecretary of Finance had a private conference with the President; it is understood that he continued the discussion

²⁴ Not printed.

²⁵ El Salvador, *Loan Contract Between the Republic of El Salvador and Minor C. Keith, June 24, 1922* (n. p., n. d.).

of the question of the scrip with them, authorizing them to settle it as may seem most expedient.

Mr. Bradford, Secretary of the Bondholders' Protective Committee, suggested to Doctor Max P. Brannon, Subsecretary of Finance, that they go to New York together, possibly leaving here February 15th, where Mr. Bradford could introduce him to the Committee, to the officials of the Stock Exchange, the Securities and Exchange Commission, the Foreign Bondholders' Protective Council, et cetera. Doctor Brannon could also discuss the details with the Committee's legal counsel, and with such counsel as he may select, Judge Frank Feuille, attorney for the Standard Oil Company of California, having been prominently mentioned in this connection.

The Committee has informed the Salvadoran Government that it will give favorable consideration to the Government's request for cancellation of the scrip, but that it considers that the agreement would have a much better chance of approval by a majority of the bondholders if some provision were made for retiring it, the present suggestion being that the annual payment, for principal and interest, as agreed upon, be unchanged, and that some \$60,000 per annum of the sum provided for amortization be devoted to retiring the scrip at 20% or 25% of its face value (that is, more or less at its present market value). Mr. Bradford feels that if Doctor Brannon goes to New York, he will gain a better understanding of the problems facing the Committee, and perhaps be willing to approve the retirement of the scrip rather than its cancellation.

If Doctor Brannon should go to New York, it is probable that his stay there will not be less than two months; and that the trade agreement negotiations which have been conducted with him will be interrupted for that period. There have been no conversations on this subject during the last three weeks, due to his being occupied with the loan negotiations and the annual report of the Ministry of Finance.

Respectfully yours,

FRANK P. CORRIGAN

816.51C39/440

The Minister in El Salvador (Corrigan) to the Secretary of State

No. 590

SAN SALVADOR, February 15, 1936.

[Received February 26.]

SIR: I have the honor to refer to the Legation's despatch No. 579 of February 8, 1936, informing the Department that the Salvadoran Government had approved the bases for a new agreement revising the External Loan Contract of 1922, and to enclose a copy of a form

of agreement²⁶ which was handed to me on February 13, 1936, by Mr. Douglas Bradford, Secretary of the Bondholders' Protective Committee and their representative in recent negotiations with the Government of El Salvador. Mr. Bradford believes that the final agreement will in all probability be substantially as given in this draft.

The new rates of interest that would be established under this agreement would be as predicted in recent despatches on the subject: 5½% on the "A" bonds, 4% on the "B" bonds, and 3½% on the "C" issue. The total annual payment for interest, amortization, and the partial redemption of the outstanding scrip, would be \$849,063.35. The plan which the draft provides for the retirement of the scrip on the "C" bonds (numbered paragraph 9-*b*) is that mentioned in the despatch referred to above as favored by Mr. Bradford: the setting aside of a Scrip Fund to total \$270,308.50 out of the annual payments, for the purchase of outstanding scrip during the next five years at the lowest possible price at which it can be obtained, not to exceed 25% of its face value (that is, approximately its present market value). The question of the scrip on the "B" bonds (the British series) is covered separately in paragraph 11 of the draft agreement. Payments on the loan will be resumed as of July 1, 1935, and the new agreement would be considered as bearing the date June 30, 1935.

In view of the Department's previous instructions to the Legation, it is believed that the Department will be particularly interested in the draft agreement's provisions regarding bonds not deposited with the Committee, and in the continuance of the so-called "security" provisions of the original 1922 Loan Contract.

Reference is made in the first connection to the Department's instruction No. 97 of April 5, 1935, and to its enclosure, a letter of the same date addressed by the Department to Mr. F. J. Lisman, Chairman of the Committee.²⁷

The question of the scope of the draft agreement and of deposited and non-deposited bonds is covered in numbered paragraphs 12, 13, and 16, which, for convenience, are quoted below:

"12. Any holders of Bonds of Series "A", "B" and "C", whom the Committee or the Council represents and is or shall be acting for, who desire to avail themselves of the benefits of this Agreement and assent hereto may do so by presenting their Bonds, with coupons maturing July 1, 1935, and subsequently attached, to the Paying Agent, or to such agent as it may designate, for stamping, and only such Bonds and coupons as are stamped with legends substantially as hereinafter set forth shall be entitled to the benefits of this Agreement."

²⁶ Not printed.

²⁷ Neither printed.

(Here follows the form of Legend.)

"13. Nothing herein contained shall be deemed to give to any holders of Bonds not deposited with the Committee or the Council any right to deposit the same with the Committee or the Council except upon such terms as may hereafter be agreed upon by the Committee, the Council and the Republic; nor shall the Committee or the Council be deemed to have any right to represent, or to have represented, any holders of Bonds not now or subsequently deposited with the Committee or the Council."

"16. The Republic agrees that it will not make any agreement with any other Bondholders of the Bonds of Series "A", "B" or "C", on more favorable terms than this Agreement. Nothing contained in this agreement shall affect the rights and remedies of Bondholders who do not assent to the provisions hereof."

As regards the "security" provisions of the 1922 Loan Contract, reference is made to the Department's instruction No. 80 of February 25, 1935,²⁸ and to the Legation's despatch No. 210 of April 12, 1935.²⁹ The Department's instruction referred to the possible omission from a revised agreement of any reference involving the Government of the United States or any of its officials. The Legation's despatch forwarded to the Department, among other documents, a copy and translation of an undated Memorial prepared by the Salvadoran Ministry of Finance and sent to Mr. Fred Lavis, then representing the Committee in San Salvador, on April 2, 1935, in which it was definitely stated that any new agreement must provide for the payment of the expenses of the local Fiscal Office by the bondholders, and also a copy of a letter from the Minister of Finance to Mr. Lavis dated April 8, 1935, in which he referred to the opposition of Salvadoran public opinion to the clauses of the Contract providing for arbitration by the Chief Justice of the Supreme Court in cases of dispute, and held that under the Salvadoran Civil Code these clauses were illegal and void. Led by interviews given out by the Minister of Finance, the local press at that time instituted a violent campaign against the "security" clauses of the Contract, and it seemed for a time that the Government was resolved to make the revision of these clauses a *sine qua non* of any new agreement. The press campaign, however, died out during the summer, and has shown no signs of revival since that time, and as far as the Legation knows the Government has not brought them up in recent conversations with Mr. Bradford.

The new draft Agreement specifically calls for the Government's payment of the expenses of the Paying Agent and its representatives in El Salvador; paragraph 15 reads as follows:

"15. The Republic agrees to pay all the expenses of the Paying Agent, and its representatives in El Salvador, in accordance with the

²⁸ *Foreign Relations*, 1935, vol. iv, p. 569.

²⁹ Not printed.

provisions of the Loan Contract of 1922 regarding the Fiscal Agent and its representatives, which provisions are made expressly applicable thereto, and in addition to pay fees of the Paying Agent in connection with the purchases of Scrip Certificates hereunder at the rate fixed in the Loan Contract for retirement of Bonds, plus all reasonable expenses of the Paying Agent incurred in connection therewith."

Paragraph 17 would definitely make all unmodified provisions of the 1922 Contract an integral part of the new Agreement, and moreover provides that, "In the event of default by the Republic in the performance of any of the provisions herein contained this Agreement shall no longer be of any force or effect, and the rights and remedies of the Bondholders shall be those set forth in the said Loan Contract, with the same force and effect as if this Agreement had never been entered into or assented to by any Bondholders."

Mr. Bradford is confident at present that the new Agreement, substantially worded like the enclosed draft, will be signed without the question of the "security" clauses coming up again. Apparently the reference to the United States Government and its officials mentioned in the Department's instruction No. 80 of February 25, 1935, will remain a part of the Loan unless action is taken to effect their elimination.

Respectfully yours,

FRANK P. CORRIGAN

816.51C39/444

Memorandum of Conversation, by the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] March 26, 1936.

Mr. Fred Lavis of the Protective Committee for holders of bonds of the Republic of Salvador called to say that negotiations with the Salvadoran Government regarding the external debt situation have been satisfactorily completed. The Salvadoran Congress has approved the central features of the new proposal and the Minister of Finance is coming to New York, arriving April 7, to sign the agreement. Mr. Lavis said the agreement would probably have to be ratified by the Salvadoran Congress.

Mr. Lavis said that at the last moment there were difficulties revolving around redemption of the scrip and certain expenses of the Committee. The Salvadoran Government had agreed to redeem the scrip at 20 percent of its par value. In the final stages of the negotiations it brought up the question of whether the \$68,000.00 to \$75,000.00 retained by the Committee did not in fact belong to the Government. A compromise was arrived at to the effect that the Government would drop any claim against the Committee for the \$68,000.00 to \$75,000.00,

but would only redeem the scrip at 15 percent of its par value. I asked Mr. Lavis what the status of non-assenting bond holders would be. Mr. Lavis stated that the agreement merely provided that non-assenting bond holders were not to receive treatment any more favorable than assenting bond holders. He said that the Committee represented 95 percent of the bonds and that of the remaining 5 percent at least 2 percent would never be heard from owing to loss of bonds, etc.

L[AURENCE] D[UGGAN]

816.51C39/448

The Minister in El Salvador (Corrigan) to the Secretary of State

No. 640

SAN SALVADOR, April 3, 1936.

[Received April 8.]

SIR: I have the honor to refer to the Legation's telegram No. 15 of March 24, 5 p. m.,³⁰ and to previous correspondence relative to the negotiations for a resumption of payments on the foreign debt. Mr. Douglas Bradford, Secretary of the Bondholders Protective Committee, informed the Legation that the Minister of Hacienda had written him a formal letter, confirming the Government's acceptance of the bases agreed upon. These remain substantially as enumerated in the Legation's despatch No. 590 of February 15, 1936. Certain legal details are to be finally settled in New York. Doctor Rodrigo Samayoa, Minister of Finance, went to New York sailing Saturday March 28 on the *Santa Elena* as official representative of the Salvadoran Government with authority to sign a new agreement with the Bondholders' Protective Committee bringing to a close a long series of negotiations which has been a subject of many despatches during the last two years.

It seems timely to report to the Department the co-operation given by the Legation in facilitating the negotiations. Officially, no action has been taken. The authorization of the Department to use our good offices to facilitate the negotiations (Instruction No. 150 of August 20, 1935³⁰) has been faithfully complied with, and the Legation has scrupulously avoided the appearance of taking any part in the negotiations or of making any endeavor to determine their direction.

The Legation's position since the making of this loan, and during subsequent negotiations, was reviewed in Legation's despatch No. 366 of August 9, 1935.³⁰

The Legation's position today is very different from that taken at the time of the granting of the Loan in 1922. At that time, the

³⁰ Not printed.

Legation's despatches contained such phrases as "It saved much time and trouble if I prepared the proposed notes to me from the Government", or "The proof reading and correction of the English text of the loan contract has been done by the staff of this Legation to insure accuracy when published in the *Diario Oficial*, which will be done today." Also, assurances were given to the Government of El Salvador by note expressing the gratification of the Government of the United States over the completion of the Loan and the willingness of the Secretary of State on his part to carry out the stipulations in the contract with reference to him. The present under-Secretary of State of El Salvador is the same man who received these assurances, and the Bondholders Committee is made up of men who conducted the original loan negotiations. At the time the Loan was made they obtained very complete official co-operation and encouragement, whereas now they seem to find the Department disposed to keep entirely free of the matter. The Legation has tried to reflect as accurately as possible the present policy of non-intervention, being guided by Department's instructions in this respect. The various representatives of the Bondholders Committee, on the other hand, have consistently endeavored to associate the Legation with the negotiations. This has been done in various ways: Each of the representatives has promptly reported to the Legation upon arrival in the country, frequent calls have been made upon the Minister, the Legation has been kept informed of even minor steps in procedure, copies of all correspondence between the Government and the Committee or its representative have been brought to the Legation personally by the representative of the Bondholders Protective Committee.

In a small place like San Salvador such tactics unflinchingly serve to connect the Legation with the proceedings, in the minds of the Government, the press and the public. The moral influence of the Legation was an unavoidable factor, which could be positive or negative either for or against a settlement. This inevitable moral influence, which seems to predicate an inescapable responsibility was definitely thrown on the side of a settlement satisfactory to both sides. It could just as easily have been used to delay or frustrate. This inescapable responsibility extends also to other spheres.

It was deemed wise early in the present negotiations to express unofficially the views of the Minister with regard to the general subject of protection of American investors in foreign securities. Therefore, a letter was addressed to the Representative of the Fiscal Agent which, in an informal and friendly way, represented this viewpoint. This letter stated, "The matter of the treatment of American bondholders is of very general interest in the United States because these bonds are held in small amounts by thrifty individuals in many parts of

the country. In many cases the possession of three or four government bonds such as the Salvadoran issues constitute the entire savings or capital of worthy people like teachers, physicians, clergymen, widows, et cetera. These bonds were purchased with full confidence in the responsibility and honor of the government involved.

"The making of representations for the protection of American bondholders is not desirable until ordinary business negotiations and arrangements are nullified and made ineffectual by evident bad faith or obvious intent to disregard contractual obligations. Unfortunately at the present time such contractual relations have been widely disregarded or too easily subordinated to considerations of brief expedience to a degree which threatens one of the most important bases of human relations.

"It was never more important that debtor governments should now make every reasonable effort to meet their financial obligations and in doing so preserve their credit for the future and help to preserve the structure of international credit."

The attitude thus expressed has been consistently demonstrated at opportune times by informal conversations with the President, the Minister of Foreign Affairs, Minister of Hacienda and other Government officials interested in the Loan negotiations.

Friendly interest in a successful outcome, and the beneficial effect upon Salvadoran credit of an equitable arrangement with the bondholders has been the general trend of such informal conversations. In this way, the moral influence of the Legation has been steadily exerted in favor of a settlement and as such has been a factor in finally reaching a conclusion which seems to be satisfactory to both the contracting parties. Franker and closer co-operation with the committee, the advisability of which was suggested in Legation's despatch No. 366 of August 9, 1935, might possibly have brought about an earlier settlement and slightly better terms for the Bondholders.

The Bondholders representative, Mr. Douglas Bradford, has conducted his negotiations tactfully and well. He has expressed satisfaction with the Legation's attitude and given his opinion that the present policy of the Department, friendly counsel and moral influence rather than official action as formerly, was in this particular case wise and prudent in the final analysis. The Government of El Salvador, through Minister Samayoa, has also expressed satisfaction with the results achieved.

Absence of this moral influence of the Legation would in my opinion have made the arrival at a settlement a matter of the very indefinite future. The contract being one in which the Department had an actual responsibility the Legation feels that a clear exposition of its position in this matter may serve to clarify and to some degree furnish background for orientation in like situations in the future. It is cer-

tainly true that a completely negative attitude on the part of the Legation would have been construed here as a positive disavowal and disapproval of the Bondholders representative and his attempts to reach a settlement.

Respectfully yours,

FRANK P. CORRIGAN

S16.51C39/454

Memorandum of Conversation, by the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] April 30, 1936.

Mr. Lavis called on Dr. Feis³² and me to leave with us the attached copy of the agreement signed between the Committee and the Republic of El Salvador on April 27, 1936.³³ The agreement provides that it shall be submitted to the National Assembly, which Mr. Lavis said would be done immediately. Quick action by the Assembly is expected.

Mr. Lavis said he wanted to call attention to the following:

1. That as a result of the agreement, \$850,000 plus \$467,000 would be paid on July 1 next, representing payment on the last two coupons in default and deposits on account of amortization. Mr. Lavis stated that so far as he knew this was the first agreement negotiated that provided for the payment of back interest and amortization.

2. That the agreement provides in Section 9 (b) and (c) for an arrangement which will give the Salvadoran Government four months' leeway past the due date in transferring colones deposited with the Central Reserve Bank to the paying agent. The agreement provides for a Commission of Review, composed of the President of the Central Reserve Bank and a person to be named by the Committee, whom Mr. Lavis said would be Renwick, which would investigate to determine whether or not it was impossible to transfer remittances to the paying agent. Mr. Lavis said that this provision had been inserted at the last moment as the Salvadoran Government threatened not to sign unless something along this line were agreed upon. In Mr. Lavis' opinion, the provision is not a bad one. If the Republic is determined to default, it will default regardless of the terms of the agreement. On the other hand, if it actually desires to comply but can not secure the necessary foreign exchange, this arrangement will provide a period of grace.

³² Herbert Feis, Economic Adviser of the Department of State.

³³ For text, see El Salvador, *Readjustment Agreement between the Republic of El Salvador and Bondholders' Protective Committee for the Bonds of the Republic of El Salvador and Council of Foreign Bondholders of London, Regarding the Loan Contract of 1922 as amended by Agreements dated January 5 and September 28, 1923, April 27, 1936*, (n. p., n. d.); or Foreign Bondholders Protective Council Inc., *Annual Report, 1936* (New York, 1937), p 373.

3. That the new agreement provides in Section 9 for an annual payment of \$850,000, certain fixed amounts to be paid monthly throughout the year. Fifty-five percent is paid during the first six months; forty-five percent during the last six months.

4. That the Committee is to remain in existence in a skeleton form. The present bonds on deposit are to be retained and new certificates of deposit issued.

Upon inquiry, Mr. Lavis stated emphatically that the rights of non-assenting bondholders under the 1922 contract were not affected by the new agreement.

I asked Mr. Lavis if he would be kind enough to send the Department additional texts of the agreement as signed, which he said he would do.

L[AURENCE] D[UGGAN]

GUATEMALA

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND GUATEMALA, SIGNED APRIL 24, 1936¹

611.1431/153

The Minister in Guatemala (Hanna) to the Secretary of State

No. 866

GUATEMALA, January 15, 1936.

[Received January 20.]

SIR: With reference to my telegram No. 1, January 7, 12 Noon,² I have the honor to inform the Department of the receipt of a note dated January 14, 1936, from the Minister for Foreign Affairs with which he transmitted a copy of the revised Spanish text, together with Schedules I and II, of the proposed Trade Agreement. A single copy of the Note and enclosures³ in the original is transmitted herewith.

I have gone over the enclosure as carefully as time permitted and compared it with the tentative final draft in English transmitted to the Legation with the Department's instruction No. 230 of October 23, 1935,⁴ and transmitted to the Minister for Foreign Affairs on October 28. I also endeavored to effect a comparison with the original tentative Spanish text of the Agreement forwarded to the Department with the Legation's despatch No. 824 of November 16, 1935,⁵ but found it impossible since this latter had been more or less radically changed. As a result of the comparison with the Department's English text a number of changes and in certain cases additions were noted, a summary of which I am attaching hereto.²

The Department will observe that certain of the changes, such as the omission of the opening note to Schedule I, presumably were the result of oversights due to carelessness or haste in preparation. From the hurried comparison which I have been able to make it would appear that perhaps some of the discrepancies between the English and Spanish texts may not be of vital importance. I believe, therefore, that it would be advisable and definitely more expeditious were

¹ For previous correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 585 ff.

² Not printed.

³ Not printed. Schedule I consisted of concessions to be granted by Guatemala on imports from the United States. Schedule II consisted of concessions to be granted by the United States on imports from Guatemala.

⁴ *Foreign Relations*, 1935, vol. iv, p. 611.

⁵ *Ibid.*, p. 612.

the Department to modify the English text to conform so far as may be admissible to the present Spanish version. Should the Department, however, desire to make any changes in the Spanish text, I respectfully suggest that a list of such alterations or textual corrections be transmitted to me by airmail when I shall immediately take up the matter with the Foreign Office.

The Department will note that in Schedule I the Minister for Foreign Affairs has included 212-3-0-4 "corn starch" at \$0.15 G. K. and 214-1-0-4 "Unspecified fruits, in syrup or in their own juice, cooked or uncooked" at \$0.30 G. K. and tariff items 491-1-3-5 and succeeding numeral, trucks and auto busses of not more than and more than four tons respectively. It will be recalled that these items were omitted from the original Spanish text transmitted with the Legation's despatch No. 824 previously referred to.

The Department will also observe that Notes 1, 2 and 3 have been added to Schedule II instead of to Schedule I and that a phrase reading as follows in translation: "But the provisions now in force on this subject shall continue to be in force" was added to notes 1 and 2. The Foreign Minister informed me that this phrase had been included in the two notes in question in order that there might be no doubt in the future and to have it quite clear that it was a procedure which could and should be followed.

I should add that the Minister also told me that Guatemala would be glad if the engrossment of the proposed treaty could be done in Washington. Presuming that this would be acceptable to the Department, I gave him an affirmative assurance.

Respectfully yours,

MATTHEW E. HANNA

611.1431/153 : Telegram

The Secretary of State to the Minister in Guatemala (Hanna)

WASHINGTON, February 4, 1936—noon.

2. Your despatch No. 866 of January 15. A detailed examination of revised Spanish text reveals that most of the discrepancies with English text are of minor nature. There are several important discrepancies, however, which we wish you to take up at once with the Guatemalan Government.

1. The exception proposed to Article 8 is not acceptable. If upon further study the Guatemalan Government finds that its commitments under the match contract are in fact incompatible with the obligation imposed by this article, we would consider eliminating the article rather than accept any exception.

2. The paragraph which Guatemala wishes to add to Article IX would restrict the scope of the article which is primarily but not

solely concerned with foreign exchange for commercial purposes. The article does not impair Guatemala's right to take such steps as it may deem necessary to control capital movements. In regard to exchange for non-commercial transactions the article provides only that any control of foreign exchange shall be applied in a non-discriminatory manner as between nationals of the United States and of any other foreign country.

3. Reference penultimate paragraph of your despatch. The Department believes that Guatemala has regulations which, if enforced, would defeat the purposes of Notes 1 and 2. The limiting clause proposed thus might completely nullify these notes.

4. A list of unimportant changes which we would like to have permission to make in the Spanish text is being prepared and will be sent you by airmail.

5. The Department will engross agreement and transmit to you for signature.

HULL

611.1431/153

The Secretary of State to the Minister in Guatemala (Hanna)

No. 266

WASHINGTON, February 6, 1936.

SIR: With reference to your despatch No. 866 of January 15, 1936, transmitting a copy of the revised Spanish text of the trade agreement, I am enclosing herewith, for your information and guidance, a memorandum ⁷ of the changes which the Department believes should be made for the sake of greater accuracy in the text. These suggestions are practically all of a relatively unimportant character, and it is trusted that the Guatemalan Government will interpose no objection to them.

In telegram No. 2, of February 4, 1936, the Department raised, for your consideration, those divergencies between the Spanish and English texts which it considered of substance. Hence, the texts cannot be put into final form until detailed replies have been received from you to the aforementioned telegram and to this instruction. When all of the points at issue have been settled and full agreement reached on the texts, the Department will proceed at once with the engrossing.

The comparison between the English and Spanish texts, prepared by the Legation and transmitted under cover of the despatch referred to above, was of great assistance to the Department.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

⁷ Not printed.

611.1431/160

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

No. 885

GUATEMALA, February 12, 1936.

[Received February 17.]

SIR: With reference to the Department's telegram No. 2 of February 4, 12 Noon, in connection with the exceptions taken to certain articles and notes of the proposed Trade Agreement, I have the honor to transmit herewith a copy and translation of a note from the Minister for Foreign Affairs, No. 1581, of February 11, 1936, wherein he transcribed a note dated February 10 from the Minister of Hacienda and Public Credit.

It will be observed that the Government of Guatemala finds itself unable to agree to the exception taken with regard to Article VIII and, in reply to an inquiry upon my part, the Foreign Minister stated that it would be necessary to eliminate the article in question unless the exception proposed is acceptable to the Department.

With regard to Article IX it will be remarked that the Minister agrees to the elimination of the concluding paragraph in the Spanish text provided that it be stated in the Agreement and at the end of Article IX that "For non-commercial transactions the control of foreign exchange shall be applied in a non-discriminatory manner as between citizens of the United States and nationals of another country."

As to the phrases included in the Notes 1 and 2 of the proposed agreement the Foreign Minister assures me verbally that the Sanitary Regulations now in force throughout the Republic were enacted some years ago and have been applied without discrimination to any and all imports of food and drug products without having received any complaints from local merchants. Consul General Marsh confirms this.

Respectfully yours,

SIDNEY E. O'DONOGHUE

[Enclosure—Translation]

The Guatemalan Minister for Foreign Affairs (Skinner Klée) to the American Chargé (O'Donoghue)

No. 1581

GUATEMALA, February 11, 1936.

MR. CHARGÉ: I have the honor to transcribe to Your Honor, for your information, the note which I have received from the Ministry of Hacienda and Public Credit, dated yesterday:

Mr. Secretary: With your courteous note number 1308, dated the 6th of the present month, I was pleased to receive a copy of the valued communication which was addressed to you the preceding day by His Excellency the Minister of the United States of America, containing

the objections which his Government raises as to Articles VIII and IX and the two first notes added to the draft of the Trade Agreement which is about to be entered into between the two countries.

After studying and considering in detail the objections made in this request, I have the honor to express to you the opinion of this Ministry in order that you may please decide that which you deem most convenient;

The final paragraph of Article VIII, included by the Government of the Republic in the Spanish text of the draft of the Agreement, tends to exempt from the provisions of favored commerce matches, wax matches and automatic lighters in view of the fact that the laws which govern the monopoly of said products and the lease contracts entered into with the "Svenska Tandstiks Aktiebolaget" of Stockholm, Sweden, approved by decrees of the National Legislative Assembly, maintain suspended official action insofar as the organization, administration and management of that industry is concerned. With that idea in mind and in accordance with the abovementioned provisions, the Government of the Republic cannot obligate the monopoly company to give preference over its own articles manufactured in Sweden to the same kind of North American articles, especially since that company has free entry for the importation, re-exportation and sale of its products.

On the other hand, according to sections 6 and 7 of the Contract under reference, the Government is obliged not to manufacture, import, export, re-export, retail or permit transit through the territory of the Republic of matches, automatic lighters and similar products which do not belong to the Company or which are not transported duly protected by a bill of lading issued by that company.

Under such adverse conditions, imposed by the lack of foresight or generosity of prior administrations, the present Government cannot enter into an agreement with any country or corporation on favored trade of this kind, notwithstanding the pleasure with which it would be disposed to negotiate with the illustrious North American Government.

The fears expressed that there may exist in Guatemala certain sanitary laws which, if enforced, in conformity with notes I and II added to the draft would defeat the purposes in view, has no basis because in the Republic there are no other laws on the subject than the law governing the importation, trade, manufacture and elaboration, storage and use of medicinal products and narcotic drugs, which has been fully applied since August 12, 1932, and the Sanitary Code which has been in force since May 14 of that same year.

Aside from these laws, well known and accepted favorably by all importers and merchants—including those of the United States by the warrant stamp printed on their products—there are no other laws or orders in Guatemala which limit the entry or sale of drugs and medicines, there being required of course for the entry of food products a certificate from the Laboratory of the General Bureau of Customs in which the good condition and purity of the products is guaranteed.

The original purpose of the notes added, as was explained in this Ministry by the Chargé d'Affaires and Consul of the United States, was that in Guatemala certificates from federal agencies would not be demanded as said federal agencies do not exist in their country, and, in that sense, this Office made the pertinent clarifications to the

Ministry for Foreign Affairs in note number 16295 of October 7, 1935, stating that the objections of the Bureau of Public Sanitation had not been interpreted in the right sense given to them by the distinguished American officials.

This Ministry is of the opinion that, as the above mentioned additional notes are now drawn up, they comply with the purpose then set forth by the American Legation and protect the sanitary interests of the country, the Government of which, supervising the health and life of the inhabitants, cannot, without failing in its high and important duties as the guardian of the physical and moral welfare of the Guatemalan people, lessen its supreme vigilance in this sense.

The General Bureau of Public Health has on repeated occasions exposed that there are current cases of having to refuse toxic, stale or adulterated products, some of them of North American manufacture—the Minister understanding clearly that in all countries of the world there are merchants who pay more attention to the economic welfare of their companies than to the interest and health of their consumers. The laws which are in force in Guatemala on the subject are universally applied just as in the United States exist severe restrictions on retail selling which protect the health of that great nation.

As to the statements as to Article II of the draft and in view of the explanations of the Minister the Ministry under my charge believes that it can well agree to the elimination of the paragraph included in the Spanish text provided that it be stated in the Agreement and in the final part of Article IX, that “for non-commercial transactions, the control of foreign exchange shall be applied in a non-discriminatory manner as between citizens of the United States and nationals of another country” as that distinguished representative so states literally.

I avail myself of this opportunity to renew to the Minister the assurances of my highest and most distinguished consideration.

(s) J. González Campo.

I avail myself [etc.]

A. SKINNER KLÉE

611.1431/160 : Telegram

The Secretary of State to the Chargé in Guatemala (O'Donoghue)

WASHINGTON, February 25, 1936—6 p. m.

10. Your despatch No. 885 of February 12.

1. Suggest to the Foreign Minister the substitution of wording used in Article 5 of trade agreement with Brazil^a for present Article 8.

2. The Department agrees to the insertion between present paragraphs 2 and 3 of Article 9 of the following paragraph:

^a Signed February 2, 1935; for text, see Department of State Executive Agreement Series No. 82, or 49 Stat. 3808. For correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 300 ff.

With respect to non-commercial transactions it is agreed that the Government of each country shall apply any form of control of foreign exchange in a non-discriminatory manner as between the nationals of the other country and the nationals of any third country.

3. As regards notes 1 and 2, assure the Guatemalan Government again that our attitude is entirely in sympathy with its insistence on high standards for imported foodstuffs and medicinals. We believe, however, we can reasonably request assurance that no requirements impossible of fulfillment such as authorization for sale, et cetera, by established authorities, federal or otherwise, both on foodstuffs and pharmaceuticals, will be imposed. Although present liberal interpretation of Guatemalan laws and regulations appears satisfactory we need some guarantee against less favorable treatment in the future, which is apparently possible under existing laws. Department of Commerce files indicate frequent difficulties in the past including cases where Guatemalan consuls refused to accept certificates from Chambers of Commerce or similar associations, which are practically the only organizations we have capable of extending such certificates. The Department's consideration of this question has been handicapped by the fact that complete information has not been available here on legal status of the certification requirements. It is suggested therefore that you go over the matter again thoroughly with the proper official and endeavor to reach agreement. If our proposal without amendment is still not satisfactory we will then authorize you to suggest removal of the two notes from the agreement and their incorporation in a suitably drafted note which Guatemala can sign concurrently with agreement.

HULL

611.1431/161 : Telegram

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

GUATEMALA, March 10, 1936—5 p. m.

[Received 10:11 p.m.]

21. Department's air mail instruction No. 266, February 26 [6]. Guatemala agrees to all "grammatical changes" included in memorandum as well as rearrangement of headings on textile itemizing in schedule I and other changes in schedule I and schedule II.

With reference to article XIII, Government deliberately omitted "or where good faith can be established" as being contrary to provisions of Customs Code.

References Department's 10, February 25, 6 p. m., Guatemalan Government agrees to changes suggested in paragraphs 1 and 2.

As regards notes 1 and 2, Guatemala suggests inserting following paragraph: "excepting the sanitary laws in force on the date of the

signatures of the agreement, the Republic of Guatemala will not demand any sanitary requirement impossible of fulfillment on the part of the United States because of the non-existence of federal authorities or organizations or similar associations responsible for the service to which the requirement might refer". Respectfully suggest early preparation of final text if ratification is to be secured before April 30 when Legislative Assembly adjourns.

Copies of notes and translation being forwarded air mail March 12.

O'DONOGHUE

611.1431/163

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

No. 910

GUATEMALA, March 11, 1936.

[Received March 16.]

SIR: With reference to the Department's telegram No. 5 of February 13, 5 p. m.,^{8a} in connection with the note concerning chicle suggested in the Department's telegram No. 36, of December 13, 2 p. m.,⁹ I have the honor to transmit herewith a copy of a self-explanatory informal note which I addressed to the Guatemalan Foreign Minister on February 17, 1936. Not having had any reply from the Minister, I mentioned the matter to him in a conversation recently and asked him if such a note would be agreeable to Guatemala. He seemed somewhat vague concerning it and indicated that so long as the question of chicle could not be included in the Trade Agreement, the matter might be allowed to lapse. This new attitude, if it may be so called, upon his part may have been brought about by recent British Honduras regulations governing chicle.

Respectfully yours,

SIDNEY E. O'DONOGHUE

[Enclosure]

The American Chargé (O'Donoghue) to the Guatemalan Minister for Foreign Affairs (Skinner Klée)

GUATEMALA, February 17, 1936.

MY DEAR MR. MINISTER: AS YOUR EXCELLENCY will doubtless recall, on or about December fourteen Mr. Hanna had one or more conversations with you concerning the assistance of the United States in preventing illicit trade in chicle. If I recall correctly, Mr. Hanna showed you a copy of a note, or at least suggested the type of note which the Legation could submit to Your Excellency in this respect.

^{8a} Not printed.

⁹ *Foreign Relations*, 1935, vol. IV, p. 614.

May I, therefore, venture to inquire if the following note will be acceptable to Your Excellency:

"The Government of the United States is aware of the difficulties which the Government of Guatemala is experiencing in controlling the export of crude chicle and is desirous of cooperating within the limits of its authority with the Government of Guatemala in preventing chicle illegally exported from Guatemala from entering the United States as chicle originating in third countries. The Government of the United States accordingly assures the Government of Guatemala that it will give most careful and sympathetic study to any proposal designed to assist in accomplishing the foregoing purpose".

If the foregoing is agreeable to Your Excellency, I shall be glad to draw up an official communication textually the same as above for submission to Your Excellency's Government.

With warm personal regards [etc.] SIDNEY E. O'DONOGHUE

611.1431/161 : Telegram

*The Acting Secretary of State to the Chargé in Guatemala
(O'Donoghue)*

WASHINGTON, March 17, 1936—noon.

14. Referring to the Legation's telegram No. 21, March 10, 5 p. m.

1. Endeavor to persuade the Guatemalan Government to accept wording used in first paragraph of Article X of trade agreement with Haiti¹⁰ in place of first paragraph of Article XIII. The Department believes the wording used in Haitian agreement would cause no conflict with Article 358 Section III of Guatemalan Customs Code as amended by Decree 1775 of January 25, 1936.

2. The Department sees no substantial change in the Guatemalan counter-suggestion on notes 1 and 2 from the wording given in Spanish text which accompanied despatch No. 866 of January 15 and which the Department found unsatisfactory. It is suggested that you review our previous instructions on this point and in conjunction with the Commercial Attaché try to work out a satisfactory solution with the Guatemalan Government.

3. Texts are being given final check preparatory to obtaining clearance. Prompt settlement of points one and two will expedite matters. Department planning to engross agreement to be forwarded to Guatemala for signature.

PHILLIPS

¹⁰ Signed March 28, 1935; for text, see Executive Agreement Series No. 78, or 49 Stat. 3737.

611.1481/167

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

No. 917

GUATEMALA, March 18, 1936.

[Received March 23.]

SIR: I have the honor to acknowledge the receipt of the Department's telegram No. 14 of March 17, 12 Noon, in further connection with the proposed Trade Agreement with Guatemala, immediately upon receipt of which I addressed a note to the Foreign Office relative to obtaining Guatemalan acceptance of the wording used in the first paragraph of Article X of the Trade Agreement with Haiti in substitution for the first paragraph of Article XIII of the draft Treaty with Guatemala. At the same time I informally transmitted a copy of my note to the Minister of Hacienda.

This morning Commercial Attaché Howard H. Tewksbury and I called on the Minister of Hacienda with particular reference to Notes 1 and 2. The Minister proved himself somewhat more amenable to reason than heretofore and stated that if the wording of both Notes 1 and 2 could be changed around he would be able to accept them without either of the two amendments previously proposed by him with regard to existing Guatemalan Sanitary Regulations. The arrangement which he suggested was quoted in translation in my telegram No. 23 of today's date ¹¹ as follows:

"For the importation and sale of food products of any kind now classified under Sections one and two of the Guatemalan Customs Tariff the Government of Guatemala will not require certificates nor impose special regulations which may be impossible of fulfillment in the United States because of the lack of a duly authorized federal agency for that purpose".

Note No. 2, following the same arrangement, should read:

"For the importation, registration, licensing and sale of pharmaceutical specialties and patent medicines now classified under Section IV, Title II, Chapter 8 of the Guatemalan Customs Tariff the Government of Guatemala will not require certificates nor impose special regulations which may be impossible of fulfillment in the United States because of the lack of a duly authorized federal agency".

In subsequent conversation I referred to my note to the Minister for Foreign Affairs, a copy of which I had sent him. The Minister stated that he would be prepared to accept the wording suggested provided that the words "the exporter" be inserted immediately after the word "documentation". The Minister stated further that he would immediately advise the Minister for Foreign Affairs with regard to Notes 1 and 2 as well as Article XIII in order that there might be no further delay in drawing up the proposed Agreement.

¹¹ *Infra.*

Both Mr. Tewksbury and I are of the opinion that there can be no valid objection with regard to the changes suggested by the Minister of Hacienda since they appear to give full protection to American export interests as well as being acceptable to the Guatemalan authorities.

Respectfully yours,

SIDNEY E. O'DONOGHUE

611.1431/164 : Telegram

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

GUATEMALA, March 18, 1936—noon.

[Received 4:20 p. m.]

23. Department's telegram No. 14, March 17, noon.

1. Minister of Hacienda informally advised me that wording suggested for first paragraph of article XIII would be acceptable provided "by exporter" be inserted immediately after the word "documentation".

2. The Minister also informally stated he would accept note 1 if phrased to read as follows: "For the importation and sale of food products of any kind now classified under sections 1 and 2 of the Guatemalan customs tariff the Guatemalan Government will not require certificates nor impose special regulations which may be impossible of fulfillment in the United States because of the lack of a duly authorized federal agency for that purpose".

3. The same arrangement for note 2 would also be acceptable.

4. Minister of Hacienda is today advising the Minister for Foreign Affairs with regard to above for formal notification to the Legation.

O'DONOGHUE

611.1431/165 : Telegram

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

GUATEMALA, March 21, 1936—10 a. m.

[Received 1:45 p. m.]

24. My telegram No. 23, March 18, noon. With reference to paragraph 1 article XIII Minister of Hacienda insists upon use of following in literal translation "there will not be imposed in the United States of America nor in the Republic of Guatemala greater penalties than those nominally established on imports of articles grown, produced or manufactured in the other country, whether through clerical errors or for any other cause, if good faith can be established, committed by the shipper in the original documentation which shall be presented to the customs".

Spanish text by airmail tomorrow.

O'DONOGHUE

611.1431/164 : Telegram

*The Acting Secretary of State to the Chargé in Guatemala
(O'Donoghue)*

WASHINGTON, March 21, 1936—2 p. m.

16. Referring to the Legation's telegram No. 23, March 18, noon.
1. If Guatemala insists on insertion the Department prefers that "by exporter" be replaced by "made in the country of export."
 2. Language quoted appears acceptable except that use of word "special" has restrictive connotation hence the Department would like to have it omitted or replaced by "other".
 3. The Department hopes to have texts ready for submission to you by airmail next week.

PHILLIPS

611.1431/166 : Telegram

*The Chargé in Guatemala (O'Donoghue) to the Secretary of State*GUATEMALA, March 23, 1936—11 a. m.
[Received 1:40 p. m.]

25. Department's 16, March 21, 2 p. m.
1. Minister of Hacienda agrees to change wording quoted in Legation's No. 24, March 21, 10 a. m., to read "made in the country of export". Also delete "original".
 2. Minister agrees to use of "other" in notes 1 and 2.

O'DONOGHUE

611.1431/172

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

No. 924

GUATEMALA, March 23, 1936.
[Received March 27.]

SIR: Supplementing the Legation's telegram No. 25 of today's date, I have the honor to report that the Commercial Attaché and I called on the Minister of Hacienda this morning with particular reference to the Department's telegram No. 16 of March 21. The Minister agreed to the deletion of the words "the exporter" in the first paragraph of Article XIII and to the insertion therein of "made in the country of export" providing the wording of the paragraph in question followed that quoted in the Legation's telegram No. 24 of March 21. The Spanish of "made in the country of export" as desired by the Minister of Hacienda reads "extendida en el país exportador". The Minister also stated that in order to avoid redundancy he felt it would be better to eliminate the word "original" in the same paragraph.

The Minister also agreed to the removal of "special" in Notes I and II and the substitution therefor of the word "other".

Respectfully yours,

SIDNEY E. O'DONOGHUE

611.1431/173

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

No. 931

GUATEMALA, March 25, 1936.

[Received March 30.]

SIR: Supplementing the Legation's despatch No. 924, of March 23, 1936, I have the honor to transmit herewith a copy and translation of a note dated March 23, 1936, from the Minister of Hacienda and Public Credit relative to Notes I and II and Article XIII of the proposed Trade Agreement.

Respectfully yours,

SIDNEY E. O'DONOGHUE

[Enclosure—Translation]

*The Guatemalan Minister for Hacienda and Public Credit
(González Campo) to the American Chargé (O'Donoghue)*

GUATEMALA, March 23, 1936.

MR. CHARGÉ: I take pleasure in informing you that on this same date I have addressed a note to the Ministry for Foreign Affairs which textually says:

"Mr. Minister: I have the honor to inform you that the Chargé d'Affaires of the United States of America was pleased to hand me a literal copy of note number 42 which under date of the 17th of this month he addressed to the Office under your worthy direction concerning the individual paragraph of the Trade Agreement which is now under study. In order to gain time and with the desire that this matter be concluded as soon as possible, I hasten to inform you that this Ministry is in accord with that which the Chargé d'Affaires states and that the paragraph suggested by him shall be in the following form: "There shall not be imposed in the United States of America nor in the Republic of Guatemala greater penalties than those nominally established on imports of articles grown, produced or manufactured in the other country, whether through clerical errors or for any other cause, if good faith can be established, committed in the documentation which shall be presented to the Customs, issued in the exporting country." Furthermore, this office agrees that notes numbers I and II of Schedule No. II attached to the draft Treaty be worded in the following terms, which have already been accepted by the undersigned and by the Honorable Chargé d'Affaires and the Commercial Attaché of the American Legation. Note No. I "For the importation and sale of food products of any kind now classified under Sections one and two of the Guatemalan Customs Tariff the Government of Guatemala will not require certificates nor impose regulations which

may be impossible of fulfillment in the United States because of the lack of a duly authorized federal agency for that purpose". Note No. II "For the importation, registration, licensing and sale of pharmaceutical specialties and patent medicines now classified under Section IV, Title II, Chapter 8 of the Guatemalan Customs Tariff the Government of Guatemala will not require certificates nor impose regulations which may be impossible of fulfillment in the United States because of the lack of a duly authorized federal agency for that purpose."

I avail myself of the opportunity to reiterate to you the assurances of my highest esteem and distinguished consideration.

(S) J. González Campo."

With assurances [etc.]

J. GONZÁLEZ CAMPO

611.1431/166 : Telegram

The Secretary of State to the Chargé in Guatemala (O'Donoghue)

WASHINGTON, March 26, 1936—noon.

19. Your 25, March 23, 11 a. m. With a view to clarifying the wording of first paragraph article 13, taking into account the suggestions which have been exchanged, the Department proposes the following English text "There will not be imposed in the United States of America or in the Republic of Guatemala, upon articles the growth, produce or manufacture of the other country, greater than normal penalties because of errors in documentation, made in the country of export, which the importer or other party in interest can establish to the satisfaction of the customs authorities to have been clerical in origin or to have been made in good faith".

HULL

611.1431/171 : Telegram

The Chargé in Guatemala (O'Donoghue) to the Secretary of State

GUATEMALA, March 27, 1936—noon.

[Received 3 : 10 p. m.]

28. Department's 19, March 26, noon. Minister of Hacienda states English text of first paragraph article 13 to last comma satisfactory. Strictly literal translation balance of paragraph as follows : "provided it can be established by the importer or other party in interest to the satisfaction of the customs authorities that the errors are clerical in origin or were made in good faith".

If above is satisfactory to the Department, please advise me by cable for information of Minister of Hacienda.

Spanish text by airmail, March 29.

O'DONOGHUE

611.1431/171 : Telegram

The Secretary of State to the Chargé in Guatemala (O'Donoghue)

WASHINGTON, March 28, 1936—2 p. m.

22. Your 28, March 27, noon. Spanish text of Article 13 apparently satisfactory. English text after last comma will be changed to conform to literal translation of Spanish text.

HULL

611.1431/176a

The Secretary of State to the Chargé in Guatemala (O'Donoghue)

No. 284

WASHINGTON, April 13, 1936.

SIR: With reference to previous correspondence on the subject, I am transmitting herewith English and Spanish texts of the proposed trade agreement with Guatemala. Each of these texts includes General Provisions, Schedule I with three notes, and Schedule II.

The Department has made every effort to bring the two texts into complete conformity and in doing so was of course guided, insofar as possible, by the various suggestions and observations made by the Guatemalan Government.

While you should point out to the Guatemalan Government that this Government still reserves the right to suggest such further changes in the English text as may be found necessary prior to termination of the negotiations, the Department trusts that no further changes need be made, and that the Guatemalan Government will shortly authorize the Department to engross the agreement following the enclosed texts. As soon as the engrossed copies of the agreement have been completed they will be forwarded promptly to you for signature.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

[The reciprocal trade agreement between the United States and Guatemala was signed at Guatemala, April 24, 1936; proclaimed by the President of the United States May 16, 1936; effective June 15, 1936. For text, see Executive Agreement Series No. 92, or 49 Stat. 3989.]

HAITI

NEGOTIATIONS RESPECTING THE TERMINATION OF FINANCIAL CONTROL EXERCISED IN HAITI UNDER THE AGREEMENT OF AUGUST 7, 1933¹

838.51/3104

The Secretary of State to the Minister in Haiti (Gordon)

No. 360

WASHINGTON, February 4, 1936.

SIR: The receipt is acknowledged of your despatch No. 125, of January 21, 1936,² reporting your conversation with the President of Haiti with respect to the denunciation of the Debachy contract³ and the possibilities of the Haitian Government raising a public works construction loan in the United States.

It will be recalled that in 1932 President Vincent was desirous of obtaining a loan of \$5,000,000 to finance certain public works, including the Artibonite irrigation project. At that time, the Haitian Government could not secure a loan, and the Department is of the opinion that the Haitian Government can not now or in the near future obtain a loan through reputable financial interests in the United States except on the basis of control similar to that now exercised under the agreement of August 7, 1933.⁴ The Department will not undertake any new commitment involving control of Haitian Customs by this Government, nor will it take any initiative with regard to efforts that may be made by the Haitian Government or its representatives to secure a loan. It will not, of course, offer any objection to a loan of an amount up to \$5,000,000 in the event a lender can be found in the United States, or elsewhere, provided the interests of the bondholders of the present outstanding loan are not jeopardized.

In the present situation the Department agrees with you that it would be much better to endeavor to maintain the agreement of August 7, 1933, for the course of the present year, during which time the office of the Fiscal Representative may be able to convince the Haitian Government of the desirability of operating within its present

¹ For previous correspondence, see *Foreign Relations*, 1934, vol. v, pp. 339 ff.

² Not printed.

³ See *Foreign Relations*, 1935, vol. IV, pp. 667 ff.

⁴ *Ibid.*, 1933, vol. v, p. 755.

budget, and of foregoing the use of extra budgetary credits which would undoubtedly exhaust the reserves now in the treasury. Before taking a stand on the matter vis-à-vis the Haitian Government, and then only in the event the Haitian Government raises the question of the new treaty, the Department desires you to consult with the Fiscal Representative and report whether you believe the plan to maintain the agreement of August 7 for another year would be acceptable to the Haitian Government. It is the Department's view that if the Haitian Government lives within its present budget and foregoes extra budgetary credits, it will have made a practical demonstration of its determination to maintain stability in its national economy, which will tend to react favorably on financial interests in this country if a loan is found to be necessary at the end of the year. It is believed that this is the advisable course for the Haitian Government to follow for at least a year, having in mind that the Haitian Government will have released to it some \$300,000 or more at the end of the year due to the complete amortization of the "B" bonds, which the Haitian Government could use as it saw fit.

In conclusion, it may be stated that the Department can not aid the Haitian Government in any way in obtaining a loan. On the other hand it will not offer any objection to a loan which would not jeopardize the interests of the holders of the bonds of the present loan, or, as previously stated, to any refunding operation satisfactory to the bondholders. With respect to the proposed treaty and the agreement of August 7, 1933, the Department will await the raising by the Haitian Government of any questions with regard to them.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

838.51/3129 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, April 3, 1936—1 p. m.

[Received 3:45 p. m.]

18. Department's instruction No. 360 of February 4. Minister for Foreign Affairs⁵ this morning under instructions from the President sounded me out on the possibilities of signing the proposed new treaty terminating financial control. He said that with the opposition becoming increasingly active as the day of his second inauguration on May 15th approaches, the President would like to announce this last step in the attainment of total liberation.

I replied that the President already had very substantial concrete achievements to boast of and that the present moment, especially

⁵ Yrech Châtelain.

when he was seeking a loan on the American market, would be a most unfortunate one to raise the question. Amplifying despatch by air mail.

GORDON

838.51/3131

The Minister in Haiti (Gordon) to the Secretary of State

No. 194

PORT-AU-PRINCE, April 3, 1936.

[Received April 7.]

SIR: In amplification of my telegram No. 18 of this day, I have the honor to report further as follows: The Minister for Foreign Affairs asked me to call on him this morning, and said that the President had directed him to discuss with me the question of signing the new treaty which would terminate the present financial control as well as all existing treaties.

He explained that the reason for bringing the matter up now was that as the date of the President's second inauguration on May 15 approached, the political opposition to him was becoming sharper, and that one of the points raised by his opponents was that he had not yet achieved the total liberation that he had promised to bring about. Moreover, if he were not able to make an announcement at the time of his re-inauguration that he had succeeded in terminating foreign control of every nature, the impression in the country would be strengthened that this financial control was going to be allowed to drag on indefinitely, and his opponents would consequently increasingly emphasize their criticism of his administration on this score; not only would they do this locally, but it was to be expected that they would approach those elements in the United States who had hitherto acted as their "protectors", who in turn would criticise the policy of our Government in this respect, and it was to be expected that in a presidential election year such criticism would attract considerable attention.

In reply, I told M. Châtelain that my best information was to the effect that there was no serious criticism of the Haitian Government for not having yet terminated our financial control; that although some of President Vincent's opponents might list it among the points on which they wished to attack him, it was only one of many such points and by no means a major issue, so that if these opponents did not have this to talk about they would still have a substantial amount of grievances, real or alleged, to bring up against the President. As to the suggestion that certain elements in the United States could use this point as powerful political campaign ammunition, I thought he would appreciate that our Government had given so many con-

crete examples of its liberal policy in according full recognition of the sovereignty of sister nations, that political opponents would hesitate before trying to make any capital out of further charges of imperialism.

Coming to the substance of the matter, I told the Minister that the President had recently spoken to me on this subject in a general way, and that I had tried to make it clear to him that it would be most inadvisable to raise this question at the present time, especially when he was trying to secure a loan on the American market. I desired to repeat this now most emphatically.

Having in mind the substance of the Department's instruction No. 360 of February 4, I added that in my personal opinion the Haitian Government would be well advised to leave this question in abeyance for the time being: President Vincent had made it clear that if he succeeded in securing the five million dollar loan now under negotiation in the United States he hoped that this would prove to be only the first step in his broad program of eventually securing a further loan in an amount sufficient to refund the 1922 loan.⁶ As I had repeatedly told both the President and the Minister, the indispensable condition precedent for the realization of this broader program was, at the least, for the Haitian Government to go through the present fiscal year within its present budget and without further deficit; if at the end of the fiscal year, it could show not only that it had done this, but also that it had begun again to build up its reserves, then and then only a situation would be created which would allow a further loan to be looked upon as a possibility. If in the meantime, however, the Haitian Government, actuated by merely ephemeral political expediency, should press for the termination of such mild financial control as still existed, the Minister would have to realize as a fact that potential lenders in the American financial market would take fright and immediately lose all interest in any prospective Haitian financing.

The Minister professed to agree with my reasoning; he said that he himself thought this was a poor time to bring the matter up, but he again wished to explain why the President had felt that he ought to do so. On this somewhat inconclusive note the discussion was ended. The Minister did not state that in view of what I had said the Haitian Government would leave the matter in abeyance for the time being, nor did he state that he would like to discuss the matter with me further on some future occasion. I rather anticipate, however, that what I said today and in my conversation with the President above referred to (reported more fully in my letter of March 25 to

⁶ Loan contract of October 6, 1922, between the Republic of Haiti and the National City Company and the National City Bank, both of New York; text in *Le Moniteur, Journal Officiel de la République d'Haiti*, October 30, 1922. For correspondence relating to the loan, see *Foreign Relations*, 1922, vol. II, pp. 472 ff.

Assistant Secretary Welles⁷), I will have to go all over again, on one if not more occasions, before May 15. For that contingency, I should be glad if the Department would instruct me:

(1) whether the Department wishes me to confine what I may tell the President or the Foreign Minister is the attitude of my Government to merely stating that the present is a most inopportune time to raise this question; or

(2) if what I today gave the Minister as my personal opinion I may state to be the position of my Government; or

(3) whether the Department has any other views which it wishes me to present officially if the Haitian Government again raises the question.

Referring again to the Department's instruction No. 360 (page 2), I have of course consulted with the Fiscal Representative as directed; while it is apparent from what I have hereinabove reported that the Haitian Government would prefer to abolish the existing financial control before the end of the year, I do not see why we should not be able to stave off cooperating in bringing this about until at least after the close of the fiscal year on September 30.

It is my understanding that the Department has definitely taken the position that the Accord of August 7, 1933, constitutes the provision for control during the life of the 1922 loan after the expiration of the 1915 Treaty⁸ on May 3, 1936, stipulated in Article 8 of the Protocol of October 3, 1919.⁹ If, as I presume, the Department has on one or more occasions made its position clear to the Haitian Government so that after May 3, 1936, it can not again raise this question, there disappears a reason which might otherwise be adduced for signing the supplementary treaty now.

Respectfully yours,

GEORGE A. GORDON

888.51/3131

The Secretary of State to the Minister in Haiti (Gordon)

No. 388

WASHINGTON, April 16, 1936.

SIR: The receipt is acknowledged of your despatch No. 194 of April 3, 1936, reporting a conversation with the Minister for Foreign Affairs regarding the proposed new treaty which would terminate the present financial arrangement under the agreement of August 7, 1933,¹⁰ and existing treaties.¹¹

⁷ Not found in Department files.

⁸ Signed September 16, 1915, *Foreign Relations*, 1916, p. 328.

⁹ *Ibid.*, 1919, vol. II, p. 347.

¹⁰ *Ibid.*, 1933, vol. V, p. 755.

¹¹ Treaty of September 16, 1915, *ibid.*, 1916, p. 328; supplementary agreements of August 24 and December 3, 1918, *ibid.*, 1919, vol. II, pp. 309 and 312; agreement of June 27, 1916, *ibid.*, 1916, p. 332; protocol of October 3, 1919, *ibid.*, 1919, vol. II, p. 347.

The Department's belief that it would be advisable to maintain, during the present year, the accord of August 7, 1933, was not influenced by the effect that the maintenance of the accord might have upon the outcome of any loan negotiations the Haitian Government might undertake. As indicated in instruction No. 360 of February 4, 1936, the Department was of the opinion that the Haitian Government would stand a better chance of securing a loan at the end of the year if it had given a practical demonstration during the present year of its determination to live within its budget. It was thought that the Fiscal Representative,¹² whose office was established by the accord, could use his authority and influence, with the informal assistance of the Legation, to assist the Haitian Government in eliminating unnecessary expenses and cutting expenses to meet receipts. It was also pointed out that if Haiti could continue during the fiscal year without a loan it would possibly no longer find the same need for a loan, inasmuch as three hundred thousand dollars per annum would be available for general governmental expenses which previously had been applied to amortization of the "B" bonds. In connection with Mr. de la Rue's efforts to raise a loan, the Department therefore would not care to have the impression given by the Haitian Government, or otherwise, that the accord is likely to continue in force for an indefinite period, thereby tending to increase the confidence of possible lenders in the United States. If approached by any financial institution considering a loan to Haiti for information regarding the treaty relationship between the two countries, and it is highly probable that any reputable financial institution would desire to ascertain this information, the Department would feel constrained to state that it not only has an intention, but that it is committed to the abrogation of the accord of August 7, 1933.

With respect to this Government's attitude regarding the proposed new treaty, there can be no doubt that it is definitely committed to sign it, as was indicated by the joint statement of President Roosevelt and President Vincent of April 17, 1934,¹³ that "We have discussed a new form of financial administration which is satisfactory to our two Governments and which should be equally satisfactory to the holders of the bonds of the 1922 loan"; by the fact that the proposed treaty was agreed to in its present form by the two Governments and Mr. Armour was authorized in instruction No. 171 of May 23, 1934,¹⁴ to sign it; and furthermore, by a letter dated January 28, 1935,¹⁵ to the Foreign Bondholders Protective Council, the Department declared

¹² Sidney de la Rue.

¹³ See telegram No. 18, April 18, 1934, to the Minister in Haiti, *Foreign Relations*, 1934, vol. v, p. 352.

¹⁴ *Ibid.*, p. 361.

¹⁵ Not found in Department files.

that this question of policy of transferring the functions of the present treaty officials to the National Bank under a new treaty had been determined upon only after the fullest consideration and with all due and proper regard for the interests of the American bondholders.

Should the Haitian Government now determine that it wishes to proceed to sign the treaty despite the Department's views as set forth in instruction No. 360 of February 4, 1935 [1936], the Department stands ready to sign the treaty with some modification in the letters accompanying it, in view of the possibility that the Foreign Bondholders Protective Council may wish to withdraw from participation therein.

If further inquiry is made of you regarding the attitude of our Government to the proposed new treaty, you may explain the Department's views as set forth in this instruction.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

838.51/3137: Telegram

The Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, May 4, 1936—5 p. m.

10. For Gordon from Welles. I have informed Blanchet¹⁶ that this Government stands ready to sign the treaty, with certain minor modifications, as and when the Haitian Government is ready, so that the determination as to whether it desires to sign the proposed new treaty at this time rests with the Haitian Government. At the same time, I told Blanchet that I agreed with de la Rue's opinion that signature of the new treaty at this particular juncture might make more difficult the successful outcome of his negotiations, since some prospective lenders might become unnecessarily concerned over the new arrangement, even though aware of its general outlines, which I assume de la Rue is conveying to them. I understand that de la Rue has advised the President, Blanchet and other members of the Haitian Government in this sense.

The principal reason for our belief in the advisability of the continuance of the Accord this year arises from the view that Haitian credit and therefore Haiti's chances of securing a loan on favorable terms at some future date would be improved if Haiti could during the current year show the financial world that it can manage satisfactorily its finances. Support is lent to this belief by the favorable reaction in the New York market to the loan operations of certain foreign governments which have maintained their finances in good shape throughout the depression. I continue to think this point of

¹⁶ Albert Blanchet, Haitian Minister in the United States.

view important and suggest you bring it to the attention of the President if this subject is discussed at your meeting. [Welles.]

HULL

838.51/8141

The Minister in Haiti (Gordon) to the Secretary of State

No. 220

PORT-AU-PRINCE, May 5, 1936.

[Received May 8.]

SIR: With reference to my telegram No. 20 of this date,¹⁷ I have the honor to report in amplification thereof as follows.

After a short prelude concerning the coffee situation, the President said that he wanted to discuss with me the situation created by the termination, day before yesterday, of our Treaty of September 16, 1915, which was to be followed by the cessation of American financial control; as he had already told me, he felt it politically desirable, in connection with his approaching reinauguration on May 15, to be able to announce the termination of our financial control.

In reply I said to the President that, as I had already indicated to him, my Government had agreed to sign the new treaty and was prepared to do so; the decision was his, and if he wished to make concrete proposals or suggestions to me with respect to its signature, I would be glad to transmit them to my Government.

After observing that the 1915 Treaty was only terminated in so far as the subject matter of its provisions was not covered by the Accord of August 7, 1933, I again presented to his consideration the views set forth in the Department's telegraphic instruction No. 10 of May 4, as well as in its air mail instructions Nos. 360 of February 4 and 388 of April 16. The President then proceeded to discuss these views at considerable length, on the basis of querying why the signature of the new treaty and the termination at this time of the existing financial control might prove disadvantageous.

My replies were to the effect that, as indicated in the Department's instructions above cited, if the Haitian Government, through the remainder of the fiscal year, by living within its budget and by foregoing the use of extraordinary credits which would unduly deplete its treasury reserves, furnished a practical demonstration of its determination to maintain stability in its national economy, this would tend to react favorably in American financial circles, and would create for the Haitian Government a better chance of realizing President Vincent's broader program of securing larger credits in the American market than the five million dollar loan now under negotiation.

¹⁷ Not printed.

I added that the reaction of the American financial market to such action as he might decide to take in the premises was one which I thought could be counted upon with a considerable degree of certainty. If however he wished to take the risk of requesting that the treaty be signed and the existing financial control be terminated at the present time, I could only repeat that the determination rested with him. The President thereupon said that as the matter was so important he would like to consider it further, and would ask me to call upon him again when he had reached a decision.

In connection with his evident desire—if he decides that he can do so without fear of unfavorable consequences—to announce on the occasion of his re-inauguration on May 15 that the new treaty terminating our financial control has been signed, it occurs to me, with respect to the Department's mention of minor modifications in the letters to accompany the treaty in view of the possibility that the Foreign Bondholders Protective Council may wish to withdraw from participation therein, that it might not be practicable to agree on the final text of the said letters and to effect signature within the short time remaining prior to that date. I should appreciate receiving the Department's views on this point as soon as possible as the President will probably approach me again on the subject in the very near future.¹⁸

Respectfully yours,

GEORGE A. GORDON

838.51/3202 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, October 27, 1936—1 p. m.

[Received 7:40 p. m.¹⁹]

46. I had a long talk with the Minister for Foreign Affairs²⁰ this morning. He told me that on November 4 the President proposed to make a speech at Gonaives in which he would announce the cessation of foreign financial control. I replied that as the Minister was aware our Government had on various occasions reiterated its readiness to terminate the present financial arrangement if and when he requested it; was I to understand that his present statement was meant to constitute such formal request? Léger replied that Blanchet had been instructed to approach the Department in that sense and that he understood he had done so. Will the Department please let me know the facts in this connection?

¹⁸No instruction in reply to this request has been found in the Department files. Apparently the Haitian Government did not again approach the American Legation on this matter until it became evident that negotiations by the Fiscal Representative, Sidney de la Rue, for a bank loan in the United States would not be successful.

¹⁹Telegram in two sections; for section 2, see p. 680.

²⁰Georges Léger.

I asked Léger how he envisaged the effect of this imminent speech of the President, to be followed shortly by actual abolition of the Fiscal Representative's office, upon the present loan negotiations. He replied that Haiti did not seem to be making any very definite progress toward getting a loan, and that de la Rue's latest project in so far as it had been roughly outlined up to date did not seem to him very practicable; consequently he did not think that these steps would make much difference. I asked him if he meant by that that his Government was discouraged and had lost interest in an American loan. He replied that it had not and that it was going to continue to make every effort to get a loan on the American market (adding parenthetically that a loan on any other market seemed extremely problematical); however, he felt that if negotiations were successfully concluded for an American loan and as soon as the bonds were issued the Fiscal Representative's office were to be abolished, this would lead to as much, if not more, criticism than if this step were taken beforehand, and so he thought it would be just as well to have the situation made clear cut and relieved of this ambiguity.

Please inform de la Rue of the foregoing.

I then observed that the agreement as to the form of the draft supplementary treaty and its annexed letters went back to the spring of 1934 and consequently that the modalities for terminating the present financial arrangement would now have to be somewhat modified and would require further negotiations; for instance, I thought that my Government would now wish to effect this step by exchange of notes or protocol rather than by treaty. Léger said that he saw no objection to that and that his Government did not anticipate that the negotiation of these modalities would prove very difficult. I pointed out that as I saw it the Haitian Government would have to enact and promulgate certain legislation prior to or at least concurrently with the signature of a protocol; Léger said he understood this and it had already been taken into consideration to the extent of drafting some of the necessary legislation.

To conclude this branch of the conversation the Foreign Minister said he wished to assure me that in seeking to abolish the Fiscal Representative's office and to put the Haitians in control of Haitian finances, his Government had no intention of weakening the powers or attributes of this office as they would be transferred to other hands inasmuch as it recognized the valuable services this office had performed and what a good protection it had offered to the President and other high officials in resisting raids on the Treasury. It struck me that the Foreign Minister's ideas as reported in the preceding sentence were somewhat less clear than usual.

GORDON

838.51/3202 : Telegram

The Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, October 28, 1936—6 p. m.

23. Your 46, October 27, 1 p. m., Section 1. The Haitian Minister today approached the Department and stated that his Government desired to proceed with the negotiation of an agreement for terminating the present financial arrangement. The Minister was informed of this Government's readiness to proceed, and that you would be instructed to undertake negotiations in the immediate future.

In the open air mail the Department is forwarding today an instruction containing suggested texts of the protocol and annexed note.²¹ If you are in agreement with these drafts and the suggested procedure for negotiating the protocol, the Department will authorize you by telegram to initiate the negotiations at once.

HULL

838.51/3216 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, November 9, 1936—7 p. m.

[Received 10:35 p. m.]

51. At its meeting this afternoon the board of directors of the bank received a communication addressed to it by Léger the salient passages of which are as follows:

"As a result of agreements concluded with the American Government, the Haitian Government in the near future will proceed to the suppression of the office of the fiscal agent and its replacement by a service of control of receipts and expenses of the Republic. This new service of the Finance Ministry which will be administered exclusively by Haitians will have practically the same attributes as those formerly exercised by the office of the fiscal representative".

The letter then states that under the terms of the bank contract the bank is also called upon to effect interior payments, to control and inspect the customhouse statements of account, to supervise the receipts of the Government and to publish economic and financial reports and statistics.

For these new services, the letter continues, the bank will be allotted 2 per cent of the gross receipts of the Government. The letter closed

²¹ Instruction No. 423, October 28, 1936, and enclosures not printed. For text of draft protocol and draft note as presented to Haitian Government with changes agreed upon between the Department of State and the Legation in Haiti by an exchange of correspondence, not printed, see enclosures to despatch No. 346, November 18, 1936, from the Minister in Haiti, p. 621.

by requesting the board to communicate to Léger at the earliest moment possible the plan for organization of these new services which the board considers necessary.

Although the terms of paragraphs one and two *supra* seem somewhat self-contradictory, nevertheless, it seems clear that "the service of the issue of checks as now organized" recited in article 10 of our proposed note does not to the Haitians mean the "service of payments" as it is now organized in the fiscal representative's office. This was what I had in mind when I raised a question with regard to article 10 in my telegram number 47 of October 30, 3 p. m.²²

As the Department in its air mail instruction No. 427²² stated that in the absence of any objections from de la Rue, the Department considered the provisions of this article to be adequate, the Deputy Fiscal Representative²³ after consultation with me sent de la Rue a letter by the air mail of November 7 showing clearly that, although de la Rue considered the "service of payments" and the "service of emission of checks" to be one and the same thing, the Haitians do not so consider it and therefore article 10 should be modified. Léger's letter to the board of directors confirms this. Moreover, Dejean the presumptive Haitian Director General of Customs has been talking quite freely to this same effect.

It seems to me that this letter of Léger's constitutes further evidence of the Haitian tendency to feel that this matter is for all practical purposes settled and that they can go right ahead with their measures for terminating the present financial arrangements; in other words they do not seem fully to realize that the instrument effecting this termination has to be carefully negotiated and that we are entitled to submit our views as to what these measures should consist of.

Moreover, after waiting for more than 2 years since the principle of this termination was agreed upon there is no good reason now for undue haste.

I should appreciate it if the Department would either bring these considerations to the attention of Blanchet and request him to point out to his Government the desirability of Haitian officials taking no other active steps in the premises until the necessary negotiations concluded or else instruct me by telegraph to make representations to Léger in the same sense.

GORDON

²² Not printed.

²³ Rex A. Pixley.

838.51/3218 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, November 11, 1936—10 a. m.

[Received 3:40 p. m.²⁴]

52. My telegram No. 51, November 9, 7 p. m. Léger has now approached Pixley asking him to expedite the plan of organization requested in his letter to the board of directors of the bank. In the ensuing conversation Pixley pointed out that the agreement to terminate financial control had been carefully worked out two years ago and embodied in a draft treaty with two letters to be annexed thereto containing certain undertakings on the part of the Government of Haiti to confer upon the bank certain powers and to adopt measures of fiscal policy for the purpose of assuring adequate service for the 1926 [1922] loans.

Incredible as it may seem, Léger replied that he knew of no such undertakings and that he could find no trace of any such letters in the archives of the Foreign Office though the President had told him that he remembered having seen such letters: however, the President appears further, to have told him that there were no commitments and that Léger should proceed to negotiate with me an agreement for terminating financial control; pursuant to such instructions Léger stated that he was drafting for submission to me a plan for transferring certain of the functions of the fiscal representative's office to the bank (which was why he had approached the board of directors) and hoped to submit it to me in the immediate future.

All of the foregoing unfortunately confirms the penultimate paragraph of my telegram under reference.

Obviously if Léger prepares a plan as a basis of negotiation and submits it to me before I receive the Department's instruction to submit to him our draft protocol and accompanying note it may only tend to create confusion in points where his draft will differ from ours but will make the Haitians less inclined to accede to our proposals and more disposed to insist on their own. Accordingly I think it will be well when I see Léger who has just asked me to call upon him tomorrow morning to press upon him the fact that the agreement to terminate control was subject to certain conditions embodied in documents carefully negotiated by our two Governments; that as that agreement is now over two years old it was necessary that the draft documents evidencing it be brought up-to-date; that our Government is now engaged in doing this and that in the immediate future I shall submit to him a draft protocol with annexed note (which contains no major changes of substance from the original documents) as the

²⁴ Telegram in three sections.

basis for negotiating the formal agreement to terminate control. He probably will then ask me to let him see letters A and B and I see no reason why I should not do so if he does make this request.

I think action of this nature is essential to prevent his submitting a draft to me before I receive the Department's instructions to submit our draft to him.

It follows from the foregoing that the sooner the Department can reply to my despatch 339 of November 6²⁵ and to the further suggested change in article 10 of our note mentioned in my telegram under reference and explicitly set forth in the letter from Pixley enclosed in my despatch No. 342 of November 9,²⁵ so that I can submit our drafts to Léger, the better it will be.

With regard to the point of our satisfying ourselves as to the adequacy of the Haitian legislation to be enacted (covered in the last paragraph of my despatch 339) if the Department concurs in my opinion that we should prepare this legislation it would seem to me that without waiting for this to be physically accomplished the Department could instruct me to submit our draft protocol and note to Léger and to tell him that we propose at the earliest possible moment further to submit to him draft legislation for carrying out the undertakings set forth in this draft note.

I consider it extremely important that we forestall the submission to me by Léger of a draft. It is now apparent that the Haitians will be surprised or at least profess to be by some of the terms of our proposed draft, and we will unquestionably be in a better position to obtain acceptance thereof if they have not already formulated conflicting provisions. For instance the Department's instruction No. 423²⁶ states that the provisions in articles 2 and 11 of the note concerning percentages plus a minimum were inserted at the request of de la Rue who informed the Department that they are acceptable to the Haitian Government. As far as I know there is nothing in writing to substantiate this and my telegram under reference shows that the Haitians do not appear to be actuated by any such understandings. In fact I am informed that when Léger showed the draft of his letter to the board of directors to empower, the only change the latter made was to insert the following sentence in the paragraph stating that the bank would be allotted 2 per cent of the gross revenues of the republic for its treasury service: "However the Government hopes that the bank will be able to function in such fashion as not to utilize for its expenses the total amount of its treasury commission." My telegram under reference and the enclosure to my despatch 342 show that the understandings of de la Rue and of the Haitians as to what is meant by the service of the issue of checks are contradictory. Furthermore

²⁵ Not printed.

²⁶ See footnote 21, p. 609.

to all appearances the point of a minimum 60 day period after the signature of the protocol before it becomes effective, although of elemental necessity for making proper transfer arrangements, will come as a surprise to the Haitians.

I think these various considerations clearly show the necessity of the action I have indicated and of submitting our draft protocol and note to Léger at the earliest possible moment.

GORDON

838.51/3218 : Telegram

The Acting Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, November 11, 1936—6 p. m.

28. Your 51, November 9, and 52, November 11, and despatch 339, November 6.²⁷ Prompt attention is being given your communications and every effort will be made to send telegraphic instructions tomorrow which will enable you to present to the Haitian Government the draft protocol and accompanying notes. It would seem desirable, therefore, and provided you see no objection, that your engagement with Léger be deferred until Friday.

If it is not practicable or you do not consider it advisable to postpone your engagement you should tell Léger as follows: that this Government is greatly surprised that the Haitian Government appears not to be aware of the arrangements carefully negotiated between the two Governments two years ago for the purpose of terminating financial control; that the willingness of this Government to negotiate the agreement two years ago was contingent upon agreement by the Haitian Government to certain commitments protecting the interests of the bondholders, and the Haitian Government willingly subscribed to these commitments; that for over two years the Department has stood ready to conclude the above-mentioned agreement which was drafted for signature in May 1934; that particularly in view of the expiration of the Treaty of 1916 [1915] these documents require revision; that, accordingly, immediately upon receipt of formal notification of the desire of the Haitian Government to go ahead with termination of financial control, this Government proceeded to consider the existing documents and is now completing, after intensive work, a revision which should bring them up to date so that they may more properly fulfill the common purpose of the two Governments; that you hope to submit to the Haitian Government within a brief time a draft protocol with annexed note which this Government hopes will serve as a satisfactory basis for negotiation.

MOORE

²⁷ Latter not printed.

838.51/3218 Suppl. : Telegram

The Acting Secretary of State to the Minister in Haiti (Gordon)

[Extract]

WASHINGTON, November 12, 1936—6 p. m.

29. Department's 28, November 11, 6 p. m.

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If you are in agreement with the drafts as modified by this telegram, you may present them to Léger. Copies of the drafts as presented should of course be forwarded as soon as possible by air mail to the Department.

When you present the drafts to Léger the Department desires you to tell him that it hopes very much that the Haitian Government will find it possible to grant the American employees who may be dismissed upon the closure of the Fiscal Representative's office, the same generous treatment accorded to American employees dismissed at the termination of other American services in Haiti.

MOORE

838.51/3227

The Minister in Haiti (Gordon) to the Secretary of State

No. 344

PORT-AU-PRINCE, November 13, 1936.

[Received November 17.]

SIR: I have the honor to report that the Department's telegraphic instruction No. 28 of November 11, was not received at this Legation until the morning of November 12. It not only then seemed impracticable to postpone my engagement with the Foreign Minister, but also I did not consider it advisable to do so: both because the main consideration was to forestall any possibility of M. Léger submitting a draft to me prior to my delivering to him our own draft protocol and note, and also because I felt that it would be more salutary to have him know how we felt about President Vincent's attitude in the premises.

Accordingly, I called upon him at the appointed time yesterday, and again this morning. The enclosed memoranda and *Aide Mémoire* from the Haitian Foreign Office will, I trust, give a clear picture of what transpired. The difference between today and yesterday in the President's attitude, as conveyed to me by M. Léger, is very interesting.

I should like to express my appreciation of the Department's promptitude in sending the telegraphic instruction above referred to in reply to my telegrams No. 51 of November 9, and 52 of November 11; and the same applies to the Department's telegram No. 29 of

November 12, in reply to my despatch No. 339 of November 6.²⁸ They had the desired effect of preventing any precipitate action on the part of the Foreign Minister and of bringing about a reconsideration of the very casual, to put it mildly, attitude taken by the Haitian Government. As indicated in my brief telegram of this date ^{28a} I hope to have the draft protocol and note ready for presentation to M. Léger early next week, and at my conference with him today he stated that he would await their receipt before addressing any further communication to me in the premises.

Respectfully yours,

GEORGE A. GORDON

[Enclosure 1]

Memorandum by the American Minister (Gordon) of an Interview With the Haitian Minister for Foreign Affairs (Léger), November 12, 1936

I called upon M. Léger this morning by appointment and spent just short of an hour and a half with him. I told him that I had today received instructions from my Government (Department's telegram No. 28 of November 11), as the result of which it appeared that within a very few days I should be prepared to submit to him a draft protocol and note as a basis to negotiate an agreement to terminate financial control.

I recalled that when I had seen him some two weeks ago I had told him that the agreement to terminate control had been carefully worked out two years ago and embodied in a draft treaty with annexed letters containing undertakings on the part of the Government of Haiti to confer upon the Bank certain powers and to adopt certain measures of fiscal policy for the purpose of insuring adequate protection for the 1922 bondholders. I said that when Mr. Pixley had told me two days ago that M. Léger had informed him that no trace of these documents could be found in the archives of the Foreign Office or of the President's Office, I was naturally greatly surprised, to say the least; I had necessarily reported this to my Government which had replied expressing similar surprise that the Haitian Government appeared not to be aware of the terms of the agreement so carefully negotiated between the two Governments two years ago. I said that I thought it would be better to read him my instructions on this point textually, and proceeded to read the pertinent portion of the Department's telegram under reference.

M. Léger said, speaking very frankly, that he had really been somewhat ashamed to ask me for the missing documents himself and

²⁸ Letter not printed.

^{28a} Telegram No. 54 not printed.

therefore had requested Mr. Pixley to ask me for them. Not having seen letters A and B, which had been agreed upon as constituting annexes to the proposed treaty two years ago, he could not speak with properly full knowledge of the facts, but it had been apparent to him as the result of his conversations with Mr. Pixley that there was considerable misunderstanding in the premises. He gathered from Mr. Pixley and from me that it was proposed to transfer to the Bank substantially the entire Fiscal Representative's service as it now stood, whereas the desire of the Haitian Government was to begin to build up a permanent Haitianized fiscal service which would have an important portion of the functions now exercised by the Fiscal Representative's Office, notably the Comptroller's Service.

Léger said that having nothing in his files to indicate what had been discussed and tentatively agreed upon in 1934, and being sincerely desirous of not repudiating any commitments that might have been made, he had asked the President to tell him just what commitments had been entered into, and the President, in reply, told him that while in 1934 there had been a general agreement as to the conditions under which the control was to be terminated, there had been no definite commitments, and that circumstances having changed in the two and a half years which had since elapsed the President did not consider that the termination of control would have to be effected under exactly the same conditions as had been envisaged in 1934.

In reply I said that I must take sharp issue with this. The agreements entered into in 1934 were in no sense tentative, but were the result of careful negotiation. We had at that time only agreed to abrogate existing treaties, under which obligations had been assumed for the protection of 1922 bondholders, under certain specific conditions which were designed to insure the maintenance of the existing security for the 1922 loans. Nor was there merely a general agreement as to these conditions; on the contrary, they were carefully and specifically set forth in the documents agreed upon at that time. When approached by the Haitian Minister in Washington two weeks ago and formally notified that the Haitian Government desired to proceed with the negotiation of an agreement for terminating financial control, my Government in fulfilling the undertaking entered into by it in 1934 and announcing its readiness to proceed with such negotiation, naturally did so upon the understanding that the Haitian Government, in its turn, would fulfill the undertakings it had given in return for our consent to the termination of control. If President Vincent were now to maintain the attitude that the Haitian Government had made no commitments and was under no obligation to do what in 1934 it had said it would do, why of course we would have no option but to withdraw our consent to the abrogation of existing treaties and the termination of financial control.

If M. Léger should tell me officially that this was the definite attitude of President Vincent, I would of course report it to my Government, but I could tell him right now, and I was sure he would appreciate the point, that my Government's reaction would necessarily be most unfavorable, and that my Government would undoubtedly have to take the corresponding attitude which I had just indicated. M. Léger then said that he would be sorry to have me send a report of this nature and he asked me if I would consent to hold up making a report until he had been able to discuss with the President our present conversation. As I thought there was everything to be gained by this, I assented, and I am to see him tomorrow at 11 a. m.

Reverting to what he felt was a definite misunderstanding, Léger pointed to Article 13 of the Bank Contract,²⁹ which stipulates that for its treasury and other services the Bank shall only receive 2% of the gross revenues of the government. As, according to him, the government's gross receipts were now little in excess of Gdes. 32,000,000, i. e., about \$6,500,000, 2% thereof would be but about \$130,000. The Bank was already receiving 1% of these gross receipts, and it seemed clear to him that for an additional \$65,000, it could not have been contemplated that the Bank was to take over substantially the entire functions of the Fiscal Representative's Office, which he said was now operating on a budget of approximately \$160,000 a year.

Léger then said that he hoped I would give earnest consideration to the Haitian Government's point of view that it desired to build up a permanent and efficient fiscal service. For Haiti's own protection—with respect to her credit standing, the possibility of future loans, etc.,—the government wished to ensure just as effective service of the 1922 loans, and as adequate protection of the bondholders, as has existed up to now. He felt that the plan of reorganization of the Bank which he had in mind would bring this about, and he hoped that if he presented a plan which insured the attainment of these two objectives we would not refuse to discuss it, even if it was not just what had hitherto been envisaged.

I pointed out to M. Léger that I had recently seen a memorandum, which Mr. de la Rue had prepared just before leaving here in September, in which he referred to a conversation, or conversations, which he had had with the President, in the course of which the latter had agreed with the idea that for treasury and administrative services the Bank should take 2% of the gross receipts of the government plus such an additional sum as might be necessary to constitute a minimum

²⁹ For text of bank sale contract, published with the law of sanctions of March 28, 1935, see *Bulletin des Lois et Actes*, 1935 (Port-au-Prince, Imprimerie de l'Etat, n. d.), p. 164, or *Le Moniteur, Journal Officiel de la République d'Haiti*, May 6, 1935, p. 284. For correspondence concerning the sale, see *Foreign Relations*, 1935, vol. iv, pp. 703 ff.

amount of gourdes; the same idea to be applied to the operation of the customs service (2% plus such amount as might be necessary to constitute a minimum of gourdes), and to the operation of the internal revenue service (12% plus such amount as might be necessary to constitute a minimum of gourdes). At this M. Léger smiled rather skeptically and said that he had not seen anything in writing evidencing any such concrete agreement.

In conclusion M. Léger said that he had naturally wanted to give me his general ideas and to get mine, but up to date we were necessarily talking somewhat vaguely; when we had before us the draft documents, which I had said I would submit to him in the near future, we could discuss with more precision. In the meantime he would let me know tomorrow the result of his discussion with the President of the fundamental points above adverted to.

G[EORGE] A. G[ORDON]

[Enclosure 2]

Memorandum by the American Minister (Gordon) of an Interview With the Haitian Minister for Foreign Affairs (Léger), November 13, 1936

As indicated in my memorandum of yesterday's interview with M. Léger I called upon him by appointment this morning.

M. Léger said he was sure I would be glad to hear that since I had seen him yesterday they had finally found the documents elaborated in 1934. He said that a perusal of letters A and B had given him great satisfaction because he felt now that we were very close together and that there should be little difficulty in negotiating an agreement to bring about the termination of financial control. The Haitian Government was perfectly ready to stand by everything set forth in letters A and B. He wished, however, to point out that most of those provisions were undertakings to do something in the future, but did not specify just how it was to be done. It was this that he had in the forefront of his mind yesterday when he was saying that there were no commitments on the Haitian side. He was afraid that he had expressed himself badly inasmuch as what he meant was that there were no definite commitments as to just how the functions now performed by the Fiscal Representative's Office were to be transferred to the Bank—which, as he saw it, was the point as to which there existed at present the most misunderstanding and divergence of views.

He then read me an *Aide-Mémoire* setting forth summarily the point of view of the Haitian Government, copy and translation of which are transmitted to the Department as enclosures to the despatch to which this memorandum is also an enclosure.

M. Léger said that he still felt that the new set-up now envisaged by him would insure the fullest measure of protection and security to the 1922 bondholders, and he hoped and thought that we also would feel that it did. After receiving the draft protocol and note, which I told him I now would be in a position to submit to him on Monday or Tuesday of next week, M. Léger said that in the near future he would, by way of comment thereon, or reply thereto, submit to me his proposed plan of organization of the fiscal services in question. As I had indicated, when he had roughly outlined his plan to me orally, Léger admitted that there was some duplication of work in his scheme, but that this tended toward greater protection of the bondholders, and also would achieve his other main objective of building up a Haitianized fiscal service which would be able to continue to operate efficiently after the 1922 loans had been fully retired, instead of merely disappearing when the event takes place.

G[EOERGE] A. G[ORDON]

[Enclosure 3—Translation]

The Haitian Ministry for Foreign Affairs to the American Legation

AIDE-MÉMOIRE

The Haitian State has never contested the fact that there were negotiations in 1934 with the American Government, nor that there was an agreement in principle on the subject of the conditions under which the Office of the Fiscal Representative would be abolished. The substance of the arrangements agreed upon is to be found moreover, together with the limits which they envisage, set forth explicitly in Article 13 of the Contract of July 8, 1935, for the purchase of the Bank.

The Haitian Government does not intend to repudiate in any way this agreement in principle or the measures agreed upon to be taken as a guarantee to the 1922 bondholders. But the Government holds that the arrangements of which it has just spoken have never implied the engagement on the part of the Haitian Government to transfer the organization of the Office of the Fiscal Representative almost in its entirety to the new Services to be organized in the National Bank of the Republic of Haiti.

The Haitian Government recognizes the very useful and beneficial role that the Service of the Fiscal Representative has played in the financial organization of the Republic; it desires to maintain a similar organization as a permanent part of the financial administration. It intends to create a Service of Control of receipts and expenditures of the Republic of Haiti, by preserving the entire Haitian personnel already trained, and to maintain this new organization with the same attributes as those previously exercised by the Office of the Fiscal

Representative, at the same time abolishing, naturally, the right of political control.

In so far as the guarantees to be given to the bondholders of the 1922 loan are concerned, the Government will create the necessary services and organization to satisfy the engagements already undertaken by it, as they are set forth in Article 8 (*sic*) of the Contract of July 8, 1935, while taking into consideration the limits imposed by the total percentage of 2% of the gross revenue of the Government allotted as a remuneration to the National Bank of the Republic of Haiti by agreement between the two Governments.

PORT-AU-PRINCE, November 13, 1936.

838.51/3224 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, November 14, 1936—10 a. m.

[Received 12:05 p. m.]

55. Department's telegram No. 29, November 12, 6 p. m. If the Department perceives no objection I think it would be better to submit the drafts to Léger next week under cover of a formal written note rather than merely accompanied by oral communications. This note would set forth the subject matter of the last paragraph of the Department's telegram reference, and I think it should also state that it is my Government's understanding that the legislation referred to in the protocol and note will of course be submitted to the Legation for examination prior to enactment. I think it would also be well that the note should explain our suggestion as to the date upon which the protocol will come into effect as set forth in the first full paragraph on page 2 of the Department's instruction number 423 of October 28.³⁰

GORDON

838.51/3224 : Telegram

The Acting Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, November 16, 1936—5 p. m.

32. Your 55, November 14, 10 a. m. Department believes that the general purpose implied in your suggestion might be accomplished by communicating drafts to Léger under cover of a simple note of transmittal which you might leave in person with Léger. At the same time you could make the necessary oral communications on the three points

³⁰ Not printed.

brought up in your telegram under reference and leave three separate comprehensive *aide-mémoires* covering these points.

MOORE

838.51/3232

The Minister in Haiti (Gordon) to the Secretary of State

No. 346

PORT-AU-PRINCE, November 18, 1936.

[Received November 20.]

SIR: With reference to the Department's telegraphic instruction No. 29, of November 12, I have the honor to transmit herewith copies of the draft protocol and note, effecting the termination of American financial control in Haiti, which I delivered to the Haitian Minister for Foreign Affairs this morning.

I likewise left with him separate *Aide-Mémoires* covering the points mentioned in my telegram No. 55 of November 14, and the Department's telegraphic instruction No. 32 of November 16, as well as two other points covered by the communications recently exchanged between the Department and this Legation. At the same time I set forth to him orally all the points covered by the separate *Aide-Mémoires*.

M. Léger said that now that he had these documents before him he thought that within a very short time, perhaps two or three days only, he could submit to me a plan for the transfer to the Bank of those services of the Fiscal Representative's Office covered by the provisions of our draft note.

M. Léger also stated that he likewise hoped within a short time to be able to submit to me most of the remaining draft legislation which will have to be enacted by the Haitian Legislature.

Respectfully yours,

GEORGE A. GORDON

[Enclosure 1]

Draft of Protocol Between the United States and Haiti for the Termination of American Financial Control

WHEREAS the Haitian Legislature has voted the Laws of Sanctions dated March 28, 1935,³¹ and May 21, 1935,³² sanctioning and approving the acquisition of ownership and the organization by the Government of Haiti of the National Bank of the Republic of Haiti; and

³¹ For text, see *Le Moniteur*, May 6, 1935, p. 284, or *Bulletin des Lois et Actes*, 1935, p. 164.

³² For text, see *Le Moniteur*, May 30, 1935, p. 343, or *Bulletin des Lois et Actes*, 1935, p. 197. This law modified the earlier law of March 28, 1935.

WHEREAS the Government of Haiti has communicated by note of its Minister for Foreign Affairs dated , 19 . . . , to the American Minister at Port-au-Prince the decision of the Government of Haiti to confer upon the National Bank of the Republic of Haiti certain powers and duties and to maintain them in full force and effect, without modification, and to adopt certain measures of fiscal policy, for the purpose of assuring the service of the loans of 1922, until such time as all bonds issued under the loan contracts of 1922 shall have been amortized or repaid; and

WHEREAS, in pursuance of the above-mentioned decision of the Government of Haiti, the National Legislature has voted enabling laws of , 19 . . . , and of , 19 . . . , et cetera, and the President of Haiti has ordered these laws to be promulgated and they have been published in the *Moniteur* of today to take effect on the first day of , 1937; and

WHEREAS the President of the United States of America and the President of the Republic of Haiti, being desirous of strengthening the relations of friendship existing between their countries, and to that end of concluding a protocol maintaining those relations upon a basis of mutual understanding and cooperation, have entered into the following agreement, through their duly authorized representatives:

ARTICLE I

The present protocol, of which the provisions of the aforementioned note of , 19 . . . , are an integral part, shall enter into force on the first day of , 1937, and upon that date the Protocol of October 3, 1919, and the financial arrangement contained in the Agreement of August 7, 1933, resulting from the last above-mentioned protocol, shall cease to have effect.

IN WITNESS WHEREOF this agreement has been signed and sealed by on behalf of the United States of America and by on behalf of the Republic of Haiti.

Done in duplicate in the English and French languages at the City of Port-au-Prince on the day of in the year 193 . . .

[Enclosure 2]

Draft of Note To Be Presented by the Haitian Minister for Foreign Affairs (Léger) to the American Minister (Gordon)

With a view to arriving at the conclusion, with the Government of the United States, of a protocol abrogating the Protocol of October 3, 1919, and the Agreement of August 7, 1933, my Government desires to inform you of its firm decision to maintain the organization of the National Bank of the Republic of Haiti (hereinafter referred to as the Bank) as set forth in the contract of sale of this Bank, which

contract was sanctioned by the Haitian Legislature by the Laws of March 28, 1935, and May 21, 1935, as well as of its determination to entrust to this Bank all the powers necessary to assure the service of the 1922 loans and to make no change either in the organization of the Bank or in the powers granted to it until such time as the obligations of the said loans shall have been completely met.

I have the honor more specifically to set forth my Government's intentions as follows:

(1) The Bank shall be directed by a Board of Directors (*Conseil d'Administration*) of six members named by the President of the Republic of Haiti, in accordance with the stipulations set forth in Article IV and Article XVII of the contract of sale of the Bank, signed July 8, 1935, and sanctioned and approved by the Laws of Sanctions of March 28, 1935, and May 21, 1935. The president of the Board of Directors shall be elected by a majority vote of the members then in office.

(2) The Bank, as the sole depository of all the general funds whatever of the Government of Haiti, shall have the power and the duty of receiving in the first instance all the receipts of the Government and all payments made in favor thereof, to set aside in preference to any other expenses the sums necessary for the service of the 1922 Haitian loans, for the Treasury service of the Bank, and for the operation of the customs houses and the internal revenue service. The Bank shall also have the power and the duty, as the duly constituted agent of the Government, to make all the payments required by the loan contracts. This matter is dealt with in Article XIII of the contract of sale of the Bank by the National City Bank of New York (hereinafter referred to as the Bank contract), and the undertakings of my Government as above set forth are designed specifically to carry into effect the purpose set forth in the said Article XIII of the Bank contract.

On the date of entry into force of the proposed protocol, the Bank shall take from the funds of the Government the sums necessary for the service of the loans for the calendar month then beginning, and in the course of this same month it shall set aside, in preference to any other levy, the sums contemplated for the service of the following calendar month and so on, the service of each month being assured by the levies made during the preceding month.

For the service of the Treasury and for all the administrative services that it may render with a view to assuring a complete protection of the interests of the holders of the loan, the Bank shall levy two percentum of all the gross receipts of the Government in each year, provided, however, that, if necessary to constitute a minimum amount of gourdes, such percentage shall be correspondingly increased.

(3) The Government shall give irrevocable instructions to the Bank, specifying that the payments for the service of the loan, for the Treasury service of the Bank, and for the operation of the customs houses and the internal revenue service, shall enjoy priority with respect to any other payment from the funds of the Government. These dispositions are designed more specifically to carry into effect the provisions of Article XIII of the Bank contract above mentioned.

(4) On the date of entry into force of the proposed protocol a service shall be established at the Bank charged with the examination of the statements of account (*bordereaux*) issued by the various customs houses of the Republic and by the internal revenue service. The Board of Directors of the Bank, within thirty days of the issuance of any customs statement or internal tax statement, shall have the right to request the issuance of a supplementary and explanatory statement by the Haitian Director General of Customs. In the case of disagreement between the Board of Directors and the Director General of Customs, the differences shall be settled by the Secretary of State for Finance.

Every facility shall be afforded to the Board of Directors of the Bank to ascertain directly or by its qualified representatives whether the customs laws and fiscal laws in general are strictly applied, in order to make a report thereon to the Secretary of State for Finance.

The Haitian Government further pledges itself to adopt the following measures and dispositions until the loans of 1922 have been completely repaid.

(5) (a) It will direct the Board of Directors of the Bank to submit, not later than November 30 of each year, a detailed and complete estimate of the receipts for the next fiscal year.

(b) It will maintain the annual budget of expenditures within the limits of the estimate made.

(6) It will bring the receipts to the level of the expenditures, in case of a probable deficit, as notified to it by the Board of Directors of the Bank, either by the creation of new receipts or by the reduction of the expenditures to the level of the receipts, or by both methods.

(7) Inasmuch as the series B bonds, forming part of the 1922 loan, have recently been fully retired, the public debt of the Republic of Haiti may be increased by a loan of an amount equivalent to the authorized issue of said series B bonds; otherwise the Government of Haiti will not increase the public debt except on the occasion of a refunding operation of the outstanding 1922 loans.

(8) It will not pass supplementary or extraordinary credits unless there are funds available to cover them as certified to it by the Board of Directors of the Bank.

The dispositions of the foregoing paragraph are designed more specifically to carry into effect the purpose envisaged by Article V of the Budget Law.

(9) It will not exceed the monthly *douzième* except in case of *force majeure*, and with the approval of the Council of Secretaries of State.

(10) It will transfer to the Bank the service effecting the pre-audit of government payments, the issuance of checks and the keeping of government accounts, as at present organized. All checks issued shall be in the name only of the Haitian Government and shall be signed by a special officer designated by the President of Haiti. The Bank shall continue the publication of the monthly *Bulletin* and, in an appropriate form, of the annual *Bulletin* now prepared by the services of the Fiscal Agent; it shall also have the duty of indicating to the Secretary of State for Finance any error which may be found in orders addressed to it for payment, or in the vouchers which accompany such orders.

The foregoing dispositions are designed to carry into effect the purpose envisaged by the provisions of Article XIII of the Bank contract hereinabove referred to.

(11) (a) It will organize the customs and internal revenue services according to rules of appropriate appointments and career so as to insure the stability of said services and to provide for promotion according to competence, length of service and quality of work performed. It will not permit the dismissal of any officer or employee of the above-mentioned services except for a good cause and then after a hearing granted.

(b) It will operate the customs services on an outlay in any one year of not more than two percent of the customs receipts, or, if such percentage of receipts in any year shall not constitute a minimum amount of gourdes, then upon an outlay of such minimum amount, and the internal revenue service on an outlay in any one year of not more than twelve percent of the internal revenue receipts, or, if such percentage of receipts in any year shall not constitute a minimum amount of gourdes, then upon an outlay of such minimum amount.

(c) It will give the Haitian Director General of Customs jurisdiction over the general administration of the internal revenue service (*Service des Contributions*).

In the certainty that the Bank, with the organization above indicated, and the powers conferred on it, can adequately insure the service of the loans of 1922 and the protection of the interests of the holders, I have prepared a draft protocol which you will find enclosed, whereby it is proposed that Your Excellency's Government shall renounce the Protocol of October 3, 1919, and the Agreement of August 7, 1933.

I am further instructed by the President to inform you that upon receipt of a favorable reply to this note from Your Excellency, expressing agreement on behalf of your Government with the terms of the proposed protocol, as well as with the terms of the present note which shall be attached to the said protocol and form an integral part thereof, he is determined to submit to the national legislature draft legislation covering the proposals presented above, for enactment either in a regular or an extraordinary session of that body. It is understood that the signature of the protocol shall be made contingent upon prior enactment of this legislation, which shall have been promulgated, and published in the *Moniteur* on the day of the said signature, to become effective as of the date of entry into force of the protocol.

In the firm hope that the proposals presented above, and which shall remain in force until the complete payment of the loans of 1922, will meet with the approval of Your Excellency and that of the Government of the United States, I beg you to accept, Mr. Minister, the assurances of my high consideration.

838.51/3236

The Minister in Haiti (Gordon) to the Secretary of State

[Extracts]

No. 350

PORT-AU-PRINCE, November 28, 1936.

[Received December 1.]

SIR: With reference to my telegram No. 59 of November 27,³³ summarizing the documents handed me by the Minister for Foreign Affairs yesterday, I have the honor to report further as follows.

During our conversation the Minister did not give me the various documents to read but only touched orally upon some of the points therein so that there was but little chance for effective comment on my part. The Minister said that he hoped and believed that when I had a chance to examine the draft legislation, which he had prepared for transferring to the Bank the services now performed by the office of the Fiscal Representative, I would find that it provided effectively for the protection of the 1922 bondholders and for the security for their loans; he felt that the control he had provided for was more extensive than that in existence under the present arrangement.

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As these documents were not put in my hands until yesterday afternoon, I have not yet had time to study them as intensively as I shall do,

³³ Not printed.

but the following preliminary observations may be of some assistance to the Department.

As I have indicated before, this draft legislation, which purports to constitute a plan to transfer the services of the Fiscal Representative's Office to the Bank, seems to me so vague and chaotic that in my opinion the best way to deal with it is for the Department to send me, for transmission to Léger, its own plan for transferring these services to the Bank, together with as stiff an accompanying instruction as the Department may deem warranted with respect to our insistence on the views therein set forth being met if the Haitians wish us to sign a protocol abrogating the Protocol of October 5, 1919, and the Agreement of August 7, 1933.

In conclusion I may say that it appears to me that while we do have to reckon with Léger's argument that in certain respects (in particular, the points of the minimum in addition to the 2% in payment for the Bank services, and our interpretation of what the service of the issuance of checks means) our present draft note goes beyond the terms of the draft texts agreed upon in 1934, we should easily be able to make him modify his proposals on those points, and on everything else we should stand firm on our own original proposals. After all, it is the Haitians who have everything to gain from this and who want us to sign a protocol abrogating existing accords; consequently, although Léger will probably put up a considerable show of resistance, if we remain firm I do not see how the Haitians can help but accede to our point of view.

Respectfully yours,

GEORGE A. GORDON

[Enclosure 1—Translation]

The Haitian Minister for Foreign Affairs (Léger) to the American Minister (Gordon)

PORT-AU-PRINCE, November 26, 1936.

Mr. MINISTER: I have the honor to acknowledge the receipt of your communication dated November 18, 1936, under cover of which you have kindly transmitted to me a draft Protocol as well as a draft letter which is to form an integral part of the said Protocol, the whole being designed to put an end to American financial control in Haiti.

These drafts reproduce in their broad outlines those which were negotiated and prepared in the month of May 1934, when the principle of the termination of American financial control and of the organization of a service of control in the National Bank of the Republic of Haiti was agreed upon. As you have kindly brought out

in the course of the interviews that I have had the honor of having with you recently, these drafts of 1934 embody the conditions already agreed upon between the two governments, and it is only a question of inserting in these drafts of 1934 the modifications rendered necessary by the changes which have come about since that time, notably by the expiration of the Haitian-American Convention of 1915.

The draft Protocol which Your Excellency has kindly submitted to me fulfills these conditions entirely, but the draft letter, while reproducing on the whole the terms of the draft letter and memorandum studied in 1934, contains two or three changes which, in my opinion, substantially modify the conditions already agreed upon between our two governments. I take the liberty of pointing out to Your Excellency the two or three points in question :

In the course of the negotiations in 1934, the Haitian Government agreed to undertake :

“not to open supplementary or extraordinary credits unless available funds existed to cover them”.

The new text which Your Excellency has kindly proposed to me is worded as follows :

“#8 draft letter.—It (the Government) will not open supplementary or extraordinary credits unless available funds exist to cover them, as certified to it by the Board of Directors of the Bank”.

The Haitian Government does not believe it possible to accept the addition made to the draft agreement of 1934, which would result in obliging it to refer to the Bank before being able to open a supplementary or extraordinary credit. The formal engagement that it takes not to open supplementary or extraordinary credits unless available funds exist is sufficiently clear and explicit, and the control of the Bank for the safeguarding of the rights of the bondholders is amply guaranteed by the fact that it could refuse to issue checks against these credits in case there were no available funds.

I have the honor then to propose the adoption, purely and simply, of the wording which was envisaged in 1934.

Likewise, clause 10 of the new draft is worded thus :

“It (the Government) will transfer to the Bank the service effecting the pre-audit of government payments, the issuance of checks and the public accounting, as this service is at present organized. All checks shall be issued in the name only of the Haitian Government and shall be signed by a special employee designated by the President of Haiti. The Bank shall continue the publication of the monthly Bulletin and in an appropriate form of the annual Bulletin at present prepared by the services of the Fiscal Agent; it shall also have the duty of indicating to the Secretary of State for Finance any error which may occur in an order addressed to it for payment, or in the vouchers which accompany that order.”

This wording goes far beyond the engagements that the Haitian Government took toward the American Government and toward the Council of the bondholders of the 1922 loan. The extent of control that the Haitian Government is called upon to give to the bondholders through the intermediary of the National Bank of the Republic of Haiti is clearly limited by Article 13 of the Contract of July 8, 1935, and was embodied in clause 6 of the draft memorandum of 1934, which is worded as follows:

The Haitian Government undertakes to:

“Transfer to the National Bank of the Republic of Haiti the service of issuance of checks, as it is at present organized. All checks issued will be in the name only of the Haitian Government and will be signed by a special employee designated by the President of Haiti. The Bank shall continue the publication of the monthly Bulletin and in an appropriate form of the annual Bulletin at present prepared by the services of the Fiscal Agent; it shall also have the duty of indicating to the Secretary of State for Finance any error which may occur in an order addressed to it for payment, or in the vouchers which accompany that order.”

The Haitian Government does not believe it can extend the scope of these undertakings, inasmuch as it intends to create a Service of Control of Receipts and Expenditures of the Republic designed to become a permanent part of the Haitian Financial Administration to which will be given certain powers (*attributions*) which Article 10 of the draft letter submitted by Your Excellency proposes to give to the National Bank of the Republic of Haiti.

Here again the Haitian Government suggests that the wording which was agreed upon in 1934 and which gives to the bondholders of the 1922 loan the desired guarantee, be adopted purely and simply.

I have the honor then to transmit to Your Excellency a counter-draft letter embodying the modifications envisaged above as well as certain changes of slight importance rendered necessary by the Haitian Government's plan to create a Service of Control of Receipts and Expenditures of the Republic.

Please accept [etc.]

GEORGES N. LÉGER

[Enclosure 2—Translation ³⁴]

Draft Counterproject of Note To Be Attached to and Form an Integral Part of the Protocol

EXCELLENCY: With a view to arriving at the conclusion, with the Government of the United States, of a protocol abrogating the protocol of October 3, 1919, and the accord of August 7, 1933, my Government desires to inform you of its firm decision to maintain the organ-

³⁴ Supplied by the editors.

ization of the National Bank of the Republic of Haiti as set forth in the contract of sale of this bank, which contract was sanctioned by the Haitian Legislature by the law of May 21, 1935, as well as of its determination to entrust to this bank all the powers necessary to assure the service of the 1922 loans and to make no change either in the organization of the bank, or in the powers granted to it until such time as the obligations of the said loans shall have been completely met.

I have the honor more specifically to set forth my Government's intentions as follows:

(1) The bank shall be directed by a board of directors of six members named by the President of the Republic of Haiti, in accordance with the stipulations set forth in articles IV and XVII of the contract of sale of the bank, signed July 8, 1935, and sanctioned and approved by the law of sanctions of May 21, 1935. The president of the board of directors shall be elected by a majority vote of the members then in office.

(2) The bank, as the sole depository of all the general funds whatever of the Government of Haiti, shall have the power and the duty of receiving in the first instance all the receipts of the Government and all payments made in favor thereof, to set aside in preference to any other expenses the sums necessary for the service of the 1922 Haitian loans and for the Treasury service of the bank. The bank shall also have the power and duty, as the duly constituted agent of the Government, to make all the payments required by the loan contracts. This matter is dealt with in article XIII of the contract of sale of the National Bank of the Republic of Haiti by the National City Bank of New York (hereinafter referred to as the bank contract), and the undertakings of my Government as above set forth are designed specifically to carry into effect the purpose set forth in the said article XIII of the bank contract.

On the date of entry into force of the proposed protocol, the bank shall take from the funds of the Government the sums necessary for the service of the loans for the calendar month then beginning, and in the course of this same month it shall set aside, in preference to any other levy, the sums contemplated for the service of the following calendar month and so on, the service of each month being assured by the levies made during the preceding month.

For the service of the Treasury and for all the administrative services that it may render with a view to assuring a complete protection of holders of the loan, the bank shall levy 2 per centum on all of the gross annual receipts of the Government. The Government will guarantee to the bank a minimum amount of G.600.000.00 a year and the bank on its part will agree that if the commission of 2% brings in

any year more than G.1.000.000.00 it will return to the Treasury all sums above that maximum amount.

(3) The Government shall give irrevocable instructions to the bank, specifying that the payments for the service of the loan and for the service of the Treasury shall enjoy a priority with respect to any other payment to be made from its funds. These dispositions are designed more specifically to carry into effect the provisions of article XIII of the bank contract above mentioned.

(4) On the date of entry into force of the proposed protocol a service shall be established at the National Bank of the Republic of Haiti charged with the examination of the statements of account (*bordereaux*) issued by the various customs houses of the Republic and by the internal revenue service. The board of directors of the bank, within 30 days of the issuance of any customs statement or internal tax statement, shall have the right to request the issuance of a supplementary and explanatory statement by the Haitian Director General of Customs. In the case of disagreement between the board of directors and the Director General of Customs, the differences shall be settled by the Secretary of State for Finance.

Every facility shall be afforded to the board of directors of the bank to ascertain directly or by its qualified representatives whether the customs laws and fiscal laws in general are strictly applied, in order to make a report thereon to the Secretary of State for Finance.

The Haitian Government further pledges itself to adopt the following measures and dispositions until the loans of 1922 have been completely repaid.

(5) (a) It will request the board of directors of the bank to submit not later than November 30 of each year a detailed and complete estimate of the receipts for the next fiscal year.

(b) It will maintain the annual budget of expenditures within the limits of the estimate made.

(6) It will bring the receipts to the level of the expenditures, in case of a probable deficit, either by the creation of new receipts or by the reduction of the expenditures to the level of the receipts, or by both methods.

(7) Considering that all the series B bonds making part of the loan of 1922 have been retired recently, the public debt of the Republic of Haiti could be increased by a loan of an amount equivalent to the authorized issue of the said series B bonds; otherwise the Government of Haiti will not increase the public debt except for the repayment of the loan of 1922 in circulation.

(8) It will not pass supplementary or extraordinary credits unless there are funds available to cover them.

The dispositions of the foregoing paragraph are designed more specifically to carry into effect the purpose envisaged by article V of the budget law.

(9) It will not exceed the monthly *douzième* except in case of *force majeure*, and with the approval of the Council of Secretaries of State.

(10) It will transfer to the National Bank of the Republic of Haiti the service of the issue of checks, as now organized. All checks issued shall be in the name only of the Haitian Government and shall be signed by a special employee designated by the President of Haiti. The bank shall continue the publication of the monthly Bulletin and, in an appropriate form, of the annual Bulletin now prepared by the services of the Fiscal Agent; it shall also have the duty of indicating to the Secretary of State for Finance any error which may be found in orders addressed to it for payment, or in the vouchers which accompany such orders.

The foregoing dispositions concerning the publication of the monthly and annual bulletins are designed to carry into effect the purpose envisaged by the provisions of article XIII of the bank contract hereinabove referred to.

(11) (a) It will organize the customs and internal revenue services according to appointments and career rules appropriate to insure the stability of said services and to provide for promotion according to competence, length of service and quality of work performed. The dismissal of an official or an employee of the aforesaid services will not be permitted, except for just cause and after a hearing.

(b) It will operate the customs service on an outlay in any one year of not more than 3 percent of the custom receipts, or, if such percentage of receipts in any year shall not constitute a minimum amount of gourdes, then upon an outlay of such minimum amount, and the internal revenue service on an outlay in any one year of not more than 13 percent of the internal revenue receipts, or, if such percentage of receipts in any year shall not constitute a minimum amount of gourdes, then upon an outlay of such minimum amount.

(c) It will give the Director of the Office of Receipts and of Expenditures jurisdiction over the general administration of the internal revenue service (*Service des Contributions*).

In the certainty that the bank, with the organization above indicated, and the powers conferred on it, can adequately insure the service of the loans of 1922 and the protection of the interests of the holders, I have prepared a draft protocol which you will find enclosed, whereby it is proposed that Your Excellency's Government shall

renounce the protocol of October 3, 1919, and the accord of August 7, 1933.

I am further instructed by the President to inform you that upon receipt of a favorable reply to this note from Your Excellency, expressing agreement on behalf of your Government with the terms of the proposed protocol, to which the present letter shall be attached, so that it shall form an integral part thereof, the Haitian Government will take legislative measures necessary to effectuate the propositions presented above. It is understood that the signature of the protocol shall be made contingent upon the enactment of this legislation, which shall be promulgated in the *Moniteur* on the same day, to become effective as of the date of entry into force of the protocol.

In the firm hope that the proposals presented above, and which shall remain in force until the complete payment of the loans of 1922, will meet with the approval of Your Excellency and that of the Government of the United States, I beg you to accept, Mr. Minister, the assurances of my high consideration.

[Enclosure 3—Translation]

The Haitian Minister for Foreign Affairs (Léger) to the American Minister (Gordon)

AIDE-MÉMOIRE

The Secretary of State for Foreign Relations presents his compliments to the American Minister and begs him to refer to the *aide-mémoire*³⁵ which accompanies the communication of November 18, 1936, transmitting a draft protocol as well as a draft letter designed to put an end to American Financial Control in Haiti.

The Secretary of State for Foreign Relations, in reply to the suggestion of the American Minister that a minimum amount be provided for, for the sums allocated to the National Bank of the Republic of Haiti under the percentage of two per cent, desires to remark that the Contract of Concession of September 5, 1910, of the Bank, provided in its Article 16 that the State, which accords the Bank one per cent on the receipts, guarantees to the Bank a minimum commission of \$60,000.00 per year, it being understood moreover that the said commission will not exceed \$100,000.00 per year, whatever the value of the receipts may be.

The Haitian Government will willingly accept an analogous stipulation for the percentage of two per cent, and is disposed to guarantee a minimum commission of Gdes. 600,000.00 per year, while providing for a maximum of Gdes. 1,000,000.00 which is never to be exceeded.

³⁵ See paragraph 2 of despatch No. 346, November 18, from the Minister in Haiti, p. 621.

Moreover, in the draft letter presented by the American Minister, it is provided in section B of paragraph 11 that the disbursements for the functioning of the service of the Receiver General of Customs will not exceed two per cent of the Customs Receipts.

Since the new services which the Haitian Government desires to create under the denomination of "Service of Control of Receipts and Disbursements" are to have broader powers (*attributions*) and to employ a more numerous personnel than in the project envisaged in 1934, the Haitian Government suggests that the percentage of two per cent be raised to three per cent of the customs receipts, with the guarantee of a budgetary minimum of Gdes. 750,000.00.

PORT-AU-PRINCE, November 26, 1936.

[Enclosure 4—Translation]

The Haitian Minister for Foreign Affairs (Léger) to the American Minister (Gordon)

AIDE-MÉMOIRE

The Secretary of State for Foreign Relations presents his compliments to the American Minister and begs him kindly to refer to the *aide-mémoire* which accompanied his communication of November 18, 1936, transmitting a draft Protocol as well as a draft letter designed to put an end to American financial control.

The Secretary of State for Foreign Relations desires to inform the American Minister that the Haitian Government consents willingly to accord to the American employees who may be dismissed upon the closure of the office of the Fiscal Representative the same treatment accorded to American employees dismissed upon the termination of the other American services in Haiti, with the reservation that the Haitian Government does not believe that there is any occasion to grant any indemnity to those American employees whose services may be retained in whatever capacity in the new organization of control to be created in the National Bank of the Republic of Haiti.

PORT-AU-PRINCE, November 26, 1936.

[Enclosure 5—Translation]

The Haitian Minister for Foreign Affairs (Léger) to the American Minister (Gordon)

AIDE-MÉMOIRE

The Secretary of State for Foreign Relations presents his compliments to the American Minister and begs him kindly to refer to the *aide-mémoire* which accompanied his communication of November

18, 1936, transmitting a draft Protocol as well as a draft letter designed to put an end to American financial control.

The Secretary of State for Foreign Relations desires to inform the American Minister that the Haitian Government would prefer to see the date on which the Protocol will enter into effect fixed as of the first day of a fiscal month not later than thirty days after the signature of the Protocol. The Haitian Government feels that such a period will be amply sufficient to permit the Fiscal Representative to make the arrangements alluded to in the *aide-mémoire* of November 18, 1936.

PORT-AU-PRINCE, November 26, 1936.

[Enclosure 6—Translation]

The Haitian Minister for Foreign Affairs (Léger) to the American Minister (Gordon)

AIDE-MÉMOIRE

The Secretary of State for Foreign Relations presents his compliments to the American Minister and begs him kindly to refer to the *aide-mémoire* which accompanied his communication of November 18, 1936, transmitting a draft Protocol as well as a draft letter designed to put an end to American financial control.

The Secretary of State for Foreign Relations desires to inform the American Minister that the Haitian Government will communicate to the American Legation, before they are voted, the draft laws which must be voted as a consequence of any arrangement putting an end to the present American financial control.

PORT-AU-PRINCE, November 26, 1936.

[Enclosure 7—Translation]

The Haitian Minister for Foreign Affairs (Léger) to the American Minister (Gordon)

AIDE-MÉMOIRE

The Secretary of State for Foreign Relations presents his compliments to the American Minister and begs him kindly to refer to the *aide-mémoire* which accompanied his communication of November 18, 1936, transmitting a draft Protocol as well as a draft letter designed to put an end to American financial control.

The Secretary of State for Foreign Relations desires to inform the American Minister that the Haitian Government will proceed without delay to the publication in the *Moniteur* of the Contract of July 18, 1935, relative to the purchase of the National Bank of the Republic of Haiti.

PORT-AU-PRINCE, November 26, 1936.

[Enclosure 8—Translation]

Draft Legislation No. 1

In view of articles 30 and 33 of the Constitution,

In view of the Protocol of

In view of the law of August 9, 1926, on the customs service,

In view of the law of June 6, 1924, creating in the Department of Finance a special service known as Administration General of Internal Revenue,

In view of the Contract of July 8, 1935, relative to the sale to the State of the shares of the National Bank of the Republic of Haiti;

Considering that it is necessary to maintain the Service of control of finances of the Republic, with a view to assuring the execution of the fiscal and budgetary laws,

Considering, moreover, that the expiration of the Treaty of September 16, 1915, renders necessary a new organization of our Treasury Service;

On the report of the Secretary of State of Finances,

After deliberation in the Council of Secretaries of State,

And with the approval of the Permanent Committee of the National Assembly,

DECREES

CHAPTER I.—*Service of the Control of Receipts and Expenditures of the Republic*

Article 1.—There is created in the Department of Finance a Special Service denominated Service of the Control of Receipts and Expenditures of the Republic.

Article 2.—The Service of Control of Receipts and Expenditures of the Republic is charged with:

1) control over the collection of imposts, taxes, rents, and any other receipts generally undertaken by the Administration General of Internal Revenue;

2) control over the accounts of the Treasury Service;

3) with the execution of budgetary and additional expenditures of the Republic, in conformity with the instructions of the Secretary of State for Finance and the dispositions of law with respect to the Budget and Public Accounting;

4) with the execution, within the limits of the credits which may be appropriated, of requisitions for material and office furnishings and supplies made by the Secretaries of State for the service of the different branches of Public Administration and transmitted by the Secretary of State for Finance;

5) with the application of taxes and fines envisaged in the laws and customs tariffs in force.

In case of payment under protest of customs duties or internal taxes, and in the case where a refund of the sum paid is demanded, a written

claim will be rendered to the competent service within a period of thirty days beginning on the date upon which the duties or the taxes will have been paid. If the decision is not accepted, the matter will be presented to a commission formed of a delegate of the Secretary of State for Finance, of a delegate of the Secretary of State for Commerce, and of a delegate of the Director General of the Service of Control of Receipts and Expenditures of the Republic.

Article 3.—The Director General of the Service of Control of Receipts and Expenditures of the Republic shall make to the Secretary of State for Finance all appropriate suggestions, as far as concerns the elaboration and the execution of the fiscal and customs laws of the general Budget of the Republic.

Article 4.—The Director General of the Service of Control of Receipts and Expenditures of the Republic is assisted by an Assistant Director General, who, should occasion arise, replaces him by right.

The Director General of the Service of Control of Receipts and Expenditures of the Republic is also assisted by a technical counselor, called upon to render his qualified opinion on any disputes which may arise on the occasion of the application of the customs and fiscal laws, of taxes, fines, and imposts generally of whatever nature constituting the revenues of the State, as well as upon the application of all measures intending to augment the said revenues.

The technical counselor has access to all collecting agencies of the State and shall make any suggestions susceptible of contributing to the development of their returns.

Article 5.—A controller and an assistant controller are charged with the Accounting Service. They have the special mission of controlling the regularity of any documents of account relating to expenditures, so as to assure execution of the Budget and of the laws and decrees relating to credit.

They are charged with pointing out to the Director General of the Service of Control of Receipts and Expenditures of the Republic in entire freedom, so as to secure the necessary rectifications, any irregularity which may be contained in an order for payment.

Article 6.—The Controller and the Assistant Controller are appointed for a period of five consecutive years, renewable at the pleasure of the President of the Republic, upon the recommendation of the Director General of the Service of the Control of Receipts and Expenditures of the Republic in agreement with the Secretary of State for Finance.

In case of grave error or of failure in their duties, they may be dismissed by the President of the Republic, upon a report originating with the Secretary of State for Finance and after deliberation in the Council of the Secretaries of State.

Article 7.—The personnel of the Service of the Control of Receipts and Expenditures of the Republic shall be organized by decree of the President of the Republic.

The interior regulations of the Service shall be prepared by the Director General and submitted for the approval of the Secretary of State for Finance.

There shall be deducted previously from the total of the customs receipts three per cent (3%) with a view to providing for the payment of the salaries of the Director General and of the personnel, for office expenses, for expenses of travel, displacement, and inspection necessitated by the service.

The administration expenses established under article 3 of the law of June 6, 1924, on the Administration General of Internal Revenue are divided as follows:

2% commission to the National Bank of the Republic of Haiti, as is foreseen in the following article;

9% for various general expenses of the Administration General of Internal Revenue;

4% for the expenses of the Service of the Control of Receipts and Expenditures of the Republic occasioned by the control of collections effected by the Administration General of Internal Revenue.

An annual budget of administration expenses of the Service of the Control of Receipts and Expenditures of the Republic shall be drawn up by the Secretary of State for Finance and, at the end of each fiscal period, any surplus of expenditures will be turned in to the Public Treasury.

CHAPTER II.—*Treasury Service*

Article 8.—In conformity with article XIII of the Contract of July 8, 1935, and until the complete retirement of the Loan of 1922, the National Bank of the Republic of Haiti remains irrevocably charged:

1) with receiving for the account of the Government the proceeds of all *bordereaux* issued by the Service of the Control of Receipts and Expenditures of the Republic and by the Administration General of Internal Revenues;

2) with keeping the sums set aside for the payment of the amortization and the interests of loans contracted by the State, and of effecting the remainder of the said sums to the Fiscal Agents of the Government, in execution of the loan contracts.

In remuneration of this treasury service and that of all other services with which the Bank may be expressly charged by article XIII of the Contract of July 8, 1935, this Establishment shall receive annually a sum equivalent to two percent (2%) of the total revenue

received by the Government. This remuneration of two percent shall figure in the Budget of Expenditures of the State.

The State guarantees to the Bank a minimum of six hundred thousand gourdes (G.600.000,00) per annum for all its operations, but this commission shall not exceed one million gourdes (G.1000.000,00) per annum, no matter what be the total of the sums received.

Article 9.—Duplicates of each *bordereaux* issued by the Service of the Control of Receipts and Expenditures of the Republic and by the Administration General of Internal Revenue shall be sent without delay to the National Bank of the Republic of Haiti, and the responsible chiefs of the service shall exercise diligence in carrying out this order.

Moreover, the Bank shall receive from consuls and diplomatic or consular agents of Haiti, for each ship which may touch its ports, duplicates of all documents such as consular invoices, certificates of origin, bills of lading, manifests, etc.

The National Bank of the Republic of Haiti shall always have the right to obtain from the Service of the Control of Receipts and Expenditures of the Republic all documents or accounting returns which it may judge necessary for the special control which it must exercise with a view to safeguarding the rights of the holders of the 1922 bonds in conformity with article XIII of the Contract of July 8, 1935.

Article 10.—The whole total sum of the receipts collected by the National Bank of the Republic of Haiti for the account of the State shall be placed to the credit of the Government and distributed in conformity with the dispositions of the law on the Budget and on Public Accounting and with dispositions of article 8 of the present decree law concerning the service of the amortization and of the interests of the loans.

There shall also be posted to the credit of the Government, under the title of Various Receipts comprised within the Budget of Ways and Means, one third of the profits of the Bank belonging to the State, in accordance with the stipulations of article XV of the Contract of July 8, 1935.

Article 11.—Within the first fifteen days of each month, the Secretary of State for Finance shall send to the Director of the Service of the Control of Receipts and Expenditures of the Republic and to the Director of the National Bank of the Republic of Haiti, a statement of the budgetary *douzièmes* as well as a statement of any additional credits, if there be any.

Article 12.—The payment of budgetary and additional credits will be effected upon orders for payment of the Secretary of State for

Finance sent to the Director General of the Service of the Control of Receipts and Expenditures of the Republic and by checks issued by the service of payments of the National Bank of the Republic of Haiti.

With the exceptions foreseen in the law on the Budget and of public Accounting, orders for payment, bearing the visa of the controller and of the assistant controller, will be sent to the National Bank of the Republic of Haiti not later than forty-eight hours after their receipt by the Service of Control of Receipts and Expenditures of the Republic.

If in the orders for payment which may have been sent to it, the Bank should discover some error, omission, or insufficiency of justification, it (the Bank) is required to advise without delay the Director General of the Service of Control of Receipts and Expenditures of the Republic, who in his turn shall immediately inform the Secretary of State for Finance in order to secure the necessary corrections.

Article 13.—The service of the issuance of checks is transferred to the office of the National Bank of the Republic of Haiti. All the checks will be issued in the name of the Haitian Government and will be sent by a delegate of the Haitian Government designated by the President of the Republic upon the nomination of the Secretary of State for Finance.

Article 14.—The National Bank of the Republic of Haiti will send to the Secretary of State for Finance and to the Director General of the Service of Control of Receipts and Expenditures of the Republic on the fifteenth of each month at the latest, the statements of account with respect to all and any receipts and expenditures during the course of the month preceding for the account of the Government.

Article 15.—The present decree law shall be published and the Secretary of State for Finance is charged with its execution.

[Enclosure 9—Translation]

Draft Legislation No. 2

In view of Article 30 of the Constitution;

In view of the Protocol of

In view of the Contract of July 8, 1935, relative to the sale to the State of the shares of the National Bank of the Republic of Haiti;

In view of the Contract of September 5, 1910, granting a concession to the Banque de l'Union Parisienne of the privilege for the creation and the exploitation of a State Bank under the name of "National Bank of the Republic of Haiti";

In view of the letter dated by which the Board of Directors of the National Bank for the Republic of Haiti recommends to the Secretary of State for Finance certain modifications in the Contract of Concession of September 5, 1910, judged desirable in view of the execution of the stipulations of Article XIII of the Contract of July 8, 1935;

In view of the decision of the Council of Secretaries of State under date of approving the modifications suggested by the Board of Directors of the National Bank of the Republic of Haiti;

In view of the Decree Law of creating in the Department of Finance a Special Service known as "Service of the Control of Receipts and Expenditures of the Republic";

Considering that Article XIII of the Contract of July 8, 1935, has come to add new obligations to those with which the National Bank of the Republic of Haiti was charged by Article XIV of the Contract of Concession of September 5, 1910; that it is necessary consequently to create in the Bank a Special Service charged with the control and the inspection of customs statements, with the issuance of checks, with the general surveillance over receipts of the Government, with the preparation and the issuance of economic and financial reports and statistics.

Considering that it devolves upon the National Bank of the Republic of Haiti to continue to assure the Treasury service, in conformity with its Contract of Concession;

Considering that according to the stipulations of Article XV of the said Contract of Concession the Bank can only effectuate payments upon the presentation of orders issued by the Secretary of State for Finance according to regulation; that this procedure is not compatible with the method of paying by individual checks adopted by the Government and that there is need, in consequence, to modify dispositions of the said Article XV;

Upon the report of the Secretary of State for Finance

After deliberations in the Council of the Secretaries of State,

And with the approval of the Permanent Committee of the National Assembly

DECREES

Article 1. There is created in the National Bank of the Republic of Haiti a Special Service known as the Special Service of Inspection of the Bank.

All and any expenditures of this Special Service will be met from the treasury commission of the Bank, such as it has been fixed in Article XIII of the Contract of July 8, 1935 (to be defined).

Article 2. The Special Service of Inspection of the Bank is charged :

1. With the general supervision over the receipts of the Government;
2. With the verification (*contrôle*) and with the inspection of customs statements;
3. With the preparation and the issuance of financial statistics and reports;
4. With the issuance of Government checks.

Article 3. The personnel of the Special Service of Inspection of the Bank will be organized according to a Decree of the President of the Republic.

Article 4. The payments to be effected will conform to the following procedure; the Bank will pay to beneficiaries the amount of the checks drawn on it by the Government within the limit of budgetary or additional disposable appropriations, in accordance with orders for payment regularly issued. It must assure itself in advance that the said orders for payment do not contain any error, omission or insufficiency of justification, without prejudice to dispositions of law in force relative to the expenses of the secret police or those assimilated to expenses of the secret police, to certain categories of expenditures where the payment is authorized before issuance of orders of payment (*ordonnancement et mandatement*), or advances which may be justified.

Article 5. The present Decree Law abrogates all laws or dispositions of law, all decree laws or dispositions of decree laws which are contrary thereto, and the Secretary of State for Finance is entrusted with its execution.

[Enclosure 10—Translation]

Draft Legislation No. 3

In view of Article 35 of the Constitution;

In view of Articles 1, 2 and 3 of Decree Law concerning the creation in the National Bank of the Republic of Haiti of a Special Service known as Special Service of Inspection of the Bank.

Upon the report of the Secretary of State for Finance,

And after deliberations in the Council of the Secretaries of State,

DECREES

Article 1. The personnel of the Special Service of Inspection of the Bank, created in the National Bank of the Republic of Haiti by Decree Law, is organized and paid as follows:

MANAGEMENT ("DIRECTION")

	<i>Per month</i>	<i>Per year</i>
1 Director.....	\$750	
1 Assistant Director.....	500	
	<hr/>	\$15. 000

SUPERINTENDENCY GENERAL OF THE RECEIPTS OF THE GOVERNMENT

1 Chief of Service Inspector General.....	\$300	
1 Assistant Chief of Service charged with Jacmel, Petit-Goave, Miragoane and Saint-Marc....	200	
3 typists at \$50.....	\$150	
1 typist (Miragoane).....	30	
	<hr/>	180
1 inspector charged with Cap-Haitien, de Fort Liberté, Port-de-Paix and Gonaives.....	200	
3 typists at \$50.....	\$150	
1 typist (Fort-Liberté).....	30	
	<hr/>	180
1 inspector charged with Cayes, Jéré- mie and Aquin.....	200	
2 typists at \$50.....	\$100	
1 typist (Aquin).....	30	
	<hr/>	130
		16. 680

CONTROL AND INSPECTION OF CUSTOMS STATEMENTS

Port-au-Prince:	3 employees, controllers at \$100.....	300	
Cap :	2 employees at \$75.....	150	
Gonaives :	2 employees at \$75.....	150	
Port-de-Paix :	2 employees at \$75.....	150	
Fort-Liberté :	1 employee.....	50	
Saint-Marc :	1 employee.....	75	
Petit-Goave :	1 employee.....	75	
Miragoane :	1 employee.....	50	
Jacmel :	2 employees at \$75.....	150	
Cayes :	2 employees at \$75.....	150	
Jérémie :	2 employees at \$75.....	150	
Aquin :	1 employee.....	50	
		<hr/>	18. 000

PREPARATION AND ISSUANCE OF REPORTS AND STATISTICS

2 statisticians at \$75.....	\$150	
2 typists at \$50.....	100	
2 probationers (adding machines) at \$30.....	60	
	<hr/>	3. 720

CONTROL OF ORDERS FOR PAYMENT AND VOUCHERS

2 employees at \$100.....	200	2. 400
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ISSUANCE OF CHECKS

	<i>Per month</i>	<i>Per year</i>
1 special employee.....	85	
1 special employee.....	65	
1 archivist.....	60	
1 employee (check machine).....	55	
1 typist.....	40	
1 employee.....	35	
1 delegate of the Secretary for Finance.....	200	
	<hr/>	6. 480
		<hr/> \$62. 280

Article 2. The National Bank of the Republic of Haiti will always have the right, if necessity should arise, to reduce the salaries provided for in the present Decree, to reduce or to increase the number of employees without, however, surpassing the total as foreseen here for salaries of the personnel of the Special Service of Inspection.

Article 3. The employees of the Special Service of Inspection of the Bank are required to conform to the regulations of the National Bank of the Republic of Haiti.

Article 4. The Secretary of State for Finance is entrusted with the execution of the present Decree.

838.51/3241 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, December 9, 1936—1 p. m.

[Received 2:36 p. m.]

61. Léger told Pixley today that in his opinion it would now be impossible to negotiate a loan before the bank plan has been put into operation and that he thought that the President had asked de la Rue to return to Haiti. Even if this should prove true I trust the latter will not return until he has worked out a plan for transferring the machinery of his present office to the bank to the complete satisfaction of the Department.

GORDON

838.51/3242 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, December 11, 1936—3 p. m.

[Received 7:29 p. m.]

62. The Foreign Minister asked me to call on him this morning and by way of asking when I thought I might be receiving an instruc-

tion from the Department brought up the question of the bank plan and asked me if I would discuss it unofficially. In reply I said I felt that the plan he had submitted on November 27 was widely at variance from my understanding of what had been agreed upon in 1934 and that I felt sure that the Department would view it in the same light. Léger said that he did not see why this should be so as what he was trying to do was to adhere strictly to the provisions of the draft treaty and accompanying letters of 1934.

I then rehearsed the objections of his plan set forth in my despatch 350 of November 28 and emphasized that his draft legislation number 3 would automatically eliminate all the Americans now in the fiscal representative's office which could scarcely result in the same measure of protection for the 1922 bondholders it now enjoyed. Léger replied that he was not sure that his plan would necessarily eliminate the Americans and that anyway his Government was under no obligation to pay de la Rue and Pixley the same salaries they now receive; according to the terms of the 1934 letters the bank was to carry on the service for the protection of the security of the 1922 loans on 2 per cent of the gross receipts of the Government and he had to draft his budget in accordance with that provision; what we were now asking was that Kirchner give to this service in the bank a sum greatly in excess of the possible proceeds of a 2 per cent commission on current netted receipts which would have to come out of budgetary funds. He added that for the salaries he had scheduled able men could be secured as inspectors.

I again emphasized that if all or substantially all the Americans at the head of this service which had admittedly rendered efficient service to Haitian finances were eliminated and less experienced subordinates put in their places, however well such a Haitianized service might work eventually, it was obvious that at the best there would for some time be an impairment of the protection of the security of the loans; my Government could not accept such a plan and fulfill its obligations to the bondholders.

Léger maintained an aggressive attitude throughout most of the interview, almost taking the overt position that his plan complied with all the obligations assumed by his Government in 1934 and that if we did not accept it we would not be living up to our own undertaking of that year. If instructions to me on this matter are in the process of formulation I venture to urge that it would be distinctly beneficial to have them couched in the stiffest terms the Department would be willing to employ.

Amplifying despatch by air mail Sunday.

GORDON

838.51/3236

The Acting Secretary of State to the Minister in Haiti (Gordon)

No. 438

WASHINGTON, December 16, 1936.

SIR: The Department has received your despatch No. 350, of November 28, 1936, together with its enclosures, and desires to express its sincere appreciation of the thoughtful and penetrating analysis which you have made of the Haitian counter project.

Your suggestions have been examined with great attention, and the Department finds itself in general agreement with them. Upon some consideration, and after several protracted consultations with the Fiscal Representative, the Department has drafted a reply to the note of November 26, from the Haitian Minister of Foreign Affairs, with its enclosure, a Haitian counter project to the draft note forming part of the proposed protocol.

The Department's reply, enclosed with this despatch, consists of a note with one enclosure and is accompanied by five *aide-mémoires*. It is hoped that with certain exceptions noted in this instruction, all outstanding points of disagreement have been covered adequately, but the Department would be glad to consider any further suggestions, either as to substance or procedure, that you may care to advance.

More specifically, the Haitian contentions with respect to Articles 8 and 10 of the Department's draft note are dealt with in the note of reply. As respects the three projects of law, you are authorized in your discretion to amplify orally to the Minister of Foreign Affairs when presenting the reply, the Department's fundamental objections to the proposed Haitian legislation. It is suggested that you may care to touch upon the proposed "Service of Control of Receipts and Expenditures of the Republic", pointing out that many of the duties to be performed by this proposed service would appear to be already carried out at present by the technical branches of the Ministry for Finance. It is the Department's understanding that according to present practice, orders for payment originating in the various Ministries are approved there by the competent authorities, and then passed through, with certain exceptions, the Ministry for Finance, from which Ministry they are in turn referred to the Fiscal Representative's Office for further pre-audit and accounting. Consequently, the introduction of such a new service as appears contemplated would seem to constitute, with the service which the Haitian Government admits will be necessarily instituted in the Government side of the Bank, and which is in effect the same service as that at present performed by the Office of the Fiscal Representative, a triplication rather than a duplication of accounting in many instances. You may also care to develop at some length the total inadequacy of the personnel and the salaries to be paid such personnel, which the Haitian Govern-

ment had in mind as sufficient for the Government side of the Bank, pointing out that even according to their own ideas, such a personnel could scarcely cope with the duties and responsibilities to which this organization must respond. The Department fully concurs in your view that this organization must be allocated the global sum resulting from the 2 per cent levy, to be disbursed as directed by the appropriate responsible officers of the Bank.

The Department hopes that the Haitian Government will, upon further consideration, agree with this Government's view of what constitutes a satisfactory plan for the organization of the Government side of the Bank, as set forth in the enclosure to its reply, and that as a consequence the greater part of the objectionable features incorporated in the first draft legislation will thus automatically disappear.

Likewise, you are authorized, should you deem it useful, to state orally to the Minister of Foreign Affairs that the American Government has examined Article 11 of the draft decree-law No. 1, and believes that in view of the insecurity of prompt communication within the Republic of Haiti and the amount of bookkeeping involved, it is of doubtful utility to insert a proviso that the Minister for Finance within the first fifteen days of each month should be required to submit a statement of the condition of the Treasury with regard to expenditures as respects the twelve equal monthly budgetary allotments (*douzièmes*) and extraordinary credits. You may also mention in this connection that not long ago the Fiscal Representative upon the request of the then Minister for Finance agreed to the inauguration of a somewhat similar scheme, but that after a trial of several months this scheme was dropped by mutual consent as being impracticable.

With respect to *aide-mémoire* No. 1A enclosed with this instruction, the Department with the entire concurrence of the Fiscal Representative has agreed to the fixing of a maximum for the Bank's commission for its Treasury and other services at 1,000,000 gourdes. The Haitian proposed minimum of 600,000 gourdes is, of course, unacceptable to this Government since it is inadequate. It may be remarked in passing that the minimum has been fixed at 800,000 gourdes or \$160,000, based upon 2 per cent of a 40,000,000 gourde budget with a practical division of \$110,000 for the running of the Government side of the Bank and \$50,000 for the purely Treasury services of the Bank as actually rendered by the institution at present.

Although the Department has given consideration to your remarks as to the possible effects upon the future smooth functioning of the Bank by the Haitian inclusion of the Bank's two per cent commission in the budget as provided in Article 8 (page 3) of the Haitian draft decree law No. 1, it does not feel that it could properly oppose any objection to the Haitian desire on this point since a similar provision was contained in Article XVI of the Accord of August 7, 1933.

It is believed that the other *aide-mémoires* as drafted by the Department require little or no explanation. Mr. de la Rue has been consulted with respect to a possible reduction in the period necessary after the signature of the protocol before the date upon which it is to go into effect, and the *aide-mémoire* on this subject, which is based upon his ideas, has been approved by him.

The plan of organization which is transmitted as an enclosure to the reply has been drafted by Mr. de la Rue personally in the Department upon the documents received from Mr. Pixley. The Department has carefully studied this draft plan, and while it, of course, cannot pretend to pass with knowledge upon the more technical details of the proposed organization, it believes that on the whole the plan should provide adequate security for the service of the 1922 loan. The Department has accordingly approved this plan in principle.

With respect to the statement on page 1, line 3, of the list of salaries of personnel attached to the memorandum enclosed with our draft note, that the "Government rendered a decision that the Fiscal Representative and the Deputy Fiscal Representative, et cetera," Mr. de la Rue has assured the Department that this statement is substantiated by a letter from Mr. Châtelain, then Minister of Foreign Affairs, to Mr. de la Rue to the effect that de la Rue, Pixley, Williams and Waterschoodt should continue to receive their present appointments and allowances and in addition should receive their fees as directors of the Bank. Mr. de la Rue affirms that this statement did not carry any limitations to the effect that these salaries may be reduced upon the termination of the United States financial control in Haiti, and that it was undertaken to carry into effect the provisions of Article V of the Bank Contract. It may be explained in passing that until this letter was written it was obviously impossible to pay any of the directors' fees as foreseen in Article V. Mr. de la Rue informed the Department further that he has requested Mr. Pixley to obtain this letter and to communicate it to you. In the improbable event that it should not in fact substantiate the statement contained in the Department's memorandum mentioned at the outset of this paragraph, you are requested to cable the Department with such recommendations as you may see fit to make as respects a revision of the list of salaries attached to the memorandum.

Finally, you may care to develop the thought expressed in the last paragraph of the Department's draft reply, pointing out the many instances in recent years where the United States Government has been only too glad to attempt to meet Haitian aspirations, by relinquishing its control of certain Haitian administrative and other services in advance of the date set for the expiration of this control. You may desire to add that in the case of this protocol and attached note, the United States Government regrets that its responsibilities towards

American citizens who have invested in Haitian bonds precludes this Government from agreeing to the termination of the present system of financial control in Haiti unless the rights of these bondholders are adequately safeguarded.

Very truly yours,

R. WALTON MOORE

[Enclosure 1]

Draft of Note To Be Submitted to the Haitian Minister for Foreign Affairs

EXCELLENCY: I have the honor to inform Your Excellency that the Government of the United States of America has examined with great care Your Excellency's note of November 26, together with its enclosure, and three draft decree laws, all bearing on the subject of the proposed protocol and accompanying note abrogating the protocol of 1919, the accord of August 7, 1933, and terminating United States financial control in Haiti.

The United States Government is happy to take note of the fact that the Haitian Government accepts the text of the proposed draft protocol as delivered by me to Your Excellency on November 18, 1936. It is also happy that Your Excellency's note of November 26 would appear to indicate that the two Governments are in substantial agreement as to the main points to be covered in the proposed note attached to and forming part of the aforementioned protocol. The few points at issue are believed to be minor ones not involving serious difficulties in reaching a final mutual agreement. My Government recalls in this connection that when the question first arose in 1934 as to the purchase by the Haitian Government of the National Bank of the Republic of Haiti and the proposed termination of United States financial control in Haiti through the conclusion of an agreement abrogating the Treaty of 1915, the Protocol of 1919, and the accord of August 7, 1933, it was the clear intention, whether directly expressed in words or indirectly understood between the responsible officials of the two Governments, to transfer to the National Bank of the Republic of Haiti under its new management the essential services of the office of the Fiscal Representative as then organized, under suitable agreements which would protect the rights of the holders of bonds of the 1922 Haitian loans, in the spirit of the pledges and assurances given in the past to these bondholders by both the Haitian and the United States Governments.

Although there have been changes on both sides among those who participated in the negotiations in 1934, this clear intention has remained unaltered. Consequently, when several weeks ago the Haitian Government formally expressed its desire to proceed with the con-

clusion of an agreement to terminate United States financial control in Haiti, my Government was only too happy to comply with this request. However, with the original intention referred to above in mind, my Government, in drawing up on the basis of the original negotiations the text of the note attached to the draft protocol submitted to Your Excellency by this Legation on November 18, felt that it was necessary to reduce to writing certain of the understandings whose existence was no less real because of their being oral. The aim of the United States Government, which it feels sure the Haitian Government shares, has been to provide an adequate and workable agreement which would as far as possible obviate any unfortunate controversies as to the exact nature of these understandings, which might arise later to obscure the happy relations that now obtain between the two countries.

More specifically, with respect to the first point raised in Your Excellency's note of November 26, the United States Government notes that the Haitian Government, although apparently desiring a change in draft Article 8 of the proposed note, states

"the formal engagement that it (the Haitian Government) takes not to open supplementary or extraordinary credits unless available funds exist is sufficiently clear and explicit, and the control of the Bank for the safeguarding of the rights of the bondholders is amply guaranteed by the fact that it could refuse to issue checks against these credits in case there were no available funds".

My Government is pleased that the Haitian Government should recognize the necessity of safeguarding the rights of the bondholders in this connection, but feels that the suggested text of Article 8 as submitted in its draft of November 18, is much to be preferred as being more in harmony with accepted rules of fiscal practice. If funds do not exist for supplementary or extraordinary credits, the Haitian Government of course will desire to know this before embarrassing itself by opening such credits.

My Government is happy to note that the Haitian Government, in its suggested counter project, retains the essential phrase of Article 10, which appears to be supported by Article 4 of the draft decree law on the "Special Service of Inspection of the Bank", namely,

"It (the Bank) shall also have the duty of indicating to the Secretary of State for Finance any error which may occur in an order addressed to it for payment, or in the vouchers which accompany that order".

Your Excellency will agree, I am sure, that such a proviso in itself requires the installation in the Bank of a service of "pre-audit of Government payments" and a service of "public accounting", as well as a service of "issuance of checks", which is precisely what the first

sentence of Article 10 of the proposed note as submitted by my Government provides for. Therefore, although my Government is desirous of acceding to every reasonable request of the Haitian Government, it feels that it cannot defer to the desires of the Haitian Government with respect to the first sentence of Article 10.

With respect to the enactment of the draft laws which are to implement the proposed protocol and attached note, the Government of the United States regrets that it cannot recede from its original contention that in order to fulfill the purposes of this protocol, such draft laws should be enacted by the Haitian legislature either in regular or extraordinary session.

The United States Government has examined with interest the three copies of draft Haitian projects of law which Your Excellency was good enough to submit to the Legation for its information. It cannot disguise its surprise that these draft decree-laws appear to be based upon certain concepts which are completely at variance with those which, as set forth in the second paragraph of this note, my Government has felt sure were mutually entertained by both Governments when the 1934 conversations were inaugurated, and upon which my Government has consistently predicated its willingness to terminate United States financial control in Haiti.

It will consequently be evident to Your Excellency that since the basic structure of these draft decree-laws is so out of keeping with my Government's views it would be useless to attempt any analysis in detail of this draft legislation, although elsewhere my Government has felt it necessary to refer to certain of the more salient provisions and omissions which have been picked out as illustrative of the unsatisfactory nature of the draft legislation as a whole.

In an endeavor to advance the negotiations to an early conclusion, my Government has taken the opportunity to prepare a memorandum setting forth in general the nature and scope of the organization of the Government side of the Bank, together with a list of personnel by official functions, and the salaries to be paid to such personnel, which I enclose herewith for the information of Your Excellency. This general plan of organization would appear to my Government to safeguard satisfactorily the interests of the bondholders of the 1922 loan. It must be emphasized, however, that this list of personnel does not pretend to be conclusive, and occasion may arise even before the plan may be put into effect when it may be necessary substantially to modify this list.

My Government feels confident that the Haitian Government will find that this draft plan forms a suitable basis for the legislation to be enacted which is necessary in order to proceed with the proposed protocol and accompanying note. It will be happy to receive at an early date such further proposals and draft legislation as the Haitian

Government may care to submit, and will devote to them its sympathetic and careful consideration.

Finally, my Government wishes to advance the earnest belief that it has already gone a long way in its desire to meet the aspirations of Haiti in obtaining the termination of United States financial control, and that any important relaxation of the terms of the proposed protocol and attached note would probably render the proposed plan unworkable in practice and insecure as respects the rights of the bondholders of the 1922 loan.

Accept, Excellency, etc.

[Enclosure 2]

Draft of Memorandum To Be Enclosed With Note to the Haitian Minister for Foreign Affairs

The plan of organization of the Bank as decided upon at the meeting held for that purpose at the time the Bank was purchased July 8th, 1935, establishes and divides the administrative organization, under the general control of the Board of Directors, as follows:

1. A President and General Manager has general supervision over both the Commercial and Government divisions of the Bank, and he is the administrative head of the Bank.
 - a. The Commercial division of the Bank is under the direction of:
 - (x) A Vice President and Manager
 - (y) A Vice President and Assistant Manager.

Note: Both of these officers are members of the Board of Directors and are assisted by the Chiefs of the Legal and other sections of the Bank.
 - b. The Government division of the Bank is administered by:
 - (x) A Vice President and Manager (who is likewise a member of the Board of Directors).

Obviously the Government side of the Bank (paragraph 1-b above) could not take over its intended duties until the proposed agreement terminating United States financial control had been consummated and the details thereof communicated to the Bank.

The plan now suggested for the organization and functioning of the Government side of the Bank is as follows:

The following sections of the Fiscal Representative's office will be transferred to the Bank where they will operate under their present section chiefs and under the general direction of the President and General Manager and under the immediate direction of the Vice President and Manager of the Government Division.

- I. Section of Legal Advice, Economic Reports and Statistics.
- II. Credit and Disbursing Section.
- III. Section of *Bordereaux* Control.

The functions of these last named sections will be as follows :

I. SECTION OF LEGAL ADVICE, ECONOMIC REPORTS AND STATISTICS

a. Legal Advice.

This part of the section will give advice to the whole organization of the Bank on matters of law. It will be called on principally to interpret tax laws, especially customs and internal revenue laws, both for the guidance of officers and employees working with such legislation and with individual cases which may arise. It will likewise be concerned with the interpretation of contracts whereunder individuals have acquired certain rights and privileges from the State or have incurred certain obligations to the State. It will pass upon the legality of disbursements and will give its opinion regarding the validity of claims against the Government so that the competent authorities of the State may be appropriately advised.

It is foreseen that the Legal Section may also be requested to give its advice on other subjects directly or indirectly connected with the finances of the Government.

b. Preparation of Financial Notes for the Monthly Bulletin.

This part of the section will be charged also with the duty of preparing financial notes for publication in the monthly Bulletin of the Bank and reviewing for inclusion therein such material as may be submitted by the Departments of the Government.

c. Preparation of Annual Report.

This part of the section will be charged further with the preparation, under direction of the higher officers of the Bank, of the annual economic and financial report to be issued by the Bank. For this purpose it will obtain statistical data and will consider the suggestions of other sections and divisions of the organization.

d. Statistical Analysis.

This part of the section will handle matters requiring the compilation, study and analysis of statistical data. Inquiries for such data, whether from civil or government sources, will be answered by this subsection. Data to be included in official reports to the League of Nations, for example, will be prepared here. In general, it will concern itself with all matters relating to the study, interpretation and analysis of commercial and financial statistics, as well as statistical data relating to Government finance.

e. Economic Reports.

This part of the section will study and, when called upon, will prepare reports concerning such subjects as financial legislation, the ap-

plication of the tariff and other tax laws, the budget, the public debt, foreign trade, domestic commerce and industry, and it will examine and analyze the probable effect of proposed legislation or administrative decrees or regulations affecting the budget and the financial structure of the State.

f. Archives.

This part of the section will be charged with the responsibility of maintaining the archives of the Government division of the Bank.

The employees necessary for this section are listed in the annexed table.

II. CREDIT AND DISBURSING SECTION

a. Audit.

This part of the section will examine all Government vouchers with a view to determining whether proposed payments are legally authorized and whether they are supported by the necessary justifying documents. It will determine whether proposed items are properly chargeable to a given appropriation and whether a sufficient balance remains in that appropriation to cover the payment involved. Vouchers passing this Audit subsection successfully will be sent to the Accounting and Disbursing subsections; those not approved, as for example those not found to be in harmony with existing legislation and appropriations, or which call for excessive payments, are to be returned to the originating office, together with a statement setting forth the reasons therefor.

b. Accounting.

The duties of this part of the section may be described under the four following headings:

1. The preparation and maintenance of records covering budgetary, extraordinary and nonfiscal accounts. Amounts available for expenditure under all appropriations will be here set up and this subsection will debit against such appropriations vouchers by the Audit subsection and will credit all reimbursements thereto in order that records of available balances may be currently available.

2. This subsection will also classify all expenditures in accordance with the functional nature of such expenditures in order that a counter check on the Audit subsection may be obtained as to the total amount of all disbursements.

3. It will maintain current records of all Government Bank balances and will classify receipts. With this in view it will receive daily statements from the Bank's branches covering both Gourde and Dollar

accounts of the Government. Checks attached to support debits against these accounts will be examined to determine whether they have been properly signed by disbursing officers and payees. This subsection will likewise inquire as to the legality of powers of attorney and will examine powers with a view to preventing fraud. Customs, internal revenue, miscellaneous, and reimbursement *bordereaux* attached to bank statements in support of credit will be verified to determine whether the proper amounts have been credited. Records will be kept of all receipts by ports, sources, and categories. This procedure will reconcile daily bank statements and will serve to record funds on deposit for the Government elsewhere than in the Bank itself.

4. This part of the section will correlate and consolidate records covering all bookkeeping operations of the Bank and will compile financial statistics to serve as a basis for the preparation by the Statistical subsection of the monthly bulletin and the annual report. It will also prepare the financial forecast as well as the monthly financial statement of the Government. This latter shows treasury assets and liabilities, the distribution of cash investments, the position of the public debt, classified receipts, expenditures classified by services, departments, and function, the unexpended balance of appropriations, and the position of nonfiscal accounts.

This part of the section will also maintain records covering the investment of the treasury funds and loans to Communes and will report the payments due the treasury on these accounts as they fall due. Records of accruments to the pension fund and of cash advances to paymasters will be kept in this section.

c. Disbursing Subsection.

This subsection will maintain a card record of payments to each Government employee, pensioner and owner of property rented to the State. Checks, payrolls and expense vouchers covering payments of salaries, pensions and rents will be prepared and sent to the Audit and Bookkeeping sections. These vouchers, as well as the vouchers prepared by other governmental offices, will pass through the Audit and Bookkeeping sections, and the checks in payment thereof will be photostated and given a final comparison with the vouchers, after which the facsimile of the Treasury seal will be placed thereon. The checks, thus sealed, will be given to the Delegate of the Secretary of State for Finance, who will sign them. Copies of essential data from all Government checks will be filed in this subsection. As and when the originals are paid or canceled, the corresponding copies will be

withdrawn from this file and those remaining will constitute the record of outstanding checks.

d. Preparation of budget estimates.

At the end of each calendar year or at any other agreed date, the Audit and Disbursing Section as a whole will prepare estimates of revenues and furnish other information to the Board of Directors of the Bank in connection with the preparation of the estimates to be approved by that body, upon which the budget of Ways and Means for the next fiscal year is to be based. It will prepare any other studies or estimates in connection with the budget of Expenditures which may be desired.

e. Distribution of funds.

The Audit and Disbursing Section will prepare and recommend to the responsible officers studies with reference to the distribution of funds between the time and sight accounts and between New York and Haiti funds.

f. Public debt.

The Audit and Disbursing Section as a whole is responsible for recommendations with reference to the timely payment to the fiscal agent of all amounts due under the loan contracts. It will maintain records showing the distribution of payments between interest and amortization; it will examine the expense accounts of the fiscal agent of the two 1922 loans and will prepare statements as necessary from time to time, showing the position of the public debt.

g. Files.

The Audit and Disbursing Section will maintain files containing all accounting documents, including payment vouchers and paid checks.

h. Inspection.

The Audit and Disbursing Section will be called upon from time to time to make inspections of customs houses and disbursing offices outside of Port-au-Prince. Inspections by the officers from the Government service side of the Bank may be made from time to time as may be thought necessary.

i. Preparation of checks and audit of vouchers outside of Port-au-Prince.

Directors of Customs at the various outlying ports of the Republic have been charged with the duty of preparing certain checks and of

auditing certain payment vouchers submitted by various services of the Government. This has been up to now audited and controlled by the Comptroller's office of the service of the Fiscal Representative. It is planned that this work will hereafter be continued by the Directors of Customs under the supervision of the manager of the branches of the Bank, and that such reaudit and supervisory control as may appear necessary will be exercised by the Audit and Disbursing Section.

The personnel necessary for the work of this section are listed in the statement attached hereto.

III. SECTION OF "BORDEREAUX" CONTROL

a. Examination and audit of customs "bordereaux."

This part of the section will verify the correctness of the paragraph of the tariff as applied at the various customs houses to each article imported into the country. It will also calculate the duties payable on all imports and all exports. Any discrepancy found in any *bordereau* will be reported to the Vice President and Manager of the Government division of the Bank for necessary communication to the Director General of Customs and to the Minister for Finance, in order that a supplementary *bordereau* may be issued or restitution made, as may appear necessary and proper in the circumstances. Requests for restitution of alleged overpayments will be referred to this section and a reexamination of the documents will be made. Reports on such demands for restitution will be made to the duly constituted authorities for their information and guidance.

b. The preparation of commercial statistics.

These statistics will cover the export and import values and quantities of merchandise exported and imported. They will be prepared in accordance with precedents heretofore established by the Government of Haiti.

c. Mimeographing of the monthly bulletin.

The monthly bulletin which will take the place of that now being issued by the Bureau of the Fiscal Representative will be mimeographed by this section.

d. Preparation of commercial notes for the bulletin.

This section will be charged with the preparation of the commercial notes which will be submitted to the Section of Legal Advice, Economic Reports and Statistics for its use in editing the monthly bulletin of the Bank.

e. Correspondence and files.

This section will be charged with the safe custody of files appertaining to customs matters and all correspondence with regard to this subject will here be handled. The originals of all declarations and receipted customs bills covering imports and exports as well as originals or duplicates of other customs and shipping documents will be filed in this section.

f. Personnel.

The service records of employees of the Government service side of the Bank will be kept in this section.

g. Examination of internal revenue "bordereaux."

This section will check the computations of amounts shown on *bordereaux* and will determine, as far as possible from the data shown thereon, that they have been drawn in accordance with existing legislation.

The personnel necessary for this work are listed in the statement attached hereto.

LIST OF SALARIES AND ALLOWANCES OF PERSONNEL WHOSE SALARIES AND ALLOWANCES WILL BE PAID BY THE BANQUE NATIONALE DE LA RÉPUBLIQUE D'HAÏTI UPON TRANSFER OF THE ESSENTIAL SERVICES OF THE BUREAU OF THE REPRESENTANT FISCAL TO THE BANQUE, AS CONTEMPLATED IN THE FOREGOING MEMORANDUM

At the time of the purchase by the Haitian Government of the National Bank of the Republic of Haiti, the Government rendered a decision that the Fiscal Representative and the Deputy Fiscal Representative as well as the two National City Bank officials, who were to remain on the commercial side of the Bank, when elected to the Board of Directors of the Bank, should retain the regular salaries which they were then receiving, in the one case for their duties in connection with the Government finance and debt services, and in the other for their duties in the commercial side of the Bank, without reduction, increase or other change in such salaries.

	<i>Gourdes</i>
President and General Manager of the Bank, not including salary as director, monthly salary-----	6, 250. 00
Secretary, monthly salary-----	875. 00
	<hr/>
	7, 125. 00
Vice President and Manager in charge of the Government service side of the Bank, not including salary as director, monthly salary-----	3, 125. 00
Secretary, monthly salary-----	650. 00
	<hr/>
	3, 775. 00

SECTION OF LEGAL ADVICE, ECONOMIC REPORTS AND STATISTICS

	<i>Gourdes</i>
1 Chief Assistant, monthly salary-----	1, 875. 00
1 Legal Adviser, monthly salary-----	975. 00
1 Stenographer-translator, monthly salary-----	650. 00
1 Stenographer-translator, monthly salary-----	375. 00
1 File Clerk, monthly salary-----	275. 00
1 Stenographer, monthly salary-----	275. 00
1 Typist, monthly salary-----	250. 00
1 Stenographer, monthly salary-----	125. 00
1 Messenger, monthly salary-----	100. 00
1 Office Boy, monthly salary-----	50. 00
	<hr/>
	4, 950. 00

AUDIT AND DISBURSING SECTION

1 Comptroller, monthly salary-----	2, 250. 00
1 Assistant Comptroller, monthly salary-----	1, 750. 00
1 Disbursing Officer, Fiscal Representative's Office, Chief of Bureau of Supplies, monthly salary-----	1, 800. 00
1 Delegate of Minister for Finance, check signer, monthly salary-----	1, 000. 00
1 Bookkeeper, monthly salary-----	800. 00
2 Bookkeepers, each Gdes. 425.00, monthly salary-----	850. 00
1 Audit Clerk, payment vouchers, monthly salary-----	400. 00
1 Bookkeeper, monthly salary-----	350. 00
2 Bookkeepers, each Gdes. 325.00, monthly salary-----	650. 00
1 Clerk, pay section, monthly salary-----	300. 00
1 Addressograph Operator, monthly salary-----	275. 00
1 Bookkeeper-audit clerk, payment vouchers, monthly salary-----	275. 00
1 Clerk, principal duty filing payment vouchers, monthly salary-----	250. 00
1 Audit clerk, bank statements, monthly salary-----	250. 00
1 Bookkeeper, monthly salary-----	225. 00
1 Bookkeeper-check register clerk, monthly salary-----	225. 00
1 Protectograph Operator, monthly salary-----	225. 00
1 Audit Clerk, Bank statements, monthly salary-----	200. 00
1 Typist, pay section, monthly salary-----	200. 00
1 Bookkeeper, monthly salary-----	175. 00
1 Audit Clerk, pay section, monthly salary-----	175. 00
1 Audit Clerk, bank statements, monthly salary-----	175. 00
1 Clerk, bank statement section, monthly salary-----	175. 00
1 File Clerk, monthly salary-----	175. 00
2 Typists, each Gdes. 150.00, monthly salary-----	300. 00
1 File Clerk, filing paid checks, monthly salary-----	150. 00
1 Messenger, monthly salary-----	100. 00
1 Office Boy, monthly salary-----	75. 00
	<hr/>
	13, 775. 00

SECTION OF "BORDEREAUX" CONTROL

	<i>Gourdes</i>
1 Chief of Section, monthly salary-----	1, 875. 00
1 Assistant Chief of Section, monthly salary-----	500. 00
1 Stenographer-translator, monthly salary-----	500. 00
1 Stenographer-translator, monthly salary-----	425. 00
1 Statistical clerk, monthly salary-----	400. 00
1 Audit clerk, monthly salary-----	375. 00
1 File clerk, monthly salary-----	375. 00
1 Statistical clerk, monthly salary-----	350. 00
1 Audit clerk, monthly salary-----	300. 00
2 Audit clerks, each Gdes. 275.00, monthly salary-----	550. 00
1 File clerk, monthly salary-----	275. 00
1 Audit clerk, monthly salary-----	250. 00
1 Typist-statistical clerk, monthly salary-----	250. 00
1 Audit clerk, monthly salary-----	225. 00
1 Statistical clerk, monthly salary-----	225. 00
1 Statistical clerk, monthly salary-----	200. 00
2 Audit clerks, each Gdes. 200.00, monthly salary-----	400. 00
5 Audit clerks, each Gdes. 175.00, monthly salary-----	875. 00
5 Statistical clerks, each Gdes. 175.00, monthly salary-----	875. 00
2 Typists, each Gdes. 175.00, monthly salary-----	350. 00
1 Audit clerk, monthly salary-----	150. 00
1 Statistical clerk, monthly salary-----	150. 00
1 Audit clerk, monthly salary-----	125. 00
1 Coffee sample checker, monthly salary-----	125. 00
1 Mimeograph operator, monthly salary-----	100. 00
1 Messenger, monthly salary-----	100. 00
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	10, 325. 00

SUMMARY

President's office, monthly salaries-----	7, 125. 00
Vice President's office, monthly salaries-----	3, 775. 00
Section of Legal Advice, Economic Reports and Statistics, monthly salaries-----	4, 950. 00
Audit and Disbursing Section, monthly salaries-----	13, 775. 00
Section of <i>Bordereaux</i> Control, monthly salaries-----	10, 325. 00
	<hr/>
Total-----	39, 950. 00

The foregoing salaries do not include the cost of maintaining two automobiles and their chauffeurs for the President and Vice President in charge of the Government division of the Bank. Similarly not included are such necessary expenses as those for supplies, equipment of the offices, postage, paper, checks and similar furnishings and also expenditures for such items as telegrams, travel, inspections, vacations and also services allowable to foreign employees both under the Bank regulations and under the present regulations of the Government. The average expenditures for travel, inspection, supplies and material for these services which are to be transferred to the Bank has been approxi-

mately \$24,000 annually, which when added to the estimated total \$95,880 for salaries of personnel of the Government side of the Bank, gives a grand total of \$119,880. Accordingly, it is not believed that the total expenditures of the Government side of the Bank can be reduced below \$110,000 if the work is to be carried on in an efficient manner set forth in the foregoing memorandum.

It is also considered that the salaries that are indicated for the various employees do not represent necessarily fixed amounts, but as vacancies occur by resignation or dismissal responsible officers of the Government division of the Bank will be expected to exercise the same discretion in regard thereto as the responsible officers of the Commercial division of the Bank and that they will make such distribution and allocation, having regard for promotions and changes and within a lump sum appropriation of not less than \$110,000.00 annually as they may deem to be in the best interest of the organization. It is understood in any case that this last named lump sum includes the amount necessary for the purchase of supplies and the payment of other necessary expenses as may be required for the proper functioning of the Government division of the Bank.

It must also be considered that any large increase in the commercial business of the Republic will require an expansion of the clerical force auditing the various documents and that necessarily some flexibility must be allowed as to increasing or decreasing the number of persons employed. As stated above it would appear that the minimum annual budget for these purposes should be placed at 550,000 Gourdes (\$110,000.00).

[Enclosure 3]

Draft Aide-Mémoire No. 1A

The Minister of the United States presents his compliments to the Secretary of State for Foreign Affairs and has the honor to refer to the latter's *aide-mémoire* accompanying his note of November 26, 1936, transmitting a draft counter project of a note forming part of a draft protocol terminating United States financial control in Haiti.

The Government of the United States regrets that it cannot accept the Haitian proposal that the commission to the Bank for Treasury services of two percent be fixed at a guaranteed minimum of 600,000 gourdes. In this connection, the Government of the United States desires to point out that the essential services now performed by the Office of the Fiscal Representative, which it is understood are to be transferred to the Government side of the Bank, have required an average annual expenditure in the last five years of approximately 550,000 gourdes. As the Haitian Government has stated, under the Contract of Concession of September 5, 1910, the Bank was to receive

one percent of total Government deposits or a minimum commission of 300,000 gourdes per annum. This would indicate that the services to be performed by the Bank upon the basis of similar services performed in the past by the Bank and the Fiscal Representative's Office would require a minimum expenditure of approximately 850,000 gourdes.

The Government of the United States, in its original draft note as submitted by its Minister on November 18, 1936, had in mind a guaranteed minimum for the two percent Treasury services of the Bank of 800,000 gourdes, this being the lowest figure upon which the Bank may efficiently operate.

Accordingly, the Government of the United States proposes that if the Haitian Government should so desire, the last paragraph of point two of the draft note forming part of the protocol should read as follows: "For the service of the Treasury and for all the administrative service that it may render with a view to assuring a complete protection of the interests of the holders of the loan, the Bank shall levy two percentum of all the gross receipts of the Government in each year, provided, however, that if necessary to constitute a minimum amount of 800,000 gourdes, such percentage shall be correspondingly increased, and provided further that such percentage shall not exceed a total amount of 1,000,000 gourdes."

Although Article 3 of the Haitian counter project of the draft note forming part of the protocol states that "The Government will give to the Bank the irrevocable instructions specifying that payments for the service of the loan and for the Treasury service of the Bank shall enjoy priority over any other payments to be effected from the funds of the Government", the Government of the United States notes that such "irrevocable instructions" are set forth by implication rather than by direct statement in Article 8 of chapter 2 of the proposed draft law No. 1 on "service of control of receipts and expenditures of the Republic". The Government of the United States would prefer, in view of certain guarantees to the bondholders contained in their bonds, to see a definite provision for this priority set forth in the appropriate draft legislation which may be enacted.

The Government of the United States perceives no objection, should the Haitian Government prefer to raise from two to three percent the percentage of the customs receipts which is to be devoted to the maintenance of the customs service, and from twelve to thirteen percent the percentage of internal revenue receipts which is to be devoted to the maintenance of the internal revenue service with suitable guarantees in each case of a minimum. However, the Government of the United States wishes to call attention to the fact that the Haitian counter project to the draft note forming part of the protocol does not appear to contain any proviso that the sums allotted for the customs and internal revenue services shall constitute first charges

on receipts of the Government ranking with payments for the 1922 bonds and the Treasury service of the Bank, to be paid before any expenditures for other purposes of the Haitian Government. The Government of the United States feels that it is most necessary that such a proviso be retained as set forth in paragraph No. 2 of its own draft note since it is upon these services that in the last analysis lies the security of the guarantees to the bondholders of the 1922 loans.

[Enclosure 4]

Draft Aide-Mémoire No. 2A

The Minister of the United States presents his compliments to the Haitian Minister of Foreign Affairs and has the honor to refer to the *aide-mémoire* which accompanied the Haitian Minister's note of November 26, 1936, transmitting a Haitian counter project of a draft note forming part of the proposed protocol terminating United States financial control in Haiti.

The Government of the United States has noted with pleasure the statement contained in the *aide-mémoire* that:

“The Secretary of State for Foreign Relations desires to inform the American Minister that the Haitian Government consents willingly to accord to the American employees who may be dismissed upon the closure of the office of the Fiscal Representative the same treatment accorded to American employees dismissed upon the termination of the other American services in Haiti, with the reservation that the Haitian Government does not believe that there is any occasion to grant any indemnity to those American employees whose services may be retained in whatever capacity in the new organization of control to be created in the National Bank of the Republic of Haiti.”

[Enclosure 5]

Draft Aide-Mémoire No. 3A

The Minister of the United States presents his compliments to the Haitian Minister of Foreign Affairs and has the honor to refer to the *aide-mémoire* which accompanied the Haitian Minister's note of November 26, 1936, transmitting a Haitian counter project of a draft note forming part of the proposed protocol terminating United States financial control in Haiti.

With respect to the desire of the Haitian Government that the date for the entry into effect of the proposed protocol be fixed on the first day of a fiscal month not later than thirty days after the signature of the protocol, the Government of the United States regrets that it cannot share the Haitian point of view that such a short period of time would be ample to permit the transfer of certain services from the

office of the Fiscal Representative to the newly organized Government side of the National Bank of the Republic of Haiti. The Government of the United States, however, believes that a period of between thirty and sixty days will be sufficient in order to effect this transfer and that the actual time necessary depends to some extent upon whether it will be necessary for the new services of the bank to be removed physically from the premises of the Palace of Finance to some other building which might be provided by the Government. In this connection the United States Government suggests that the Acting Fiscal Representative might well be consulted in order to reach an agreement as to the exact time which might be necessary before the date for the entry into effect of the protocol may properly be fixed.

[Enclosure 6]

Draft Aide-Mémoire No. 4A

The Minister of the United States presents his compliments to the Haitian Minister of Foreign Affairs and has the honor to refer to the *aide-mémoire* which accompanied the Haitian Minister's note of November 26, 1936, transmitting a Haitian counter project of a draft note forming part of the proposed protocol terminating United States financial control in Haiti.

The Government of the United States has been pleased with the willingness of the Haitian Government to cooperate by submitting to the United States Legation, before they are voted, the draft laws which must be enacted as an accompaniment to any arrangement putting an end to the present United States financial control.

[Enclosure 7]

Draft Aide-Mémoire No. 5A

The Minister of the United States, presents his compliments to the Haitian Minister of Foreign Affairs and has the honor to refer to the *aide-mémoire* which accompanied the Haitian Minister's note of November 26, 1936, transmitting a Haitian counter project of a draft note forming part of the proposed protocol terminating United States financial control in Haiti.

The Government of the United States has noted with satisfaction the statement contained in an *aide-mémoire* by which Your Excellency was good enough to inform me that the Haitian Government will proceed without delay to the publication in the *Moniteur* of the contract of July 18, 1935, relative to the purchase by the Haitian Government of the National Bank of the Republic of Haiti.

838.51/3251 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, December 21, 1936—noon.

[Received 3:54 p. m.]

65. Department's instruction No. 438 of December 16 received this morning. With respect to salaries of the fiscal representative and deputy fiscal representative, letter from Châtelain attached to my despatch 365³⁶ which left here by airship yesterday should now be in the Department.

Léger contends that this letter only states that these salaries "remain" the same as in the past; i. e., that the letter only covers the situation which then obtained of a fiscal representative's office separate and distinct from the bank and that it does not provide for what will happen when this office shall disappear.

This overlooks the point that the letter was addressed to de la Rue as president of the board of directors of the bank, and the ever important point that the letter would make no sense unless it referred to the salaries of the fiscal representative and deputy fiscal representative when their office should eventually be closed and they moved over to the bank, inasmuch as the salaries of de la Rue and Pixley as fiscal representative and deputy fiscal representative respectively by virtue of article IX of the agreement of August 7, 1933 are the subject of accord between the two Governments, moreover, de la Rue and Pixley both having been designated officers of the bank at the time of signing the bank contract their compensation is foreseen by article VIII of the bank contract and the letter from Châtelain can only reasonably be interpreted as intending to give expression and effect to the provisions of this article at such time as, after a period of abeyance, the two officers in question should move to the bank and perform services there over and above their duties as members of the board of directors.

Accordingly I think that we should maintain the assertion made on page 1 line 3 of the list of salaries of the personnel attached to the memorandum plan of organization and put the onus of disapproving it upon Léger. I only suggest that on lines 6 and 7 of page 1 the phrase "when elected to the Board of Directors of the bank" be eliminated; a card from Châtelain dated July 19 states that de la Rue and Pixley had already been elected to the board of directors on July 8. Please reply by telegraph.

GORDON

* Dated December 19; not printed.

838.51/3252 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, December 21, 1936—4 p. m.

[Received 6:50 p. m.]

66. Department's instruction 438 of December 16. On page 5 of memorandum of organization 7 and 8 lines from bottom I suggest eliminating the phrase "In order that a counter-check on the audit sub-section may be obtained as to the total amount of all disbursements." The counter-check is only an incidental result of the classification of expenditures here-mentioned and not the reason therefor.

On page 6 in lines 5 and 6 of paragraph numbered "4" I suggest eliminating the words "by the statistical sub-section." As far as I am aware there is no statistical sub-section in the credit and disbursing section and the monthly bulletin and annual report are prepared in the section of legal advice, economic reports, and statistics on page 4 of the list of salaries of personnel attached to the memorandum plan of organization. In lines 8, 9, and 10 I do not understand the phrase "vacations and also services allowable to foreign employees both under the bank regulations and under the present regulations of the Government." It would not seem that vacations and services should occasion expenditures and under the new regime it seems doubtful whether the expenditures here envisaged should be confined to foreign employees.

As soon as a reply is received to this telegram and to my No. 65, December 21, noon, I shall submit documents to Léger.

GORDON

838.51/3251 : Telegram

The Acting Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, December 22, 1936—11 a. m.

39. Your 65, December 21, noon. Department approves suggested omission of phrase "when elected to the Board of Directors of the Bank" line 6 and 7, page 1, of memorandum plan.

It authorizes you if you deem it advisable to make oral representations with respect to the salaries of de la Rue and Pixley, along the lines of the arguments contained in paragraph 3 of your telegram under reference.

MOORE

838.51/3252 : Telegram

The Acting Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, December 22, 1936—noon.

40. Your 66, December 21, 4 p. m. Department approves changes suggested on pages 5 and 6 of memorandum. It suggests that lines 8, 9 and 10 of page 4 of the list of salaries attached to the memorandum should read "travel while on inspection duty, travel to and from home while on vacation, and travel while on special service, allowable to employees when duly authorized both under the Bank regulations and under the present regulations of the Government."

MOORE

838.51/3256 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, December 23, 1936—1 p. m.

[Received 2:20 p. m.]

67. My 66, December 21, 4 p. m. This morning I submitted documents to the Minister for Foreign Affairs outlining their contents and amplifying orally certain of the Department's fundamental objections to the proposed Haitian legislation as authorized in the Department's instruction 438 of December 16. I left an additional *aide-mémoire* with him covering this oral exposition. The Minister for Foreign Affairs said that after examination of the documents he would like to discuss them with me further next Monday.

Amplifying despatch by airmail tomorrow.

GORDON

838.51/3259

The Minister in Haiti (Gordon) to the Secretary of State

No. 371

PORT-AU-PRINCE, December 28, 1936.

[Received December 31.]

SIR: With reference to my telegram No. 68 of this date,⁸⁷ I have the honor to report further as follows.

The Minister for Foreign Affairs told me over the telephone this morning that he was not yet prepared to submit any further proposals or draft legislation concerning the projected new protocol with accompanying note, for the termination of American financial control, but that if I cared to call upon him and discuss the matter unofficially he would be glad to do so.

Upon my arrival, M. Léger opened the conversation by saying that if I would allow him to speak off the record, he would say that after

⁸⁷ Not printed.

a careful examination of the documents I had left with him last Wednesday he feared that we were very little closer to an agreement than theretofore, and that in effect the American Government was standing upon its original position. In reply I said that it seemed to me that our latest proposals had not only embodied some concessions but had developed various considerations which should facilitate reaching agreement.

M. Léger then said that he had taken due note of the observations in our latest note concerning our view of the intention or oral understanding, with respect to the transfer to the Bank of the services of the office of the Fiscal Representative, over and above what was set down in black and white in the draft documents of 1934. He said that it was most unfortunate that there should be a difference of opinion in this regard; speaking very frankly, he would tell me that, as he had already foreshadowed, President Vincent had said to him flatly that he knew of no understandings over and above what was contained in the draft documents above mentioned, and that he had entered into no commitments whatsoever other than as set forth in the said documents.

I replied that, speaking equally frankly, with respect to the substantiation of our version of the understanding reached it wasn't a question of the memory of one person alone, but of several; that it was my understanding that during the 1934 negotiations M. Hibbert had felt that it would be preferable, from the Haitian point of view, not to specify certain matters in the written documents, although he had realized and agreed that it was clearly understood that the essential services of the Fiscal Representative's office should be transferred to the Bank. I added that, speaking entirely personally, subsequent developments concerning M. Hibbert were unfortunate in this connection.

To this M. Léger expressed no dissent; he said that it was too bad that there was this difference of view as to the existence of understandings over and above the written documents: he quite appreciated that if we felt that there were such understandings we expected the Haitian Government to live up to them, whereas on the other hand the Haitian Government did not feel that there were such understandings. However, he of course did not wish to see this controversy develop, or to have individual names—especially that of the President—brought in question, and he felt that everything possible should be done to avoid this. With this particularly in view he had wished to have all the documents which I had submitted to him last week translated, and to go over them carefully with the President before submitting any further official proposals to us.

M. Léger said further that naturally he did not expect the plan which he had submitted to me on November 27 to constitute a last word on the subject, that he was entirely ready to try and work something out on the basis of that plan which would be mutually satisfactory to our two Governments, and thought that that could be accomplished. However, as we had not wished to negotiate on the basis of his plan but had preferred to submit a new plan of our own, which did specifically—especially in the question of a minimum sum over and above the 2 per cent of gross revenues for the Bank's services—request the Haitian Government to go beyond what was set forth in the written documents of 1934, it made the matter harder from the Haitian point of view.

I replied that in the note which I delivered to him last week, the reasons for our procedure were set forth, and that over and above that I might point out that several of the matters which were most unacceptable from our point of view were so interwoven throughout all the three pieces of draft legislation which he had submitted, that it seemed both difficult and impracticable to deal with these matters satisfactorily by discussing a particular article in a particular one of the three pieces of legislation.

I then recalled to Léger that he had told me that he did not desire to get rid of all the Americans now in the Fiscal Representative's office (see e. g. my despatch No. 361 of December 11³⁸), but that on the contrary he hoped that some of them would remain and would help train the Haitian fiscal organization that he desired to create, and asked him why then he objected to a plan which would provide for the retention of certain experienced American officials. He replied that he did not object to this, but that he wanted to retain them within a framework such as had been outlined in his plan; if these officials went to the Bank with the same powers as they now possessed the Haitian Government would not feel that it had progressed very far along the road of financial liberation. I rejoined that if and when the Protocol of October 3, 1919, and the Agreement of August 7, 1933, were abrogated, I did not see how he could contend that the powers of the Fiscal Representative and Deputy Fiscal Representative would not be definitely curtailed. M. Léger surrejoined that while this might be so technically, he did not think that under our plan there would be much difference in practice.

As regards the letter from M. Châtelain to Mr. de la Rue (enclosed in my despatch No. 365 of December 19³⁸) concerning the salaries of himself and of Mr. Pixley, M. Léger said that President Vincent had again told him that his (the President's) understanding of the purpose of that letter was as he (Léger) had explained it to me at our last

³⁸ Not printed.

interview (see my despatch No. 367 of December 23,³⁹ page 2). I replied to the same effect as I had on that occasion, observing that the Haitian contention was scarcely sustained by the basic fact in the situation—i. e., that the salaries of de la Rue and Pixley were the subject of accord between the two Governments and could not be reduced by unilateral action on the part of the Haitian Government—whereas our interpretation of the letter seemed to be the logical consequence of the application of this fact.

However, said M. Léger in conclusion, as he had already said to me, he felt that our two Governments had the same aims and objectives and he hoped that this matter could be worked out; “the worst that can happen,” said he, “is that we remain as we are,” but he trusted that it would not have to come to that.

As I was leaving, M. Léger repeated that he would go over this matter most carefully with the President, and that as this week was rather full of holidays he would take it up with me again probably at the beginning of next week.

Respectfully yours,

GEORGE A. GORDON

SUPPORT BY THE UNITED STATES OF HAITIAN REFUSAL TO ARBITRATE WITH FRANCE THE QUESTION OF PAYING INTEREST IN GOLD FRANCS ON LOAN OF 1910⁴⁰

838.51/3110: Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 3, 1936—2 p. m.

[Received 4:15 p. m.]

6. Following is a translation of a cable which the Foreign Minister⁴¹ has just received from Mayard:⁴²

“Yesterday I was called to the Ministry of Foreign Affairs in the course of presenting our case in the controversy concerning the 1910 loan;⁴³ the American and Commercial Relations sections declared to me, without wishing to go into the question whether the claims of the holders or our own were better founded in law and justice, that the French Government gave us until Friday, March 6, to present our precise proposals on the question of the settlement of the 1910 loan,

³⁹ Not printed.

⁴⁰ For previous correspondence on this subject, see *Foreign Relations*, 1923, vol. II, pp. 411 ff.; *ibid.*, 1924, vol. II, pp. 293 ff.; *ibid.*, 1925, vol. II, pp. 308 ff.; and *ibid.*, 1926, vol. II, pp. 429 ff.

⁴¹ Yrech Châtelain.

⁴² Constantin Mayard, Haitian Minister in France.

⁴³ French gold loan of 1910; for text of the loan contract, see *Le Moniteur, Journal Officiel de la République d'Haiti*, October 26, 1910, p. 606.

without prejudice as respects the question of the decree on retail commerce which will inevitably have to be solved. They insist that I ask you for a cabled reply before Friday and say that if we do not make a proposition in this time the commercial treaty⁴⁴ will be denounced. It was unequivocally made clear to me yesterday that the French Government wishes no further discussion on the contract and on the law but a discussion on our proposals for settlement. I await your instructions.”

. . . Foreign Minister is hoping that this report is not true. So far, I have only been able to speak to the Minister over the telephone in the premises but it is clear that he is completely surprised at this report and was quite unprepared for anything of the sort.

I shall cable further developments as they occur.

GORDON

838.51/3113 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 7, 1936—2 p. m.
[Received 3:12 p. m.]

9. Foreign Minister states he has a cable from Blanchet⁴⁵ saying that you had instructed our Paris Embassy to make representations to the effect that there is no ground for connecting the question of the commercial treaty with the 1910 claim in which we are “associated” with Haiti.

The Foreign Minister repeated his promise that he would send no instructions to Mayard without letting me know and assured me categorically that he had no intention of making any proposition for settlement.

GORDON

838.51/3114

The Secretary of State to the Minister in Haiti (Gordon)

No. 373

WASHINGTON, March 9, 1936.

The Secretary of State quotes below for the information of the American Minister a paraphrase of a telegram from the American Embassy at Paris, dated March 7, 1936, relating to the 1910 loan question and the Franco-Haitian Commercial Agreement.

Today Cochran⁴⁶ visited the French Minister for Foreign Affairs and spoke with de la Baume, who negotiated the July 5 extension of

⁴⁴ Commercial convention between Haiti and France, signed April 12, 1930; for text see *British and Foreign State Papers*, vol. cxxxiii, p. 419, or *Le Moniteur*, August 7, 1930, p. 245. See also *Foreign Relations*, 1935, vol. iv, pp. 650 ff.

⁴⁵ Albert Blanchet, Haitian Minister in the United States.

⁴⁶ H. Merie Cochran, First Secretary of the American Embassy in France.

the Franco-Haitian Commercial Agreement.⁴⁷ de la Baume had before him his unfinished draft of a note to the Haitian Minister in Paris denouncing the above-mentioned agreement. de la Baume told Cochran that when the agreement was consummated in July last there had been a confidential exchange of correspondence in which the Haitian Minister agreed to open discussions within three months from that date looking toward the settlement of the 1910 loan matter. According to de la Baume it was agreed that failure on the part of the Haitian Government to open such discussions would call for denunciation of the Agreement by the French Government. The provision that only one month's notice would be required for denunciation, though a three month period is usual in French commercial treaties, was inserted in the Agreement by de la Baume.

Nothing further was heard from Mayard until October 5, the last day of the three-month period, when he called on the National Association of French Holders of Securities, and at that time he had no definite information to furnish. After waiting in vain five additional months de la Baume said that the Foreign Office had requested Mayard to call a few days ago. No written communication was given to him but he was permitted to take down an informal memorandum of their decision to denounce the Treaty on March 6, if by that time no concrete proposal had been received from the Government of Haiti on the question of a settlement of the 1910 loan matter. In answer to Cochran's inquiry, de la Baume informed him that an offer of arbitration on Haiti's part would be accepted in this sense. de la Baume added that the French Government would not be severe but would be inclined to accept any sincere and positive offer; that the French Government had, however, become tired of the dilatory tactics of the Haitians. . . . In stressing the French exports to Haiti as contrasted with the heavy exports of Haiti to France de la Baume said he considered it reasonable that France should assume her present position.

Cochran then referred to the understanding gained by Mr. Welles⁴⁸ at the time of his visit with French Foreign officials last autumn, that the French Government did not intend to exert pressure on the Haitians to the point of denouncing the Commercial Agreement until payment in gold of the 1910 loan was agreed. Insofar as the French Foreign Office and the Haitian Minister are concerned, de la Baume said that there could not possibly have been any misunderstanding on this question. The two matters had been definitely tied together by the correspondence of last summer.

de la Baume then informed Cochran that Mayard had called on him the same morning (March 7) and stated that he had cabled the Haitian Government in the premises, but since he (Mayard) did not exactly understand the matter he begged for an extension of time. de la Baume stated that he informed Mayard that he would be available over the week end if Mayard had anything definite to submit, and that he advised Mayard to report the case very clearly to his Government. de la Baume stated to Cochran that the French Ministers of Commerce and Finance are in accord with the course which he is following, and if the French Government does not receive concrete pro-

⁴⁷ July 5, 1935, exchange of notes renewing the commercial agreement of April 12, 1930; for texts, see France, *Journal Officiel*, July 8-9, 1935, p. 7326.

⁴⁸ Sumner Welles, Assistant Secretary of State.

posals from Haiti by the first of the week (week beginning March 9) he will send the note denouncing the Agreement, upon which he was then drafting, to be submitted to M. Flandin⁴⁹ for signing.

[File Copy not signed]

838.51/3115 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 10, 1936—9 a. m.

[Received 9:45 a. m.]

11. Mayard has cabled again urging that Haitian Government submit a precise settlement proposal. He was instructed that Haitian Government would take no step without consulting the Department.

GORDON

838.51/3117 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 12, 1936—1 p. m.

[Received 2:40 p. m.]

12. My 8, March 2 [6], 3 p. m.,⁵⁰ and 11, March 10, 9 p. m. [a. m.]. President has received another telegram from Mayard to the effect that Quai d'Orsay declines conversations which do not contain precise proposals and will give him until tomorrow to submit them. The Foreign Minister says he does not propose to send any new instructions to Mayard.

GORDON

638.5131/108 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 19, 1936—1 p. m.

[Received 3 p. m.]

15. My 12, March 12, 1 p. m. Foreign Minister has shown me cable from Mayard reporting that yesterday Quai d'Orsay denounced the commercial treaty to take effect April 18.

The Minister said that this was not an unmitigated evil as it would force those Haitian exporters who for one reason or another had hitherto been unwilling to send their coffee elsewhere than to France to recognize the desirability of building up a market in the United States. The President tells me that he is prepared to submit a bill to the Legislature creating a coffee syndicate and assessing the exporters their pro rata shares for the expenses thereof. I think he is

⁴⁹ Pierre Etienne Flandin, French Minister for Foreign Affairs.

⁵⁰ Not printed.

really prepared to move Foreign Office swiftly in this direction unless in purchases of the remainder of this year's crop large American buyers would prefer to use one or more purchasing agents dealing with three or four of the largest Haitian exporters (see letter from de la Rue ⁵¹ to me of February 21 to Pixley ⁵² of February 25 and from Pixley to de la Rue March 14 ⁵³).

GORDON

638.5131/109 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, March 25, 1936—1 p. m.

[Received 3 : 30 p. m.]

17. My March 19, 1 p. m. Spalding [*Constantin*] Mayard has cabled Foreign Office that coffee on the high seas on April 18 cannot enter France under old duties. Pixley is today cabling suggestion to de la Rue designed to bring about quick action in diverting Haitian coffee trade to the American industries with which I concur.

With regard to the last sentence of my telegram under reference it would be helpful if in the light of his conversations to date with potential American coffee buyers de la Rue will state categorically whether or not he thinks it advisable for the President at the present time to create by law a coffee syndicate.

GORDON

638.5131/124

Memorandum of Telephone Conversation, by the Chief of the Division of Latin American Affairs (Duggan)

[WASHINGTON,] March 26, 1936.

I telephoned Mr. de la Rue in New York and gave him the contents of telegram No. 17 of March 25 from the Legation at Port au Prince. With regard to the first paragraph of this telegram, Mr. de la Rue stated that he had previously written Pixley suggesting the advisability of a representative of Chase & Sanborn going to Haiti to test coffees, set up a grading system, and give advice regarding the preparation of coffee for shipment. Pixley's telegram referred to in Mr. Gordon's telegram stated concurrence with this suggestion. Mr. de la Rue said that he hoped this arrangement could be worked out quickly and was advising Mr. Pixley of the necessary steps to be taken in Haiti.

⁵¹ Sidney de la Rue, Fiscal Representative of the Republic of Haiti.

⁵² Rex A. Pixley, Deputy Fiscal Representative of the Republic of Haiti.

⁵³ None of these letters found in Department files.

With regard to paragraph two of Mr. Gordon's telegram, Mr. de la Rue said that he had sent an air mail letter yesterday informing Pixley that it would be preferable for President Vincent to wait until after Mr. de la Rue had seen the head of the buying department of Chase and Sanborn, who is now en route from Panama to the United States.

LAURENCE DUGGAN

838.51/3144 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, May 13, 1936—1 p. m.
[Received 3:45 p. m.]

22. Foreign Minister confidentially informed me today that in the last 3 days Mayard has sent two cables stating that he understood he would be summoned to the Quai d'Orsay this week and asked to give assurances that the Haitian Government would submit 1910 loan question to the International Court and abide by its decision. Foreign Minister is today cabling Mayard that Haitian Government will not submit the question to the Court of Arbitration and giving reason therefor at some length. I will send a copy of the Foreign Minister's cable by air mail.

GORDON

838.51/3149 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, May 25, 1936—4 p. m.
[Received 7:50 p. m.]

25. My telegram No. 22, May 13, 1 p. m. and despatch 227 of same date.⁵⁴ Foreign Minister told me this morning that Mayard had been communicating further with the President indicating that France intended to hale Haiti before Permanent Court of International Justice on the question of 1910 loan, probably under article 36⁵⁵ of the statute. Mayard has also stated that if Haiti will only promise to go before the court, France will agree to renew the commercial treaty for a 3-year period.

The Foreign Minister said in strictest confidence that he feared that the President was inclined to be influenced by these communications and to feel that perhaps he should do something to placate France and bring about a renewal of the commercial treaty. Foreign

⁵⁴ Despatch not printed.

⁵⁵ Hague, Permanent Court of International Justice, *Collection of Texts Governing the Jurisdiction of the Court* (Leyden, 1932), p. 21.

Minister observed that he had frequently told us that he would not submit the question to arbitration and that as far as he was concerned he never would. With regard to going before the Permanent Court, he feels that he could successfully challenge its jurisdiction in this instance, but in view of the facts that Haiti has a very strong case juridically and that it would be most helpful to have this matter favorably settled once and for all, there might be merit in waiving the question of jurisdiction and going before the court. The Foreign Minister says that in any event he does not wish to take any hasty action or to make the tactical mistake of being the first to propose submission of the case to the Permanent Court; accordingly he requested me to inform you that he would greatly appreciate it if the Department would let me have for transmission to him its reaction to the matters contained in this telegram and in my telegram first under reference.

GORDON

838.51/3149 : Telegram

The Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, May 26, 1936—7 p. m.

13. Your No. 25, May 25, 4 p. m. The Department has consistently maintained that the Haitian Government is not obligated to pay its 5 percent loan of 1910 in gold francs, and has not been disposed to advise the Haitian Government to agree to submit to arbitration the question of any such obligation alleged to rest upon the Haitian Government. Consequently the Department is not now disposed to advise the Haitian Government to submit the matter to the Permanent Court, but while the Department realizes the beneficial effect which a settlement in favor of Haiti would have, it must leave it to the Haitian Government's own decision whether it will accede to the desire of the French that the Permanent Court pass upon the matter.

HULL

838.51/3153 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, June 4, 1936—4 p. m.

[Received 8:35 p. m.]

27. My despatch 227 of May 13⁵⁶ and telegram 25, May 25, 4 p. m. Foreign Minister asked me to call today. He said that the President had summoned him to Kenskoff early this morning and asked him to

⁵⁶ Not printed.

inform me that he (the President) had just received a letter from Blanchet stating that the latter had been asked to come to the Department and had been told by Assistant Secretary Welles that President Vincent (1) intended to submit the 1910 bond question to the Permanent Court; (2) was losing interest in securing an American market for Haitian coffee; (3) that there was a rumor in Port-au-Prince that the President proposed to declare a moratorium on the 1922 loan.⁵⁷ Blanchet further reported Assistant Secretary Welles as saying that he regretted this very much especially in view of the high esteem in which President Vincent had been held in Washington and that instructions would shortly be sent me setting forth the Department's views concerning these matters.

Foreign Minister said that the President was replying immediately to Blanchet. In refutation of point 1, he was sending Blanchet a copy of the telegram to Mayard enclosed in my despatch under reference. The Foreign Minister also referred to a written communication he sent Pixley yesterday (transmitted to de la Rue by this morning's air mail) as further proof of the fact that Haitian Government had no present intention of submitting the 1910 controversy either to arbitration or the Permanent Court. In refutation of point 2, President Vincent referred Blanchet to direct correspondence the President is having with Mackey⁵⁸ as evidence of his great and continuing interest in securing an American market for Haitian coffee. As to the third point the President is telling Blanchet that there is nothing in it.

Amplifying despatch by next air mail.

GORDON

838.51/3159

The Minister in Haiti (Gordon) to the Secretary of State

No. 243

PORT-AU-PRINCE, June 8, 1936.

[Received June 10.]

SIR: With reference to my despatch No. 241 of June 4, 1936,⁵⁹ I have the honor to report further as follows.

The President asked me to call on him this morning and we had a conversation of upwards of an hour, at which the Foreign Minister was present. After a few preliminary remarks concerning the news which had just been received over the weekend that the Chicago group of Duveen, Ulen, *et al*, with which Mr. de la Rue had been negotiating for a loan, had indicated that they were no longer inter-

⁵⁷ See *Foreign Relations*, 1922, vol. II, pp. 472 ff.

⁵⁸ C. A. Mackey, President of the Coffee and Sugar Exchange of New York.

⁵⁹ Not printed.

ested, the President pulled from his pocket and read to me the letter from Blanchet referred to in my despatch No. 241.

The President showed the same perturbation which I mentioned in my said despatch, and said that there was a definite misunderstanding if the Department thought that he had decided to submit the 1910 loan question to arbitration or to the Permanent Court, or that he had lost interest in securing an American market for Haitian coffee. As regards the question of a moratorium declaration, the President dismissed it summarily as an impossibility.

With regard to the first point he remarked somewhat nervously that the whole question of his country's relations with France was constantly being brought back to this basis, and while I feel that, largely due to Mayard's constant playing upon him, he has been a prey to great indecision in the premises (see my despatch under reference and e. g. my telegram No. 25 of May 25), I do not think that, as yet at any rate, he has decided to submit this question to arbitration or to the Permanent Court.

It was with regard to the second point that the President showed much more concern, and most of the conversation dealt with this subject. The President was more pessimistic in this connection than I had yet seen him. He emphasized several times that it was imperative for him, in shaping Haitian policy, to know whether or not Haiti would have the certainty of disposing of a satisfactory proportion of her crop in the United States next year. I asked the President if he did not accept the Fiscal Representative's statements that the large New York buyers definitely desired to purchase as much as two or three hundred thousand sacks from Haiti's next year's coffee crop if it were prepared according to the standard now being worked out and prescribed for the American market. The President said that he did believe that this was the desire of the New York buyers, but that to get the Haitian exporters to prepare the coffee as indicated was an entirely different matter.

I then asked the President if there were no way of persuading or prodding the leading exporters into taking the necessary steps to qualify the coffee for the American market. In reply the President claimed that he had made personal efforts to induce the exporters to take such steps; he said however that the preparation along the lines described and required by Mackey was so "revolutionary" and such a complete change from the way the Haitians had always gone about the exportation of their coffee that it was encountering great difficulties—it aroused all those traits in the Haitian character which constituted obstacles to a successful carrying out of Mackey's recommendations. . . .

The President then reverted to his point that the way things were going he did not see how within a period of weeks, or even months,

results would be obtained which would assure Haiti of an American market for her coffee—certainly not before the time for disposing of next year's crop. And then, continued the President, without this certainty of the American market where would he be if his present relations with France were not improved? In this connection he also referred gloomily to the recent news of a French commercial accord with Venezuela ⁶⁰ giving the latter a coffee quota.

I again observed that it seemed to me that some way could be found of making the local exporters see where their clearest self interest lay. To this the President replied that as efforts of persuasion had gotten nowhere, he saw no alternative except the forcible measure of creating by law a monopoly, or a compulsory syndicate directed by the Government, which would amount to about the same thing. He recalled that he had been prepared to form a syndicate (though not necessarily one of the type just referred to) but that the matter had been dropped upon the suggestion of the Fiscal Representative (see my telegrams Nos. 15 of March 19 and 17 of March 25, and the Department's 8 of March 26 ⁶¹). I then observed that as the President was now so much more skeptical of success in this field than he was at the time Mr. Mackey was here and for some time after his departure, it might be a good idea if he (the President) would communicate with Mr. de la Rue and ask him whether or not under the circumstances outlined above he would now feel inclined to agree to the formation of a syndicate. In any event, I added, it seemed incredible that all the good results of Mr. Mackey's visit should be allowed to evaporate for the purely invalid intangible reasons that the President had earlier referred to, and action of some kind was imperative.

The Foreign Minister asked me to see him a moment before we went up to the President, and he told me that a communication had just been received from Mayard stating that the new French Government proposed that if the Haitian Government would agree to submit the 1910 question to the Permanent Court, a *modus vivendi* restoring the complete *status quo* as regards commercial relations should be entered into pending the conclusion of a new treaty, and the French Government would drop its request for a repeal of the Haitian law on retail trade. While the President did not refer to this directly during our conversation—being, as I have said before, mainly preoccupied with the coffee question—it was evidently on his mind. The new check in the loan negotiations, coupled with the continued suggestions and recommendations from Paris concerning the submission of the 1910 question to arbitration or to the Permanent Court, plus the fact that devel-

⁶⁰ Supplementary agreement by exchange of notes to agreement of February 26, 1935, signed May 30, 1936; for texts of notes, see Venezuela, *Gaceta Oficial*, June 1, 1936, pp. 108.189-108.190.

⁶¹ Department's No. 8 of March 26 not printed.

opments in the coffee situation are not going as smoothly as might have been expected, have, as the Department will doubtless have gathered from the foregoing report, all contributed to make the President impatient, irritated and—as it seemed today—a little bit “rattled”. As long as nothing concretely cheerful looms in sight in connection either with the loan negotiations or with coffee developments, I fear that he will continue in this frame of mind—with the concomitant chance of his taking some unwise step.

Respectfully yours,

GEORGE A. GORDON

838.51/3202 : Telegram

The Minister in Haiti (Gordon) to the Secretary of State

PORT-AU-PRINCE, October 27, 1936—1 p. m.

[Received 10:29 p. m.⁶²]

46. (Section 2.) With regard to the opening of the American market to Haitian coffee the Foreign Minister⁶³ said that he was all in favor of this whether or not the French commercial treaty were to be renewed and the French market regained for this year's crop. He felt that progress was being made in this respect and he was glad to note that New York orders for Haitian coffee were now actually being placed. However, he did not share the optimism of those who felt that Haiti could sell the major part or even a really substantial amount of this year's crop on the New York market and feared that it would take at least another year or two to attain such a result. According to him, the President shared this view and in consequence the Government remains much worried about the French situation. I then inquired if his Government was worried to the extent that it still considered it might have to make some sacrifice to secure the renewal of the French treaty, or whether in view of the good progress now being made in opening up the American market, of the pressure being brought on the French Government by various French interests to renew the treaty, and of the weakness of the French position in coupling the 1910 loan question with that of treaty renewal, the Haitian Government could afford to stand on the merits of its own case. The Foreign Minister then said that he would like to ask me very frankly whether I thought my Government would be disposed to take any steps to aid the Haitian Government vis-à-vis the French Government in this connection. I replied in the same sense that I had to the President when he last brought up this same point (see page 4 of the memorandum to my despatch No. 254 of June 20⁶⁴) and I said

⁶² Telegram in two sections; for section 1 see p. 607.

⁶³ Georges Léger.

⁶⁴ Not printed.

that in view of what we had already done in this respect I personally did not see what further specific steps we could take. Léger said he would be grateful if I would put this point to the Department again and request a definite expression of its views. Accordingly, I should be glad to receive an instruction in the premises.

If, Léger continued, the personal opinion which I had just expressed should be substantiated and Haiti should have to rely on herself in this controversy with the French Government she would have to consider making some sacrifice in order to secure a renewal of the treaty.

I asked him if I could indicate even approximately the extent of the sacrifice that might be contemplated. He replied that he did not know yet what the new French Minister, who just arrived yesterday, was about to propose to him; however, the Haitian Government was determined not to submit the controversy either to arbitration or to the Permanent Court of International Justice and not "to pay the French any real money"—as he now envisaged it, any compromise settlement would consist either of a "purely symbolical" trifling payment or of a paper obligation to pay in the rather distant future. He said that he would keep me informed of contemplated general developments in Haitian policy vis-à-vis France and in conclusion said that he wished to let me know that as long as he was in this office we would be faced with no accomplished facts "as in the Debachy case".

GORDON

638.5131/132a : Telegram

The Secretary of State to the Minister in Haiti (Gordon)

WASHINGTON, October 28, 1936— 7 p. m.

24. Your 46, October 27, 1 p. m., second section. The Department is most interested in the possibility that France may propose a new commercial agreement with Haiti,⁶⁵ and would appreciate your informing it promptly when the information is available as to the nature of the concessions on the part of Haiti upon which this agreement may be made contingent.

Until it is in possession of this information, the Department can not commit itself to any steps on behalf of the Haitian Government as respects France. If the French demands should prove unduly exigent or unreasonable, the Department would be inclined to consider extending its further good offices as respects France on behalf of the Haitian Government.

HULL

⁶⁵ A provisional commercial agreement was signed April 28, 1937; for text, see France, *Jornal Officiel*, May 15, 1937, p. 5293. Negotiations for a commercial convention continued.

HONDURAS

EXTENSION OF THE TERM OF OFFICE OF THE PRESIDENT OF HONDURAS THROUGH A REVISION OF THE POLITICAL CONSTITUTION

815.00/4683 : Telegram

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

TEGUCIGALPA, April 1, 1936—noon.
[Received 2:30 p. m.]

34. I have received a formal note from the Minister for Foreign Relations reporting in summary the calling of the Constitutional Assembly by Act of Congress on the request of all municipal governments in Honduras, the signing on March 28th of the new Constitution¹ approved by that Assembly and the extension of the term of office of President Carias to January 1, 1943, by approved resolution of the Assembly (see despatch No. 328 of March 24th²).

Following this recital the concluding paragraph in substance affirms the desire of the Conservative Party³ to maintain and consolidate friendly relations with the United States and expresses the hope that he may count on my cooperation.

May I acknowledge this note along the general lines of note number 58 dated September 13, 1935, from the American Chargé d'Affaires in Guatemala⁴ to the Guatemalan note of July 17, 1935?⁵

KEENA

815.00/4684 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, April 3, 1936—11 a. m.
[Received 1:30 p. m.]

106. Minister for Foreign Affairs informed me last evening that President Sacasa is in receipt of a letter from the President of Honduras announcing his reelection to the Presidency for a period of 6 years. Dr. Arguello stated that President Sacasa desires to keep

¹ Honduras, *Constitución Política y Leyes Constitutivas* (Tegucigalpa, 1936).

² Not printed.

³ By despatch No. 370, April 29, from the Minister in Honduras, the words "Conservative Party" were corrected to read "President" (815.00/4695).

⁴ See telegram No. 27, September 12, 1935, to the Chargé in Guatemala, *Foreign Relations*, 1935, vol. IV, p. 638.

⁵ *Ibid.*, p. 635.

his reply in consonance with that which may be made by President Roosevelt and would appreciate an indication of what Mr. Roosevelt may say. I trust that, if this suggestion be agreeable to the Department, it will appropriately instruct me.

LONG

815.00/4683 : Telegram

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

WASHINGTON, April 3, 1936—5 p. m.

16. Your 34, April 1, noon, last paragraph. Yes. In your reply you will of course make no reference to the "Conservative Party."⁶

HULL

815.00/4684 : Telegram

The Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, April 7, 1936—8 p. m.

61. Your 106, April 3, 11 a. m. This Government has not yet received an autographed letter from the President of Honduras. However, assuming that the autographed letter is similar to that dated July 30, 1935 from President Ubico of Guatemala,⁷ the usual reply will be made by President Roosevelt. In this connection see Department's confidential instruction 337, of September 25, 1935.⁸

HULL

815.001 Carlos A., Tiburcio/34

*President Carias to President Roosevelt*⁹

[Translation]

GREAT AND GOOD FRIEND: I have the honor to communicate to you that in view of the unanimous petition of the Municipalities of the Republic, political groups, and representative elements of society, urging the National Congress to decree the general revision of the Political Constitution of 1924, that high entity, at its session of the 6th day of January of the present year, issued a decree convoking the Honduran people to the election, on Sunday the 26th day of the month referred to, of deputies to a Constituent National Assembly to meet at this capital on the 8th day of March last past; the said National

⁶ See footnote 3, p. 682.

⁷ *Foreign Relations*, 1935, vol. IV, p. 636.

⁸ *Ibid.*, p. 639.

⁹ Transmitted to the Secretary of State by the Honduran Minister under covering note of May 15.

Constituent Assembly having met at the place and in the manner indicated above, it proceeded to the revision of the fundamental charter of Honduras decreed in 1924.

On the 28th day of March last, the National Constituent Assembly signed the new Political Constitution, which began to be in force on the 15th day of the current month and on that same date I, together with the members of my Cabinet, caused the said document to be promulgated. Article 202 of the new Political Constitution establishes that the term of office which I am now serving will terminate on the first of January, 1943.

In bringing the foregoing to Your Excellency's knowledge, I take pleasure in stating that, in the exercise of my high office, my greatest endeavor will be that of maintaining and strengthening the bonds of cordial friendship which fortunately exist between our two countries, counting, as it is unnecessary to say, on Your Excellency's valued cooperation.

Please be so good as to accept [etc.]

TIBURCIO CARÍAS A.

(Countersigned) ANTONIO BERMÚDEZ M.

TEGUCIGALPA, April 20, 1936.

815.001 Carías A., Tiburcio/35

*President Roosevelt to President Carías*¹⁰

GREAT AND GOOD FRIEND: I have received the letter of the 20th of April last in which Your Excellency announced your continuance in the office of the Presidency of Honduras for the term ending January 1, 1943, by virtue of a decree of the National Constituent Assembly of Honduras promulgated on the 15th day of April last.

I cordially reciprocate the sentiments you express for the continuance of the friendly relations existing between the United States of America and Honduras, and I assure Your Excellency of my best wishes for your personal welfare and for the prosperity of the Republic over which you have been called to preside.

Your Good Friend,

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

Washington, May . . , 1936.

¹⁰ Transmitted with covering letter from the Secretary of State to the Honduran Minister for Foreign Affairs in Department's instruction No. 109, June 5, to the Chargé in Honduras.

**ATTITUDE OF THE UNITED STATES IN THE EVENT OF CIVIL STRIFE
IN HONDURAS¹¹**

815.00 Revolutions/491 : Telegram.

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

TEGUCIGALPA, April 3, 1936—11 a. m.

[Received 4:30 p. m.]

36. Referring to my telegram No. 35 dated April 2, 4 p. m.¹² Minister for Foreign Affairs reports information from Mexico that the yacht *Adventuress* and the pilot boat [*S*] *tormalong* both under the American flag and manned by Americans sailed yesterday from Puerto Mexico with Honduran revolutionists and arms and munitions. The Minister for Foreign Affairs says it is the Government's intention to use airplanes to attack these boats to prevent a landing in Honduras. I advised him that the Government of the United States would in no way countenance the employment of American vessels or citizens in gun-running or revolutionary activities and would do whatever might be possible to prevent participation by American vessels or citizens in those activities; that in relation to the internal political affairs of Honduras the Government of the United States desired to remain entirely neutral and in the preservation of that neutrality, I suggested that it would be highly desirable American aviators should not be used in any military operations. The Minister for Foreign Affairs stated in reply that it would not be necessary to employ American aviators in their military operations as the Government had national army and other aviators available for that service.

As the Honduran Minister in Washington will be approaching the Department in relation to this revolutionary expedition, I suggest that the Department take occasion to express the Government's decided preference that no American citizens should be employed in military air operations.

KEENA

815.00 Revolutions/491 : Telegram

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

WASHINGTON, April 4, 1936—4 p. m.

17. Your 36, April 3, 11 a. m. The information contained in your telegram has been transmitted to the Navy Department, and it has been requested of that Department that, if practicable, a naval vessel,

¹¹ Reports were received by the Department of State at various times during 1936 of alleged revolutionary activities against the government of President Carias of Honduras, but no serious disturbance took place.

¹² Not printed.

or naval vessels, be directed to overtake these ships upon the high seas, and keep them under surveillance, and that you be kept advised by the naval vessel or vessels regarding the location of the *Adventuress* and the [*S*]tormalong. You are authorized to keep the Honduran Government advised informally of the reports you receive.

The Navy Department is being advised that no request is being made of the Government of Honduras for permission for American naval vessels to enter Honduran waters.

HULL

815.00 Revolutions/504

The Acting Secretary of the Navy (Standley) to the Secretary of State

WASHINGTON, April 8, 1936.

[Received April 10.]

SIR: I wish to acknowledge the State Department letter of 4 April, 1936,¹⁸ which forwarded two telegrams from the American Minister at Tegucigalpa, and which requested that a naval vessel be dispatched to overtake the yacht *Adventuress* and pilot boat *Stormalong* and keep them under surveillance, advising the American Legation at Tegucigalpa regarding their movements.

Upon receipt of this letter, the Chief of Naval Operations immediately issued radio orders to the Commander Special Service Squadron—a copy of which is inclosed.¹⁸ The U. S. S. *Manley* transited the Panama Canal shortly after midnight 5 April, and proceeded at best speed to the Gulf of Honduras, reporting her arrival in those waters on 7 April.

In connection with the duties and responsibilities of the U. S. S. *Manley* while performing the duty of surveillance assigned, and with reference telegram 36 from the American Minister to Honduras, which formed one of the inclosures to your letter under acknowledgment, it is desired to call the attention of the State Department to the following points involving international law by which the commanding officer of the *Manley* will normally be guided:

These merchant vessels are of American registry and are flying the American flag.

There is no evidence of their having been chartered by the insurrectionists.

The vessels made a legal departure from Puerto Mexico and, in the absence of factual evidence, are making a peaceful voyage between ports of two friendly states.

They are entitled to inviolability from search and seizure while on the high seas.

¹⁸ Not printed.

In the event of attempted search, seizure, or attack by Honduran officials, textbooks available to the Commanding Officer indicate his probable action by the following precedents:

"Of the exercise of visit and search by a Spanish cruiser upon the American steamer *El Dorado* in 1855, the Secretary of the Navy, in a communication to Capt. Crabbe, said:

"This act is regarded as an exercise of power which the United States have ever firmly refused to recognize, and to which they will never submit. In the absence of a declaration of war, which alone belongs to Congress, our officers in command of ships of war would have no right to pursue and retaliate for such an act. But, if present when the offense is perpetrated upon a vessel rightfully bearing the flag of our country, the officer would be regarded as derelict in his duty if he did not promptly interpose, relieve the arrested American ships, prevent the exercise of this assumed right of visitation or search, and repel the interference by force."

On the same subject is a statement from Secretary Hay as follows:

"in no case would the insurgents be justified in treating as an enemy a neutral vessel navigating the internal waters—their only right being, as hostiles, to prevent the access of supplies to their domestic enemy. The exercise of this power is restricted to the precise end to be accomplished. No right of confiscation or destruction of foreign property in such circumstances could well be recognized, and any act of injury so committed against foreigners would necessarily be at the risk of the insurgents."

Information from the American Minister at Tegucigalpa indicates that an attack by Honduran planes is contemplated by the Honduran forces. The trend of telegram 36 indicates that he has made no objection to this plan.

The Navy Department considers it desirable to give the Commanding Officer of the U. S. S. *Manley* specific instructions regarding his procedure in the event of interruption, by Honduran forces, of the voyage of these vessels on the high seas. Before doing so, this Department will be pleased to receive the views of the State Department. It is requested that this matter be given your urgent consideration.

Respectfully,

W[ILLIAM] H. STANDLEY

815.00 Revolutions/504

The Secretary of State to the Secretary of the Navy (Swanson)

WASHINGTON, April 10, 1936.

MY DEAR MR. SECRETARY: The receipt is acknowledged of the letter of the Acting Secretary of the Navy dated April 8, 1936, in reply to the State Department's letter of April 4, 1936, which requested that a naval vessel be despatched to overtake the yacht *Adventuress* and

the pilot boat *Stormalong* and keep them under surveillance, advising the American Legation at Tegucigalpa regarding their movements.

At the request of this Department, the Department of Justice has been investigating the reports concerning the activities of American vessels suspected of being engaged in transporting arms and men to Honduras for revolutionary purposes, with a view to ascertaining whether or not those vessels are engaged in activities in violation of American neutrality laws.

Inasmuch as the Department of Justice, after a protracted investigation, has failed to disclose to this Department any evidence pointing to the violation of American laws by the vessels referred to, this Department considers that it would no longer be justified in requesting that a naval vessel be detailed to keep the suspected vessels under surveillance, and it therefore withdraws the request contained in its letter of April 4 referred to.

Sincerely yours,

CORDELL HULL

815.00 Revolutions/491 Suppl. : Telegram

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

WASHINGTON, April 10, 1936—3 p. m.

21. Department's telegram 17, April 4, 4 p. m. The Department of Justice has been investigating the reports received from the Legation concerning the alleged activities of American vessels suspected of being engaged in transporting arms and men to Honduras for revolutionary purposes, with a view to ascertaining whether or not the activities of those vessels are in violation of the neutrality laws of the United States.

Inasmuch as the Department of Justice, after a protracted investigation, has failed to report any evidence of violation of American laws by the vessels referred to, the Department considers that it would no longer be justified in requesting that a naval vessel be detailed to keep the suspected vessels under surveillance, and the request to the Navy Department that such a naval vessel be so detailed has been withdrawn.

With reference to your telegram 36 of April 3, 11 a. m., the Department assumes, of course, that the Government of Honduras would not utilize American aviators in any military operations of the nature suggested, and that in any case, before engaging in such operations, the Honduran Government would consider carefully the responsibilities which it might incur for damage to lives and property as a result of such operations, particularly in the absence of positive evidence that the vessels are engaged in the activities reported.

Please communicate the above informally and in a very friendly manner to President Carias.

HULL

815.00 Revolutions/505 : Telegram

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

TEGUCIGALPA, April 11, 1936—noon.

[Received 3 : 25 p. m.]

39. Department's telegram No. 21, dated April 10, 3 p. m. I have communicated verbally to President Carias the contents of the Department's telegram in reference. He assured me that American aviators would not be employed in bombing operations against the vessels referred to and that no attack will be made on these American vessels by the Honduran forces unless the Government has conclusive evidence they are engaged in revolutionary activities.

The yacht *Adventuress* is reported as still detained at Puerto Mexico and the pilot boat *Stormalong* is reported as probably having passed the Honduran coast well out to sea bound for Nicaraguan waters.

The President stated he thought that now there is little likelihood of an attempted landing of men and arms by either of these vessels. In this connection, I venture to suggest it might be advisable to have some naval vessel cruising in the vicinity of Honduras for the next two weeks or until definite news of the abandonment of this attempted landing may be received as there are more than 1000 Americans in the north coast districts, many of whom might be endangered by the resulting hostilities if a landing should be effected.

The U. S. S. *Manley* reported last night by radio that it was returning to Panama.

KEENA

815.00 Revolutions/505 : Telegram

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

WASHINGTON, April 14, 1936—7 p. m.

22. The reason for your suggestion in the penultimate paragraph of your telegram No. 39, April 11, noon, that it might be advisable to have some naval vessel cruising in the vicinity of Honduras for the next two weeks or until definite news of the abandonment of an attempted landing from the pilot boat *Stormalong*, is somewhat obscure to the Department. If you had in mind the possibility that an attempted landing by the *Stormalong* might result in hostilities that would endanger American citizens, and that a United States vessel might afford protection to our citizens, this Government considers

that the responsibility for the maintenance of order and the protection of foreigners rests squarely on the Government of Honduras. You will, therefore, not hold out to American citizens or to the Honduran authorities any expectation that the United States will endeavor to give general protection to American citizens in the event of disorder in Honduras.

In accord with the foregoing, no request is being made of the Navy Department to have a naval vessel remain in the vicinity of Honduras.

HULL

815.00 Revolutions/511 : Telegram

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

TEGUCIGALPA, April 15, 1936—3 p. m.

[Received 7:03 p. m.]

41. Referring to Department's telegram No. 22, April 14, 7 p. m. The suggestion I made in telegram No. 39, April 11, noon, concerning a naval vessel cruising in the vicinity of Honduras was based on the belief that the moral effect would be good in the event of an outbreak of hostilities on the north coast. The suggestion was not prompted by nor communicated to either the Honduran authorities or any American citizen.

KEENA

MEXICO

REPRESENTATIONS AGAINST FURTHER EXPROPRIATION BY THE MEXICAN GOVERNMENT OF LANDS OWNED BY AMERICAN CITIZENS UNTIL AUTHORIZATION FOR PAYMENT BE MADE¹

812.5200/951

The Chargé in Mexico (Norweb) to the Secretary of State

No. 3289

MEXICO, February 13, 1936.

[Received February 19.]

SIR: I have the honor to refer to previous correspondence regarding adequate compensation for American citizens whose lands have been expropriated under the agrarian laws.

In a recent conversation with Mr. Ceniceros, Undersecretary of the Foreign Office, he, himself, brought up the question and told me that Mr. Suarez, Secretary of Hacienda, was still studying the matter. As the Department may recall, Mr. Ceniceros told the Ambassador that the Foreign Office hoped to have some proposal to submit to the Embassy shortly after the New Year and, in view of this promise and the Department's wish that no further pressure be brought on the Mexican Government until the question of agrarian claims already filed with the General Claims Commission had been settled, the Embassy has refrained from pressing the matter.

However, as the Department has already been informed, no provision has been made in this year's budget for the payment of compensation to owners whose lands have been or may in the future be expropriated under the agrarian laws.

In this connection, an article which appeared on February 12 in *El Dia* may be of interest. The article states that the *campesino* federation of the State of Hidalgo has petitioned the President not to pay the *hacendados* any compensation whatsoever for the lands expropriated from them on the grounds that to pay any compensation would involve the recognition of an enormous national debt and greatly retard the economic development of the country, and that, furthermore, a portion of this debt would be in favor of foreigners. The petition concludes by asking the President to take definitely the position of refusing to recognize the rights of the *hacendados* to receive any compensation whatsoever for lands expropriated for the benefit of the *campesinos*.

¹ Continued from *Foreign Relations*, 1935, vol. iv, pp. 770-782.

As against this petition *Excelsior* of today's date gave prominence to another petition from the *hacendados* in which they request the Government to issue them the agrarian bonds in the amount to which they would be entitled under the Agrarian Code,² even though it was recognized that these agrarian bonds might be of little value.

Respectfully yours,

R. HENRY NORWEB

812.52/1978

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

No. 3483

MEXICO, April 16, 1936.

[Received April 22.]

SIR: In my call on the Foreign Minister³ today, I brought up the matter of the dotation of lands belonging to American citizens and the earnest desire of my government that the lands belonging to citizens of the United States be not appropriated in the future and payment be arranged for lands already taken. I went over with him the attempt that I had made for months to secure action on these representations and discussed with him my various conversations with former Ministers Portes Gil and Ceniceros, as well as with him since he became Foreign Minister, and urged that his Government take up the requests presented, and meet the reasonable representations of my Government.

The Minister requested me to send him an official letter embodying the views I had presented, and said he would bring it to the attention of the President and give me a reply before leaving the city. He expects to go soon—in fact expected to go last week but postponed his trip at the time of the expulsion of General Calles—and I hope to secure a reply shortly to the note I sent him this afternoon. I am enclosing a copy of my note No. 1582 of this date, which embraces the subject matter I called to the attention of the Foreign Minister.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure]

*The American Ambassador (Daniels) to the Mexican Minister
for Foreign Affairs (Hay)*

No. 1582

MEXICO, April 16, 1936.

EXCELLENCY: I have the honor to refer to various conversations with Mr. Portes Gil and with Mr. Ceniceros, when he was Acting Minister for Foreign Affairs, and particularly to my conversation

² Mexico, *Codigo Agrario de los Estados Unidos Mexicanos* (Mexico, 1934).

³ Eduardo Hay.

with the latter on November 21 last year, during the course of which Mr. Cenicerros informed me that President Cárdenas had instructed him and the Minister of Hacienda to study the question of compensating American citizens for lands expropriated under the Agrarian Laws.

Mr. Cenicerros at that time asked that the American Government refrain from pressing the matter of compensation for American citizens for lands expropriated from them until after the New Year, because by that time President Cárdenas would be prepared to make a proposal which he believed would be satisfactory to American citizens and to the American Government. Mr. Cenicerros furthermore assured me that the interview as published in the *New York Times* of October 24, 1935, in which President Cárdenas stated that "The land taken in connection with the Government's land parcelling program today is being paid a just valuation in Government bonds which the present condition of the budget and the National Treasury render entirely sound, especially in view of the declared intention of my Government to meet the indebtedness," represented the true policy of the Mexican Government.

Because of these assurances and in the expectation that a satisfactory proposal would be made by the Mexican Government shortly after the New Year, my Government has patiently awaited these proposals and refrained from pressing a solution to this most important question.

However, over three months have now elapsed since the time when these proposals were to have been advanced by the Mexican Government and the American Government does not consider that it would be justified in longer withholding further representations in the matter. I am, therefore, instructed by my Government to inform Your Excellency that in accordance with the promise given by Mr. Cenicerros, while Acting Minister for Foreign Affairs, it hopes soon to receive proposals providing:

1. For the indemnification of American citizens for lands already expropriated, and
2. Positive assurances that in the future no lands will be taken from American citizens without the payment of prompt and adequate compensation.

In this connection, may I call Your Excellency's attention to a conversation which took place on December 12, 1935, in the Department of State, Washington, D. C. between Assistant Secretary of State, Mr. Sumner Welles, and the Mexican Ambassador, Mr. Nájera, in which Mr. Nájera gave Mr. Welles positive assurance that no further American property of any kind would be taken over for agrarian purposes other than 3,000 hectares from the Chihuahua Cattle

Company. In spite of these categorical assurances, lands continue to be expropriated from American citizens without any compensation whatsoever being offered, contrary to the Mexican Constitution and to the Agrarian Laws.

I need not assure Your Excellency that my Government considers a satisfactory solution to this problem one of the most important questions before our two Governments and I hope that you will be able to give it the serious consideration which it requires and inform me of your views at the earliest possible time.

Please accept [etc.]

JOSEPHUS DANIELS

812.5200 Cunningham Investment Co./53

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

No. 1182

WASHINGTON, August 8, 1936.

SIR: Reference is made to your despatch No. 3066 of November 21, 1935,⁴ with which was transmitted a copy of a reply addressed to you by the Mexican Agrarian Department in response to your letter of August 19, 1935, inquiring in regard to the arrangements that might have been made for the payment of adequate compensation for lands expropriated from the Cunningham Investment Company. In this communication the Agrarian Department advised you that as regulations had not up to that time been issued in the matter of compensation for ejidal expropriations, it was not possible to furnish you the information you had requested.

In your despatch No. 3067 of November 22, 1935,⁵ you reported a conversation with the then Undersecretary of State in the course of which Mr. Ceniceros asked that the beforementioned letter from the Agrarian Department be disregarded and that certain statements which had been given to the *New York Times* by the President of Mexico, in which the latter was reported to have declared that land taken for distribution was being paid for in sound bonds, and that his Government was pledged to the discharge of this indebtedness, should be considered as reflecting the true policy of the Mexican Government in the premises. Mr. Ceniceros also requested that the Government of the United States refrain from pressing the matter further until after January 1, 1936.

By its instruction NoN. 1057 of April 1, 1936,⁴ the Department directed you to take the matter up again with the Mexican Government and your despatch No. 3483 of April 16, 1936, reported that you had complied with these instructions, both orally and in writing. How-

⁴ Not printed.

⁵ *Foreign Relations*, 1935, vol. IV, p. 780.

ever, the Department has not up to the present received any indication that a response has been made by the Mexican authorities to the representations contained in your note No. 1582 of the latter date.

It is, therefore, desired that the matter again be brought urgently to the attention of the appropriate Mexican authorities, and it is the Department's well considered opinion that additional force would be lent to your representations if the Embassy were simultaneously to renew its efforts to obtain the information already requested concerning the compensation of Mr. M. F. Bauchert, the Cunningham Investment Company, Mr. Harloe Hamilton and other American citizens whose lands were the subject of recent expropriation.

The Department awaits with interest the receipt of a report concerning the action you may take in pursuance of this instruction.

Very truly yours,

For the Secretary of State:

R. WALTON MOORE

812.5200 Cunningham Investment Co./55

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

No. 3939

MEXICO, September 17, 1936.

[Received September 21.]

SIR: Referring to the Department's instruction No. 1182 of August 8, 1936, I have the honor to state that I have again made formal representations for lands expropriated from American citizens under the Agrarian Law, and am enclosing herewith a copy of my note dated September 10 to the Foreign Office. In this note I reviewed the situation and pointed out that the proposal promised for last January had not as yet been received and that in the meantime properties of American citizens continued to be expropriated without compensation contrary to the Mexican Constitution. While informing the Minister for Foreign Affairs that my Government viewed the continued expropriation without compensation of the property of American citizens with deep concern, I took occasion to set forth the Department's position as contained in its instruction No. 861 of September 11, 1935.⁶

Today I called on the Minister for Foreign Affairs and urged an early response to my note and a prompt submittal of the long promised Mexican proposal.

The Minister assured me that he was still giving the matter his consideration, that he has increased the number of lawyers to whom he had committed the matter and would "do the best I can," to quote his own words, "but I will make you no promises I can't fulfil."

⁶ Not printed.

He then related how, when he undertook to comply with the agreement in the General Claims Commission, preparing the cases for its consideration, he found there were 400 cases that had not been touched and he was compelled to turn the work over to Mr. Flores, a very honest and capable man, who had worked very hard to complete the cases before July 1, 1936, and was now in Washington in conference with Mr. Underwood, the American representative. "Mr. Flores will decide what is just and right," he said, "and make no claim for Mexico which has not a sound basis."

I called his attention to the fact that the claims which were entrusted to Mr. Underwood and Mr. Flores representing the two Governments did not touch the matter of compensation which I had brought to his attention, and to the attention of his predecessor. I related the conversations I had had with Mr. Portes Gil and later with Mr. Ceniceros and referred to the latter's expression of opinion nearly a year ago when he had stated that he hoped to be able to propose a satisfactory solution by the first of January, 1936. It was in response to my recounting this matter that General Hay said that all he could say today was that he would do the best he could but would make no promises he was not certain he could perform. He then said that there were "political complications," but refrained from going into particulars. I understood by "political complications" that he lacked the power to act independently and that President Cárdenas was carrying out more fully the promises he and his predecessors had made to the *campesinos* for the dotation of land. The records show that President Cárdenas in his term of less than two years has dotated 4,482,000 hectares of land, whereas his predecessors in twenty years had only dotated 8,143,360 hectares. *El Nacional*, organ of the National Revolutionary Party, praises the President for carrying out the pledges of the Party.

If I do not receive a written answer to my note of the 10th before my next weekly call at the Foreign Office (on Thursday, September 24) I will again urge action looking to compensation upon the Foreign Minister.

I understand that Mr. Castillo Nájera^s is coming to Mexico the latter part of this month. I suggest that this matter be brought to his attention so that when he is in Mexico he can acquaint the Foreign Office with the Department's disappointment at the long delay in meeting its request for compensation. I could also talk over the matter with Mr. Castillo Nájera when he comes here. However, pending that, I will press the matter with the Foreign Office.

Respectfully yours,

JOSEPHUS DANIELS

^s Francisco Castillo Nájera, Mexican Ambassador in the United States.

[Enclosure]

The American Ambassador (Daniels) to the Mexican Minister for Foreign Affairs (Hay)

No. 1781

MEXICO, September 10, 1936.

EXCELLENCY: I have the honor to refer to my note No. 1582 of April 16, 1936, concerning the important question of compensating American citizens for lands expropriated from them under the agrarian laws. No answer having been received to this note, I am again instructed by my Government to bring the matter urgently to Your Excellency's attention.

As set forth in my note under reference, Mr. Cenicerros, while Acting Minister for Foreign Affairs, informed me, on November 21 of last year, that His Excellency President Cárdenas had instructed him and the Minister of Hacienda to study the question of compensating American citizens for lands expropriated under the agrarian laws. Mr. Cenicerros at that time asked that the American Government refrain from pressing the matter until after the new year, because by that time the Mexican Government would be prepared to make a proposal which he believed would be satisfactory to American citizens and to the American Government. Relying upon these assurances, my Government refrained from making further representations in order to give the Acting Minister for Foreign Affairs ample time to study the question and, in conjunction with other officials of the Mexican Government, to draw up the proposal which he had promised to submit.

No proposal being forthcoming, my Government instructed me to renew my representations, which I did in my note of April 16. At the time I presented this note to Your Excellency you had been in office but a short time and told me that you wished to make a thorough study of the question, which would probably require several months. Trusting that you have been able to complete your study, my Government has again instructed me to express to Your Excellency the deep concern with which it views the continued expropriation of lands from American citizens without any compensation whatsoever, though the Mexican Constitution itself provides that expropriations may only be effected subject to the payment of an indemnity. My Government earnestly hopes that the proposal promised for last January may now be ready for presentation and that it will provide adequate, prompt and effective compensation for lands expropriated.

I beg to inform you that in my instructions, my Government makes the following brief exposition of its views: The fact that the Mexican Government may have decided upon and promised to carry out a policy of providing lands for the *campesinos* can not be urged as

sufficient justification for the taking of American-owned lands without such sufficiently prompt and adequate compensation as may be required by the ordinary standards of international law and practice. My Government fails to see that the expropriation of American-owned lands under a procedure permitting, in a practical sense, no legal recourse or appeal, and without the payment of reasonably prompt or adequate compensation, meets generally recognized standards applicable to foreigners. That the Mexican Government may not be in a financial position to pay for lands taken from American citizens does not appear to be germane to the issue. Inability to pay scarcely justifies the taking of property by a government any more than it does in the case of an individual. The American Government has on many occasions made manifest its desire to deal honorably with other nations. It has evidenced by deeds its desire to carry out the "good neighbor" policy. It is sincerely desirous of maintaining friendly relations with Mexico and other nations and has made and is willing to make reasonable sacrifices in the interests of such relations. However, it can not accept the thesis that to this end it is committed to or should be committed to a policy of sacrificing legitimate American interests. Obviously, the question of mutuality in fair dealing is involved.

Please accept [etc.]

JOSEPHUS DANIELS

812.52/2002

The Vice Consul at Guaymas (Yepis) to the Secretary of State

No. 276

GUAYMAS, September 21, 1936.

[Received September 26.]

SIR: I have the honor to refer to the last paragraph of my despatch No. 272 dated August 31, 1936, "Political Report for August, 1936," to my despatch No. 261 dated June 10, 1936,⁹ and to previous correspondence on the subject of this despatch.

As mentioned in my despatch No. 272, the petitioners for lands in the so-called Yaqui Valley are now strongly asking that they be given the specific lands for which they have petitioned at the earliest practical date. They do not want the lands which the Yaqui Valley landholders offer to prepare for them (despite the fact that the landholders offer to clear and fence the lands, build canals, roads and even houses) because the lands offered are a few miles further from the railway and at least 20 miles further from Ciudad Obregón. The agrarians strongly insist that they want the lands in the so-called Yaqui Valley, and none other.

It was previously reported that a committee of Yaqui Valley landholders had been at Mexico City and that President Cárdenas had

⁹ Neither printed.

agreed to accept their offer to prepare the lands for the agrarians in order not to give them some or most of their own lands. My informant advised me that a committee of Yaqui Valley landholders left for Mexico City a few days ago again to interview the President in an endeavor to enlist his support to their offer, for apparently he does not now wish to "force" the agrarians to take the land offered.

It is interesting to note that, according to my informant, there are now over 3,000 petitioners; that the land which will be taken from the landholders will be at least 12,000 hectares (about 30,000 acres); that the petitioners are not satisfied with four hectares each, but demand ten hectares, making a total of at least 30,000 hectares, or approximately 60 per cent of the acreage now under cultivation in the Yaqui Valley; that the first and principal lands which will be expropriated in case the petitions are granted, will be those owned by Americans, inasmuch as these lands have the best location as regards nearness to Ciudad Obregón, first rights on irrigation water, and since these American-owned lands have better and more improvements than any other in the Valley.

My informant . . . said that the Mexican landholders in the Yaqui Valley, who it is expected will be the least affected, have pinned what little hopes they have of less drastic treatment on the conditions described above, that is, that the American Government will appeal to the Mexican Government inasmuch as the American landholders will by far be the heaviest losers should the particular lands the agrarians ask for be granted.

Apparently the petitioners want to eat their cake and have it too, and unless the government views the situation from a broad perspective, it might accede to the demands of the agrarians. If the agrarians are given only 4 hectares each (although it is just as easy for the Government to disregard Article 47 of the Agrarian Code and give them more), they cannot subsist on the produce of such a small area, even if they should till the entire plot diligently (which would be very unusual), but in this case they plan on working for the farmers who would have some land left after the agrarians' "necessities" were fulfilled. Actually, however, judging from virtually 100 per cent of the agrarian cases witnessed so far, the agrarians would not cultivate as much as $\frac{1}{10}$ th of the land given them, and they would depend entirely upon the work which the regular farmers would give them for their livelihood. If, however, 12,000 or more hectares are taken away from the regular farmers, it is said that most of the latter will abandon their lands and there will be no work for the agrarians as they now expect.

Even now, the farmers are extremely hesitant about plowing for the winter wheat, fearful that the blow will be dealt sometime after the wheat is planted, and probably when it is ready for harvesting,

in which case they would not only lose the land but the crop on the land as well. They also fear that if the demands of the agrarians are met, they will not only lose the land, and possibly the crop, but may even be forced to pay their laborers, the very men who take their lands, three months' extra wages. The reason it is said that the landholders will abandon their lands in case the agrarian petitions are granted is that they expect the same agrarians, or others who may come in to take their places as laborers, to make further demands within a short time.

Another interesting point brought out by my informant is that the landholders are attempting to delay the agrarian procedure long enough to give the Government time in which to complete the Yaqui River Dam, when there would be sufficient land in the Yaqui Valley for thousands of agrarians. Obviously, however, this is a vain hope. Although preliminary work has apparently started on the dam, the plans call for its completion in four years (to which may be added another four years for good measure), while the agrarian situation in the Yaqui Valley is said to be coming to a head right now.

Respectfully yours,

A. F. YEPIS

812.52/2003

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

No. 3965

MEXICO, September 25, 1936.

[Received September 30.]

SIR: With reference to the Department's telegram number 144 of August 13, 5 PM, 1936,¹⁰ assigning Mr. William P. Blocker temporarily as First Secretary of Embassy, I have the honor to enclose a report submitted by Mr. Blocker regarding the progress of the work which has been entrusted to him of bringing up to date the 1930 survey of the agrarian situation.

I have the honor to suggest for the Department's particular consideration the penultimate paragraph of the enclosed memorandum.¹¹

I believe that in addition to the general usefulness of the statistics to be established as a result of the survey, it may be of considerable future value to the Department to have as complete and careful an analysis as possible of all the instances in which properties have been taken away from American citizens by the Mexican Government by procedure which does not conform with the Mexican law on the subject. The preliminary survey indicates that such instances are numerous. To be of value, however, each instance must be investigated

¹⁰ Not printed.

¹¹ Not printed. The penultimate paragraph discussed expenses in investigating agrarian cases.

carefully and the facts ascertained, probably on the spot, transcriptions of documents made and authenticated, and the whole case prepared so that at some future time the authenticity of the information and its completeness can not be reasonably disputed.

I am not unaware that the work requested of our consular officers in Mexico in connection with this agrarian study will be burdensome. At the same time, I believe that the carrying out of this work will provide these consular officers with information of value to them as well as to the Embassy and the Department. A priori, it would appear that a consular officer stationed in a given district and carrying on his work there from day to day would be in a better position to develop contacts with the public officials and American residents there and to obtain information such as is requested in this survey, than would be an officer sent on a special trip for that purpose by the Embassy. However, it is apparent that this was not the case in 1930. In many instances Mr. Lowry, proceeding on behalf of the Embassy, in various districts was able to obtain information which apparently had not been available to the local consular officer.

The replies to be received to inquiries which have now been sent out to consular officers in Mexico will probably indicate whether a similar situation now prevails or whether there has been some improvement. In the event that a similar situation is revealed, the Department may wish to give some consideration to lending added weight to the qualifications of officers with regard to this type of work in making selections for consular offices in Mexico. It may also wish to consider the results obtained in each consular district in connection with any future reallocation of consular districts or other adjustments designed to provide better coverage of distant parts of Mexico for consular work.

Respectfully yours,

JOSEPHUS DANIELS

812.52/2002 : Telegram

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

WASHINGTON, September 29, 1936—5 p. m.

167. Despatch 276 September 21 from Guaymas. In the event you are convinced that division of American owned lands is imminent you are directed to insist vigorously that contemplated expropriation proceedings be deferred until satisfactory arrangements have been made for prompt payment of adequate and effective compensation to American owners.

HULL

812.52/2004 : Telegram

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

MEXICO, October 1, 1936—1 p. m.

[Received 5:33 p. m.]

171. With reference to the Department's telegram 167, September 29, 5 p. m., have telegraphed the American Consul at Guaymas urgently to send me further information regarding area and ownership of American properties in Yaqui Valley and any further developments indicating whether division is imminent. If his reply indicates action imminent will comply immediately with Department's instructions.

DANIELS

812.52/2008 : Telegram

The Consul at Torreón (Park) to the Secretary of State

TORREÓN, October 3, 1936—noon.

[Received 9:35 p. m.]

In reply to Department's telegram,²² three Americans have cultivated lands amounting to 3,321 acres, fourth has 10,621 acres chiefly uncultivated. Approximate value of the four properties \$234,000, principal crop cotton. Also American stockholders have about a one-third interest in British-controlled property of approximately 136,000 acres valued at slightly less than \$2,000,000 one-eighth average acreage cultivated cotton and wheat.

Subsidiary of Anderson Clayton and Company having bank and cotton brokerage office in Torreón states if agrarian dotations were likely at this time its interests imperilled for anticipated loss of \$4,800,000. Report by mail will be made.

PARK

412.11T541/9

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

No. 3998

MEXICO, October 9, 1936.

[Received October 14.]

SIR: I have the honor to report that at my regular Thursday call at the Foreign Office on October 8, 1936, I talked with the Minister about the dotation of lands in the Laguna District of Torreón in the States of Coahuila and Durango to the workers on these lands. Be-

²² Telegram of October 1, 1936, 2 p. m. which read as follows: "Your despatch No. 325 September 24. Report briefly by telegraph and follow by mail extent and nature of American interests in lands which may be affected by agrarian dotations." (812.52/2006)

fore paying my visit, I had received a call from Mr. John Murray, the Minister from Great Britain to Mexico, whose nationals own large properties in that district. He suggested that it might be well, inasmuch as American and British interests are involved, if we jointly made representations, though the British claims are larger than those of our nationals. We decided that it would be best for each of us to act separately.

When I broached the subject of my visit to the Foreign Minister, he informed me that the statement which had been published in the morning papers that the President had signed a decree dotating the lands in the Torreon Laguna District was based upon correct information. The President having taken such official action, in accordance with the Mexican laws, he said the recourse of our nationals would be to file claims for any losses sustained.

This morning I received a letter from the British Minister, with which he enclosed a copy of a letter he had transmitted to the Minister for Foreign Affairs. A copy of that letter, together with copies of the enclosures, are appended hereto.¹³

Respectfully yours,

JOSEPHUS DANIELS

812.52/2013 : Telegram

The Vice Consul at Guaymas (Yepis) to the Secretary of State

GUAYMAS, October 10, 1936—2 p. m.

[Received October 11—9 : 25 a. m.]

Referring to my despatch No. 280, of October 5,¹⁴ regarding agrarian situation in the Yaqui Valley. I have just been informed that the last offer of the land owners has been rejected by agrarians and that American land owners are prepared to make offer of settlement which I suggested to them as described in my despatch above cited. My informant stated that American land owners desire me to go to Ciudad Obregón to assist them in their endeavors to have new plan accepted. I feel I can be of considerable assistance to them by helping to induce Mexican land owners, agrarians and government officials to accept the new plan. After much thought I believe that the new plan is most advantageous for all but chiefly for the Americans who otherwise will soon inevitably lose the bulk of their lands.

I earnestly suggest that I be authorized to act as outlined above and that temporary relief officers be sent immediately to Guaymas.

Embassy informed.

YEPIS

¹³ None printed.

¹⁴ Not printed.

812.52/2013 : Telegram

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

WASHINGTON, October 14, 1936—8 p. m.

176. Your 179, October 11, 6 p. m.,¹⁵ and telegram from Yepis of October 10, 2 p. m. Yepis authorized to proceed Ciudad Obregón for purpose indicated in his telegram. He is being instructed to make it entirely clear that he is acting in an unofficial and personal capacity and that in rendering requested assistance he is not engaging the responsibility of this Government in any way. The Department assumes of course that his cooperation in the matter will be agreeable to all parties concerned.

Charles C. Gidney, jr., non-career, appointed Vice Consul at Guaymas for temporary duty, proceeding from Washington today. Request provisional recognition. Inform DADO.¹⁶

HULL

812.52/2021

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

No. 4023

MEXICO, October 17, 1936.

[Received October 20.]

SIR: I have the honor to refer to my despatch number 4002 of October 9, 1936,¹⁷ and to the Department's telegraphic instruction number 167 of September 30 [29], 9 a. m. [5 p. m.], regarding contemplated expropriation proceedings in the Yaqui Valley.

After receiving from Vice Consul Yepis copies of his despatches 276 of September 26 [21] and 280 of October 5, 1936, to the Department, and his telegram to me of October 10, of which I have the honor to enclose a copy,¹⁸ and as I had already mentioned the matter to the President (see my despatch number 4002 referred to above), I asked the counselor of the Embassy to call on Licenciado Beteta, the Undersecretary of State for Foreign Affairs, to discuss the matter further with him. I now have the honor to transmit herewith a copy of the memorandum which Mr. Boal has prepared of his conversation with Licenciado Beteta.

Respectfully yours,

JOSEPHUS DANIELS

¹⁵ Not printed.¹⁶ District Accounting and Disbursing Office.¹⁷ *Post*, p. 715.¹⁸ None printed.

[Enclosure]

Memorandum of Conversation, by the Counselor of Embassy (Boal)

MEXICO, October 14, 1936.

I saw Licenciado Beteta on Saturday, October 10, and briefly spoke to him about the Yaqui Valley situation. Today, at his request, I called on him and discussed the matter fully. I left with him the attached list of pending agrarian cases.¹⁹ I then went over the Yaqui Valley situation, touching the high spots as given in Vice Consul Yepis's despatch number 280. We examined the chart enclosed with the despatch together. Licenciado Beteta said that he had had a long talk with the President on the Yaqui Valley situation and on the agrarian question in general. He said that he had found the President more conciliatory in agrarian matters than he had ever thought he would be. He said that he (the President) was deeply concerned to prevent any crisis with the American Government on the subject and that they had discussed the subject of compensation fully. He wanted to tell me personally and quite confidentially that he was suggesting to the President a system of compensation which was to be carried out case by case confidentially. The idea was whenever property was taken from an American citizen under the Agrarian Code he would be compensated by receiving a property, not necessarily agrarian, and possibly a house, to be taken from the *Bienes Nacionales*. He said that this would only apply to pending and future cases, all past agrarian expropriations from Americans to be excluded, otherwise the Government would not have enough properties to go around. It would not be done as a matter of principle, but simply on a case basis and without any publicity or giving out any information. He wanted to know what I thought of this plan. I told him that it would be difficult for me to express an opinion; that much, I supposed, would depend on the character of the particular property offered in each particular case.

Speaking of the Yaqui Valley, Licenciado Beteta said that he felt that this district was in a class by itself. I had already pointed out to him that the land had never been worked by the original inhabitants of the country but that it had been bought, irrigated, cultivated and developed by the American holders who had come in under a legal contract with the Government, had paid their money in good faith and were under a colonization contract which required a certain percentage of the owners, when they came in over forty years ago, to be American citizens. Licenciado Beteta asked if those who were asking for ejidos were Yaqui Indians. I said I did not know, that I was not under the impression that all of them were. He said that this made

¹⁹ Not attached to file copy.

a difference to the Mexican Government. However, he was not under the impression that all of them were Yaqui Indians.

He then spoke of the Laguna matter. He said he regretted that the question had come up and told me quite confidentially and personally that he could not make up his mind fully regarding it. He was not at all convinced that the course being pursued now was the one to follow. He asked if there were any American properties in the Laguna. I told him I thought there were; that American interests were involved to the extent of one-third in the Tlahualilo Company's holdings. I added that furthermore, there were four American land-owners in the Laguna, of whom three owned 3,321 acres of cultivated land and one owner, 10,621 acres, chiefly uncultivated. I said that while we had had some complaint on the score of the Tlahualilo interests, we had not yet had complaint from the other four owners. Mr. Beteta asked me to let him know immediately as soon as we had some complaint.

In summing up the agrarian situation at this present stage, I pointed out to Licenciado Beteta that we could not expect our Congress, when it came into session, to remain indifferent to the protests of Americans who were losing their properties. If we got fifty more protests from the Yaqui Valley it would cause a terrific stir at home. Furthermore, members of Congress would not wait until Congress met to make their views audible. Once the damage were done, it would be extremely difficult to undo. If the Administration were pressed into a situation where it would have to make a public statement of its relations with the Mexican Government, much of the improvement in the Mexican-American relations in the last few years might be undone. I pointed out that in most of the agrarian cases we had seen there were serious irregularities and illegal acts. In many cases laws—not the Agrarian Code only—had been violated in order to bring about expropriations under the Agrarian Code. Thus, squatters were allowed to remain on lands until they could qualify for claims for ejidos or other claims against the land. I said that of course the damaging effect of this might be lessened if the Government had public hearings in Mexico City on appeal similar to those carried out in the nationalization proceedings in the Department of Hacienda. This would presumably tend to bring about expropriations only where the law had been strictly complied with and would therefore tend to diminish the cases where expropriation is rushed through regardless of the Agrarian Code or other laws.

I asked if it would not be possible for the Government to put off the taking of property belonging to Americans for a period during which time they could evolve a process of compensation and thereafter only take property as compensation could be made. Licenciado Beteta

said he thought that something like this could be evolved. At any rate, he was going to try to work it out with the President.

P[IERRE] DE L. B[OAL]

812.52/2080

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

No. 4025

MEXICO, October 20, 1936.

[Received October 26.]

SIR: I have the honor to report that this morning I had a request from the Foreign Minister to call at the Foreign Office if I could do so conveniently. I had been expecting a call from Ambassador Castillo Nájera, who had told me on Saturday that after seeing the President he would call at the Embassy before returning to Washington—either Monday or Tuesday.

When I arrived at the Foreign Office I found the Foreign Minister, General Hay, the Undersecretary, Mr. Beteta, and Ambassador Castillo Nájera. The latter opened the conversation by saying that he had talked with the President on Sunday and had afterwards discussed the question of American lands donated, or threatened to be distributed to agrarians. He told me the President had stated to him what he had told me on my visit some days ago (see despatch No. 4002 of October 9, 1936²⁰), and had requested him to see me and the two head officers of the Foreign Office and say that he would make the budget for agrarian property just as large as possible at the first of the year. I asked if it was to be in money or in bonds. General Hay answered: "bonds". At that juncture Mr. Beteta added that the fund was to be in bonds and some cash. I asked what proportion would be in cash. That had not been determined, he said, but at least enough to pay the interest on the bonds.

In the meantime I was informed President Cárdenas would shortly go himself to Sonora, in the section where the Yaqui lands are under consideration, to determine what should be done, and was told that he was confident arrangements could be made that would be satisfactory to the owners. Nothing will be done there unless the government and the owners of the lands can agree upon one of the several propositions of exchange of lands that have been pending and about which the Department has been informed. At the last report from the Yaqui Valley the *agraristas* had not accepted the proposal of the American land owners.

It might be, continued the Mexican officials, that payment could not all be made in bonds or cash, but when that was the case there would be payment in real property belonging to the Government,

²⁰ *Post*, p. 715.

perhaps town property or other lands or buildings of a value that the Government believed would be acceptable to Americans.

Evidently these officials had been trying to work out a plan that would meet our reasonable demands. They emphasized the serious difficulties in the way and hoped we would appreciate their spirit of accommodation.

I told them that our Government was not unmindful of the agrarian problems the Mexican Government faced and that we had not wished to do more than secure compensation for lands belonging to our nationals, and I was glad they were finding a way to meet our just expectations.

Ambassador Castillo Nájera said that he was leaving tonight (Tuesday) for Washington and had an engagement with Mr. Sumner Welles for the morning of the 24th, and would acquaint him with the situation as it had been outlined to me. I felt at this meeting, as I had felt when listening to President Cárdenas, that there was a sincere desire on their part to solve a very delicate situation in a way that would satisfy our Government.

Respectfully yours,

JOSEPHUS DANIELS

812.52/2051 : Telegram

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

MEXICO, November 19, 1936—5 p. m.

[Received (November 20?)—2:10 a. m.]

201. Department's telegram No. 198, November 17, 6 p. m. By despatch which left November 17th²¹ I reported that Yepis had seen Acting Chief of Agrarian Department who agreed to give American land owners 2 weeks or until November 30th in which to submit their plan which he promised would receive that Department's very careful consideration. Whether President Cárdenas has constitutional authority to reverse a previous presidential decree would seem to be a matter for the Supreme Court to determine. However, paragraph 18 of article No. 27 of the Constitution²² might well be interpreted as empowering the Executive to cancel Mexican Yaqui Valley colonization status. Paragraph 13 designates the President as the supreme agrarian authority. In any event I recommend that at this time no mention of any such doubt be made to Mexicans since it would merely serve to indispose the President without serving any useful purpose. For action taken please see my despatches numbers 4023 and 4025 of October 17 and 20, respectively. It is reported in today's newspapers that President will probably visit Sonora and Yaqui Valley in the near future.

DANIELS

²¹ Neither printed.

²² *Foreign Relations*, 1917, pp. 951, 955.

812.52/2051 : Telegram

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

WASHINGTON, November 20, 1936—6 p. m.

200. Your 201 November 19 5 p. m. While third paragraph your despatch 4025 October 20, 1936, indicated President of Mexico would take Yaqui matter under consideration et cetera, Yepis despatches indicated some precipitate action might take place about November 20. Since the Department did not consider such an eventuality unlikely and since it was and is apprehensive that the Yaqui Valley may meet the fate of the Laguna area with decidedly unfortunate repercussions in the United States, it was desired and deemed necessary to obtain the Embassy's comments on Yepis reports.

You are instructed to observe developments closely and in the event that an arrangement satisfactory to landholders is not reached or if there is any likelihood of precipitate action adverse to them you should make vigorous representations with a view to preventing expropriation unless adequate compensation is to be paid promptly.

Please keep Department promptly informed of developments.

MOORE

812.52/2065a : Telegram

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

WASHINGTON, December 12, 1936—4 p. m.

217. Your 211 December 11, 1 p. m.²³ In your forthcoming conference with the President of Mexico the Department authorizes you in your discretion to discuss the Yaqui Valley situation, being guided by your knowledge of the status of the proposals submitted by the landowners.

MOORE

812.52/2075

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

No. 4171

MEXICO, December 16, 1936.
[Received December 23.]

SIR: I have the honor to report that on Tuesday afternoon, by appointment, I visited President Cárdenas at his home. I was accompanied by Mr. Pierre de L. Boal, Counselor of the Embassy. I had sought the appointment before going to the United States on leave in order to discuss with him the agrarian dotations of land be-

²³ Not printed.

longing to Americans and the new expropriation law, about which instructions had been received from the Department, and one or two other subjects in which our country is interested. We talked, the President at length discussing the subjects which I presented, and about which I had told him on a former visit that my countrymen and my government were greatly perturbed. At my request Mr. Boal has prepared a summary of the interview which is appended hereto.

I will be in Washington on Monday and will discuss the subjects touched upon in the interview with President Cárdenas and will try to give the background of the situation in Mexico.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure—Extracts]

Memorandum by the Counselor of Embassy (Boal)

MEXICO, December 15, 1936.

The Ambassador and I called upon President Cárdenas on December 15th at 6 p. m., by appointment.

Expropriation Law

The Ambassador then said that some time ago, before the Expropriation Law was passed by the Mexican Congress, he had expressed to President Cárdenas his fear of the consequences which that Law might have on opinion in the United States and investments in Mexico. He said this fear had been justified, since the State Department had been approached by many Americans asking for information regarding the situation created by the Expropriation Law and expressing great alarm. The Secretary of State in turn had urgently asked the Ambassador to advise him of the situation thus created, and tell him what the effect of the Law would be in Mexico. The Ambassador therefore asked President Cárdenas if he could tell him (1) exactly what the law purported to do and (2) how the President expected to carry it out.

President Cárdenas replied that practically every country in the world had a Federal expropriation law. Mexico, however, had not had one, and it seemed essential that this deficiency should be remedied. The law provided for the expropriation of any property which might be necessary for the public good, and this was in line with the situation in other countries. It was necessary to have this law not only for such public purposes as the making of streets and other developments, but also in order that no asset to the country should be left unproductive. His Government had no idea of expropriating going concerns that were fulfilling a useful service to the country, but

wished to be equipped legally so it could, if necessary, take over an industry or factory which had shut down, thus paralyzing a business or enterprise necessary for the public welfare. He cited as an example the Cruz Azul factory in the State of Mexico. He said the Government had no idea of using the law simply to permit groups which wished to take over some industry for their own purposes to achieve this end. He would not engage in any suicidal policy based on the Expropriation Law. He realized that it was necessary, as he had said in his last interview with the Ambassador, to encourage and develop American investment in Mexico. The Government would not be so childish or short-sighted as to engage in any policy which would prevent this. It would not, for instance, endeavor to take over the oil fields or the mines, since that would be impractical and would place the Government in the situation with regard to foreign investment which it intended to avoid. Wherever the Government, however, found an undertaking crippled through cloture, it would be in a position to act to protect the public welfare.

At this point the Ambassador observed that tea was getting cold, so we all had tea and cookies and the conversation briefly lapsed into less serious channels.

Agrarian Question: General, and Yaqui Valley

After this interval, the Ambassador said to the President that he wanted to tell him that since their last interview he had had a number of instructions from the State Department indicating how seriously concerned they were over developments in the agrarian question in Mexico. In particular our Government had indicated its concern over the taking of American lands without compensation.

President Cárdenas said that it was his intention, as he had said in the last meeting with the Ambassador, to have the budget this year provide for the resumption of the issuance of Agrarian Bonds. He said that the cessation of issuance of bonds had occurred during the term of President Abelardo Rodríguez, but that now he planned to resume the issuance of these bonds even if it were only for a small amount each year.

The Ambassador inquired whether this would be made available for compensation to Americans in case their lands were taken in the Yaqui Valley, and President Cárdenas replied that first bonds would have to be given to the people from whom land had been taken since the emission of bonds had been suspended; after they had been given their bonds, more recent dotations would be compensated in the order in which they occurred. He said he realized of course that the amount of compensation which landowners would actually receive each year, through the drawing each year of a portion of the bonds and their

retirement in currency, would be considered so small as to be inadequate. However, the magnitude of the Agrarian Debt, amounting to many millions or more, precluded any other system. The Government could hardly pay out more than five or six million pesos a year when land was being taken at the rate of something like seventy-five million pesos a year. Still, it was a system through which, over a long number of years, some compensation would eventually be made to the land-owners.

The Ambassador said that the situation in the Yaqui Valley in particular, which he had discussed at the last meeting, was giving a great deal of concern to our Secretary of State. He had already explained to President Cárdenas at a previous interview the serious character of this problem from the standpoint of American interests and opinion. He understood that the original contract under which Americans entered this valley, constructed irrigation works, and cultivated a previously uninhabited and undeveloped region, had been made in 1890 by an American, Mr. Charles Conant, and the Mexican Government, this contract having been ratified by the Mexican Congress at that time. Under the subsequently enacted Agrarian Code, such colonization contracts appeared to be protected against ejidal dotation. The American colonists had spent a great deal of money and undertaken a great deal of work to make the previously barren valley a productive asset for Mexico. Today, they felt they were faced with the loss of the greater part of this asset which they had created. They wanted to assist the Mexican Government in solving the ejidal problem by helping the Government to establish the agrarians on neighboring land so that their investment under the colonization contract might be respected.

President Cárdenas said that there were something like three thousand or less agrarians claiming land in the Yaqui Valley. These claimants could not be put on the remaining un-irrigated land near the Yaqui Valley, because it was the Government's intention to use that land to give to the Yaqui Indians in order to keep that tribe quiet by satisfying their desire for land so that they would not return to the war-path as they have in the past. President Cárdenas felt that the Americans in the Valley since 1890 had been able to make money out of their agricultural holdings and should by this time have reimbursed themselves for the benefit they brought to the country in instituting this irrigation system and developing the Valley as a cultivable area. He said that he had studied the Agrarian Code very carefully and come to the conclusion that there was no protection afforded by it to colonization enterprises. They were as affectable as any other property.

After consulting with the Ambassador, I asked him for the sake of clarity if there were not an article in the Agrarian Code—I thought No. 42 or 43—which protected colonization contracts against ejidal dotation, and the President said categorically that there was not. He then went on to say that at a meeting with landowners a considerable time ago, they had shown their willingness to pick out the lands for two ejidal districts in the cultivated part of the Yaqui Valley to suit the three thousand or less claimants who had asked for ejidos. President Cárdenas believed that, with regard to the remainder of the lands, they should divide up what was left among their families, so that no one would hold more than the 150-hectare maximum allowed by the Agrarian Code. He still urged this step as a measure for their self-protection against future invocation of the Agrarian Code. He thought that if this were done the problem of the Yaqui Valley would be solved, since the ejidal claimants would have part of the land and the Americans would retain the rest.

After consulting with the Ambassador, I asked him whether they would then be free to sell these lands without threat of further dotation, pointing out that the threat of dotation had made it impossible in recent months for them to continue selling their lands to Mexican citizens as they had done in the past. I pointed out that their original holdings in the Valley had been greatly reduced by sales to Mexican citizens and that it would seem that a solution which would enable them to sell off all their lands over a period of years would be an equitable way to settle the problem.

President Cárdenas said he felt the dotations had to be made, but that with regard to the remainder of the land, provision could be made to protect it from dotation so that buyers need have no fear, and the land therefore become saleable.

I pointed out that the Americans owned only something like over one-third of the total irrigated land in the Yaqui Valley, and therefore it would not seem just that they should be required to give up more than a just proportion of their holdings to the *ejidatarios*, I asked, therefore, if he thought that, in the event the landowners wished to give up some of their land to the *ejidatarios* to solve the question, it would be satisfactory if not more than this proportionate part of the total affectable land should come from American owners.

President Cárdenas said this would be perfectly satisfactory. He pointed out that each of the three thousand or less claimants would be entitled to four hectares, so the total amount taken out of the Valley as a whole would be about twelve thousand hectares. I also pointed out that a considerable number of the Americans in the Valley had only 150 hectares or less and I understood that these would be abso-

lutely unaffected and would not be included in any calculation of the affected area of the Valley and would be protected in any case from expropriation. President Cárdenas said this was correct; that those Americans who owned 150 hectares or less would be protected from expropriation and would not be included in any calculations.

President Cárdenas then said he wished to ask a personal favor of the Ambassador. He said that his people had existed for many years in a state of appalling misery and poverty. It had been the ambition of the great mass of the poor agrarian workers to own the land on which they worked, and he and his government had sought faithfully to carry out this purpose. Would it not be possible for the Ambassador to enlist the assistance of President Roosevelt and of the American Government to get the American landowners in Mexico to cooperate with the Mexican Government so that this end might be achieved?

The Ambassador said that he would state this point of view to President Roosevelt and the Secretary of State and would discuss the whole question with them; that when he returned he hoped to be in a position to give President Cárdenas their point of view. It must be realized, however, that many of the American landowners who had invested all their means in land in Mexico and had contributed to the national wealth through their efforts had come from States whose Senators and Congressmen were deeply interested in their welfare. It was very possible that these Senators and Congressmen would raise the question in January when the Congress met, and the sentiment in the entire country would be contrary to the taking away of lands without compensation; and President Roosevelt would have to take this sentiment into consideration. He assured President Cárdenas that President Roosevelt had an interest in the forgotten man and would give sympathetic consideration to this request, and would wish to do everything everywhere in that direction consistent with his obligations to his country.

President Cárdenas then said that he and his Government were deeply appreciative of the attitude which President Roosevelt and our Government and the Ambassador had taken with regard to Mexico. They felt under obligation to our Government in this respect and even though it should involve a discrimination in favor of American citizens which would be very embarrassing to the Mexican Government, if President Roosevelt insisted on it the Mexican Government would wish to make any settlement that he desired with regard to the Yaqui Valley in order to save him from embarrassment and difficulty in the United States.

The Ambassador expressed his appreciation of this offer and said that he would discuss it along with the President's views on the whole

subject with President Roosevelt, and the Secretary of State. In the meantime, he asked for President Cárdenas' assurance that nothing further would be done with regard to the Yaqui Valley pending his return. This assurance President Cárdenas gave, adding that he had several other matters which had to be taken up previously and he did not think they would get to the point where dotation of the Yaqui Valley lands might take place before the middle of 1937.

Migratory Bird Treaty

The Ambassador then asked President Cárdenas when we might expect the Mexican Congress to ratify the Migratory Birds and Game Mammals Convention,²⁴ pointing out that our Congress would meet in January and that if the Mexican Congress could ratify before they met it would make it possible to bring the Convention into effect at an early date, a consummation which was very desirable from the point of view of both Governments. President Cárdenas replied that the Convention would be ratified by Mexico before the end of this year.

President Cárdenas asked Ambassador Daniels again to convey to President Roosevelt his sincere regards and best wishes, and wished the Ambassador a very pleasant journey and a happy New Year for himself and Mrs. Daniels. He said that Mrs. Cárdenas hoped to see Mrs. Daniels before she left.

The Ambassador reciprocated these sentiments and the conversation came to an end with our departure.

P[IERRE] DE L. B[OAL]

REPRESENTATIONS AGAINST THE MEXICAN EXPROPRIATION LAW OF NOVEMBER 23, 1936

812.52/2017

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

No. 4002

MEXICO, October 9, 1936.

[Received October 14.]

SIR: I have the honor to report that on Wednesday afternoon, October 7, 1936, upon invitation, I called with Colonel Marshburn, our Military Attaché, to have tea with President Cárdenas at his private home "Los Pinos". On several occasions I had talked with the President about the agrarian²⁵ and religious problems, particularly the latter. Recently I had represented to the Minister of Foreign

²⁴ Signed February 7, 1936; for text, see Department of State Treaty Series No. 912, or 50 Stat. 1311.

²⁵ See pp. 691 ff.

Affairs the serious objections of my government to the dotation, without payment, of American-owned lands to *campesinos* of Mexico. President Cárdenas told me that General Hay²⁶ had communicated my representations (see despatch No. 3939 of September 17, 1936²⁷) to him and he wished to talk with me about the matter and to assure me of his earnest desire, in so far as he could, to meet the wishes of my government as I had conveyed them to General Hay. At much length he discussed the agrarian situation in Mexico and his desire to meet the views of our Government in every way that was within his power. He said that he was prepared to say that in the next budget he would make provision for the payment for lands which had been in the possession of Americans and that he hoped to follow a plan that he believed would be "acceptable to you and to the American owners". He plans to include funds for such payment in his budget of January 1, 1937. He is now having a special study prepared to ascertain how large a sum may be set aside for such payments. He said more than once that he would put in the budget as large a sum as the condition of the Federal Treasury would make possible, and he repeated that he believed we would regard it as "satisfactory".

President Cárdenas discoursed upon what he regarded as Mexico's three most important problems. In order he named them thus: 1. Educational; 2. Economic; 3. Religious. "With due regard to our educational and economic needs", he said, "we will pay as much on the agrarian claims as we possibly can, and when payments are begun, they will be kept up."

I told the President that at this time the two situations which disturbed the perfectly friendly relations between the two countries were the division of American lands without compensation and the feeling in the United States that full religious liberty was denied in Mexico. The latter, as I had told the President on other occasions, lessened the prestige of Mexico in the nations of the world. He spoke at length, and evidently after much thought, about the religious situation. He was very earnest in repudiating the suggestion that Mexico was either communistic or atheistic. He said he believed religion was the foundation of morality, and that he had stood for no persecution. "You have observed", he said, "that in every State as new Governors in sympathy with my administration have been elected, more and more churches have been opened and a policy of moderation is growing all the time". He enumerated six or eight States in which churches had been reopened, among them Sinaloa, Chihuahua and Colima, adding that he was desirous that the more moderate policy should extend to all the States of the Republic.

²⁶ Eduardo Hay, Minister for Foreign Affairs.

²⁷ *Ante*, p. 695.

"You must have observed", added the President, "a disposition on the part of the present administration to relax any stringent laws affecting religion, and that is the fixed policy of the government. We are neither pro nor anti clergy. While realizing fully the necessity for religion, and believing that morality and education are necessary corollaries thereto, we have always insisted that the clergy must confine its activities to its religious sphere and not attempt to use influence in the domain of politics or government. You should realize that there is a difference between the clergy and its actions in the United States and in Mexico. The Church here has often been politically minded and when it directed education comparatively few of the people were educated. Without universal education we recognize that progress and prosperity cannot reach the whole population. Therefore we are building schools and carrying the opportunity of education to all the children in every part of the republic. We recognize that a better future for Mexico depends upon general education." He added that in other days many of the clergy had not been in sympathy with the movements for social improvement of the great masses of the people.

Continuing, President Cárdenas said that several prelates of the Catholic Church had come from his family and that some of them were more interested in politics and control of government than in the social improvement of the people. "It was because of this that we were not in agreement", he added. He then stated that the Mexican clergy are sharply divided as to the course that should be pursued in Mexico, and "it is because of this division among them that they have not been able to agree upon a successor to the late Archbishop Díaz."

I then said to the President that while I had been pleased to note some steps toward moderation in some States, the fact remained that in the largest seaport city and one of its most largely populated States, Veracruz, no church was open for worship and no priests were authorized to officiate. "Veracruz is the show window of Mexico" I stated "and most people who come to this country from Europe and who come here by water from the United States arrive and depart from Veracruz. They find no church open in that State and they judge the whole country by what they see, and they go back to their countries and tell their people that the right to worship in their churches is denied to Mexicans." I added that such impression was injurious to Mexico and showed that there did not exist the full religious freedom which the world believes should exist everywhere.

President Cárdenas said he recognized the impression produced by such condition in Veracruz and he had been giving it consideration. He added that the situation there had been difficult and there had been clashes between the clergy and the government party which had

brought about the conditions I outlined. "But", he added, "a new Governor will come into office on December 1st", and, without making a direct declaration as to what policy the Governor would pursue, he intimated that he hoped the more moderate course pursued in other States would be followed in Veracruz. "Within a few months" he said, with a laugh, "the shade of the show window may be (or would be, I am not certain of his exact words) pulled down."

President Cárdenas then said there were good openings in Mexico for investors, manufacturers and business men from the United States. He enumerated cheaper raw material and a lower scale of wages than existed in the United States and expressed the hope that these advantages would incline my countrymen to larger investments in Mexico. This gave me the opportunity to tell him that the Embassy had received many inquiries concerning a Mexican Expropriation Act now pending in the Congress. I told him that because of its vagueness investors and business men and manufacturers feared it might give the right, and in some cases it might be exercised, to take private property from its owners. I told him that the publication of that proposed measure had caused much apprehension among Americans and other foreigners doing business here. I added that unless the measure was drawn with great clearness and gave assurance that private property would be protected, instead of the further investments he desired, there would be such fear as would decrease investments and manufacturing plants and purchase of property here. The President replied that he was glad of an opportunity to discuss with me the proposed act, the contents of which he said had not yet been made public. He assured me that before taking any property under the proposed measure he would guarantee that an arrangement would be reached which would be entirely satisfactory, both to the owner of the property and to me as representing my country. "The law is being carefully studied" he went on to say, "both by a special committee of Congress and by very able men whom I have named. Nothing will be done until I have the result of these considered studies. The terms of the law, when and if enacted, will not apply to private industry." He was emphatic in his statement that Mexico desires and needs United States capital to develop Mexican industries and assured me again that in every case of such bona fide investment in Mexico complete protection would be afforded the investors.

The President talked so freely and at such length that he had not observed that the tea which had been brought was getting cold, and, with a laugh, his secretary asked: "Do you like your tea hot or cold? If the former we will send for more tea."

As I was leaving, the President invited me at some future day to accompany him to the base of the volcanoes where a hotel for visitors

and a road to Popocatepetl and Ixtaccihuatl was in process of construction. He asked: "Does the altitude affect you?" I replied that I had a good heart and never felt any perceptible difference between low and high altitudes. "I have a good heart physically and spiritually too, I hope", I added and we both smiled.

In reporting the views of the President, summarized in a conversation of an hour and thirty five minutes, I have sought from memory to give his words. I may not always have succeeded in giving his exact words, but at least they are as near as I can recall.

Respectfully yours,

JOSEPHUS DANIELS

312.0051/34

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

No. 4074

MEXICO, November 7, 1936.

[Received November 9.]

SIR: I have the honor to refer to my despatch No. 4000 of October 7, 1936,²⁸ reporting that President Cárdenas had on September 22 forwarded a draft of a new law for the expropriation of private property to the National Congress for its consideration.

Upon receipt of this draft by the National Congress, it was referred to the appropriate committee of the House of Representatives for consideration. This Committee has for the past month been considering the numerous objections to the bill presented by the various business organizations, Chambers of Commerce, etc. The bill was reported out of committee and passed by the Chamber of Deputies on November 3 with but slight changes.

Under Article I which provides what shall be considered as of public use for the purposes of the law, there is added: "The conservation of places of scenic beauty, of antiques and objects of art, of buildings and monuments, of archeological interests, and of those things which may be considered as outstanding in our national culture".

Article X which fixes the compensation to the owner remains the same, that is, that compensation for property expropriated shall be based upon the declared fiscal value for tax purposes and leaves only the improvements or deterioration of the property after the date of the declaration of its fiscal value by the owner, subject to review and decision by the courts.

Article XIX provides that compensation shall be paid the owner when the property expropriated passes to the control of the State, but Article XX appears to modify this provision by stating that "The authority which carries out the expropriation shall fix the manner and

²⁸ Not printed.

terms in which the compensation must be paid, which shall never exceed a period of ten years”.

Three copies (in translation) of this bill as approved by the Chamber of Deputies on November 3 are enclosed herewith. These translations were obtained through the courtesy of Mr. Armstrong, Secretary of the Association of Producers of Petroleum in Mexico, which organization specializes in the translation of important legislation for the benefit of its members.

The Headquarters of the National Revolutionary Party published in the *Mexican News Letter* a statement made by Sanchez Tapia, Secretary of the Department of National Economy, defending and justifying the proposed expropriation law. Three copies of this statement are enclosed herewith.* The statement points out that the new bill is intended merely to take the place of a similar law promulgated on November 3, 1905 during the Díaz regime and that the new bill will bring the old law in accord with Article 27 of the Federal Constitution of 1917, and that it gives but very little more authority to the Federal Government. The statement tries to reassure property owners that they have nothing to fear from the new law and that if they were able to conduct their business honestly under the old law they will be able to do so equally under the new.

It is understood that the Commercial Attaché is analyzing the bill and forwarding separate copies to the Department of Commerce.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure—Translation]

Text of the “Federal Law of Expropriation on Grounds of Public Welfare,” As Passed by the Chamber of Deputies, November 3, 1936

Article 1. The following shall be considered as of public use:

I—The establishment, exploitation and maintenance of any public utility;

II—The opening, widening or straightening of streets, construction of roads, bridges, highways and tunnels which facilitate urban or suburban travel;

III—The beautification, enlargement and sanitation of cities and ports; the construction of hospitals, schools, parks, gardens, fields for recreation and landing fields, and of any other work designed to render services for the general good;

IV—The conservation of places of scenic beauty, of antiques and objects of art, of buildings and monuments of archaeological interest and of those things which may be considered as outstanding in our national culture;

V—The supplying of general necessities in times of war or civil strife; the provisioning of cities and centers of population with food

* Not printed.

and other necessary articles of consumption; and the processes employed to combat or prevent the spread of epidemics, fires, plagues, floods or other public disasters;

VI—The means employed for national defense or for the maintenance of public safety;

VII—The conservation, development or utilization of the natural resources capable of industrial exploitation;

VIII—The equal distribution of wealth held and monopolized to the exclusive advantage of a few persons with prejudice to society in general or to any particular social class;

IX—The establishment, maintenance or conservation of an industrial concern for the good of society;

X—The means necessary to prevent the destruction of natural resources and the damages which private property may suffer to the detriment of the general good;

XI—The creation or improvement of centers of manufacturing population and of their sources of livelihood;

XII—Such other cases as are enumerated in special laws.

Article 2. In all of the cases cited in Article 1, following declaration by the Federal Executive, the expropriation, temporary, total or partial occupation or ordinary limitation of the right of private property shall be carried out for the ends of the State or in the interests of society in general.

Article 3. The Federal Executive shall deal with the case of expropriation, temporary occupation or limitation of the right of private property through the agency of the proper Secretariat of State, Administrative Department or Territorial Government and shall, in every case, issue the respective declaration.

Article 4. The declaration referred to in the preceding Article shall be made by means of a notice which shall be published in the *Diario Oficial de la Federación* and which shall be brought to the personal attention of the interested party. In the event the domicile of the party is not known, a second publication in the *Diario Oficial* shall be considered as having fulfilled the requirement of personal notification.

Article 5. The owners affected may, within the fifteen working days following such notification, resort to administrative action for revocation of the declaration of expropriation.

Article 6. Administrative recourse for revocation shall be taken before the Secretariat of State, Administrative Department or Territorial Government which may have dealt with the case of expropriation, temporary occupation or limitation of the right of private property.

Article 7. If administrative action for revocation to which Article 5 refers has not been employed or if such action has been decided against the claims of the appellant, the proper administrative authority shall immediately carry out the seizure of the property whose

expropriation or temporary occupation is concerned, or shall order the immediate execution of the due processes of limitation of the right of private property.

Article 8. In the cases to which Fractions V, VI and X of Article 1 of this Law refer, the Federal Executive may, upon making the declaration, order the seizure of the property subject to expropriation or temporary occupation or impose the immediate execution of the processes of limitation of the right of private property, without administrative action for revocation delaying the occupation of the property concerned or the execution of the processes of limitation of the right of private property.

Article 9. If the properties concerned in the declaration of expropriation, temporary occupation or limitation of the right of private property were not employed to the ends which gave cause to the corresponding declaration within a period of five years, the owner affected may claim the return of the property and the withdrawal of the notification of temporary occupation or of limitation of the right of private property.

Article 10. The sum which shall be fixed as compensation for the goods seized shall be based on the amount declared as fiscal value to the tax or cadastral offices, since this value has been manifested by the owner or accepted, expressly or tacitly, by him in paying his taxes on this basis. The excess or demerit which the private property may have undergone by reason of the improvements or deterioration after the date of the assignment of fiscal value shall be the only point subject to the decision of the Courts and the judgment of experts. This same procedure shall be observed when the case concerns articles whose value has not been established by the tax offices.

Article 11. When the amount of compensation to which the preceding article refers is in dispute, the case shall be taken to the proper Court, which shall give the parties three days in which to name their experts, on penalty, if they fail to make such appointment, that the Court will itself make such appointment in default. The parties will also be notified to name jointly a third expert in case of conflict; upon failure to do so, such expert will be named by the Court.

Article 12. No recourse shall be taken against the judgment of the Court which selects the experts.

Article 13. In the event of refusal to serve, death or incapacity of any of the experts designated, those responsible shall make a new selection within a period of three days.

Article 14. The fees of each expert shall be paid by the party which appoints him and the fee for the third expert shall be paid by both parties.

Article 15. The Court shall fix a period which may not exceed sixty days in which the experts shall render their report.

Article 16. When the experts are in agreement on the valuation of the improvements or deterioration, the Court shall immediately fix the amount of compensation; in the event of nonagreement it shall summon the third expert who shall render his report within a period set by the Court which may not exceed thirty days. Having the reports of the experts before it, the Court shall, within a period of ten days, take such action as it deems proper.

Article 17. No legal recourse shall lie against the Court decision fixing the amount of compensation and, thereupon, the corresponding public deed shall be drawn up which shall be signed by the interested party, or, on his refusal, by the Court.

Article 18. If the occupation be temporary the amount of compensation shall be subject to the judgment of experts and Court decision following the procedure established in this Law. This same procedure shall be followed in cases of limitation of the right of private property.

Article 19. The value of the compensation shall be paid by the State when the article expropriated passes to its control. When the article expropriated passes to the control of a person distinct from the State, this person shall pay the compensation. These dispositions shall be carried out in cases of temporary occupation or limitation of the right of private property as well.

Article 20. The authority which carries out the expropriation shall fix the manner and terms in which the compensation must be paid, which shall never exceed a period of ten years.

Article 21. This Law is of Federal application in the cases in which it tends to reach an end toward the fulfillment of which the Nation is held responsible according to the Constitutional provisions, and also in cases of limitation of the right of private property; it is of local application for the Federal District and the Federal Territories.

312.0051/34

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

No. 1285

WASHINGTON, November 23, 1936.

SIR: The receipt is acknowledged of your despatch No. 4074, dated November 7, 1936, and of your telegram No. 200, of November 19, noon,³⁰ concerning the new law of expropriation which has now been approved by the Mexican Congress and which you state will undoubtedly be immediately promulgated by the President.

³⁰ Latter not printed.

An examination of the law seems to disclose that it is not confined to agrarian matters but would give authority to expropriate all classes of property. I refer in particular to Article 1 from which it appears that it covers a large number of subjects having little or no relationship to an agrarian program. Paragraph VIII of that Article indicates that the extension of the right of expropriation has for its purpose, among other things, a distribution of wealth.

Article X of the law fixes, as a basis of compensation for the property seized, the amount declared to the tax or cadastral offices as fiscal value. This obviously is not a proper basis for determining compensation, as decisions of the courts of this country, arbitral tribunals, and foreign offices, have repeatedly held when questions have arisen in the past with respect to compensation to be paid by a government for the requisition of property for public purposes. The basis of compensation is, generally speaking, the fair market value of the property and not the value placed thereon by the owner or the taxing authorities for tax purposes. It probably would seldom, if ever, represent more than the price which might be expected if the property were disposed of at a forced sale. In most instances the value fixed for tax purposes represents even a lesser amount than might be obtained at a forced sale. Apparently the only provision made for appraisal of the property by experts or by judicial processes is that contained in Article X, and that provision is limited to questions pertaining to improvements made or depreciation suffered subsequent to the date of the assignment of fiscal value.

Article XX provides that the authority which carries out the expropriation shall fix the manner and terms in which the compensation must be paid, which shall never exceed a period of ten years. This is very indefinite and would seem to clothe the authority carrying out the expropriation with complete discretion as to the manner and terms in which compensation shall be paid. It might be in bonds, depreciated currency, goods, or other property. Judging from the experiences of persons from whom agrarian property has been expropriated, there is but little reason to hope that the persons affected by this new law would receive just compensation within a reasonable time as no provision is made in the law for the necessary appropriation nor authorizing such an appropriation.

This almost unlimited extension of the right of expropriation, coming as it does at a time when every effort is being made to strengthen the friendly relations between the two governments, and to adjust claims that have arisen over a period of years, many of which are claims for property taken under existing agrarian laws, is indeed unfortunate. It is assumed that the President of Mexico is not desirous of promoting feelings of distrust or apprehension as to the safety of investments by Americans in Mexico.

It is therefore desired that you take up the matter informally and confidentially with President Cárdenas as early as practicable in the sense of the foregoing and express the hope that steps will not be taken to apply this new legislation to American nationals, particularly in the absence of an adequate method for determining and paying just compensation at the time property is taken.

If you perceive objection to taking the action herein suggested, or have in mind some alternative method of procedure, I shall be glad if you will call me by telephone in order that there may be no unnecessary delay in our efforts to protect, as far as possible, legitimate American investments in Mexico and at the same time preserve and promote the good relations between the two countries in consonance with the policy that the Administration is trying to foster.

Very truly yours,

R. WALTON MOORE

312.0051/37

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

No. 4128

MEXICO, November 28, 1936.

[Received December 2.]

SIR: I have the honor to refer to the Department's air mail instruction No. 1285 of November 23, 1936 (File number 312.0051/34), concerning the new Law of Expropriation. As set forth in my telegram No. 205 of November 27, 5 p. m.²¹ President Cárdenas signed this Law of Expropriation on November 23 and it was published in the *Diario Oficial* of November 25. Since all copies of this number of the *Diario Oficial* were promptly sold out, the Embassy was unable to obtain extra copies for forwarding to the Department and, therefore, obtained three official copies of the new Law from the Ministry of Gobernación and forwarded these to the Department by despatch No. 4123²² which left in last night's pouch.

In its instruction under reference, the Department suggests that I discuss the Law of Expropriation informally and confidentially with President Cárdenas and express the hope that steps will not be taken to apply this new legislation to American nationals, particularly in the absence of an adequate method for determining and paying just compensation at the time the property is taken. In my telegram of yesterday, November 27, I informed the Department that President Cárdenas had left Mexico City on November 7 for Torreon, personally to supervise the distribution and organization of *ejidos* in the Laguna district and that General Hay, the Foreign Minister, had informed me that the President had not as yet decided when he

²¹ Not printed.

²² Dated November 27; not printed.

would return to the capital. Since, in the absence of the President, the Department's instruction cannot immediately be complied with, I should like to present the following facts bearing on the Law of Expropriation and ask that with these in mind the Department reconsider its instruction directing me to make representations against the application of this Law.

Reference is made to my confidential despatch No. 4002 of October 9, 1936, reporting a long conversation which I had with President Cárdenas on October 7. On page 5 of this despatch, I reported that I informed President Cárdenas that [*concerning?*] the proposed Law of Expropriation [that?] "because of its vagueness investors and businessmen and manufacturers feared it might give the right, and in some cases it might be exercised, to take private property from its owners. I told him that the publication of that proposed measure had caused much apprehension among Americans and other foreigners doing business here. I added that, unless the measure was drawn up with great clearness and gave assurances that private property would be protected, instead of the further investments he desired there would be such fear as would decrease investments and manufacturing plants and purchase of property here".

To these representations, President Cárdenas replied (see page 6 of my despatch), "The Law is being carefully studied both by a special committee of Congress and by very able men whom I have named. Nothing will be done until I have the results of these considered studies. The terms of the Law, when and if enacted, will not apply to private industry". He was emphatic in his statement "that Mexico desires and needs United States capital to develop Mexican industries and assured me again that in every case of such bona fide investments in Mexico complete protection would be afforded the investors".

It would seem that renewed representations based on the Department's air mail instruction under reference could hardly be expected to result in any more reassuring statements than those given to me by the President on October 7 last and which I have quoted above. The Law was unanimously approved by the Mexican Senate without one single dissenting voice in spite of various representations made by the larger business interests and numerous full page paid advertisements published by foreign companies describing the dire financial catastrophe which would result should the bill be passed.

As the Department is aware the bill in question was actually drafted under the direction of President Cárdenas and was presented to the Mexican Chamber of Deputies last September. In my despatch No. 4000 of October 7, 1936,³³ there was forwarded a copy and translation

³³ Not printed.

of the bill, together with an analysis of its provisions and numerous excerpts from editorial comment giving the Government's views as well as those of the private corporations opposed to the bill. Similar despatches were submitted by the American Consulate General and the Commercial Attaché towards the end of September and these despatches were followed with others giving the Department a thorough and timely picture of the progress of the proposed legislation and particularly the views of the large corporations and private business interests opposed to the bill which were given a long and careful hearing before the bill was approved by the Chamber of Deputies. Every argument presented by the Department in its air mail instruction under reference was elaborated on at great length by those opposed to the bill in their memoranda to the Congress, and because of these views presented by the business interests some changes were made in the bill as originally drafted. It would seem that any representations by our Government should have been made at this time, instead of waiting until the bill was passed, signed, promulgated and published.

Sub-Article VI, second paragraph, of Article 27 of the Mexican Constitution ³⁴ as amended on December 30, 1933, reads in translation as follows:

“The Laws of the Federation and of the States, in their respective jurisdictions, shall determine the cases in which private property must be occupied for reasons of public utility, and the administrative authorities will make the respective declaration in accordance with such laws. The amount fixed as indemnity for the thing expropriated shall be based on the amount which is recorded in the cadastral or tax receiving offices as its fiscal value, such value having either been declared by the owner, or tacitly accepted by him, due to having paid taxes on such basis. The only point which may be decided upon by experts and judicial resolution is the increase in value of the private property, on account of improvements, or its depreciation since the date of the last fiscal appraisal. The same procedure shall be followed in the case of objects whose value is not determined by the tax offices.”

Article 10 of the Law of Expropriation reads in translation as follows:

“The amount fixed as indemnity for the thing expropriated shall be based on its fiscal value as recorded in the cadastral or tax receiving offices, such value having been declared by the owner or tacitly accepted by him due to his having paid taxes on such basis. The only point which may be decided upon by experts and judicial resolution is the increase or decrease in the value of the private property because of improvements or depreciation since the date of the last fiscal appraisal. The same procedure shall be followed in the case of objects whose value is not determined by the tax offices.”

³⁴ Mexico, *Constitución Política de los Estados Unidos Mexicanos* (Mexico, 1934), p. 18.

The Department will observe that these two quotations, one from the Mexican Constitution of 1917, and the other from the Law of Expropriation, are identical. In other words, the Mexican Constitution of 1917 carries the identical provision against which the Department has instructed me to make representations. The Mexican Constitution itself provides the amount, and the method of computing, compensation in all cases of expropriation. The identical provision appears in the Agrarian Code and has been in effect since 1917.

In view of the representations that I have already made and of the assurances given to me personally by President Cárdenas, I do not believe that it will serve any useful purpose nor that it would be advisable for me to make the further representations called for in the Department's instruction under reference.

Very truly yours,

JOSEPHUS DANIELS

312.0051/36 : Telegram

*The Acting Secretary of State to the Secretary of State*³⁵

WASHINGTON, November 30, 1936—11 a. m.

50. The threatened strike in Mexican oil fields has been postponed for 120 days.

Ambassador Daniels is mailing report about expropriation law which President Cárdenas has signed. Copy of report will be sent you when received. In a telegram dated November 27 Ambassador mentions conference he had with President early in October while act was pending in Mexican Congress when President assured him "that bona fide investments in Mexico would be afforded complete protection". It can only be conjectured what this will mean in practice.

MOORE

312.0051/36

The Acting Secretary of State to the Secretary of State

WASHINGTON, December 3, 1936.

MY DEAR MR. SECRETARY: Please refer to my telegram of November 30, 1936, regarding the expropriation law of Mexico, in which I promised to send you a copy of Ambassador Daniels' report on the law when received.

I now enclose a copy of the Ambassador's despatch, No. 4128 of November 28, 1936, containing his comment on the law and the Department's instruction of November 23, 1936. I also enclose a copy

³⁵ Secretary of State Cordell Hull left New York for Buenos Aires on November 7, 1936, to attend the Inter-American Conference for the Maintenance of Peace.

of his confidential despatch No. 4002 of October 9, 1936, concerning the conference had by him with President Cárdenas on October 7, 1936, regarding agrarian and religious matters. Your particular attention is invited to the marked paragraph on pages 3 and 4 of the latter despatch.

As stated in the Department's instruction of November 23, 1936, addressed to Ambassador Daniels, a copy of which I sent you recently, Article X of the law fixes, as a basis of compensation for property seized, the amount declared to the tax offices as fiscal value, and apparently the only provision made for appraisal of the property by experts or by judicial process is that contained in Article X, this provision being limited to questions pertaining to improvements made or depreciation suffered subsequent to the date of the assignment of the fiscal value. The instruction also pointed out that compensation shall be made within a period of ten years under the provisions of Article XX but at the same time pointed out that no provision is made in the law for appropriating funds for the payment of compensation or for the manner of payment. If payment should be offered in bonds, it must be remembered that the agrarian bonds, heretofore available in very limited quantities to pay for lands taken in agrarian expropriations, usually are quoted at between seven and ten percent of their face value.

It is impossible to reconcile the terms of the expropriation law with the Mexican President's statement of October 7 to Ambassador Daniels that the law will not apply to private industry. It is furthermore not clear how satisfactory arrangements can be made in the matter of compensation for losses suffered by those whose property may be taken under the law while the unsatisfactory provisions relating to compensation remain a part of the act. Furthermore, in view of the fact that numerous American properties have already been subjected to expropriation under Mexican agrarian laws without any compensation whatsoever, I do not see how our Government can safely place any reliance on the verbal assurances given to Ambassador Daniels by the President of Mexico that bona fide investments in Mexico by American citizens will be afforded complete protection, and that satisfactory arrangements will be made in the matter of properly compensating the American owners of property that may be taken, especially since these assurances were given in a casual conversation before the passage of the act.

Either of two courses of action would seem to be open to this Government, (1) to follow the suggestion of Ambassador Daniels that we rest on the assurances above referred to and make no representations until American property has been interfered with under the law, or (2) instruct the Ambassador to take the matter up confidentially

and informally with President Cárdenas along the lines of our instruction of November 23. The latter course would have the advantage of possibly warding off difficulties in connection with American properties or perhaps lessening those difficulties and it would give us a better record in the Department should difficulties arise and we be asked by Congress whether we had done anything to protect American interests against possible consequences of the application of the law.

I am inclined to think that the second alternative is to be preferred since it could hardly offend the President of Mexico if taken up with him in a confidential and informal way and would probably be more productive of satisfactory results than we could hope to achieve by following the Ambassador's recommendation, but I shall be glad to have your views. Foreign governments, including the Government of Mexico, do not hesitate to communicate with us with respect to legislation pending or enacted when they feel that their interests are affected. We frequently send copies of their communications to committees in Congress with respect to pending legislation and to administrative branches of the Government respecting legislation that has been enacted.

A copy of this letter is being sent to Ambassador Daniels with whom you may prefer to communicate direct, so as to avoid the delay of communicating with him through me, particularly in view of the fact that the Ambassador is planning to avail himself of leave of absence for thirty-one days beginning December 17, 1936. In such case I shall appreciate receiving a copy of your communication for the records of the Department.

Sincerely yours,

R. WALTON MOORE

312.0051/43 : Telegram

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

WASHINGTON, December 10, 1936—1 p. m.

210. Your 205, November 27, 5 p. m.³⁶ The following telegram has been received from Secretary Hull.

"43, December 10, 11 a. m. Your letter of December 3. Please inform Ambassador Daniels that I entirely agree with you as to desirability of his seeing President Cárdenas and putting matter up to him as strongly as possible. I think Daniels might at the same time discuss recent agrarian expropriations."³⁷

MOORE

³⁶ Not printed.

³⁷ For Ambassador Daniels' report on an interview of December 15 with President Cárdenas, see despatch No. 4171, p. 709.

ARRANGEMENT BETWEEN THE UNITED STATES AND MEXICO FOR
DISPOSING OF CLAIMS NOT MEMORIALIZED ON THEIR MERITS
TO THE GENERAL CLAIMS COMMISSION³⁸

411.12/2327

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

No. 1109

WASHINGTON, May 29, 1936.

SIR: As you are aware, the work of the two Agencies on the General Claims Arbitration, so far as concerns the filing of Memorials, is drawing to a close. The last Memorial in support of American claims will be filed on or about June 30, 1936, which date marks the end of the period allowed by paragraph "Sixth (i)" of the Protocol of April 24, 1934,³⁹ for the filing of such Memorials, and the American Agent has received from the Mexican Agent indications, although not a specific agreement, that the last Mexican Memorial will be filed on the same date.

It is believed that it would be to the mutual advantage of the two Governments if they were to reach an agreement at the present time with respect to the procedure to be observed by the two Agents in the matter of disposing, for all time, of the claims intended, by the Convention of September 8, 1923,⁴⁰ to be barred, after the conclusion of the present arbitral proceedings. With that objective in view, there is, therefore, attached hereto for your convenience a draft of a proposed note to the Foreign Office suggesting such an agreement. That draft note is self-explanatory. It is desired that you address a note to the Foreign Office,^{40a} in the general terms indicated, using the suggested text as far as possible, and that you endeavor to obtain its concurrence in the course of action proposed therein, at the earliest practicable time, since the proposed action will doubtless involve a considerable amount of work on the part of each Agency, which work must be completed before June 30.

Your earliest possible advices, by telegraph, that the proposal has been formally agreed to will be appreciated.

Very truly yours,

For the Secretary of State:
WILBUR J. CARR

[Enclosure]

*Draft of Note To Be Presented to the Mexican Ministry for
Foreign Affairs*

In the pending General Claims Arbitration, the present American Agency has proceeded on the theory that it would be a futile waste of

³⁸ For previous correspondence regarding claims negotiations between the United States and Mexico, see *Foreign Relations*, 1935, vol. iv, pp. 753 ff.

³⁹ *Ibid.*, 1934, vol. v, p. 470.

⁴⁰ *Ibid.*, 1923, vol. ii, p. 555.

^{40a} The note addressed to the Foreign Office was dated June 2, 1936.

time, of effort and of the funds of the two Governments to submit for the consideration of the Commissioners, or the Umpire, all claims filed, regardless of their merits, and has consequently segregated from the mass of the claims and presented for adjudication only those in which the evidence filed, up to present time, appears to establish prima facie bases of liability, having held in abeyance those in which the evidence already filed by the respective claimants does not appear to measure up to that standard.

It is understood that the present Mexican Agency has proceeded along the same general lines.

It would appear to be in the interest of both Governments to take the necessary steps at the present time to insure that the present arbitral proceedings and those of the Umpire shall serve as a final disposition, for all time, of all claims of the nationals of either Government for loss or damage sustained during the long period of time covered by the barring clauses of the General Claims Convention, namely, from July 4, 1868, to the date of the exchange of ratifications of that Convention, March 1, 1924. Otherwise questions may continue to arise, on the basis of newly discovered or newly filed evidence, with respect to claims not memorialized at this time. The terms of the Convention of September 8, 1923 are such that the accomplishment of that desirable purpose would appear to necessitate an understanding between the two Governments at this time concerning a uniform course of action on the part of the two Agents with respect to the unmemorialized claims. Article VIII of that Convention seems to contemplate the barring of the claims here in question only in the event of their having been "heard and decided" by the Commission and, yet, it is for the precise purpose of avoiding the unnecessary expenditure of the time and funds necessarily incident to such hearings and decisions on the basis of unsatisfactory evidence that the American Agent (and also the Mexican Agent, it is understood) has withheld those claims from the consideration of the Commission, on the merits. In this situation, it would appear that the only practicable manner in which the desired purpose might be served, from the standpoint of a proper interpretation of the Convention, would be the presentation to the Commission by the Agent of each Government, on or before June 30, 1936, of an omnibus memorial in which would be listed, by name and docket number, all those cases not specifically memorialized for consideration on the merits, with the request that the Commissioners "hear and decide" the respective cases on the basis of the memoranda-notices alone. That action, coupled with an agreement of the two Governments at this time to interpret the Convention, in future, in such a manner as to consider that the claims so presented have been properly brought within the purview of the barring clauses of the Convention of September

8, 1923, would seem to serve the purpose of definitely placing the two Governments in the position of knowing that all questions concerning claims for losses or damages originating during that long period of time comprehended by the barring clauses of the General Claims Convention had been definitely disposed of upon the conclusion of the arbitral work in those cases presented to the Commissioners on or before June 30, 1936.

It is, therefore, hereby proposed to the Mexican Government that the two Agents be instructed by their respective Governments to file, on or before the date above indicated, such an omnibus memorial as above described, including therein all claims not memorialized for adjudication on the merits, each such omnibus memorial to contain, if deemed necessary, a provision reserving the right of the respective Government to withdraw the memorial in question in the unforeseeable event that the corresponding Memorial of the other Agent should not, for some reason, be filed on or before the date indicated, or should not include all the corresponding claims of his Government.

The Government of the United States would desire to have it understood in this connection, however, that those claims of American nationals which are based on obligations of States or Municipalities of the Mexican Government and which have not been prosecuted because of the recognition of the general principle of non-responsibility of national Governments for the contractual obligations of its subdivisions shall be considered as barred only insofar as concerns the question of liability of the National Government for the consequences of its own acts during the period in question and not as claims against the respective States or Municipalities for possible delinquencies on their part during the Convention period. The Government of the United States is prepared to concede that the same understanding shall apply to the same class of Mexican claims, if any.

Moreover, inasmuch as it was agreed by the two Governments, by communications exchanged on July 8-11, 1925,⁴¹ that those claims of American nationals which were based upon bonds falling within the scope of the agreement of June 16, 1922⁴² (otherwise known as the Bankers' Agreement concerning the refunding of Mexican obligations), did not come within the purview of the General Claims Convention of September 8, 1923, regardless of whether or not the bonds on which those claims were based had been deposited in accordance with the terms of the Bankers' Agreement, it will be understood, of course, that the proposed omnibus memorial of the United States will not include those claims, and that such claims are unaffected by this arrangement.

⁴¹ Not printed.

⁴² *Foreign Relations*, 1922, vol. II, p. 686.

411.12/2331

The Chargé in Mexico (Boal) to the Secretary of State

No. 3652

MEXICO, June 5, 1936.

[Received June 10.]

SIR: I have the honor to refer to the Department's instruction 1109 of May 29, 1936, regarding the procedure for unmemorialized General Claims, and to report that on June 3 I handed to the Minister for Foreign Affairs our note 1634 dated June 2, embodying the substance of this instruction. General Hay read the note through and said that he would take it under consideration immediately with a view to replying in ample time so that arrangements could be made as desired by the Department before June 30.

Respectfully yours,

PIERRE DE L. BOAL

411.12/2331 : Telegram

The Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, June 12, 1936—5 p. m.

97. Your despatch No. 3652, June 5. As it is very advisable to avoid possibility of raising unacceptable counter-proposals at such a late date before June 30 as to make impossible their proper consideration and either acceptance or rejection in time to conclude the general agreement, before that date, please keep matter actively before the Minister for Foreign Affairs and ask for prompt acceptance pointing out that much work will have to be done by both Agencies before June 30 to give effect to the proposed agreement and that therefore it is necessary to conclude it without delay. Keep Department advised by telegraph and send copies of all correspondence exchanged.

HULL

411.12/2332 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO [undated].

[Received June 16, 1936—8 p. m.]

93. Referring to Department's telegram No. 97, June 12, 5 p. m. I have been given to understand that the reply to our note of June 2 regarding general claims arbitration now in preparation at the Foreign Office, while generally agreeable to the proposals therein, inquires whether it contemplates presentation of unmemorialized claims before the commissioners merely as a formality as an expedient to disposing of them permanently as claims that cannot be substantiated. Beteta⁴³ with whom I discussed this indicates as his personal

⁴³ Ramón Beteta, Mexican Under Secretary for Foreign Affairs.

view that this procedure would be acceptable to the Mexican Government but that a procedure apt to open these claims for extensive investigation would not be. He feels that it is already demonstrated that these claims cannot be substantiated and that all that is necessary is to find a suitable method under the convention to dismiss them.

Please telegraph any view on this which the Department may wish me to convey before the note is finally transmitted.

BOAL

411.12/2332 : Telegram

The Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, June 17, 1936—7 p. m.

100. Your telegram No. 93, June 16. This Government's proposal contemplates submission on June 30 of one blanket memorial, without evidence of any kind, merely listing all claims not memorialized on the merits, in order that on the basis of that blanket memorial the cases incorporated therein may be "heard and decided" for the purpose of Article VIII of the General Claims Convention of 1923.

This would involve no investigations or procedure of any kind except decisions by the Commission on the bases of that one document and the corresponding original notices of claims, called memoranda.

HULL

411.12/2334

The Chargé in Mexico (Boal) to the Secretary of State

No. 3690

MEXICO, June 17, 1936.

[Received June 18.]

SIR: I have the honor to refer to the Department's telegram number 97 of June 12, 5 p. m., 1936, and to my telegram number 93 of June 16, 4 p. m., and to enclose a strictly confidential memorandum of conversations I had yesterday at the Foreign Office with Ambassador Castillo Nájera, who is here for consultation with his Government; General Hay, Minister for Foreign Affairs; and Licenciado Beteta, Undersecretary for Foreign Affairs.

Respectfully yours,

PIERRE DE L. BOAL

[Enclosure]

Memorandum by the Chargé in Mexico (Boal)

MEXICO, June 16, 1936.

At the Foreign Office this morning I mentioned to the Ambassador to Washington, Mr. Castillo Nájera, the subject of our note 1634

of June 2, 1936,⁴⁴ regarding General Claims arbitration. I told him that I understood that a note was in preparation which might possibly make some difficulty, although of course I did not know what was going to be said. I hoped it would be possible to reach a forthright agreement on the method to be followed, along the lines of the note which we had presented, so as to get this complicated matter proceeded with as soon as possible. I feared that counter-proposals, etc., would merely result in further complication instead of simplifying the problem.

The Ambassador suggested that I should take it up with Beteta and said he himself would take it up with the President when he saw him, to urge expeditious and favorable action; he said he would put it on the grounds that Mr. Welles⁴⁵ had mentioned it to him.

After seeing Ambassador Castillo Nájera, I saw General Hay, and, having given him Ambassador Daniels' acceptance for the Laredo Highway ceremonies, I also reminded him of the General Claims note.

The General said that a note was being prepared; that they had hoped to have it yesterday, but it had been delayed. He said he thought it would meet our views excepting one or two things not clear to them, on which they would desire to have clarification.

After leaving General Hay, I stopped in to see Mr. Beteta and we had a long talk of a general character, after which I brought up this matter of General Claims and told him that I had just spoken to General Hay about it.

Mr. Beteta said he was the one working on the case in his quality as a lawyer. He said that along most lines our note seemed to be quite acceptable in its proposals for procedure. One point, however, was not clear to them from the note, and that was in regard to the unmemorialized claims. He understood from the note that the proposal was merely to bring up these unmemorialized claims in order that in accordance with the Convention they might receive examination, but that it was not intended to do more than proceed with the formalities in this respect, which would really be just the legalization of their rejection. He understood that all these claims were based on insufficient evidence and if decisions were rendered on them they would have to be adverse ones. Accordingly he felt that while it was a very good idea to bring them before the Commission with a view to disposing of them finally through this procedure, the Mexican Government would not be favorable to any action which would result in opening these claims for extensive study on the basis of their being sufficiently valid and proved to warrant awards to the claims. He

⁴⁴ For text, see draft printed on p. 731.

⁴⁵ Sumner Welles, Assistant Secretary of State.

said that if his understanding of the note was correct, he felt that his Government and ours would probably be in agreement regarding the procedure and deposit of an omnibus memorial by June 30 by each Agent. He also remarked that his Department had not yet finally approved the reply to our note and therefore he was speaking merely to express his own personal views on the matter.

I am under the impression, however, that he and the Minister are already quite agreed on the reply in the sense of the foregoing.

P[IERRE] DE L. B[OAL]

411.12/2333 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, June 18, 1936—5 p. m.

[Received 10:15 p. m.]

95. With reference to the Department's telegram 100, June 17, 7 p. m. Foreign Office expects to deliver its reply to note contained in instruction No. 1109 of May 29 tomorrow. I have discussed the matter with Beteta and find that the Mexican Government expects to contend that its interpretation of the Protocol of April 24, 1934, paragraph No. (h), coupled with the letter from Mr. Hunt⁴⁶ of July 29, 1935, is that the understanding between the two Governments was that unmemorialized claims were to be eliminated leaving only those cases to be submitted to the Commission which were worthy of arbitration. The Foreign Office is in agreement that it would be desirable to dispose of these unmemorialized claims once for all by the Commission but believes that this should be done on the basis of terms of reference to the Commission which would preclude the Commission's making awards in these cases and would simply permit it definitely to eliminate them.

I pointed out that it might be difficult from our point of view to seem to predetermine the action of the Commissioners but they said they felt the term "heard and decided" is too broad to meet their interpretation of the understanding which was arrived [at?] in 1934 and 35.

I have discussed with Beteta the substance of your telegram 101 of June 17, 8 p. m.⁴⁷ requesting data regarding memorials to be filed. While he says he will answer me more definitely within the next few days on this point, he feels that their shortage of persons for the preparation of the memorials is such that they may not be able to supply fully the information which the Department desires. He also expressed the belief that this shortage is so serious that they may not be able to present all the memorials which they had expected. If it

⁴⁶ Bert L. Hunt, Agent for the United States.

⁴⁷ Not printed.

appears that this is the case he feels that the resulting possible saving to our Government will further strengthen their argument for elimination of the unmemorialized claims through the medium of restrictive terms of reference in their submission to the Commission.

I explained to him that as a practical matter it would be very desirable for our agency to have the data requested in the Department's telegram 101.

BOAL

411.12/2335 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, June 19, 1936—5 p. m.

[Received 8:30 p. m.]

97. Referring to my telegram No. 95, June 18, 5 p. m., the Foreign Office's note has now been received, a copy of which with its enclosure is being forwarded by air mail tomorrow morning. The note makes it clear that the Mexican Government is opposed to having the unmemorialized claims "heard and decided" by the Commission but in an effort to eliminate them permanently, it encloses a proposed convention between the two agents which would be ratified by the Commission. According to the terms of this convention, article VIII of the Convention of September 8, 1923 and sections (f) and (h) of the Protocol of April 24, 1934 are to be interpreted in the sense that all claims which were duly registered in memorandum form before the General Claims Commission and which will not be memorialized by June 30 are to be considered after that time as being fully settled, barred, and thenceforth inadmissible.

With respect to suggestion in the draft note accompanying the Department's instruction No. 1109 of May 29 that unmemorialized claims of American nationals based on obligations of Mexican states or municipalities shall be considered barred as against the Mexican Federal Government, the Mexican note concurs but asserts that such concurrence is not an admission of responsibility on the part of those entities.

BOAL

411.12/2337

The Chargé in Mexico (Boal) to the Secretary of State

No. 3701

MEXICO, June 19, 1936.

[Received June 22.]

SIR: With reference to my telegram No. 97 of June 19, 5 pm, I am transmitting herewith a copy of the Foreign Office's note of June 18, 1936 and of the proposed convention enclosed therewith. There are

likewise enclosed a copy of the English text of the proposed agreement and a translation of the Foreign Office's note. The original Spanish and English texts of the proposed convention in sextuplicate, which have been signed by the Mexican Agent, are being forwarded by today's pouch with the usual copies of this despatch.

Respectfully yours,

PIERRE DE L. BOAL

[Enclosure—Translation]

The Mexican Minister for Foreign Affairs (Hay) to the American Ambassador (Daniels)

MEXICO, June 18, 1936.

MR. AMBASSADOR: I have the honor to reply to Your Excellency's courteous note number 1634 dated the 2nd instant, in which, under instructions from your Government you were good enough to propose a special procedure whereby claims filed by the two Governments with the General Claims Commission and which the respective Agencies have not memorialized shall be submitted to the consideration of the Commissioners in an Omnibus Memorial which, by including all such claims, shall permit the Arbitral Tribunal to hear and decide them on the sole basis of the Memoranda, (the claims) to be thus eliminated in accordance with Article VIII of the Convention of September 8, 1923.

I beg to inform Your Excellency that the Government of Mexico likewise considers that the Agencies of the two countries before the Arbitral Tribunal have operated on the theory that it would be a futile waste of time, effort and money on the part of both Governments to submit to the consideration of the Commissioners or the Umpire all the claims filed without reference to the merits of each one, wherefore both Agencies have refrained from submitting the Memorials corresponding to a large number of claims duly (*opportunamente*) presented in the form of a Memorandum in accordance with the Convention of September 8, 1923; nevertheless, I must invite Your Excellency's attention to the fact that such failure (to file) is not due exclusively to the desire on the part of the two Governments to save time, effort and money, but rather this course has been imposed on them by the Protocol which the Governments of the United States and of Mexico signed on April 24, 1934, paragraph (*h*) Clause Six of which expressly stipulated the obligation of both Agencies, and therefore of both Governments, to present within the thirty days following the first day of February 1935—the date on which began the two years fixed for the filing of pleadings (*escritos*) with the Commission—and, six months after said date, the tentative and definitive

lists, (respectively,) which would show the total Memorials and Briefs (*Alegatos*) which will comprise the claims to be completed and filed (*que habrían de formularse en las reclamaciones que en definitiva quedarían formalizadas.*) The compulsory nature of the provisions of paragraph (*h*) referred to above is shown by the fact that this paragraph itself provides that, unless by later agreement between the two Governments, the number of pleadings or briefs can not exceed ten per cent of the number contained in the definitive lists of both Agencies. The Mexican Government understands that both Agencies have fully complied with the provisions of the Protocol in this respect—provisions which, moreover, do not appear to present any difficulty of interpretation. In fact, although Article VIII of the Convention of September 8, 1923, expressly states that claims filed with the Commission shall be considered as fully settled, barred, and, after the close of the Commission's work, as inadmissible, provided they have been heard and decided; nevertheless, in signing the Protocol of April 24, 1934, which contains paragraph (*h*) of Clause Six above referred to, both Governments expressed their understanding that those claims which had been filed with the Commission but for whatever reason not memorialized by the Agencies should notwithstanding be considered as definitely eliminated after June 30, 1936; that is to say, the failure of the Agencies to present Memorials should be interpreted as a waiver (*desistimiento*) on the part of the claimant Government; that therefore, and with no need for the Commission to hear and decide the respective Memoranda, these should be considered as definitely barred and eliminated in the future. This interpretation alone can justify, either from the legal or the ordinary (*natural*) point of view, the existence of the provisions of paragraph (*h*), since otherwise such provisions would appear to serve no purpose other than to save the Agencies some labor, and interpretation which perhaps is incorrect, for had this been the intention of the two Governments undoubtedly they would also have established special procedure for claims not included in the definitive list exchanged by the Agencies, nor memorialized prior to that date.

Moreover, this interpretation appears to have been the basis for the explanatory letter which the Agent of the United States sent to the Mexican Agent on July 24, 1935, in transmitting the definitive list of the claims as required by the abovementioned paragraph (*h*) of the Protocol. In this letter the representative of the United States says: "Those efforts have already been successful as to the extent of reducing by several hundred the number of American claims to be submitted to the Commissioners"; and further on, ". . . it is our hope by the continuation of this elimination work, to make possible the inclusion of all cases found worthy of arbitration" . . . "I feel very

confident that if it is doing so the number of cases to be submitted by your Agency will also be materially reduced. . . .” * These statements show that in the opinion of the Agent of the United States the only claims which would be submitted to the Arbitral Tribunal would be those memorialized before June 30, 1936.

My Government agrees with Your Excellency's Government that the claims arising from bonds included in the Convention of June 16, 1922, known as the "Bankers' Agreement for the Funding of the Mexican Debt" (*Convenio de los Banqueros relativo a la consolidación de Obligaciones Mexicanas*) are not included in the interpretation given above to Article VIII of the Convention of September 8, 1923, and paragraph (*h*) of Clause Six of the Protocol of April 24, 1934; in view of which, as Your Excellency states in the note to which I have the honor to reply, the Government of the United States and the Government of Mexico, by an exchange of notes on July 8 and July 11, 1925, agreed to exclude these claims from the General (Claims) Convention of September 8, 1923.

As regards the claims of American nationals based on obligations of the States or Municipalities of the Mexican Government which for one reason or another have not been memorialized by the Agency of the United States in the terms of the Protocol, my Government states its agreement that it be considered only that international action by the United States against the Government of Mexico has been barred—without, however, this admission being taken as the acceptance of any responsibility on the part of the States and Municipalities in question towards the United States or towards the claimants.

Understanding, however, the desire of the Government of the United States, expressed in Your Excellency's note, to have the Tribunal in some manner give the force of a decision to the agreement of the two Governments regarding claims neither heard nor decided, thus ratifying their present legal position of having been eliminated, my Government forthwith agrees that the two Agents, United States and Mexico, shall jointly submit to the General Claims Commission an agreement ratifying the elimination of all those claims, and that the Commissioners, by common consent and acting in their judicial capacity, shall approve (this action) without hearing or deciding, contributing in this purely formal manner to the realization of the fundamental desire of the two Governments to have said claims considered definitely eliminated and inadmissible in the future.

In order to avoid an unnecessary loss of time, I take the liberty of enclosing a proposed agreement between the Agents which, should it merit the approval of the Government of Your Excellency, could be

*The quotations from the letter of the American Agent appear in the original English in the text of this note. [Translator's note.]

signed by the Agent of the United States in sextuplicate, both in English and Spanish. The agent would keep the English copies of the text, returning the Spanish copies duly signed to the Agent of Mexico; so that, on the 30th of the present month of June both (Agents) might present the agreement to the respective Embassies in Washington, D. C., and Mexico, D. F., in accordance with paragraph (c) of Clause Six of the Protocol of April 24, 1934.

Please accept [etc.]

EDUARDO HAY

[Subenclosure]

Proposed Agreement Between the Agent of the United States and the Agent of Mexico Regarding Unmemorialized Claims

The Agent of the United Mexican States and the Agent of the United States of America, duly authorized as such, respectfully represent to the Honorable General Claims Commission that they have mutually agreed in the names and in behalf of their respective Governments on the points hereinafter set out, and respectfully submit to the consideration of the Honorable Commissioners for ratification the following agreement:

First: The subscribing Agents acting in the capacity already stated, have agreed that Article VIII of the Convention of September 8, 1923, and sections (f) and (h) of the Protocol of April 24th, 1934, are to be interpreted in the sense that all claims which were duly registered in Memorandum form before the General Claims Commission and which will not be memorialized by the 30th day of June, 1936, are to be considered and treated after said last-mentioned date as having been fully settled, barred and thenceforth inadmissible.

Second: The subscribing Agents to the Agreement further represent that the respective Governments are in absolute accord and conformity that the Honorable General Claims Commission, acting jointly through the Honorable Commissioners of both countries, ratify this Agreement, with the express understanding that the legal effect of the decision of said Honorable Commissioners, upon the ratification of this Agreement, is to be considered as that of an agreed judgment of a Tribunal with respect to the extinction of the legal status of those claims which on the 30th day of June, 1936, have not been memorialized in accordance with the provisions of section (h), Clause VI of the protocol of April 24, 1934, it being understood, therefore, that the ratification of the provisions and stipulations contained in this Agreement by the Commissioners is made for the sole purpose of (classifying) the claims not thus memorialized, the effect of *res judicata* from the standpoint of International Law and with respect to the relations between Mexico and the United States.

Third: Lastly, both Agents represent that this Agreement was submitted to the consideration and received the approval of the respective Governments which they severally represent prior to its presentation to the Honorable General Claims Commission, and that said Governments have expressly approved the exact text it contains and which said Agents subscribe in sextuplicate in the Spanish and English languages in the City of Washington, D. C., on the day of, 1936, and in the City of Mexico, D. F., on the 12th day of June, 1936.

WHEREFORE, the Agents of Mexico and of the United States respectfully request the General Claims Commission to ratify the Agreement contained in the foregoing clauses inasmuch as it contains the express desire of the Government which they have the honor to represent.

*The Agent of the
United States of America*

*The Agent of the
United Mexican States*
(sgd) R. CORDOVA

BERT L. HUNT

ROBERTO CORDOVA

411.12/2336 : Telegram

The Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, June 20, 1936—2 p. m.

104. Your telegram No. 95, June 18. Department's No. 101⁴⁸ required no action on part of Embassy except two mechanical reports on June 25 and June 30, respectively, concerning the memorials filed by the Mexican Agency during the preceding 5 days periods. Please so explain to foreign office and withdraw request for advance information.

Regarding matter of agreement concerning unmemorialized claims. Please explain to foreign office that under the Convention of September 8, 1923 the only means of having claims barred for the future is by having them "heard and decided" as provided in article VIII, that naturally they cannot be so heard and decided unless some pleading is placed before the Commissioners for them to pass upon, that the minimum which can be so placed before them is a form memorial without evidence, the memoranda-notices having been filed many years ago; also that Department has never heard of an international award having been rendered without evidence and does not understand how such awards could be possible. Consequently, this Government is desirous of agreeing to a procedure which will have the sole effect of disposing for all time, under the terms of the Convention, of all claims not memorialized with evidence on the merits on or before June 30

⁴⁸ Not printed.

next. Hunt's letter and paragraph (h) of Protocol have no bearing whatever on this proposal.

In event such an agreement cannot be reached before June 30, this Government must, of course, reserve all rights with respect to all claims not disposed of in the manner suggested, which claims will not, of course, be barred as claims disposed of under the Convention.

Please show this telegram textually to the foreign office and if you have received its refusal of this Government's proposal, transmit by telegram text of that note.

HULL

411.12/2339 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, June 23, 1936—1 p. m.

[Received 4:50 p. m.]

105. Referring to Department's telegram No. 104, June 20, 2 p. m. Communicated textually to Beteta, who is going to consult with legal department of the Foreign Office and let me know if they cannot revert to procedure outlined in instruction No. 1109 of May 29, 1936. In the meantime, however, they would like to have a specific statement of our objections, if any, to procedure by convention as outlined in my despatch 3701 of June 19.

I am under the impression that if these objections are serious they may be willing to revert to procedure suggested in our note.

Beteta has suggested exchange of notes in the sense of your telegram 104 as a method of establishing understanding of purposes of submission of unmemorialized claims, but upon my demurring at this on the grounds that it might appear in the record as an attempt to pre-determine the commission work, he withdrew the suggestion.

He has agreed to furnish the two reports of June 25 and June 30.

BOAL

411.12/2340 : Telegram

The Acting Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, June 24, 1936—6 p. m.

114. Your 105, June 23, 1 p. m. and despatch 3701, June 19. Department considers procedure outlined in instruction 1109, May 29, preferable to that suggested in enclosure to Foreign Office's note of June 18. The latter procedure is objectionable for the following reasons.

1. An agreement by the two Agents as to the interpretation of Article VIII of the Convention of September 8, 1923, would not have

the effect of barring claims filed with the Commission which have not been "heard and decided" since it is not within the province of the Agents to bar claims by an interpretative agreement.

2. Such claims can be barred only in the manner prescribed by Article VIII, that is to say by having them heard and decided by the Commission.

3. The Commission's jurisdiction is limited to hearing and deciding cases submitted to it. It is not within its province to bar claims by ratifying an agreement to that effect between the two Agents.

4. The Department considers that no agreement of lesser solemnity than the Convention of 1923 (which on the part of the United States would require approval of the Senate) can have the effect of barring claims filed which have not been heard and decided.

5. For the foregoing reasons it is to be hoped that the Mexican Government will agree to cover such claims in an omnibus memorial as suggested in instruction 1109 of May 29 so that the Commission may hear and decide them, which would mean that they would necessarily dismiss them, barring them from any further consideration.

6. The Mexican Government, of course, appreciates that if action along these lines is to be taken, decision must be made promptly.

Take up matter immediately and report results promptly by cable.

PHILLIPS

411.12/2340 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, June 24, 1936—6 p. m.

[Received June 25—1:30 a. m.]

107. With reference to the Department's telegram 104, June 20, 2 p. m., and my 105, June 23 1 p. m. As a result of discussion this morning with Beteta and Cordova they suggested the following procedure:

That we should reply to their note of June 18 stating our objections to their proposed convention and if it is deemed advisable stating substance of Department's 104. They will understand, however, if the statements contained in 104 particularly in second paragraph are not included in the note and will be satisfied that they should not be included.

They ask us, however, in this note to inquire whether in view of the difficulties which have arisen over the procedure by convention suggested by the Mexican Government the latter does not have an alternative procedure to suggest.

The Foreign Office would then reply to the proposed note as follows:

"The Government of Mexico considers that claims filed with the General Claims Commission which the agencies of the two countries

before that tribunal shall not have memorialized by June 30th, 1936, should be held as extinguished by waiver on the part of the Governments of the United States and Mexico, respectively, by virtue of the agreement implicit in paragraph (h) clause 6 of the protocol of April 24th 1934. However, the Mexican Government, desirous of finding a practical procedure which, without implying a reversal of Mexico's position, will permit the Government of the United States of America to overcome the difficulties which it appears to have encountered in accepting the proposal contained in the Mexican note dated June 11th, 1936, suggests the expediency of having both Governments, through their respective agencies, adopt the course set forth below:

1. On the 30th of the present month of June, both agents shall submit to the General Claims Commission an omnibus memorial of all those claims which, though duly filed with the tribunal, have not been memorialized.

2. This memorial shall offer no evidence of any kind.

3. In this memorial, each agent shall petition that all the claims listed therein be heard and decided in accordance with the terms of article VIII of the convention of September 8th, 1923.

4. On the 15th of July next both agents shall simultaneously submit to the consideration of the arbitral tribunal a reply to the omnibus memorial above mentioned. In this, each agent shall request the Commission to reject the omnibus memorial of the other and, therefore, the claims listed therein on the basis of lack of evidence.

4. *Sic.* In both the omnibus memorial and in the amendments submitted in accordance with the above points both agents shall respectively declare that they waive the preparation of briefs in connection with the claims listed in the respective omnibus memorials."

This would be followed by note from us accepting this method of procedure.

I shall await your views on this proposal before taking the matter up further with the Foreign Office.

BOAL

411.12/2340 : Telegram

The Acting Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, June 25, 1936—6 p. m.

115. Referring to last paragraph your telegram No. 105, June 23, Department did not desire that you make any request whatever of Foreign Office but requested the Embassy to prepare and send the reports itself on the basis of its own records of memorials filed with the Embassy by the Mexican Agency. Please so explain to Foreign Office.

Referring to your telegram No. 107, June 24, address note to Foreign Office saying that Department has received its note of June 18, 1936 to the Ambassador which has been given careful consideration but that, in view of considerations mentioned in Department's No. 114

of June 24, which you should embody in your note, the United States proposes that the following procedure be adopted in order to accomplish that purpose on which the two Governments are already in full agreement. Then quote textually in your note the following:

First. On June 30 each Agent shall submit to the General Claims Commission an omnibus memorial including therein all regularly filed claims of his Government which have not been memorialized on the merits.

Second. These memorials shall offer no evidence in support of any of the claims listed therein, but the American Memorial shall explain the two reservations set forth in the Embassy's note No. 1634 of June 2d which were accepted by Foreign Office note of June 18.

Third. In these omnibus memorials each Agent shall petition that all claims listed therein, with the exceptions just noted in the American Memorial, be heard and decided in accordance with the terms of Article VIII of the Convention of September 8, 1923.

Fourth. On July 15, each Agent shall file with the Commissioners an Answer to the omnibus memorial of the other Agent requesting that the claims listed therein be dismissed for lack of evidence to support them.

Fifth. As soon as such Answers shall have been received by the opposing Agents and on or before July 28, each Agent shall file with the Commissioners a statement that it waives any right under the Protocol of April 24, 1934 to file a brief in support of its own omnibus memorial and requesting that the cases listed therein be disposed of on the basis of the existing record."

Add in your note that upon receipt of a note from Foreign Office agreeing to the foregoing procedure the United States will consider the agreement concluded and will instruct American Agent accordingly. Telegraph reply as soon as received.

PHILLIPS

411.12/2343 : Telegram

The Chargé in Mexico (Boal) to the Secretary of State

MEXICO, June 26, 1936—3 p. m.

[Received 7:20 p. m.]

111. Referring to Department's telegram No. 115, June 25, 6 p. m. Note, as desired, delivered this morning to Beteta who advises that procedure proposed will be accepted by Mexican Government in note which I hope to receive from him by tomorrow. I shall telegraph confirmation as soon as note is received.

First paragraph of your telegram 115: Foreign Office understands situation regarding reports. I showed Beteta your 101^{48a} when it arrived and it was his conclusion from this, as well as mine, that you

^{48a} Not printed.

wanted an advance report. Although I later explained to him that this was not desired he nevertheless furnished it as a courtesy and it was forwarded in my No. 109.⁴⁹

BOAL

411.12/2847

The Chargé in Mexico (Boal) to the Secretary of State

No. 3726

MEXICO, June 27, 1936.

[Received June 29.]

SIR: With reference to my telegram No. 115 of today's date,⁴⁹ I have the honor to transmit herewith a copy and translation of the Foreign Office's note.

Respectfully yours,

PIERRE DE L. BOAL

[Enclosure—Translation]

The Mexican Minister for Foreign Affairs (Hay) to the American Chargé (Boal)

MEXICO, June 26, 1936.

MR. CHARGÉ D'AFFAIRES: I have the honor to refer to your courteous note number 1662 of today's date, in which, after setting forth, on behalf of your Government, the reasons of the latter for not accepting the proposal which the Government of Mexico made to your Government in note dated the 11th of the current month, you suggest a procedure for accomplishing the purpose regarding which the two Governments are in absolute accord. In reply, I beg leave to advise you, in order that you may so inform the Government of the United States, that my Government considers that the claims filed with the General Claims Commission which the Agencies of both countries before that Tribunal may not memorialize by the 30th of June, 1936, should be considered extinguished by a waiver of rights (*extinguidas por desistimiento*) on the part of the Governments of the United States and of Mexico, respectively, in virtue of the agreement which paragraph (h), Clause Sixth of the Protocol of April 24, 1934, implies; however, being desirous of finding a practical procedure which, without signifying any modification in the thesis maintained in its note of the 11th of the present month in respect to the unmemorialized claims in question, will permit the Government of the United States to overcome the difficulties which it appears to have encountered in the way of accepting the proposal contained in the communication of this Ministry dated the 11th of the present month, my Government has no objection to the adoption by the two Governments, through their respective

⁴⁹ Not printed.

Agencies, of the course of action outlined in the points proposed in your note number 1662, to which I have the honor of replying.

Consequently, and in view of the last part of your above mentioned note, I beg leave to inform you that the Agent of Mexico before the General Claims Commission will be instructed accordingly.

Accept [etc.]

EDUARDO HAY

411.12/2347a : Telegram

The Acting Secretary of State to the Chargé in Mexico (Boal)

WASHINGTON, June 29, 1936—6 p. m.

122. Your attention is directed to paragraph Sixth (I) of Protocol of April 24, 1934 and the fact that in pursuance thereof, the period for the reception of Memorials by the Embassy terminates at 4 o'clock Tuesday afternoon, June 30. In view of that fact you should designate some members of the staff to be on duty at all times Tuesday to receive and receipt for Memorials up to 4 o'clock but not thereafter. Upon receipt of this telegram please arrange oral understanding with Mexican Agent to above effect.

PHILLIPS

TERMINATION OF INFORMAL DISCUSSIONS WITH A VIEW TO THE
SETTLEMENT OF AMERICAN AGRARIAN CLAIMS AGAINST MEXICO
PENDING BEFORE THE GENERAL CLAIMS COMMISSION⁵⁰

411.12/2285a

The Secretary of State to the Chargé in Mexico (Norweb)

No. 974

WASHINGTON, January 9, 1936.

SIR: Attached is a copy of an informal memorandum⁵¹ that has been prepared for use by Ambassador Daniels when he returns to Mexico City. The Ambassador thinks, and the Department concurs, that you might tactfully employ portions of the memorandum in an informal conversation with Mr. Sierra⁵² prior to the Ambassador's return, in order that the Mexican officials may be giving the matter further thought preparatory to a definite termination of the negotiations at an early date. It is particularly desirable that Mr. Sierra should be tactfully told that we do not feel that we can postpone beyond February 1 the beginning of the filing of memorials.

Very truly yours,

For the Secretary of State:

WILBUR J. CARR

⁵⁰ Continued from *Foreign Relations*, 1935, vol. iv, pp. 753-764.

⁵¹ Not printed; for substance, see memorandum of January 21, from the American Ambassador to the Chief of the Department of Political Affairs, Mexican Ministry for Foreign Affairs, p. 752.

⁵² Manuel J. Sierra, Chief of the Department of Political Affairs, Ministry for Foreign Affairs.

411.12/2296

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

No. 3232

MEXICO, January 21, 1936.

[Received January 24.]

SIR: I have the honor to refer to the Department's air mail instruction No. 974 of January 9, 1936, concerning the negotiations relative to agrarian claims filed with the General Claims Commission.

I called on Mr. Sierra this afternoon by appointment and told him that while in Washington I had discussed the proposed protocol at considerable length with officials of the Department of State and that they had reached the conclusion that if an agreement were not reached by the first of February the American Agent would have to proceed with the filing of memorials in the agrarian claims, since the time within which these memorials could be filed under the protocol of 1934 was fast disappearing. Mr. Sierra replied that under the protocol the American Agent had a perfect right to file these memorials, but remarked that the Mexican Agency, already hard pressed would have a very difficult time handling this additional work.

Mr. Sierra said that he had just completed a somewhat lengthy review of the negotiations which he intended to submit to the Foreign Minister immediately, at which time he would also discuss the subject with him and endeavor to obtain his views and instructions as to how he should proceed in the present stage of these negotiations. He then inquired whether the American Government would be willing to consider some more simplified procedure for arriving at an en bloc settlement and mentioned the expeditious settlement of the special claims which were adjusted within a few months after having dragged for many years.

I replied that any proposal advanced by him would receive my careful and sympathetic consideration, but that the success of a simplified en bloc settlement, such as he suggested, was, of course, dependent upon the amount or percentage offered and that what the American claimants were primarily interested in was, of course, to receive adequate compensation as quickly as possible. I added that many American claimants were insisting upon filing the memorials in agrarian claims without further delay. Mr. Sierra was uncertain of the amount represented by the agrarian claims and would not venture an opinion as to the amount or percentage which the Mexican Government might be willing to offer.

In answer to my question, Mr. Sierra said that he thought that the definition of agrarian claims was the principal obstacle to an agreement. He admitted that the claims arising from the nullification of titles and the sub-division of large estates were negligible and con-

stituted but a very small percentage of the total of agrarian claims, but said that the Mexican Government must insist that these be included as a matter of principle and to avoid a precedent in that the Mexican position was that agrarian claims were those arising from the application of the land provisions of Article 27 of the Constitution.⁵³ I pointed out at some length that ever since the Bucareli Conference in 1923⁵⁴ the usual definition agreed upon by both Governments of agrarian claims was land taken for *ejidos* and the benefit of centers of population and that it seemed that the all-embracing definition given the term by Mr. Sierra might be made to include not only the splitting up of large estates but also the cancellation of subsoil rights which were likewise covered by Article 27 of the Constitution. I suggested that since his objections to our definition of agrarian claims was simply one of principle, it might be possible for him to work out some formula that his Government could accept but which would only cover purely agrarian claims as we considered them, that is, lands actually expropriated for *ejidos* and for the benefit of centers of population as contemplated under the Mexican Agrarian Code. He seemed doubtful of this, saying that there were the other countries to be considered and that any concession made to us would likewise have to be granted to the Spanish, the British and other foreign nationals as well as to the Mexicans themselves.

I made it plain that our Government could not agree to waive the right to insist that settlement must be made on the basis of "justice, equity and international law", and pointed out that the General Claims Convention of 1923,⁵⁵ Article 9, ratified by both Governments, recognized that the principles of international law, justice and equity would govern and that our Government felt it could not agree that any settlement could be reached upon any other basis, and that the treaty of 1934 had not changed that right.

Mr. Sierra asked whether I had brought him a written memorandum covering the present status of the negotiations as a result of my conferences in Washington. So I gave him a memorandum which I had prepared, based on the Department's instruction referred to above and of which a copy is enclosed herewith. Mr. Sierra took it and said that he would study the memorandum in connection with the review which he had prepared and would take up the whole matter with the

⁵³ *Foreign Relations*, 1917, p. 955.

⁵⁴ The United States-Mexican Commission meeting at No. 85 Bucareli Street, Mexico City from May 14 to August 15, 1923, negotiated the General Claims Convention of September 8, 1923, and the Special Claims Convention of September 10, 1923, and resulted in the resumption of diplomatic relations between the United States and Mexico. See *Foreign Relations*, 1923, vol. II, pp. 522 ff., and *Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923* (Washington, Government Printing Office, 1925).

⁵⁵ Signed at Washington, September 8, 1923, *Foreign Relations*, 1923, vol. II, p. 555.

Foreign Minister at the earliest possible moment and would then let me know what could be done.

I emphasized to Mr. Sierra that the American Government had made a sincere effort to meet the views of the Mexican Government insofar as possible without jeopardizing the rights of its citizens under the Claims Convention, and in order to meet the wishes of the Mexican Government that its laws should not be passed upon by an international tribunal had agreed that the Commissioners should merely record their decisions in each case without assigning reasons therefor, and that since the lump sum settlement might be arrived at from these bare decisions the Mexican agrarian laws would in no wise be brought into question. I urged him to do his utmost to expedite the negotiations so that an agreement might be reached before February first and in this way avoid the necessity for filing of memorials on agrarian claims with the General Claims Commission, which, as he said, was already hard pressed to keep up with its present schedule.

I expressed the hope that he could obtain and give me the views of the Foreign Minister this week or early in the coming week. He said he would do all he could for expedition.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure]

The American Ambassador (Daniels) to the Chief of the Department of Political Affairs, Mexican Ministry for Foreign Affairs (Sierra)

MEMORANDUM

1. The General Claims Convention of September 8, 1923, as extended, provides for the settlement by arbitration of all outstanding claims between the two Governments including agrarian claims.

2. The Protocol signed on April 24, 1934,⁶⁶ provides for an informal discussion of the agrarian claims pending before the General Claims Commission with a view to their adjustment. It provides that "pending such discussion no agrarian claims will be presented to the Commissioners" referred to in the Protocol, "nor, in turn, to the Umpire . . ." referred to therein but that "memorials of cases not yet memorialized may be filed in order to regularize the awards made upon the agreed adjustments".

3. The discussions have pertained to a method of procedure by which the claims would be submitted to Commissioners for appraisal, looking to a lump sum settlement. The Mexican Government has desired that the pleadings in the cases should be limited to a memorial and answer, since it does not desire that the validity of the Mexican

⁶⁶ *Foreign Relations*, 1934, vol. v, p. 470.

agrarian laws shall be brought into question before an international commission. The American Government, on the other hand, has contended that the cases could not be properly developed to the point where Commissioners could appraise them with any degree of certainty without further pleadings such as are provided for in the Protocol of 1934 with respect to other claims.

4. In order to meet the wishes of the Mexican Government that their agrarian laws should not be passed upon by a commission, the American Government has been willing at all times to agree that the Commissioners should merely record their decisions in the cases without assigning reasons therefor. Thus, the recorded decisions on which the two Governments would endeavor to reach a lump sum settlement would not bring into question Mexican agrarian laws. Furthermore, the American Government has indicated its readiness to include in the proposed Protocol a statement that any agreement reached with respect to agrarian claims shall be accepted by the two Governments as involving no compromise regarding the point of view of either of them as to the principles and precepts of law applicable and that it shall not constitute in any way a precedent "which may be binding on either of them in the future".

5. Differences have also arisen as to the definition of agrarian claims. The American Government has taken the position that in accordance with the previous discussions between the two Governments agrarian claims should properly be limited to those arising from lands taken for dotations as *ejidos* but as a concession to the Mexican Government it has agreed to include within the agrarian claims those arising from the restitution of lands and the nullification of titles to lands for the benefit of centers of population. The Mexican Government, on the other hand, has contended that it alone should define the term agrarian claims and had indicated its desire to include therein all lands taken pursuant to the provisions of Article 27 of the Constitution of 1917.

6. Another matter on which the two Governments have been unable to agree is that with respect to the determination of the question as to whether certain claims filed as agrarian claims are, in fact, such. The Mexican representatives desire that this question should be determined by the Commissioners to be appointed to appraise the claims. The American Government has pointed out that to wait until the Commissioners shall decide this question would mean that if it should be decided in a given case that the claim was not to be regarded as an agrarian claim the decision would probably be so delayed that it would be too late to proceed with the claim before the General Claims Commission within the period allowed for the filing of memorials with the Commission. If, on the other hand, the General Claims Commission is given this authority and if the Commission should find

that in a given case the claim was to be regarded as an agrarian claim, the memorial would already be before the Commission and the subsequent pleadings could be filed in their order. The American Government, therefore, feels that the only arrangement which may be expected to work smoothly with regard to these claims is one which would place the claims before the General Claims Commissioners, leaving it to them to determine which are agrarian claims and have these claims then referred to the other Commissioners to be disposed of by the method provided in Articles 4, 5 and 6 of the draft Protocol which the American Government has indicated its readiness to sign.

7. Representatives of the American Government were sent to Mexico City in April, 1935, and remained in Mexico for more than four months but were unable to reach an agreement with their Mexican colleagues. Following their departure the negotiations were continued by the American Ambassador. Nine months have, therefore elapsed since the negotiations were initiated and it seems fair to assume that this constitutes a reasonable length of time for the drawing up of a Protocol were an agreement possible. Because of the fact that the time within which memorials may be filed under the Protocol of 1934 is fast disappearing, the American Agent, in the event that an agreement is not reached by February 1, 1936, will be instructed to proceed with the filing of memorials in the agrarian claims.

MEXICO, January 21, 1936.

411.12/2297

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

No. 3233

MEXICO, January 23, 1936.

[Received January 27.]

SIR: I have the honor to refer to my air mail despatch No. 3232 of January 21, 1936, reporting my conversation with Mr. Sierra on the subject of the agrarian claims filed with the General Claims Commission.

This morning I called on General Hay, Minister for Foreign Affairs, and, referring to my conversation with Mr. Sierra, asked him when I might expect an answer to my letter of November 22, 1935⁵⁷ submitting our last draft of the proposed agrarian claims protocol. (Despatch No. 3083 of November 27, 1935).⁵⁸

The Minister replied that he had gone into the matter at considerable length with Mr. Sierra the night before when Mr. Sierra had shown him the memorandum I had left with him, a copy of which was

⁵⁷ *Foreign Relations*, 1935, vol. iv, p. 760.

⁵⁸ *Ibid.*

forwarded to the Department with my despatch above referred to. He said that he had been in office such a short time and the matter was so very complicated that it would be quite impossible for him to come to a decision before February first.

I told General Hay that the question of agrarian claims was one of very great importance and urged him to take a day off to study the matter so that, if an agreement could be reached, it might be done before the first of February, because, as I had already told Mr. Sierra, in view of the short time remaining for the filing of memorials under the Protocol of 1934 the American Agent would have to begin filing them on the first of February if no agreement could be reached by that time.

In spite of my further insistence that every effort be made by the Mexican Government to reach a decision by February first, General Hay repeated that this would be absolutely impossible and that, because of the seriousness of the matter, he would have to take ample time to study the various questions involved and could give me no indication when an answer to my letter of November 22 might be expected.

I shall, of course, continue to keep the matter actively before the Foreign Office, but in view of my conversation with the Foreign Minister this morning I can hold out no hope of reaching an agreement before February first.

Respectfully yours,

JOSEPHUS DANIELS

411.12/2296 : Telegram

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

WASHINGTON, January 29, 1936—7 p. m.

15. Your despatches Nos. 3232, January 21, and 3233 of January 23, regarding agrarian claims. Please transmit as soon as possible copies of any additional communications to or from officials of Foreign Office on the subject, or if no such communications have been exchanged, memoranda of any further conferences on the subject and advice by telegraph on February 1st whether an agreement has been reached. It is desirable to use your communications in evidence with first agrarian memorial filed by American Agency.

HULL

411.12/2299 : Telegram

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

MEXICO, January 31, 1936—1 p. m.

[Received 4:45 p. m.]

15. Department's telegram No. 15, January 29, 7 p. m. Copies of all communications exchanged with Foreign Office have been transmitted to Department.

I called yesterday on Minister for Foreign Affairs who again informed me that it would be impossible to make early answer to my repeated urgent requests that his Government would meet Department's wishes by February 1. He said that to show his deep interest in the matter he had that day secured authorization from the President to engage four able lawyers to make an independent study of the whole question. He could not indicate how long before this study would be completed nor the course it would take but said that he would have to wait their report before making answer to our draft proposal. This gives no promise of early agreement. At a previous conference I had informed the Minister that unless an agreement could be reached by February 1, my Government would proceed with the filing of memorials in the agrarian claims on that date. "It is utterly impossible," he repeated with emphasis on my last visit, "to make answer until the study by our lawyers is completed."

DANIELS

411.12/2300 : Telegram

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

MEXICO, February 1, 1936—1 p. m.

[Received 1:57 p. m.]

17. Department's telegram No. 15, January 29, 7 p. m. and my reply No. 15, January 31, 1 p. m. Nothing further on the subject from the Foreign Office excepting a verbal inquiry from Mr. Sierra as to whether the filing of memorials by the American Agent on February 1st would constitute a termination of the negotiations. Please telegraph instructions.

If the negotiations are to be terminated I believe formal notification to this effect should be given.

DANIELS

411.12/2300 : Telegram

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

WASHINGTON, February 4, 1936—8 p. m.

23. Your 17, February 1, 1 p. m., regarding agrarian claims. For the reasons stated in the memorandum⁵⁹ enclosed with the Legal Adviser's letter to you of January 10, 1936,⁶⁰ this Government must regard the negotiations terminated as of February 1. Memorials will be filed in the agrarian claims in order that the cases may be proceeded with under the terms of the Protocol of 1934 and the Convention of 1923 as extended.

⁵⁹ This is the same memorandum which was sent to the Chargé in Mexico with instruction No. 974 on January 9; see footnote 51, p. 749.

⁶⁰ Not printed.

Nevertheless, if the Mexican Government has any offer of settlement to present it will be given most careful consideration, it being understood, however, that the termination of the "informal discussion" provided for in the Protocol of 1934 is not to be deemed affected by the presentation by the Mexican Government or consideration by this Government of any further proposals, unless an agreement should happily be reached.

HULL

411.12/2305

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

No. 3271

MEXICO, February 6, 1936.

[Received February 12.]

SIR: I have the honor to refer to the Department's telegram No. 23 of February 4, 8 p. m. instructing me that the informal discussion of agrarian claims filed with the General Claims Commission as provided for in the Protocol of April 24, 1934 must be terminated as of February first.

In accordance with this instruction, a letter was today handed to Mr. Sierra, a copy of which is enclosed herewith. Mr. Sierra intimated that he had expected the American Government to terminate the informal discussions as of February first from our Memorandum handed to him on January 21 and added that he did not consider that the termination of the negotiations would have an important bearing on the question of agrarian claims.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure]

The American Ambassador (Daniels) to the Chief of the Department of Political Affairs, Mexican Ministry for Foreign Affairs (Sierra)

MEXICO, February 6, 1936.

MY DEAR MR. SIERRA: I have the honor to refer to the Memorandum which I handed you on January 21, 1936, the last paragraph of which reads as follows:

"Representatives of the American Government were sent to Mexico City in April, 1935, and remained in Mexico for more than four months but were unable to reach an agreement with their Mexican colleagues. Following their departure the negotiations were continued by the American Ambassador. Nine months have, therefore, elapsed since the negotiations were initiated and it seems fair to assume that this constitutes a reasonable length of time for the drawing up of a protocol were an agreement possible. Because of the fact that the time within which memorials may be filed under the Protocol of 1934 is

fast disappearing, the American Agent, in the event that an agreement is not reached by February 1, 1936, will be instructed to proceed with the filing of memorials in the agrarian claims."

Although my Government feels that it has gone very far in an effort to accommodate itself to the Mexican Government's position, nevertheless, the informal discussions provided for in the Protocol of 1934, which have now been carried on for more than nine months, would seem to show that no agreement can be reached and my Government must, therefore, regard the negotiations terminated as of February 1 this year, the date on which the American Agent was instructed to file memorials with the General Claims Commission. It would seem that nine and a half months of negotiations should provide an ample length of time for arriving at an agreement, were an agreement possible. Memorials will, therefore, be filed in the agrarian claims in order that the cases may be proceeded with under the terms of the Protocol of 1934 and the Convention of 1923 as extended.

Nevertheless, if the Mexican Government has any definite offer of settlement to present, it will be given most careful consideration, it being understood, however, that the termination of the "informal discussion" provided for in the Protocol of 1934 is not deemed affected by the presentation by the Mexican Government or consideration by the American Government of any further proposals, unless an agreement should happily be reached.

I cannot terminate our informal discussions without expressing my deep regret that it has not been possible for us to reach an agreement satisfactory to our respective Governments.

Very sincerely yours,

JOSEPHUS DANIELS

RESERVATION BY THE UNITED STATES OF ITS RIGHTS PERTAINING TO COMMERCE AS AFFECTED BY THE MEXICAN DECREE OF AUGUST 29, 1935, EXTENDING THE TERRITORIAL WATERS OF MEXICO

812.0145/12

The Secretary of State to the Chargé in Mexico (Norweb)

No. 975

WASHINGTON, January 11, 1936.

Sir: Reference is made to your Embassy's despatch No. 3084 of November 27, 1935,⁶¹ with which was enclosed the official text, with translation, of the Presidential Decree of August 29, 1935, published in the *Diario Oficial* of August 31, 1935, the stated object of which decree is to establish the breadth of Mexican territorial waters at nine nautical miles.

⁶¹ Not printed.

It is desired that you advise the Mexican Foreign Office in writing that your Government reserves all rights of whatever nature so far as concerns any effects upon American commerce from enforcement of this legislation purporting to amend existing law so as to extend the territorial waters of Mexico from three miles in breadth to nine miles.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

812.0145/15

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

No. 3374

MEXICO, March 9, 1936.

[Received March 16.]

SIR: With reference to the Department's instruction of January 11, 1936, instructing the Embassy to inform the Mexican Foreign Office that the American Government reserves all rights as to the effects on American commerce from enforcement of the Presidential Decree published in the *Diario Oficial* of August 31, 1935, establishing the breadth of Mexican territorial waters at nine nautical miles, I have the honor to transmit herewith a copy of the Embassy's note No. 1438 of March 7, 1936, addressed to the Foreign Office in this sense. In this connection, the Department is respectfully referred to the Embassy's despatch No. 3229 of January 18, 1936,⁶² explaining the reasons for the Embassy's delay in transmitting this note.

Respectfully yours,

For the Ambassador:
JOHN H. MACVEAGH
Second Secretary of Embassy

[Enclosure]

The American Ambassador (Daniels) to the Mexican Minister for Foreign Affairs (Hay)

No. 1438

MEXICO, March 7, 1936.

EXCELLENCY: I have the honor, under instructions from my Government, to refer to the Presidential Decree of August 29, 1935, published in the *Diario Oficial* of August 31, 1935, which purports to amend existing laws so as to extend the territorial waters of Mexico in breadth from three to nine nautical miles.

It is the desire of my Government to inform the Government of Mexico that the United States of America reserves all rights of whatever nature so far as concerns any effects upon American commerce from enforcement of this legislation.

Please accept [etc.]

JOSEPHUS DANIELS

⁶² Not printed.

812.0145/16

*The Mexican Minister for Foreign Affairs (Hay) to the American Ambassador in Mexico (Daniels)*⁶⁸

[Translation]

No. 4002

MEXICO, May 6, 1936.

MR. AMBASSADOR: I have the honor to acknowledge the receipt of Your Excellency's courteous note dated March 7th last, in which you are good enough to inform me that the Government of the United States reserves all rights of whatever nature so far as concerns any effects upon American commerce of the enforcement of the Presidential Decree of August 29, 1935, published in the *Diario Oficial* of August 31, 1935, whereby the breadth of Mexican territorial waters is extended to nine nautical miles.

In reply, I beg to inform Your Excellency that the Government of Mexico, in issuing the abovementioned Decree, bore well in mind the general principles of International Law and adhered strictly to the provisions of Article V of the Treaty of February 2, 1848, concluded between Mexico and the United States,^{68a} which reads as follows:

"The dividing line between the two Republics shall begin in the Gulf of Mexico, three leagues from land at the mouth of the Rio Grande . . ."

The abovementioned paragraph leaves no doubt that reference is made to the breadth of territorial waters, which was fixed at three nautical leagues, a distance which at that time was equivalent to nine nautical miles, that is, the 16.668 kilometers mentioned in the Decree in question.

There is no question but that Article V refers to territorial waters, despite the fact that that phrase does not expressly occur, for this question has been definitely settled since 1848, in which year Mr. Percy W. Doyle, Chargé d'Affaires of the British Government, addressed to the then Minister for Foreign Affairs, Don Mariano Otero, the following note dated June 9:

"The undersigned, Her Britannic Majesty's Chargé d'Affaires, has the honour to inform His Excellency The Minister for Foreign Affairs Don Mariano Otero, that he has received instructions by the Packet which has just arrived, to state, that Her Majesty's Government have observed in the fifth Article of the Treaty of Peace, which was signed on the 2nd of February last between the United States and Mexico, that the boundary line between the two Republics is defined as commencing in 'the Gulf of Mexico three Leagues from land op-

⁶⁸ Transmitted to the Department by the Ambassador in Mexico in despatch No. 3554, May 13; received May 20.

^{68a} Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 5, pp. 207, 213.

posite the mouth of the Rio Grande.' As the tenour of this Article seems to involve an assumption of jurisdiction on the part of the United States and Mexico over the sea beyond the usual limit of one Marine league (or three Geographical Miles) which is acknowledged by international law and practice as the extent of territorial jurisdiction over the sea that waters the Coasts of States, Her Majesty's Government think it right to declare, in order to prevent future misunderstanding, that they cannot acquiesce in the extent of maritime jurisdiction assumed by the United States and Mexico in the Article in question, and Her Majesty's Government consider this step the more necessary because the Gulf of Mexico is a great thoroughfare of maritime commerce, and is not like a Bay or Creek which can by its nature be susceptible of being subjected to exclusive Dominion."

John T. Crampton, Esq., Chargé d'Affaires of the British Government in the United States, addressed a similar note to the Government of the United States on April 30, 1848, protesting against the provision of Article V of the Treaty of 1848 extending territorial waters from three to nine nautical miles.

In this connection, Mr. James Buchanan, then Secretary of State of the United States, addressed to Mr. John T. Crampton on August 19, 1848, the following note,⁶⁴ in which it is tacitly recognized (*reconoce, al no negarlo*) that Article V of the Treaty of 1848 refers to territorial waters when speaking of the three leagues:

"I have had the honour to receive your Note of the 30th of April last, objecting, on behalf of the British Government, to the Clause in the fifth Article of the late Treaty between Mexico and the United States, by which it is declared that "The boundary line between the two Republics shall commence in the Gulf of Mexico three leagues from land" instead of one league from land, which you observe "is acknowledged by international law and practice as the extent of territorial jurisdiction over the sea that washes the coasts of States."

"In answer I have to state that the stipulation in the Treaty can only affect the rights of Mexico and the United States. If for their mutual convenience it has been deemed proper to enter into such an arrangement, third parties have no just cause of complaint. The Government of the United States never intended by this stipulation to question the rights which Great Britain or any other Power may possess under the law of nations."

By virtue of the foregoing, the following conclusions are deduced:

1. The territorial waters of Mexico as well as those of the United States have been fixed by the Treaty of Peace, Amity and Boundaries concluded between the two countries on February 2, 1848, at nine nautical miles or 16 kilometers 668 meters.

2. Any doubts as to whether Article V of the said Treaty refers to territorial waters have been definitely settled by the exchange of notes between Mexico, the United States, and Great Britain. In his note of August 19, 1848, Mr. James Buchanan, Secretary of State of the United

⁶⁴ John Bassett Moore, *A Digest of International Law*, vol. 1, p. 730.

States, recognizes that the territorial waters extend for three nautical leagues as determined by the United States and Mexico in the Treaty of Peace, Amity and Boundaries signed on February 2, 1848.

3. The Decree of August 29, 1935, published in the *Diario Oficial* of August 31, 1935, conforms strictly to the provisions of Article V of the above mentioned Treaty, since it fixes the breadth of territorial waters at nine nautical miles, that is, 16 kilometers, 668 meters.

The Government of Mexico believes that an appraisal of the foregoing facts will cause the Government of Your Excellency to consider as just and proper the decision taken by the Government of Mexico in regard to territorial waters, and therefore as unwarranted the reservation of rights made by the Government of the United States.

I avail myself [etc.]

EDUARDO HAY

812.0145/16

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

No. 1110

WASHINGTON, May 23, 1936.

SIR: I have received your despatch No. 3554 of May 13, 1936,^{64a} with which you enclosed a copy and translation of the reply of the Mexican Foreign Office to your Embassy's note of March 7, 1936, wherein under instructions from the Department you informed the Foreign Office that the Government of the United States reserved all rights as to the effects on American commerce from enforcement of the Presidential decree assuming to extend the breadth of Mexican territorial waters.

The Foreign Office relies upon provisions of Article V of the Treaty of February 2, 1848, between the United States and Mexico and correspondence concerning such provisions to sustain its position that the decree in question is "just and proper" and that the reservation of rights made by the Government of the United States was unwarranted.

The treaty provisions in question read as follows:

"The dividing line between the two Republics shall begin in the Gulf of Mexico, three leagues from land at the mouth of the Rio Grande . . ."

The Foreign Office has not taken into account the remaining words of the paragraph from which the quotation is taken, which words delimit the boundary line between its eastern end in the Gulf of Mexico and its western end which is said to be "the Pacific Ocean". It will be observed that the western limit of the boundary line is not stated to be "three leagues from land". Moreover, the second paragraph of Article V of the Treaty of 1848 contains the following pro-

^{64a} Not printed.

vision as to the western limit of the boundary line between the two countries :

“and, in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific Ocean, distant one marine league due south of the southernmost point of the port of San Diego.”

It will be further observed that in the last quoted provisions of the Article upon which the Mexican Foreign Office relies, the westernmost point of the boundary line between the two countries is stated as being on the coast of the Pacific Ocean.

That portion of Article V of the Treaty of 1848 which the Mexican Foreign Office quotes relates only to the boundary line at a given point and furnishes no authority for Mexico to claim generally that its territorial waters extend nine miles from the coast. The British note of June 9, 1848 which is quoted by the Mexican Foreign Office recognizes the merely local applicability of the agreement between the United States and Mexico as to the easternmost part of the boundary line, when it states in giving notice that the British Government could not “acquiesce in the extent of maritime jurisdiction assumed by the United States and Mexico”, that the giving of such notice is “the more necessary because the Gulf of Mexico is a great thoroughfare of maritime commerce”.

Furthermore, this view of the restricted nature of the agreement is strengthened by the statements in this Department’s note to the British Minister of August 19, 1848, which is also quoted by the Mexican Foreign Office, and wherein it was said that if for the “mutual convenience” of the United States and Mexico it had been proper to enter into such an arrangement, third parties had no just cause of complaint and that the Government of the United States never intended by this stipulation to question the rights which Great Britain or any other power may possess under the law of nations.

Presumably it is true as indicated by a note sent by this Department to the British Minister on January 22, 1875,⁶⁵ that the arrangement thus made between the United States and Mexico with respect to the Gulf of Mexico was designed to prevent smuggling in the particular area covered by the arrangement.

Wholly aside from the question of the boundary line between the two countries, there remains to be considered the total great extent of the Mexican coast and the bordering territorial waters. To say that because the United States agreed that in one area, so far as the

⁶⁵ *Papers Relating to the Foreign Relations of the United States, 1875, vol. 1, p. 649.*

United States was concerned, Mexican territorial waters extended three leagues from land, therefore Mexico was entitled to claim such an extent of territorial waters adjacent to her entire coast line is an unwarranted deduction from the terms of Article V of the Treaty of 1848.

You will please inform the Foreign Office in the sense of the foregoing.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

812.0145/18

The Chargé in Mexico (Boal) to the Secretary of State

No. 3646

MEXICO, June 3, 1936.
[Received June 10.]

SIR: I have the honor to acknowledge the Department's instruction No. 1110 of May 23, 1936 on the above-mentioned subject and to enclose herewith a copy of the note which the Department directed the Embassy to transmit to the Foreign Office.⁶⁶ It will be observed that the Embassy's note follows as closely as possible the wording of the Department's instruction.

Respectfully yours,

PIERRE DE L. BOAL

812.0145/22

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

No. 3765

MEXICO, July 14, 1936.
[Received July 20.]

SIR: With reference to my despatch No. 3646 of June 3, 1936, and other correspondence on the above mentioned subject, I have the honor to enclose herewith for the Department's consideration a copy and translation of the Foreign Office's note number 5470 of July 8, 1936, which was written in reply to the Embassy's note No. 1635 of June 3, 1936.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure—Translation]

The Mexican Minister for Foreign Affairs (Hay) to the American Ambassador (Daniels)

No. 5470

MEXICO, July 8, 1936.

MR. AMBASSADOR: I have the honor to acknowledge the receipt of the courteous note of that Embassy, number 1635, of the 3rd of June

⁶⁶ Note No. 1635, June 3, not printed.

last, with respect to the extension of the territorial waters of Mexico and the United States.

The Government of Mexico notes that the Government of the United States does not reject the interpretation which my Government has given to the first paragraph of Article 5 of the Treaty of 1848, regarding the extension of the territorial sea in the Gulf of Mexico, which is the same that Mr. James Buchanan expressed concerning the matter in the note which he addressed to the Chargé d'Affaires of Great Britain on August 19, 1848; likewise, it judges that it should not be concluded that the whole of the territorial waters of Mexico extends 9 miles, in view of the fact that that extension has been fixed in a definite area.

Moreover, the Government of the United States concludes that the extreme western limit of the United States and Mexico terminates on the coast of the Pacific Ocean. To that effect a paragraph of Article 5 of the Treaty of 1848 is cited, which reads:

“And, in order to preclude all difficulty in tracing upon the ground the limit separating Upper from Lower California, it is agreed that the said limit shall consist of a straight line drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific Ocean, distant one marine league due south of the southernmost point of the port of San Diego. . . .”

This interpretation of Article 5 is not in accord with the purposes of those who signed the Treaty, since the paragraph cited does not refer expressly or implicitly to the territorial sea, but has exclusively as its object the avoidance of difficulties by indicating the tracing of the terrestrial dividing line between Upper and Lower California, without this signifying that they prescinded their inalienable right to the corresponding territorial waters.

Accordingly, there is no basis whatsoever for supposing that the extreme western limit between Mexico and the United States terminates on the coast of the Pacific Ocean.

Moreover, the Government of the United States never objected to Fraction I of Article 4 and Article 5 of the Law of December 18, 1902, in which it was stated precisely that Mexico had absolute sovereignty over the territorial sea which bathed its coasts.

Moreover, in Article 10 of the Convention of December 23, 1925,⁶⁷ signed by Mexico and the United States, both countries recognized in a categorical manner the unquestionable existence of the territorial sea which bathes its coasts on the side of the Pacific Ocean.

“Article 10.—The High Contracting Parties agree that the waters dealt with under this Convention shall be the waters of the Pacific coasts of California, United States of America, and Lower California,

⁶⁷ *Foreign Relations*, 1925, vol. II, p. 510.

Mexico, including both territorial and extra-territorial waters, the latter being the westward extension of the former.”

As can be observed, this Convention abstained from fixing the extension of the territorial sea of Mexico and the United States with respect to the Pacific Ocean because it considered that, for the purposes of the treaty, all waters off (*a partir de*) the coasts of the two countries would be jurisdictional waters.

Finally, the “International Fisheries Commission—United States and Mexico”, created by Article 11 of the Convention of 1925, adopted unanimously the following resolution on June 21, 1926:

“With the object of making effective the program of conservation of both Governments and in accordance with Clause 10 of the Treaty between Mexico and the United States, the International Fisheries Commission establishes in this act a zone of fifty nautical miles west of the respective coasts. It is understood that the said zone of fifty nautical miles shall be applied in like manner to the islands located in the waters embraced in Clause 10 of the Treaty, and that all of the marine products existing in the said zone or extracted from it shall be considered the property of the Nation off whose coasts they may exist or may be extracted.”

Later, the Government of the United States was not in accord with the decision of the Commission.

The Government of Mexico, after signing the Treaty of 1848 and at every opportunity which arose, fixed with diverse countries an extension equal or greater than that which was stipulated for territorial waters in the said Treaty of 1848. Besides that Treaty, Mexico has in force the following:

With Guatemala.—Treaty on Limits, of September 27, 1882.⁶⁸ . . .
 16.668 kilometers (3 marine leagues).
 With Ecuador.—Treaty of Friendship, Commerce, and Navigation,
 of June [*July*] 10, 1888.⁶⁹ 20 kilometers.
 With the Dominican Republic.—Treaty of Friendship, Commerce,
 and Navigation, of March 29, 1890.⁷⁰ 20 kilometers.

The absence of a precise limitation of the extension of the territorial waters of both countries in the Pacific Ocean, for the purposes of the Treaty, is due to an understandable omission since, evidently, it was considered that by analogy, the precedent having been established, the extension fixed for the littoral of the Gulf of Mexico should be adopted also for the Pacific Ocean.

In this respect, it seems to be inferred from the note of that Embassy, number 1438 of March 7, that the extension in question should be

⁶⁸ *British and Foreign State Papers*, vol. LXXIII, p. 273.

⁶⁹ *Ibid.*, vol. LXXIX, p. 144.

⁷⁰ *Ibid.*, vol. LXXXII, p. 689.

three miles instead of the nine, to which the Presidential Decree of August 29, 1935, makes reference.

All of the jurists and authors of treatises on International Law have recognized expressly and have agreed unanimously that: there exists no fixed rule for determining the extension of the territorial sea, and that up to the present time it has not been possible for the States to arrive at a general agreement in the matter.

It would be too prolonged to cite textually the opinions of these authors. Accordingly, I shall limit myself to mentioning the names of some of them of recognized authority:

Samuel Pufendorf.—*Elementorum Jurisprudentiae Universalis Libri Duo* (1660) Definition V #8.

Cornelius van Bynkershoek.—*De Dominio Maris Dissertatio* (1702) Chapter II.

Emerich Vattel.—*Le Droit de Gens ou Principes de la Loi Naturelle* (1758) Chapter XXIII.

Robert Phillimore.—*Commentaries upon International Law* (1854) Volume 1, Part III, Chapter VIII.

L. Oppenheim.—*International Law* (1905) Volume 1, Part II, Chapter 1, #186.

Frantz von Liszt.—*Derecho Internacional Público* (1917) (Translation) Book II, Chapter IV.

“Be that as it may, the question arises how far into the sea those waters extend which are coast waters, and are therefore under the sway of the littoral State. Here, too, no unanimity exists as to the breadth of the belt or the point on the coast forma (*sic*) which it is measured” (Oppenheim)

“The zone of three miles is, as we have seen, insufficient. It would be advantageous to extend it to such a point that would enable the littoral State to exercise its effective sovereignty and assure the defense of its interests. If it is not desired to recognize in each State the right to determine the zone of its littoral waters by the range of its coast batteries, an international agreement on the maximum limit of the said zone would be extremely advantageous (six or ten nautical miles)” (von Liszt).

Almost all of the States admitted the urgent need of putting an end to the uncertainty which existed concerning the extension of the territorial sea, and to this end the “Conference for the Codification of International Law”, which was held at The Hague in 1930,⁷¹ was convoked.

Unfortunately, the diversity of points of view prevented an agreement being reached, since while some countries proposed three miles, others proposed four, six, and even twelve.

The Conference, in the Final Act, recommended to the Governments that the matter continue to be studied.

⁷¹ See *Foreign Relations*, 1930, vol 1, pp. 204 ff.

“B. Territorial sea.

“I. The Conference

“Notes that the discussions have revealed, in respect of certain fundamental points, a divergence of views which for the present renders the conclusion of a convention on the territorial sea impossible but considers that the work of codification on this subject should be continued. It therefore

“Requests the Council of the League of Nations to invite the various Governments to continue, in the light of the discussions of this Conference, their study of the question of the breadth of the territorial sea . . .”

In view of the fact that the Treaty of 1848 is not clear concerning the extension of the territorial sea in the Pacific Ocean and that Article X of the Treaty of 1925 did not fix its extension concretely either and, whereas neither the doctrine nor the practice are in accord with respect to the same and the Conference for the Codification of International Law had to suspend its work without having reached the said agreement, the Government of Mexico considers that there is no basis for maintaining that the territorial waters of Mexico and the United States should have an extension of three miles in the Pacific Ocean.

The Government of Mexico, on issuing the Decree of August 29, 1935, considered that the only way of arriving at a definitive solution regarding the Pacific Ocean, consisted in taking into account the precedents previously established between Mexico and the United States. In this special case, Article 5 of the Treaty of 1848, in referring to the Gulf of Mexico, established a precedent which cannot be ignored immediately either by Mexico or by the United States.

By virtue of the foregoing, Mexico believes that the precedent established by the Treaty of 1848 with respect to the Gulf of Mexico and the principles invoked should be taken into consideration by the United States in fixing the extension of its territorial waters in the Pacific Ocean in so far as Mexico is concerned; an equitable solution which, by placing the two countries in the same position, permits a better and more rational utilization of the resources which nature has placed at the disposition of both respectively.

I avail myself [etc.]

EDUARDO HAY

812.0145/22

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

No. 1189

WASHINGTON, August 19, 1936.

SIR: The receipt is acknowledged of your despatch No. 3765 of July 14, 1936, with which you forwarded a copy and translation of a note from the Mexican Foreign Office of July 8, 1936, further dealing

with the reservation made in your Embassy's note of March 7, 1936, of all rights as to the effects upon American commerce from enforcement of the decree of the President of Mexico assuming to expand the breadth of Mexican territorial waters.

So far as concerns the bearing upon this matter of the provisions of Article V of the treaty of February 2, 1848, between the United States and Mexico, the Department reiterates the views expressed in its instruction No. 1110 of May 23, 1936, which were communicated to the Foreign Office in your Embassy's note of June 3, 1936.

It is noted that the Foreign Office expresses the view that there exists among the nations no fixed rule for determining the extent of the territorial sea. However this may be (and this Government must not be understood as admitting that there is no such rule) it seems to be established that, generally speaking, the principal maritime powers have adopted the three-mile limit.

It is desired that you bring the foregoing to the attention of the Foreign Office and that you reiterate the reservation above mentioned, stating expressly that your action is taken not with a view to prolonging the argument with the Mexican Government but merely to make it clear that the Government of the United States is unable to accept the conclusions of the Mexican Government as set forth in the latter's note of July 8, 1936.

Very truly yours,

For the Secretary of State:
R. WALTON MOORE

812.0145/25

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

No. 3869

MEXICO, August 25, 1936.
[Received August 31.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 1189 of August 19, 1936, and to enclose herewith a copy of the note which I have addressed under even date at the direction of the Department to the Foreign Office with respect to the extension of the breadth of Mexican territorial waters.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure]

The American Ambassador (Daniels) to the Mexican Minister for Foreign Affairs (Hay)

MEXICO, August 25, 1936.

EXCELLENCY: I have the honor, under instructions from my Government and with reference to the Foreign Office's note No. 5470 of

July 8, 1936, regarding the extension of the territorial waters of Mexico, to inform Your Excellency that so far as concerns the bearing upon this matter of the provisions of Article V of the treaty of February 2, 1848, between the United States and Mexico, my Government reiterates the views expressed in my note No. 1635 of June 3, 1936.

It is noted that the Foreign Office expresses the view that there exists among the nations no fixed rule for determining the extent of the territorial sea. However this may be (and my Government must not be understood as admitting that there is no such rule) it seems to be established that, generally speaking, the principal maritime powers have adopted the three-mile limit.

I am instructed, therefore, by my Government to reiterate the reservation made in my note No. 1438 of March 7, 1936, namely, that the United States of America reserves all rights of whatever nature so far as concerns any effects upon American commerce from enforcement of the presidential decree of August 29, 1935, which purports to amend existing law so as to extend the territorial waters of Mexico in breadth from three to nine nautical miles. I hope that Your Excellency will understand that in bringing this matter to the Foreign Office's attention my action is not taken with a view to prolonging the argument with the Mexican Government but merely to make it clear that the Government of the United States is unable to accept the conclusions of the Mexican Government as set forth in the latter's note of July 8, 1936.

Please accept [etc.]

JOSEPHUS DANIELS

REFUSAL OF THE DEPARTMENT OF STATE TO RECOGNIZE RIGHT OF AN AMERICAN CITIZEN TO DIVEST HIS GOVERNMENT OF ITS RIGHT TO EXTEND TO HIM ITS PROTECTION ABROAD

812.504/1544

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

No. 3260

MEXICO, February 4, 1936.

[Received February 11.]

SIR: Referring to the Department's telegrams No. 12 of January 24, 1936, 6 p. m., and No. 16 of January 29, 1936, 8 a. m.,⁷² stating that Mr. Henry P. Smith, representative of the Bondholders' Protective Committee of the Guanajuato Reduction and Mines Company, would call at the Embassy for the purpose of advising me of serious labor troubles which threaten the existence of the Company, I have the honor

⁷² Neither printed.

to report that Mr. Smith called yesterday. He was for a long time in Guanajuato directing the affairs of the Company in question, and his brother-in-law, Mr. MacDonald, is now in charge. He says that the Guanajuato mines operate on low grade ore and that the labor troubles arose because the workers, having signed a contract which does not expire until next March, made a demand last fall for an increase in wages and other changes which the Company could not grant because to do so would require the owners of the mines to take money out of their pockets to meet what he calls excessive demands. However, he says, the Company discussed the demands and conferred with the Governor of the State of Guanajuato. Without waiving their right to the carrying out of the contract during its life, he said they were willing to reach any proper agreement within the limits of the income from the operation of the property. But, he says, the labor leaders were unreasonable and ordered a strike which closed down the mines last fall. This put approximately 1200 men out of work.

Mr. Smith says he was accompanied to this city by Mr. MacDonald, who, after a conference with the Subsecretary of Gobernación, who expressed a desire to see an agreement reached, had arranged for an appointment to discuss the matter with the Labor Department. Mr. Smith said he would keep the Embassy informed as to the result of the conference and discuss the situation that might develop.

It seems from Mr. Smith's conversation that the reason he was substituted for Mr. MacDonald to bring the matter to the attention of the Embassy is that Mr. MacDonald is the responsible officer of the Company which has agreed under Mexican law to abide by decisions of the Mexican authorities and not call upon our Government, in line with the principle in the Calvo clause. Therefore, he, Mr. Smith, had come, not as a representative of the Company but as the representative of the Bondholders' Protective Committee. They hold a mortgage on all the property of the Guanajuato Reduction and Mines Company, and the bondholders are the same people who own the stock in the Company. "The bondholders could at any time carry out a foreclosure", he said. This situation shows that in essence, if not in law, the bondholders and the stockholders are one. If Mr. MacDonald asked the good offices of the Embassy, he would be violating his signed pledge not to call upon the Embassy but to submit to the ruling of the Mexican authorities. Since the stockholders and the bondholders are the same persons, I do not see how our Government could separate them or their obligations, but, of course, I did not indicate this opinion to Mr. Smith. I only requested him to report the continued status of the negotiations with the authorities.

If there is an impasse, steps will be taken to secure a report on the situation from the proper authorities as directed in the Department's

telegram No. 12, above mentioned. It is to be hoped that, in view of the unemployment of so many miners, and the consequent distress to the city, as well as to the end of securing just treatment of the Company, the Government will find a way of approachment by which the mines may be reopened. The Embassy will seek to lend its good offices in some proper way to that end when and if it becomes necessary.

Respectfully yours,

JOSEPHUS DANIELS

812.504/1544

The Secretary of State to the Chargé in Mexico (Norweb)

No. 1021

WASHINGTON, February 19, 1936.

SIR: I have received the Embassy's despatch No. 3260 of February 4, 1936, wherein it is stated that Mr. Henry P. Smith, representative of the Bondholders' Protective Committee of the Guanajuato Reduction and Mines Company, an American-owned concern, called at the Embassy February 3, 1936, in relation to the labor troubles the company is experiencing and advised that Mr. MacDonald, in charge of the company's operations, had arranged to discuss the existing situation with the Mexican Labor Department. The Embassy expresses the hope that the negotiations will result in the reopening of the company's mines and states that it would seek to lend its good offices to that end, if and when it becomes necessary.

Respecting the statement that Mr. MacDonald, as the responsible officer of the company, had heretofore agreed with the Mexican Government to abide by decisions of Mexican authorities and not call upon the Government of the United States to intervene on behalf of the company, I remind the Embassy that this Government has uniformly held that an American citizen cannot, by entering into an agreement of this sort, divest his Government of its right to extend to him its protection abroad. While maintaining this position, the United States could not consistently decline in a proper case to exercise the right in question. It should perhaps be borne in mind in this relation that an agreement of the nature mentioned is presumably in effect extorted from interested American citizens, at least in many cases, the alternative confronting them being the threatened expropriation of property rights theretofore obtained in accordance with the laws of Mexico.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

ATTITUDE OF THE GOVERNMENT OF THE UNITED STATES WITH
RESPECT TO THE RELIGIOUS SITUATION IN MEXICO¹⁸

812.404/1857a : Telegram

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

WASHINGTON, March 19, 1936—7 p. m.

54. *New York Times* and others newspapers this morning report under Mexico City date line that (1) under recent decrees by Governors of Colima, Campeche, Oaxaca, Nuevo Leon, Sonora, Sinaloa and Guerrero at least 3000 churches may soon reopen (2) Ministry of Interior will not interfere with this action of Governors (3) no church property already taken over for public purposes will be restored to religious use.

One press report states Federal Government inspired this amelioration.

Please telegraph report of actual developments explaining their significance and stating whether there is any indication of further important developments in religious situation.

PHILLIPS

812.404/1858 : Telegram

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

MEXICO, March 20, 1936—5 p. m.

[Received 10:25 p. m.]

53. Department's telegram No. 54, March 19, 7 p. m. Article based on oral statement made by Minister of Gobernación at his press conference March 17, when in reply to a question he said that the Federal Government had no objection to the reopening of churches not now used, or intended, for schools or Government offices. Some correspondents, following the lead of a highly imaginative and pro-Catholic colleague, sent in "news stories" elaborated on this simple statement without any attempt to verify them.

Discreet inquiries from high church officials indicate no change in Government policy and no knowledge of reported decrees reopening churches.

Waiver of responsibility by Minister of Gobernación for the closing of the churches is consistent with Foreign Minister's often repeated declarations that the reopening of the churches is a state matter over which the Federal Government exercises no control.

DANIELS

¹⁸ Continued from *Foreign Relations*, 1935, vol. iv, pp. 782-806.

812.404/1862 : Telegram

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

WASHINGTON, March 28, 1936—noon.

56. Report briefly and promptly by telegraph and in detail by air-mail all developments tending to indicate relaxation in religious situation.

HULL

812.404/1862 : Telegram

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

MEXICO, March 28, 1936—6 p. m.

[Received 8:50 p. m.]

56. Recently, it has been published that by act of State authorities some Catholic churches have been opened in Colima, Campeche, Oaxaca, Nuevo Leon, Sonora, Sinaloa, and Guerrero. See despatch 3410, March 25 [26].⁷⁴ Consul at Guaymas thinks outlook in Sonora bright for the opening of churches. Today's papers state that in Queretaro churches were turned over to boards approved by the municipal president to care for them. The report added "there was much rejoicing by the people". These are evidences of the spirit of moderation which is indicative of the policy of President Cárdenas as I communicated to the President and to the Department in December.⁷⁵

Yesterday in a conference with President Cárdenas, the first I have had since December, I told him that when I was home I told President Roosevelt that he, President Cárdenas, had stated to me that there would be no persecutions and that I had doubtless observed in my trips through the country a moderating tendency. I also told him that this information had been gratifying to the President. He was careful to say that the policy was in keeping with his purpose when he assumed office. He emphasized that there was no new policy only the carrying out of his original plans. He indicated that local situations would determine the action to be taken in each state. He has made no public statement other than his addresses which have been forwarded in despatches and I do not think he will give out any statement regarding recent developments. He emphasized the overwhelming importance of the economic question. My opinion is that his known moderate policy and opposition to persecution is responsible for the action of the states even though he may not have inspired their action. Fuller particulars by air mail.⁷⁶

DANIELS

⁷⁴ Not printed.⁷⁵ Telegram of December 9, 1935, 8 a. m., from the Ambassador in Mexico, *Foreign Relations*, 1935, vol. iv, p. 806.⁷⁶ Despatch No. 3416, March 28, not printed.

812.404/1888

The Secretary of State to Representative John J. Cochran

WASHINGTON, May 25, 1936.

MY DEAR MR. COCHRAN: I have received your letter of May twenty-first," enclosing a copy of a resolution, forwarded to you by Mr. A. W. Powers, 3547 Olive Street, St. Louis, Missouri, which was adopted May 15, 1936, by the Missouri State Council of the Knights of Columbus.

Notwithstanding the altogether definite policies and views entertained in this country on the subject mentioned, I know you are aware that as other nations are recognized as being entitled to regulate for themselves their internal religious conditions in such manner as they may deem proper, our Government is without authority to determine or affect the situation in Mexico. Any attempted exercise of such authority would represent an act of intervention not warranted by the principles of international law. You are doubtless familiar with the recent utterances of the President respecting the matter of religious intolerance.

Sincerely yours,

CORDELL HULL

812.404/1904

The Secretary of State to Senator Henry W. Keyes

WASHINGTON, August 4, 1936.

MY DEAR SENATOR KEYES: I have received your letter of July 27, 1936," enclosing a copy of a resolution recently adopted at Concord by the New Hampshire State Council, Knights of Columbus, regarding the religious situation in Mexico.

There is, I feel, no need to assure your correspondents that the actual grant of religious liberty in every country of the world is not only the wish of President Roosevelt, but with him, as with his predecessors, has been a definite, publicly stated, and traditional policy of our Government.

Nevertheless, it should also be borne in mind that in the same degree that we would refuse to permit any interference by foreigners in our own domestic concerns, it is not appropriate or proper that we should seek to determine or influence the circumstances of domestic problems in a foreign country by taking any official action with relation thereto, however peaceable, friendly or well intentioned.

In this connection, I would call your correspondents' attention to Article 8 of the multilateral Convention signed at Montevideo on

" Not printed.

December 26, 1933,⁷⁹ our ratification of which was proclaimed by the President on January 18, 1935. That Article reads: "No state has the right to intervene in the internal or external affairs of another," and is in force as between the United States and Mexico.

It will therefore be clear that there are certain limits binding every government in its proper relations to other governments, to exceed which would defeat the very purposes sought. I can assure you that within those limits the President has championed, and will continue to champion, the principles of the freedom of worship and education for all nationals in every country of the world.

Sincerely yours,

CORDELL HULL

812.404/1922

The Secretary of State to Mr. K. E. Blomquist

WASHINGTON, September 30, 1936.

SIR: In reply to your letter of September 20, 1936,⁸⁰ received by reference from The Washington Information Bureau, you are advised that the Department has received no report or other information indicating that any American citizen has been killed in Mexico during the past four years for any reason connected with the religious situation in that country.

Very truly yours,

For the Secretary of State:

EDWARD L. REED

Chief, Division of Mexican Affairs

812.404/1927

The Assistant Secretary of State (Moore) to Mr. Joseph W. Murphy

WASHINGTON, October 23, 1936.

DEAR MR. MURPHY: Mr. W. Forbes Morgan, Treasurer of the Democratic National Committee, has referred to me your request for a statement on the religious question in Mexico.

The public exercise of religious practices in Mexico is governed by the pertinent constitutional and legislative provisions of that country. By reason of the enforcement of these provisions, it is a matter of common knowledge that, while in some of the Mexican States there are facilities for Divine worship available to the inhabitants thereof, in others, where churches have been closed by the State authorities or where, even though the churches remain open, ministers of religion

⁷⁹ Convention on Rights and Duties of States, Signed at Montevideo, December 26, 1933, *Foreign Relations*, 1933, vol. iv, p. 214.

⁸⁰ Not printed.

are not allowed to function or are not functioning due to the imposition of regulations with which they feel they cannot comply consistently with the rules of their respective church organizations, facilities for public religious worship under the local laws are either non-existent or are strictly limited. However, the information before the Department does not indicate that in any of the Mexican States is there discrimination against citizens of the United States in the application of the laws and regulations pertaining to the exercise of religious worship, such laws being of general application.

In this connection, it may be said that the right of United States citizens resident or traveling in foreign countries to worship freely, to conduct services within their houses, or within appropriate buildings maintained for that purpose, is desired by this Government. There has been brought to the attention of this Government during the past three years only one complaint by any United States citizen that such opportunities in Mexico have been refused him.

In respect to the rights enjoyed by Mexican citizens living in Mexico, it has been the policy of this Administration to refrain from intervening in such direct concerns of the Mexican Government. That policy of non-intervention this Government will continue to pursue.

While this Government does not assume to undertake any accurate determination of what the facts in such domestic concerns of other governments may be, this policy of non-intervention, however, can in no sense be construed as indifference on our part. President Roosevelt stated publicly in San Diego, California, on October 2, 1935:⁸¹

"Our national determination to keep free of foreign wars and foreign entanglements cannot prevent us from feeling deep concern when ideals and principles that we have cherished are challenged. In the United States we regard it as axiomatic that every person shall enjoy the free exercise of his religion according to the dictates of his conscience. Our flag for a century and a half has been the symbol of the principles of liberty of conscience, of religious freedom and equality before the law; and these concepts are deeply ingrained in our national character.

"It is true that other nations may, as they do, enforce contrary rules of conscience and conduct. It is true that policies that may be pursued under flags other than our own are beyond our jurisdiction. Yet in our inner individual lives we can never be indifferent, and we assert for ourselves complete freedom to embrace, to profess and to observe the principles for which our flag has so long been the lofty symbol. As it was so well said by James Madison, 'We hold it for a fundamental and inalienable truth that religion and the manner of discharging it can be directed only by reason and conviction, not by force or violence.'"

⁸¹ Department of State, *Press Releases*, October 12, 1935, pp. 261, 265.

In a letter addressed to the Supreme Knight, Knights of Columbus, about a year ago, President Roosevelt also said :

“You and I abhor equally, I trust, religious intolerance, whether at home or abroad. For my own part, however, I decline to permit this Government to undertake a policy of interference in the domestic concerns of foreign governments and thereby jeopardize the maintenance of peaceful conditions.”

Although, as previously stated, it is not the policy of our Government to interfere directly or indirectly in what it considers to be the domestic concerns of a foreign Government, this Department has observed and will continue to observe, with the most sympathetic and lively interest for all those who may be affected thereby, developments in the religious situations in countries where the freedom of religious worship is hampered by official intolerance or governmental restrictions.

It has been gratifying to note that in recent months there has been an apparent tendency to relax the restrictions on public worship in several of the Mexican states, where additional churches have been permitted to reopen and a larger number of ministers have been allowed to exercise their functions.

Sincerely yours,

R. WALTON MOORE

[See also despatch No. 4002 of October 9, 1936, from the Ambassador in Mexico, page 715, and memorandum of December 15, 1936, by the Counselor of Embassy in Mexico, page 710.]

ATTITUDE OF THE UNITED STATES TOWARD THE ADMISSION INTO
THE UNITED STATES OF MEXICAN NATIONALS EXPELLED BY
MEXICO

812.00/30392 : Telegram

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

MEXICO, August 11, 1936—noon.

[Received 3:10 p.m.]

141. General Nicolas Rodriquez head of the Gold Shirt Movement in Mexico was arrested last night by the President's orders and sent under escort by airplane to Ciudad Juarez this morning, due to arrive about noon. The purpose of the arrest was to expel him from the country and we understand that he will be placed at the border at Ciudad Juarez for the purpose of entering the United States as soon as possible as being politically undesirable in Mexico.

The Mexican military authorities have expressed the hope informally to the Military Attaché that our authorities will allow him to enter the United States immediately. I recommend that this be done.

DANIELS

812.00/30393 : Telegram

The Vice Consul at Ciudad Juarez (Scherer) to the Secretary of State

CIUDAD JUAREZ, August 11, 1936—8 p.m.

[Received August 12—12:49 a.m.]

Referring to the Embassy's telegram August 11, noon. Nicolas Rodriguez landed at Ciudad Juarez 5 p.m., was accompanied by General Juan Felipe Rico, garrison commander, to International Bridge, was admitted by American immigration authorities 6 o'clock. Probably will spend night in El Paso. No demonstrations. Embassy informed.

SCHERER

812.00/30392

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

No. 1188

WASHINGTON, August 15, 1936.

SIR: Reference is made to your telegram No. 141 of August 11, 1936, regarding the arrest of General Nicolas Rodriguez and his involuntary expulsion from Mexico "as being politically undesirable" in that country. Your telegram stated that the Mexican military authorities expressed informally to your Military Attaché the hope that General Rodriguez might be admitted immediately into the United States, and you recommended that this be done.

A telegram dated August 11, 8 p.m., has been received from the Vice Consul in charge at Ciudad Juarez reporting the admission into the United States of General Rodriguez and it is inferred from the Vice Consul's reference to a telegram addressed to him by the Embassy that he may have received instructions from the Embassy in the matter. It is desired that you furnish the Department a copy of any such instructions, in order to complete its record of the case.

As you are undoubtedly aware, it is the traditional policy of the Government of the United States to grant refuge in its territory to persons whose lives are believed to be in jeopardy as a result of their political activities in a foreign country. Such persons applying for admission to the United States as so-called political refugees are customarily admitted for a reasonable period under a liberal interpretation of the immigration laws, provided they can establish to

the satisfaction of the competent authorities that their personal safety is actually threatened and that the offenses in which they may have been involved are not such as would render them inadmissible under the law. There would appear, however, to be a marked distinction between persons who thus voluntarily seek refuge in the United States from political persecution in their own country and those who are forced to proceed to the United States under compulsion exercised by the authorities of their Government. In the case of Mexican citizens expelled in this manner, the situation seems to be further complicated by the inhibition contained in Article 5 of the Mexican Constitution, which provides: "No person can legally agree to his own proscription or exile . . ."

The Department views with some uneasiness an apparent tendency on the part of the Mexican authorities, as exemplified in the case of former President Calles and possibly in the instant case, to impose upon this country certain Mexican citizens, whose presence in Mexico is considered undesirable because of their alleged political activities, and at the same time to expect the Government of the United States to adopt measures to prevent these persons while in the United States from engaging in activities directed against the Government of Mexico. The illogicality of such a position is believed to be obvious. The Government of the United States is fully sensible of its humanitarian duties and of its international obligations toward a friendly foreign government, such as is Mexico, but it would nevertheless be reluctant to extend its hospitality without limit to such persons as the Mexican Government may deem it desirable to thrust upon American territory and assume the burden of responsibility entailed by the adoption of special measures to prevent such persons from engaging in acts against the stability of the Mexican Government which might be in violation of the laws of the United States.

It is not intended that you should communicate any of the foregoing observations to the Mexican Government, but it is desired that you be guided by them in any future recommendations you may make to the Department in connection with cases similar to those referred to in this instruction.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

CONVENTION BETWEEN THE UNITED STATES AND MEXICO FOR
THE RECOVERY AND RETURN OF STOLEN OR EMBEZZLED MOTOR
VEHICLES, TRAILERS, AIRPLANES OR COMPONENT PARTS OF ANY
OF THEM, SIGNED OCTOBER 6, 1936

[For text of the convention, signed at Mexico City, see Department
of State Treaty Series No. 914, or 50 Stat. 1933.]

CONVENTION BETWEEN THE UNITED STATES AND MEXICO PRO-
VIDING FOR THE PROTECTION OF MIGRATORY BIRDS AND GAME
MAMMALS, SIGNED FEBRUARY 7, 1936

[For text of treaty, signed at Mexico City, see Department of State
Treaty Series No. 912, or 50 Stat. 1311.]

NICARAGUA

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA, SIGNED MARCH 11, 1936¹

611.1731/145 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, January 6, 1936—10 a. m.
[Received 12:45 p. m.]

3. Although I understood from my recent conversations in the Department that an instruction regarding trade agreement in reply to my despatch No. 1081 of October 3rd² was on its way, no communication has been received. The Minister of Hacienda³ gives the absence of reply as an excuse for having made no progress since the conversation referred to (September 25th), although obviously the real reason is local inertia.

As the President promises me that he will do everything possible to conclude the agreement within a month, I recommend that the Department furnish me by telegraph with its observations in reply to Castro's inquiries as transmitted in my despatch under reference.

LANE

611.1731/145 : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, January 10, 1936—noon.

2. Your telegram No. 3, January 6, 10 a. m. You may inform the Nicaraguan Government as follows regarding the points raised in your despatch No. 1081 of October 3:

1. A matter for the Nicaraguan Government to decide.
2. Noted; no reply seems necessary.
3. The exception in favor of coconut oil was inserted solely to take account of differential in United States internal tax on such oil in favor of Philippines. Since this is also covered by language of fourth paragraph of Article XIV, you can omit last sentence of Article IV.

¹ For previous correspondence see *Foreign Relations*, 1935, vol. iv, pp. 814 ff.

² *Foreign Relations*, 1935, vol. iv, p. 836.

³ Francisco Castro.

4. Dr. Castro might also consult Section 522 of the Tariff Act of 1930.⁴

5. Last paragraph of Article VI can be omitted altogether (since presumably covered by second paragraph) or altered to avoid reference to specific laws of either country.

6. Last paragraph of Article VII does not pertain to importation of sugar into the United States since import licenses or permits are not required therefor.

7. With regard to foreign exchange control, you may point out that this Government is not asking for arbitrary exchange treatment but merely desires assurance that it will receive a fair share of available exchange, such share to be no less than the share employed during a previous representative period. Consult in this connection the Department's instruction No. 282 of June 27, 1935.⁵ The distinction between this Government's attitude toward allocation of foreign exchange and the bilateral system based on importations (apparently espoused by Dr. Castro) is of course clear-cut and fundamental, and no compromise in principle will be possible. The Department hopes however that a fuller explanation of our policy will enable Nicaragua to accept the principle embodied in Article IX.

HULL

611.1731/145b

The Secretary of State to the Minister in Nicaragua (Lane)

No. 390

WASHINGTON, January 22, 1936.

SIR: I am transmitting herewith, for your information, a copy of the general provisions⁶ and of Schedule I in draft form⁷ which the Department has furnished the Nicaraguan Legation in Washington in compliance with a request recently made by the Chargé d'Affaires.

You will notice that several small changes have been made in the attached draft of the general provisions. The last sentence of Article IV has been omitted. Consult in this connection point three in the Department's telegram No. 2, January 10, 1936, noon. In Article VI, the exception formerly numbered 2(a) (1) has been omitted and the remaining exceptions renumbered. This change has been made since no prohibitions or restrictions figure in the agreement in its present form. The phrase "that may take place" which occurs in the last line of Article XIV has been deleted in the interest of greater clarity.

⁴ Approved June 17, 1930, 46 Stat. 590, 739.

⁵ *Foreign Relations*, 1935, vol. IV, p. 819.

⁶ Not printed. This draft is very similar to the Standard General Provisions for Trade Agreements printed in *Foreign Relations*, 1935, vol. I, p. 541.

⁷ Not printed. Schedule I is a list of tariff concessions to be made by Nicaragua on articles imported from the United States.

The enclosed draft of the general provisions should be considered by the Legation as superseding the draft transmitted with the Department's instruction No. 292 of July 16, 1935,⁸ although the Department realizes that further changes in text may be necessary as a result of the conversations now in progress with officials of the Nicaraguan Government.

The enclosed draft Schedule I has not heretofore been compiled, since at the time your instructions to negotiate the agreement were sent, the Department believed it unnecessary to spend the time to do so when it was understood that you would be able to carry on direct personal negotiations. The Department believes, however, that it will be a good plan to present the enclosed Schedule at this time to the Nicaraguan Government and you are authorized in your discretion to do so. It is believed that the attached Schedule I in its present form is self-explanatory if considered together with the material supplied you in the Department's instruction No. 305 of August 3, 1935,⁹ but the Department will be glad to clear up any doubtful points. In presenting this Schedule to the Nicaraguan Government, please make it clear that it is tentative and subject to change in its present form.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

611.1731/146 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, January 25, 1936—noon.
[Received 4: 38 p.m.]

6. Department's telegram No. 2, January 10, noon. Nicaraguan Government (Minister of Hacienda and Doctor Federico Sacasa¹⁰) yesterday informally presented counter draft of Spanish text of general provisions. While the language is changed throughout to render Spanish text more idiomatic, the sense is the same except as follows:

1. In the last line, respectively, of articles 1 and 2 Nicaragua proposes that the words "of the signature of this agreement" be substituted by "on which this agreement enters into effect".

2. Nicaragua prefers to have second sentence of article 4 omitted.

3. Nicaragua proposes omission of clause "and of converting currencies" in article 5.

4. In article 6 under paragraph 2 (a) Nicaragua proposes insertion of the following after "of this agreement": "(2) related to public

⁸ *Foreign Relations*, 1935, vol. iv, p. 822.

⁹ *Ibid.*, p. 824.

¹⁰ Brother of President Sacasa.

safety" (Thus the provisions under 2 (a) now numbered from 2 to 5, would be numbered from 3 to 6, respectively.)

5. In article 6 under 3 (b) Nicaragua proposes that the following be inserted after "the labor costs of production of such articles": "; and those which arise from the measures of the Nicaraguan Exchange Control Commission for the purpose of maintaining the equilibrium of the balance of international payments".

6. Paragraph 3 under article 6 may be retained as originally drafted.

7. Nicaragua proposes omission of following clause in article 7, paragraph 2: "unless the total quantity of such article permitted to be imported or sold, during a quota period of not less than 3 months, shall have been established, and".

8. In the second paragraph of article 9 Nicaragua proposes that "prior to the establishment" be substituted by "during the period of the operation".

9. Nicaragua proposes that the following sentence be added at the end of paragraph 1 of article 11: "Exceptions are also made with respect to legal provisions which Nicaragua may have to issue with respect to ports on its Atlantic coast because of special conditions in that region".

10. In article 13 Nicaragua proposes the following redraft of paragraph 1:

"In the event that, upon the importation into the United States or the Republic of Nicaragua of articles the growth, produce, or manufacture in the other country there are noted in the documentation errors which may be considered as clerical or whose good faith may be established there shall not be imposed penalties in excess of \$10 or the equivalent in cordobas the value of the latter necessarily to be taken into consideration".

11. Article 17 Nicaragua proposes (a) that treaty shall remain in effect for 6 years instead of for 3 years and (b) that following paragraph be inserted after paragraph 1 of article 17:

"In the event of the application of such stipulations of articles 6, 9 and 12 as relates to the reasons which may give ground for the abrogation of this agreement sugar shall not be affected as provided in Schedule 2 nor shall (here would follow the products chosen by the United States from Schedule 1 and agreed upon as a compensation for the United States of America) be affected since it is agreed that these reciprocal concessions shall continue in any event in effect during the full 6 years of this agreement".

Comment follows in subsequent telegram.

LANE

611.1731/147 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, January 25, 1936—3 p. m.

[Received 9:27 p. m.]

7. My 6, Jan. 25, noon. Our comments follow:

1. We have protested orally against proposed changes on the ground that it would give Nicaragua an unfair advantage in that the laws of Nicaragua could be changed between the date of signature of treaty and date of treaty's becoming effective. As I am told that Nicaragua proposes to pass new tariff bill (see paragraph 5 of letter of Collector General of Customs dated September 12, 1935 addressed to the Minister of Hacienda, a copy of which was transmitted with my despatch No. 1055, Sept. 19, 1935¹¹) to be used as basis of bargaining with other nations, Nicaragua considers that its position would be enhanced by this change. I recommended against proposed change unless understanding can be confirmed through exchange of notes that no increase in tariffs will be effected while negotiations are pending and until treaty goes into effect.

2. In view of paragraph number 3 of Department's telegram No. 2, I assume that omission may be made.

3. Castro says that proposed change is for purpose of simplifying computation of duties in event of change in official rate of exchange. We do not regard this as important.

4. We recommend that insertion be agreed to. Apparently it is for purpose of maintaining political tranquility.

5. Nicaraguan Exchange Control Commission in order to make its decisions effective must issue permits to allow importation of merchandise with respect to which foreign exchange is to be allotted. Vita¹² states that he does not regard proposed change as fundamental (see paragraph 8).

6. No comment necessary.

7. Nicaraguan Government says its statistics will not enable it to fulfill such an obligation (see comments Nos. 5 and 8).

8. We objected strongly to this on the ground that it is impossible to find a truly representative period subsequent to the establishment of Exchange Control Commission in view of the Commission having exerted arbitrary control over importations. (Vita says our point of view is reasonable and just.) As I regard this point as fundamental, I recommend that the Department insist on acceptance of our draft of this article.

9. Because of lack of transportation facilities with central and western portions of Nicaragua, Atlantic coast ports enjoy more favorable customs treatment than is case on Pacific coast, so as to encourage importations from Costa Rica and elsewhere. American citizens in Bluefields and Puerto Cabezas would probably be largely benefited by proposed insertion. Recommend acceptance.

10. Nicaraguan contention is that "nominal" has not same meaning in Spanish as in English, hence, it is necessary to be more specific. This point seems unimportant.

¹¹ Not printed.

¹² Presumably Vicente Vita, manager of the National Bank of Nicaragua.

11. (a) Question of policy—hence, no comment.

(b) It is apparent that Nicaragua will request reduction in duty on sugar and that she wishes to be assured that possible sugar market in the United States would not be suddenly closed to her.

As Congress reconvenes January 28, I should appreciate it if the Department would telegraph me its views and instructions on foregoing. Revised Spanish text as submitted by Nicaragua being sent by air mail Monday.

LANE

611. 1731/148 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, January 28, 1936—noon.
[Received 2 p.m.]

8. Department's instruction No. 390, January 22. Although first paragraph indicates that Schedule 1 has been furnished to Nicaraguan Government (through Legation in Washington) I note that I am authorized in my discretion to present Schedule to Nicaraguan Government. I have until now consistently declined to furnish Nicaraguan Government with copy of Schedule 1 on the ground that I prefer to take up articles seriatim, particularly as Nicaraguan Government has not furnished us with Schedule 2 (see my despatch No. 970 of August 10, 1935,¹³ particularly last paragraph regarding wheat flour). I should prefer not to furnish Schedule 1 at this moment, as I fear that by so doing we would jeopardize our bargaining position. If, however, Nicaraguan Chargé d'Affaires has received copy, there would seem to be no reason for my withholding copy from Minister of Hacienda. Please telegraph.

LANE

611.1731/148 : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, January 31, 1936—7 p. m.

5. Your No. 8, January 28, noon. The Department does not consider that its having furnished the Nicaraguan Chargé d'Affaires for his own information and at his repeated request a copy of Schedule I should have any effect on your conduct of the negotiations. Since direct conversations have now been delayed in starting almost 6 months, the Department perceives no particular reason for delaying longer the presentation in writing of our desiderata. This procedure was followed in each of the other Central American Republics and

¹³ *Foreign Relations*, 1935, vol. iv, p. 828.

was only omitted at the outset in the case of Nicaragua because of the Department's desire not to delay the opening of direct conversations.

HULL

611.1731/147: Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, February 7, 1936—2 p. m.

6. Your telegrams Nos. 6 and 7 of January 25, noon, and January 25, 3 p. m., respectively.

1. We agree with you that the proposed change is undesirable.

2. No comment necessary.

3. We prefer to retain clause cited, which merely establishes certain customs administrative requirements. Monetary or exchange policy is not within its scope.

4. Insertion agreed to but prefer "security" in place of "safety".

5. There seems to be a confusion of ideas on this point. The proposed insertion would enable Nicaragua to impose a quota on any product in Schedule I as a substitute for regulation of imports by means of exchange control; hence it would tend to render the article valueless as a protection against quotas. Article IX does not require the abolition nor even the liberalization of exchange control; it provides only that the control be administered in a non-discriminatory manner.

6. No comment necessary.

7. Omission proposed would practically nullify the intent of this paragraph which is designed to cover cases where a country, by means of import licenses or permits restricts importations without announcing amount of global or country quotas. The 3-month minimum period is provided for to prevent abuses such as clandestine discrimination and failure to allow adequate time for the despatch of shipments. Nicaragua's objection would seem to be irrelevant.

8. The Department agrees with your recommendation.

9. The Department is studying this situation and recommends that the Legation assemble data on which a decision can later be based.

10. The Spanish translation proposed by the Department is included in the Honduran agreement, hence the Department does not see why the English text cannot be more closely adhered to. It is difficult to specify limits for such fines since they often vary in accordance with the value of the shipment.

11a. The Trade Agreements Act¹⁴ provides that all agreements concluded pursuant to it must be subject to termination at the end of not

¹⁴ Approved June 12, 1934; 48 Stat. 943.

more than 3 years from the date on which such agreements come into force.

11b. The proposed addition seems undesirable, but the Department will be glad to receive further information from Nicaragua as to the value it attaches to the proposed provision.

What is present Nicaraguan attitude toward a concession on sugar in the trade agreement?

HULL

611.1731/152 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 19, 1936—11 a. m.

[Received 3:10 p. m.]

28. Department's telegram No. 6, February 7, 3 [2] p. m. Negotiations temporarily suspended by local crisis were resumed yesterday.

We hope to reach definite decision on points 1, 3, 7, 10 and 11 of Department's telegram at meeting this afternoon.

Nicaraguan negotiators are in agreement with us on points 2, 4, 5 and 6.

Point 8. In paragraph 2 of article 9 Nicaragua proposes that final clause commencing with "prior to the" and ending with "of such other country" be substituted by words "mutually acceptable" and that following additional sentence be inserted thereafter as second sentence of paragraph 2 of article 9: "In determining this share, there shall be taken into consideration the provisions regarding exchange control, for the purpose of maintaining balance of payments." In view of last clause of paragraph 1 of article 9 it would seem that concession on our part would not unfavorably affect principle involved. Because of Nicaragua's having shown good will in ceding on points 5 and 7 I trust that Department will feel it can telegraph approval of suggested change.

Point 9. Minister of Hacienda informs us that imports of flour and beans reaching Nicaragua through east coast ports enjoy a reduction of one surcharge of 12½% (see my despatch No. 1281 of February 15¹⁵ transmitting copy of letter from Vice Consul at Puerto Cabezas). On the other hand a special tax of 50 centavos a quintal on sugar imports and one of 10 centavos a pound on tobacco imports are levied in the east coast district for expenditure there in street paving.

In reply to the last sentence of Department's telegram 6, Minister of Hacienda states that Nicaragua desires to be assured of an annual

¹⁵ Not printed.

minimum quota on sugar of 20,000,000 pounds and reduction of duty on sugar so that duty on Nicaraguan sugar would be 20% greater than that paid on Cuban sugar.

LANE

611.1731/154 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 19, 1936—9 p. m.

[Received February 20—1:06 a. m.]

29. Department's telegram No. 6, and my No. 28. Here follow comments on points 1, 3, 7, 10 and 11.

Paragraph 1. Nicaragua is prepared to exchange notes in sense proposed in paragraph 1 of my telegraph No. 7. Expressed reason for qualified acceptance of our draft of articles 1 and 2 is that Nicaragua must give 30 or 90 days notice of denunciation of *modus vivendi* and that proposed new tariff which would not affect products listed in Schedule 1 would be protested by other powers. As the Department has not definitely rejected proposal regarding exchange of notes I should appreciate instructions on this point.

Paragraph 3. Nicaragua agrees to withdraw proposed omission of clause "and of converting currencies" in article 5 provided following sentence is inserted at the end of article: "These bases and methods shall not refer to changeable provisions which relate to the official establishment of the rate of exchange for the conversion of currencies". Nicaraguan negotiators claim that without this insertion Nicaraguan Government would be imperilled by possible and probable devaluation of cordoba.

Paragraph 7. Nicaragua accepts article 7 provided we answer affirmatively note which Minister for Foreign Affairs would address to me in translation as follows:

"In accordance with our conversation regarding article 7 of the Trade Agreement, I should be grateful if Your Excellency would be kind enough to address me a communication explaining that the determination of the total quantity of the article the sale or importation of which may be permitted during a period of not less than 3 months shall not be interpreted in a rigorously exact manner but within the possibilities and the disposal of our commission for the control of exchange operations. ["]"

Paragraph 10. Nicaraguan negotiators state that if our draft of article 13 is accepted law will have to be passed fixing fines. As Nicaraguan redraft takes into consideration the value of the shipment (see article No. 10 of Department's telegram 6) we request further instructions.

Paragraph 11. (a) Nicaragua withdrew its proposal. (b) Nicaraguan point of view was given us substantially as follows: The production of sugar is one of the most important industries in Nicaragua, from standpoint of both capital and labor. A concession in reduction of duty would be of no account unless benefit were continued for a fixed period, as it would be impracticable to invest extensively here in the planting and cultivation of sugar cane unless a market in the United States can be assured for a sufficient period of years. Sugar production has suffered in Nicaragua because of impossibility of competing in the United States under Nicaragua's duties with other sugars. Nicaragua consequently attaches the greatest importance in, (1), assuring quota (see my 28); (2), obtaining reduction in duty (see 28), and (3), assuring market in the United States over fixed period of years.

LANE

611.1731/153 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 19, 1936—10 p. m.

[Received February 20—12: 14 a. m.]

30. 1. Provided that the Department does not consider unreasonable the counter-proposals of Nicaragua, I believe that there is a possibility of our concluding treaty prior to my departure March 5th.

2. As the arrival of a new representative gives excuse to the Nicaraguan Government to negotiate *de novo*, I suggest advisability of endeavoring to conclude agreement as soon as possible particularly in view of this uncertainty of the political situation here. (At the moment the Government appears to have control of Congress.)

If the Department concurs in the foregoing I respectfully request that (a) full powers be sent me by air mail and (b) Department's telegraphic instructions regarding negotiations be expedited.

LANE

611.1731/154 : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, February 21, 1936—7 p. m.

13. Your 28 and 29 February 19.

Point 1. Do Nicaraguan negotiators understand that the duties or charges to which the second sentence of articles 1 and 2 relate are not ordinary customs duties. They relate only to duties and charges other than ordinary customs duties. Hence Department unable to understand how proposed change would affect Nicaragua's

bargaining position vis-à-vis other countries. In this connection Department hopes that Nicaragua will not make signing of agreement with us the occasion for denouncing agreements with other countries. Instruction on this point will follow by air.

Point 3. Article 5 as drafted would not embarrass Nicaraguan Government in event of devaluation. Devaluation of the dollar did not affect the bases and methods of converting foreign currencies. Treasury Department continued as before to follow provisions of section 522 Tariff Act of 1930.

Point 7. Article 7 as drafted does not provide for any specified quantity of importations as the Nicaraguan negotiators appear to believe. The total quantity permitted to be imported could be fixed at any figure. Possibly Nicaraguan negotiators are confusing exchange permits with the import permits envisaged in this article. If imports are controlled by means of permits, we want to know definitely the total quantity permitted to be imported during a period of at least 3 months. Proposed change unacceptable.

Point 8. "Fair and equitable share" does not refer to an absolute amount of exchange as Nicaraguan negotiators may have thought. It provides merely that the proportion of whatever total amount of exchange is made available for commercial transactions which is represented by the allotment to the United States shall not be less than the proportion of the total exchange for commercial purposes employed in a previous representative period for the settlement of commercial obligations to the United States. Our purpose is to prevent arbitrary discrimination either as between the United States and other countries in respect of the total allotments to individual countries or as between different commodities. Our definition accomplishes this purpose. Proposed changes would leave the way open for possible discriminations; hence they are not acceptable. Suggest translating "share" as "porción" instead of "cuota".

Point 9. Instruction in regard to this point will follow by air.

Point 10. Paragraph 10 your number 6 apparently garbled. Fixed percentage of dutiable value or amount of duties or fixed maximum amount in dollars or cordobas would not be in harmony with our law and would not ensure that penalties would be nominal in all cases. Ascertain why acceptance of our draft would make new legislation necessary in Nicaragua.

HULL

611.1731/154 Suppl. : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, February 22, 1936—8 p. m.

14. Department's 13, February 21. Your telephone conversation ¹⁶ with Duggan ¹⁷ this morning, Department genuinely sympathetic with Nicaragua's difficult economic situation due in part to commercial policies of other countries. Proposed trade agreement designed to help Nicaragua; not to make situation more difficult.

Main purpose of general provisions including those about which questions have arisen is to safeguard the concessions exchanged. Proposed provisions are standard and identical with or closely similar to those in agreements with Honduras ¹⁸ and other countries and to those presented to other Central American countries ¹⁹ with which negotiations are in progress.

Point 1. It is not sufficient to obtain reductions or bindings of ordinary customs duties. It is necessary to freeze all other charges on importation as of day of signature of agreement except as required under mandatory laws in force on day of signature of agreement. Otherwise concessions in respect of ordinary customs duties might be impaired or nullified between day of signature and effective date by increases in such other charges. If answer to question under point 1 Department's 13 is yes, Department does not see how article 1 as drafted would in any way prevent Nicaragua from pursuing any policy it may see fit with respect to other countries. As drafted it safeguards concessions to be exchanged between United States and Nicaragua. Proposed change would destroy this safeguard, hence it is unacceptable.

Point 3. Purpose of article 5 is to safeguard concessions exchanged on scheduled products subject to ad valorem rates. As drafted it would prevent changes in bases and methods of determining dutiable value or of converting currencies which would result in increased customs charges paid by importers and hence would impair or nullify concessions. It has nothing to do with gold value of the national currency or with official or bootleg selling rates for foreign exchange. Proposed change would leave way clear for arbitrary changes which would impair concessions, hence unacceptable. Inform Department

¹⁶ Memorandum of conversation not printed.

¹⁷ Laurence Duggan, Chief of the Division of Latin American Affairs.

¹⁸ Signed December 18, 1935; for text, see Department of State Executive Agreement Series No. 86, or 49 Stat. 3851; for correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 729 ff.

¹⁹ Agreement with Costa Rica signed November 28, 1936; for text, see Executive Agreement Series No. 12, or 50 Stat. 1532; for correspondence see *ante*, pp. 373 ff.

Agreement with Guatemala signed April 24, 1936; for text, see Executive Agreement Series No. 92, or 49 Stat. 3989; for correspondence, see *ante*, pp. 584 ff.

as to present Nicaraguan law and regulations governing conversion of currencies comparable to section 522 Tariff Act 1930 and inquire what specific objections Nicaraguan negotiators have to provision as drafted.

Point 7. Purpose of this paragraph of article 7 is to safeguard interests of exporters in either country in event the other country should regulate quantitatively amount of imports by means of licenses or permits. It is not aimed at any existing practice in either country but is a safeguard against contingencies. It has nothing to do with exchange control in respect of payment for imported goods and does not involve any statistical difficulties. If either country should regulate by means of permits or licenses the quantity of goods permitted to be imported the paragraph provides merely that the total quantity permitted to be imported during a period of at least 3 months shall be made public; for example, that so many barrels of flour may be imported into the country between April 1 and June 30. Department and governments of other countries with which agreements have been signed regard this safeguard desirable and reasonable.

Point 8. Article 9 designed to safeguard concessions exchanged by insuring fair and equitable treatment in respect of exchange made available for payment for goods imported. Our main purpose is to define "fair and equitable share" in such a way as to prevent the use of such a criterion as the bilateral balance of trade in the interpretation of the quoted words. An allotment of exchange for commercial purposes based upon the proportion of the total exchange required for commercial obligations to all countries in a period prior to the imposition of exchange control which was used to settle commercial obligations to the other country is regarded as a fair and equitable allotment. Proposed changes would make possible an allotment less than that based upon the definition in article as drafted and hence would leave way open for impairment of benefits expected to result from agreement.

For your information Department does not believe that the question of possible discrimination as between commodities is as important as the possibility of discrimination in respect of the total exchange allotments to individual countries. Article as drafted would prevent exchange being denied for importations of principal items supplied by the United States and given to other countries in payment for different items supplied by those countries. If principal items from the United States were discriminated against but the total allotment of exchange held open for the United States was an amount based upon the formula in the article as drafted, there may be some question whether article 9 would provide a definite basis for protest. However, if such a case should be found to be inadequately covered by article 9 we could invoke the provisions of the general safeguard

article. We hope that this rather complicated aspect of the matter will not be stressed during the negotiations since our main concern is to establish the principle of non-discriminatory treatment in respect of the allotment of exchange between countries. You may assure Nicaraguans that Department believes that article as drafted would not prevent Nicaragua from adopting any necessary measures in carrying out its control of foreign exchanges.

Point 10. Sense of word nominal translated into Spanish in text of Honduran agreement as "No se impondrán . . . multas mayores que las nominal establecidas sobre la importación de artículos . . .". Inform Department as to existing Nicaraguan law and regulations in regard to penalties for clerical errors and reply to question under point 10 Department's 13.

HULL

611.1731/156 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 23, 1936—4 p. m.

[Received 10:15 p. m.]

34. My telegram conversations²¹ with Duggan this afternoon. Nicaragua agreed to point number 10 and accepts article 13 as drafted.

LANE

611.1731/157 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 24, 1936—2 p. m.

[Received 5:50 p. m.]

35. With reference to my telephone conversation²¹ this morning with Duggan, a translation of Schedule 2²² supplied me yesterday by the Minister of Hacienda follows:

Duty free articles: coffee, ginned cotton, cocoa, copra (from coconut or other palm trees), bananas and plantains, raw cattle hides, ipecac roots, wood in logs, dye woods, gold and silver, lizard hides and skins (amphibian or reptiles of other types), tortoises, rubber, or caoutchouc, annatto (bixaorellana), sarsaparilla, raw chicle, peanut cocoa (cacao mani), cocoanuts, cashew nuts (nueces de maranon), fresh fruits, and all other articles not specifically mentioned in this list which may be duty free according to the United States Customs tariffs in force at the time of the signature of this agreement.

²¹ Memorandum of conversation not printed.

²² Schedule II is list of tariff concessions to be made by the United States on articles imported from Nicaragua.

Sugar. United States dollars 1.1925 (duty) per 100 pounds of sugar 100 degrees polarization up to 8000 tons a year for 6 consecutive years.

Articles the duty on which will be lowered: sawed wood of all classes and leather articles produced and manufactured in Nicaragua, 25 per cent; hides, indigo (anil) and balsam, 50 per cent; palm oils (de corozo or other analogous palms), 20 per cent.

The above information is contained in my despatch No. 1291 of February 23, 1936,²³ which should reach Department Wednesday.

LANE

611.1731/159 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 24, 1936—3 p. m.

[Received 7:45 p. m.]

36. Referring to my telegram No. 34, February 23, 4 p. m. and to my telephone conversation with Duggan on February 22 and 23. The following is a résumé of standing of negotiations as of last evening, considering the numbered points in the order of the Department's telegram No. 13, February 21, 7 p. m.

1. It is agreed that by means of an exchange of notes Nicaragua will assure us that there will be no changes in the sense of articles 1 and 2 between date of signature of agreement and the date it comes into force. For our part, we accept the Nicaraguan proposal stated in number 1 of my telegram No. 6, January 25, noon. (As a result of conversation of today with Duggan and Fowler,²⁴ I shall this afternoon withdraw our informal acquiescence with Nicaraguan proposal.)

3. Nicaragua agrees to withdraw proposed omission of clause "and of converting currencies" and we are to assure her by an exchange of notes that "these bases and methods shall not affect the fixing by the Government of Nicaragua of the official rate of exchange of currencies". The last quoted clause reads thus in Spanish: "Estos bases y metodos no afectaran la fijacion por el gobierno de Nicaragua del tipo official del cambio de monedas". (As a result of conversation of today, I shall propose to Nicaraguan negotiators today that in lieu of exchange of notes memorandum explaining this article and embodying foregoing clause be submitted by us.)

7. In the light of my conversation with Duggan yesterday I subsequently requested Nicaraguan negotiators to withdraw their objections.

9. I am awaiting instructions on this point.

²³ Not printed.

²⁴ Presumably William A. Fowler of the Division of Trade Agreements.

10. Nicaragua agrees to point No. 10 and accepts article 13 as drafted (see my telegram 34).

I have carefully informed the Nicaraguan negotiators Federico Sacasa and Francisco Carboy, separately and together, that the Department hopes that Nicaragua will not make the signing of agreement under negotiation the occasion for denouncing trade agreements with other countries. I feel reasonably certain, however, that Nicaragua will denounce such agreements and will follow the bilateral principle in making new agreements.

Referring to point 3 in the Department's telegram No. 14, February 22, 8 p. m., the pertinent section of the Nicaraguan law comparable to section 522, Tariff Act of 1930,²⁵ is title 4, article 1154 of the Commercial Code.²⁶ Crampton²⁷ states that no regulations governing the administration of that title have been issued.

While understanding the Department's position, I should appreciate having telegraphic instructions for the sake of the record with respect to point 11 (b) (see my telegram 35 of today).

LANE

611.1731/160 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 24, 1936—6 p. m.

[Received 9 p. m.]

38. My 36, February 24, 3 p. m. Following is result of conference this afternoon.

1. Nicaragua withdraws its proposed amendment and accepts articles 1 and 2 as drafted by us.

3. Nicaragua accepts our counter-proposal with respect to article 5 that is submission by us of memorandum explaining purpose of article and stating that "these bases and methods shall not affect the fixing by the Government of Nicaragua of the official rate of exchange of currencies."

7. Due to the absence of Dr. Vita today no decision has been reached.

8. With respect to Nicaraguan proposal as transmitted in my 28,²⁸ Nicaragua would agree to withdraw proposal provided we would include, in memorandum mentioned under point 3 *supra*, the following:

"No provision of the agreement requires the abolition nor even the liberalization of exchange control. The treaty provides only that the

²⁵ Approved June 17, 1930; 46 Stat. 590, 739.

²⁶ Nicaragua, Laws, Statutes, etc., *Código de Comercio de la República de Nicaragua* (Managua, 1916), p. 291.

²⁷ William J. Crampton, Deputy General Collector of Customs and Auditor.

²⁸ February 18, 11 a. m., p. 789.

control be administered in a non-discriminatory manner (against the United States).^[2]

Foregoing language based on point 5 of Department's telegram No. 6, February 7, 2 p. m.

Foregoing drafted prior to conversation with Duggan this afternoon.

LANE

611.1731/161a : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, February 24, 1936—8 p. m.

15. Point 8, Department's No. 14, February 22, 8 p. m., and your telephone call with Duggan of February 24.²⁹

Definition of "previous representative period" as one prior to establishment of exchange control regarded as of vital importance from point of view of principle involved, namely, non-discriminatory treatment. As soon as exchange is controlled arbitrary decisions, which are in practice frequently discriminatory, must be made in regard to the allotment of exchange. It is exceedingly important to us that Nicaragua accept the article as drafted and thus help us establish the principle of non-discriminatory treatment in respect of exchange control.

For your own information, although Nicaragua has not diverted an important volume of trade away from the United States in favor of third countries since exchange control established, other countries have done so.

HULL

611.1731/161b : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, February 24, 1936—9 p. m.

16. With reference to the Department's telegram No. 13, February 21.

Point 1. This Government has no intention of presuming to suggest to Nicaragua what tariff policy it should follow, but I believe that our action might be misinterpreted if we allowed the situation which you mention in your telegram No. 7, January 25, 3 p. m., to pass without comment. Please, therefore, take advantage of a suitable opportunity to point out to the appropriate officials of the Nicaraguan Government our regret that Nicaragua has apparently decided to denounce its most-favored-nation agreements with other countries.

²⁹ Memorandum of conversation not printed.

This would be regrettable in this Government's opinion at any time, but it is particularly unfortunate that Nicaragua is apparently planning to use the conclusion of a trade agreement with this Government as the point of departure for carrying out its proposed tariff policy. Therefore, in order that our position may be absolutely clear, this Government cannot urge too strongly that the trade agreement be handled as a separate and unrelated matter and that the signing of the agreement and the denunciation of agreements with other countries be separated as far as possible in point of time. Consult in this connection the first paragraph of the Department's instruction No. 298, July 25, 1935.³⁰

Point 3. On the understanding that Nicaragua will accept article 5 as drafted, you are authorized to hand an informal memorandum, as follows, to the appropriate Nicaraguan official.

"Article 5 of the proposed trade agreement is designed to safeguard the concessions exchanged by preventing changes in the bases and methods of determining dutiable value or of converting currencies (for customs purposes) which would be less favorable to importers than the bases and methods employed as of the date of signature of the agreement.

In the case of each country, the provisions of this Article mean merely that in respect of the products on which it has granted concessions to the other country, and which are or may be subject to ad valorem rates of duty, the bases and methods of determining dutiable value and of converting (for customs purposes) the currency of the other country into terms of the national currency will not be altered to the disadvantage of importers of those products. The provisions of this Article do not, of course, affect in any way the right of either country to fix official rates at which exchange on the other country may be sold."

HULL

611.1731/163 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 25, 1936—1 p. m.

[Received February 26—3:25 p. m.]

41. 1. (a) With reference to conversation with Duggan on February 22nd³¹ I should appreciate receiving telegraphic advice regarding possibility of making concession on deposit on drawback sugar which I understood was to be discussed with Department of Agriculture. Nicaragua claims that it is highly important to receive some concession on sugar. (b) With this in mind would Department authorize inclusion of paragraph similar to last paragraph of article 2 of agreement with Haiti?

³⁰ Not printed.

³¹ Memorandum of conversation not printed.

2. I have just discussed entire treaty with Federico Sacasa who states that so far as he is concerned, if the Department will agree to proposed changes on article 5 and 7 as transmitted in my No. 39 of last evening, he will agree to Department's position on articles 9, 11 and 17 thus bringing us into complete agreement on the general provisions. We are having conference with him and Minister of Hacienda this afternoon and hope we can then confirm foregoing.

3. As the time element is becoming more and more essential I trust Department will reply as soon as possible.

LANE

611.1731/160 : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, February 25, 1936—7 p. m.

17. Your 35, 37³² and 38 February 24, 2, 3[4], and 6 p. m.

11. (b) Nicaraguan proposal to keep certain concessions in force for 6 years regardless of termination provisions in the proposed agreement cannot be accepted. Trade Agreements Act prohibits commitments under trade agreements for an initial period longer than 3 years. Even if proposal was for 3 instead of 6 years it would still be unacceptable since it would weaken the safeguards provided for in articles 6, 9 and 12 against contingencies which might render it desirable for either country to have the right to terminate the entire agreement on relatively short notice. Department hopes of course that these contingencies will not arise.

9. If you perceive no objection, Department suggests as substitute for wording transmitted in your 6, January 25, proposed to be added at end of second sentence first paragraph article 11 "and except as otherwise specifically provided in statutes of the Republic of Nicaragua relating to articles imported into Nicaragua through ports on the Atlantic Coast of Nicaragua." Suggested wording fits in better with the wording of the article as drafted and accomplishes same purpose as that of wording proposed by Nicaragua. Inform Department concerning existing statutes in regard to this matter.

8. You are authorized to add to the memorandum transmitted in Department's 16, February 24, or to submit as a separate memorandum, the following "The provisions of the proposed trade agreement in regard to foreign exchange are designed to assure non-discriminatory treatment in the administration and operation of any control of foreign exchange which either country may establish or maintain." It is so obvious that the trade agreement does not require the abolition nor even the liberalization of exchange control that it seems unnecessary to include a statement to that effect in the proposed memorandum.

³² Telegram No. 37, 4 p. m., not printed.

It is equally obvious that there is nothing in the agreement which would preclude protests by us that the exchange control, even though non-discriminatory, is harmful to our trade, if it should restrict trade so as to impair seriously or nullify the benefits expected from the agreement.

HULL

611.1731/162 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 25, 1936—10 p. m.

[Received February 26—2:35 a. m.]

39. My 38, February 24, 6 p.m.; and Department's 16, February 24, 9 p.m.

Point 1. As reported in my 36³³ I have endeavored to make our position clear and shall do so again in the light of Department's 16.

Point 3. Nicaragua will accept article 5 with memorandum as stipulated in Department's 16, provided it reads as follows:

"Article 5 of the proposed trade agreement is designed to safeguard the concessions exchanged by preventing changes in the bases and methods of determining dutiable value or of converting currencies (for customs purposes) which would be less favorable to importers than the bases and methods employed as of the date of signature of the agreement. The bases and methods of determining dutiable value and of converting (for customs purposes) the currency of the other country into terms of the national currency do not, of course, affect in any way the right of either country to apply the official rate of exchange in the collection of customs duties."

Point 7. At meeting this afternoon at which Castro and Vita were present it was intimated that if above-mentioned memorandum (on point 3) would contain paragraph on point 7 regarding article 7 substantially as transmitted in Department's 14, February 22, 8 p. m., Nicaragua would accept article 7 as drafted.

Point 8. (a) With reference to the Department's telegram 15, February 24, 8 p. m., Nicaragua accepts the phraseology "in a previous representative period prior to the establishment of any exchange control." (b) I have just received Department's 17, February 25, 7 p. m., and have not had opportunity as yet to discuss matter anew with Nicaraguan negotiators.

LANE

³³ February 24, 3 p. m., p. 796.

611.1731/165a : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, February 26, 1936—5 p. m.

18. Schedule I has not yet been received. Cable when you mailed and when due here.

Interdepartmental committees considering Schedule II today and we hope to be able to give you final answer on this late this afternoon or tomorrow morning.

HULL

611.1731/166 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 27, 1936—7 p. m.

[Received 9:40 p. m.]

44. Referring to conversation with Duggan and Fowler this morning.³⁴

Point 3. I understand that Department is reconsidering proposed suggestion with respect to that part of memorandum relating to article 5.

Point 7. I understand that Department accepts Nicaraguan proposal on article 7 for inclusion in memorandum. Please confirm by telegraph.

Point 9. English translation of Nicaraguan proposed addition to article 11 reads as follows: "and excepting any provisions specifically adopted by the Government of Nicaragua in relation to the ports on the Atlantic coast". Please telegraph if this is acceptable.

No conference held today with Nicaraguan negotiators.

LANE

611.1731/167a

The Secretary of State to the Minister in Nicaragua (Lane)

No. 407

WASHINGTON, February 27, 1936.

SIR: The Department is giving consideration to the possibility of making a matter of record in some way, in connection with the proposed trade agreement with Nicaragua, the concessions which the latter will enjoy by virtue of generalization of concessions made by the United States in other trade agreements but which cannot for reasons of policy be included in Schedule II of the agreement. For your information, a product cannot ordinarily be considered for inclusion in Schedule II unless the country concerned is the chief or an important supplier of the product to the United States. In cases where a commitment on an article has already been made by this

³⁴Memorandum of conversation not printed.

Government in another agreement, such commitment cannot ordinarily be written into a second agreement unless there is adequate trade justification.

The Department has been aware of the difficulty in the pending trade agreement negotiations with the Latin American Republics of finding products which can be, consistent with the policy outlined above, included in Schedule II. The fact that such products are limited in number (with most of them on the free list) may affect the negotiations unfavorably or perhaps later militate against Congressional ratification.

The suggestion has been made, therefore, that in connection with the pending negotiations with the Latin American Republics notes be prepared by this Government which will list those concessions of interest to each of the other Governments selected from other trade agreements but which cannot be written into Schedule II of the agreements because of failure to meet the requirements referred to above. The purpose of such notes would be to further the success of the negotiations and, after their conclusion, to aid in obtaining Congressional ratification. It would be primarily an accommodation to the various Governments with which we are negotiating.

On the basis of its studies so far, the Department is not entirely convinced of the necessity of sending such a note. Before deciding the matter definitely, however, it wishes to learn the opinion of the various missions concerned. You are therefore requested to report fully on this subject, emphasizing whether or not you believe that the negotiations which you are now conducting with the Nicaraguan Government would be materially influenced by the plan under consideration.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

611.1731/157

The Secretary of State to the Minister in Nicaragua (Lane)

No. 410

WASHINGTON, February 27, 1936.

SIR: Referring to your telegram No. 35, February 24, 2 p. m., and to the telephone conversation this morning between you and Mr. Duggan, I am enclosing herewith a copy of the English text of Schedule II⁵⁵ as approved by the Trade Agreements Committee today. A Spanish translation is also enclosed, which has been compiled by checking language used in agreements with other Spanish speaking countries. It is, therefore, believed to be satisfactory.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

⁵⁵ Not printed.

611.1731/166 : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, February 28, 1936—7 p. m.

20. Referring to yesterday's telephone conversation and to your telegram No. 44, February 27, 7 p. m.

Point 3. We are unable to accept the wording proposed by Nicaragua since it would not be consistent with the purpose of Article V, hence our wording must be accepted or the sentence omitted. We believe that if Nicaragua thoroughly understands the purport of this article it will be willing to accept our wording. For example, in calculating the amount of duties payable on imported goods subject to the payment of ad valorem duties there are two steps involved. The first is to convert the value of the shipment expressed in terms of the foreign currency into terms of the local unit. In the present case we are concerned with the conversion of values expressed in dollars into cordobas. We understand that Nicaragua is now converting dollars into cordobas at par, or one dollar equals one cordoba. Therefore a shipment of American radios for example valued at one hundred dollars would be translated into one hundred cordobas by this method. The second step in this case would be the application of the ad valorem duty of 15 per cent, plus surcharges, to the total of one hundred cordobas. The first operation determines the base upon which the ad valorem rate and surcharges are calculated. Article V as drafted is designed to assure no change in the bases and methods of determining dutiable value and of converting currencies. It refers only to the first step described above; not to the second step. As we have stated before Nicaragua would retain complete liberty to fix the selling rate of dollar exchange.

With reference to conversion of currencies for customs purposes (the first step referred to above) Article V as drafted would prevent Nicaragua changing its method from the par of exchange to the official selling rate of exchange. In the event of devaluation the new par of exchange might be one fifty to one in which case Nicaragua would convert in conformity with Article V a one hundred dollar shipment of radios into one hundred and fifty cordobas. If Nicaragua were free to convert on the basis of the official selling rate of say one hundred and seventy-five to one the value of the shipment in cordobas would be one hundred and seventy-five.

Point 7. On basis of assurance during telephone conversation that Nicaragua does not now operate any system of import control covered by paragraph in question the Department is considering authorizing you to include in the proposed memorandum the first two sentences

of explanation in Department's telegram No. 14.³⁶ Before giving such authorization however the Department wishes to make certain that the system reported in your despatch number 27 of October 26, 1935³⁷ from Vice Consul Ray³⁸ cannot be construed to be covered by the paragraph. Your views in regard to this are requested.

Point 9. Acceptable.

HULL

611.1731/168 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 29, 1936—11 a. m.

[Received 3:55 p. m.]

46. Referring to Department's telegram No. 20, Feb. 28, 7 p. m.

Point 3. We believe the Nicaraguan negotiators fully understand purpose and purport of article 5, and while I, of course, shall make no suggestion to that end it is possible the Nicaraguan Government will solve this question by converting currencies at present official rate of 1.10 prior to the date of signature of agreement. Minister of Hacienda so intimated to us prior to February 27. As I endeavored to explain by telephone on Feb. 27, the present system of conversion at par is one of convenience only and could be changed without further legal or other authorization.

Point 7. Both on the basis of what Nicaraguan negotiators have told us and of our own observation of operation of present system, there is no intent to fix a quota with respect to importations of specific articles or from specific countries. In his despatch No. 27 of October 26, 1935,³⁷ Vice Consul Ray did not wish to imply that there was such an intent. His comments in last paragraph of despatch were based on his having been told by member of Commission of Control the efforts to dump cheap goods from Panama, imported by certain merchants as personal baggage, would be frustrated by the requirements mentioned in the Consulate's despatch No. 27.

LANE

611.1731/171a : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, March 2, 1936—2 p. m.

21. Following is present status of negotiations so far as the Department is concerned.

³⁶ February 22, 8 p. m., p. 793.

³⁷ Not printed.

³⁸ Guy W. Ray, Vice Consul at Managua.

A. We are approving position on point 7 in separate telegram leaving only point 3 at issue on which we have instructed you fully. As soon as you report definitively on these two points we will have agreement on the text of the general provisions.

B. Spanish texts of Schedule I received this morning but we are still in doubt as to whether Nicaragua has agreed to Schedule I (with Notes I and II) in this form. No further progress seems possible here until we hear definitely from you on this question.

C. Our maximum concessions on Schedule II have been communicated to you.

D. Full powers are ready and can be telegraphed if needed.

HULL

611.1731/168 : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, March 2, 1936—7 p. m.

23. Your 46, February 29, 11 a. m.

Point 7. In view of your assurances that we would not be waiving any rights by agreeing to giving Nicaragua in memorandum form the first two sentences quoted under this point in the Department's telegram No. 14 of February 22, 8 p. m., you are authorized to agree to do so. The Department still regards this as an undesirable procedure, however, and wishes you not to use this authority except as a last resort.

HULL

611.1731/171 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, March 3, 1936—9 p. m.

[Received March 4—7 a. m.]

48. With reference to Department's 24,⁴⁰ and to conversation of today with Duggan.⁴¹

Point 3. (a) Nicaraguans now state they do not intend to apply at this time the official rate of exchange in converting currencies for customs purposes. Inclusion of reference in memorandum is therefore still essential. President Sacasa informed me yesterday that if official rate were applied prior to signing of treaty, the treaty would be blamed by the public for the consequent rise in prices.

⁴⁰ Telegram No. 24, March 3, 2 p. m., not printed.

⁴¹ Memorandum of conversation not printed.

(b) Law of June 30, 1933, published in *La Gaceta* of July 10, 1933, provides in article 1:

"The payment of customs import and export duties and of corresponding charges will be made in the monetary unit of the Republic prescribed in article 1 of the law of March 20, 1912.

"The Exchange Control Commission is charged with fixing weekly the rate of exchange of our money in relation to others."

Article 3 provides that the Executive shall fix the date on which the provisions of the law shall enter into force. The President has however never fixed this date. Hence although "the bases and methods prescribed under laws and regulations" of Nicaragua now in force provide for conversion of currencies for customs purposes at official rate, the par rate is now being used. Even though the official rate were later applied it does not appear that this method would be less favorable to importers, who would presumably increase the price of the article by at least the amount of the difference between the two rates.

(c) I trust the Department will reconsider this point in the light of the foregoing and in view of the importance attached by Nicaragua. It seems to me that the Nicaraguan proposal as transmitted in my 39⁴² is reasonable and is not contrary to the language or spirit of article 5. Please instruct by telegraph.

Point 7. I am satisfied to the best of my knowledge and belief that there is no system in force in Nicaragua as contemplated in the last paragraph of article 7. For the sake of the record, however, I respectfully suggest that the language of Department's 23, March 2, 7 p. m., is considerably broader than that employed by me in conversation of February 27th and in my 46.

Schedule 2 was presented and discussed this morning. Nicaragua hopes that, in view of non-inclusion of sugar in Schedule 2 (which I emphasized is final) they will obtain independently of treaty some advantage for Nicaraguan sugar such as assuring a quota over a period of years. They contend the [*that?*] otherwise treaty will be severely attacked locally.

They inquire whether articles included in Schedule 2 of Honduran and Haitian agreements may be included in Nicaraguan Schedule 2 on the ground that should these agreements expire or otherwise cease to be in force Nicaragua would no longer enjoy certain concessions now granted those countries.

LANE

⁴² February 25, 10 p. m., p. 801.

611.1731/173 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, March 4, 1936—7 p. m.

[Received 10:58 p. m.]

50. My 48, March 3, 9 p. m. The four most important articles (as listed in Department's instruction No. 305 of August 3, 1935)⁴³ on Schedule 1 were discussed this morning. Minister of Hacienda agreed to bind wheat, flour, and industrial machinery, and intimated he would bind upper leather. As to lard, he said he would approve reduction from 12 to 10 centavos per net kilo instead of 8 centavos as proposed by us (Castro said that proposed tariff provides for duty of 18 centavos). We trust we can obtain concession desired on lard and assurance on upper leather. In this connection I submit the following:

Due to the present very uncertain position of the Government⁴⁴ they are fearful lest treaty will be made basis for attack on the part of Chamber of Deputies and press. Despite obvious advantage to Nicaragua in binding coffee and bananas, there are three points which may make passage of agreement difficult if not impossible:

1. Lack of concession on sugar.
2. Only one duty reduction conceded by us.
3. Greater number of articles on Schedule 1 than on Schedule 2.

If we would accept reduction solely on lard and bind all other articles on Schedule 1, we would obtain over 75 per cent of the value of the total concessions and bindings desired and at the same time serve to counteract erroneous impression that we are imposing treaty disadvantageous to Nicaragua (as Department is aware we are granting only one reduction in Schedule 2 as submitted).

LANE

611.1731/176 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, March 5, 1936—4 p. m.

[Received 7:50 p. m.]

51. My 50, March 4, 7 p. m.

A. At this morning's conference Minister of Hacienda confirmed yesterday's decision regarding wheat flour and industrial machinery and definitely agreed to bind upper leather (less 25 per cent as at present) and to reduce duty on lard from 12 to 8 centavos. He, likewise, would be willing to bind all other articles on Schedule 1 but did

⁴³ *Foreign Relations*, 1935, vol. iv, p. 824.

⁴⁴ See section entitled "Revolution in Nicaragua," pp. 815 ff.

not agree to deduct 25 per cent from duty on canned vegetables, canned fruits, and dried fruits.

B. Nicaraguan negotiators inquired why pineapples and rum cannot be included in Schedule 2 in accordance with Honduran and Haitian agreements, respectively, in view of coffee (which they state Honduras does not export) being included in Honduran Schedule 2. In this connection and in response to Department's instruction No. 407 of February 27, it would, in my opinion, be most helpful to Nicaraguan Government to include in an exchange of notes those concessions of interest to Nicaragua selected from other trade agreements but which cannot be written into Schedule 2. Such a procedure would seem to dispose of Nicaraguan inquiry regarding pineapple and rum. Telegraphic instructions would be appreciated on this point.

LANE

611.1731/171 : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, March 5, 1936—6 p. m.

28. Your telegram No. 48, March 3, 9 p. m.

Point 3. It would be very helpful if you could cite immediately by telegraph fuller references to the Nicaraguan counterpart of Section 522 of Tariff Act of 1930. The citation you gave in your telegram No. 36 of February 24, 3 p. m. seems fragmentary. For example under what authority are the periodical Nicaraguan customs decisions listing the values of foreign moneys in terms of the cordoba issued (See Vice Consul Ray's despatch No. 17 of October 2, 1935⁴⁵).

HULL

611.1731/211

The Minister in Nicaragua (Lane) to the Secretary of State

No. 1307

MANAGUA, March 5, 1936.

[Received March 11.]

SIR: Referring to the Department's telegram No. 16 of February 24, 9 p. m., in regard to the attitude of the United States Government towards Nicaragua's proposed denouncement of its most-favored-nation agreements with other countries, I have the honor to report for the Department's record that this morning the pertinent portion of the communication under reference was read twice in Spanish by Mr. Warren⁴⁶ of this Legation, in presence of Mr. Ray and myself, to the Nicaraguan negotiators, including Dr. Leonardo Argüello, Minister

⁴⁵ Not printed.

⁴⁶ Fletcher Warren, American Consul at Managua.

for Foreign Affairs, Dr. Francisco Castro, Minister of Hacienda, and Dr. Federico Sacasa.

Respectfully yours,

ARTHUR BLISS LANE

611.1731/176 : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, March 6, 1936—3 p. m.

29. Your telegram No. 51, March 5, 4:00 p. m.

Schedule 1. Progress you report thus far is gratifying. The Department cannot, however, consider seriously the suggestion to have Schedule 1 made up exclusively of bindings save for one minor concession on lard. Our original requests to Nicaragua were more moderate than those we have submitted to any of the other Central American Republics. Furthermore, we cannot lose sight of the fact that Honduras granted—in return for a Schedule 2 which is approximately equivalent to what we are offering Nicaragua, 17 important duty reductions, in addition to 20 bindings. (See Honduran press release for full details.) Moreover, the trade agreement with Guatemala, the conclusion of which is believed to be imminent, includes a Schedule I carrying 15 reductions and 58 bindings. Costa Rica has tentatively agreed to 30 reductions and 7 bindings. Neither Guatemala nor Costa Rica is receiving substantially more on Schedule II than Nicaragua. We cannot afford to jeopardize these negotiations or to arouse Honduran resentment against the agreement just concluded with that country which has an original life of only 1 year. We, therefore, believe the agreement with Nicaragua must contain a reasonable number of the concessions originally requested.

Schedule II. You may wish to point out in your conversations that the Nicaraguan products on which we are willing to make commitments in Schedule II represented 92 percent, 93 percent and 94 percent of total value of all Nicaraguan exports to the United States in 1932, 1933 and 1934, respectively, and that free entry of all but one item is being assured. These figures speak for themselves regarding what we are offering Nicaragua and should carry weight in discussing what we are asking of Nicaragua.

Section A. Your telegram No. 51, March 5, 4:00 p. m. Your reference to Nicaragua's refusal to deduct the present 25 percent French conventional discount from various items now enjoying that discount is not entirely clear. Please follow this point closely and report fully.

Section B. Your telegram No. 51, March 5, 4:00 p. m. Referring to Department's instruction No. 407 of February 27, we are compiling full list of concessions of interest to Nicaragua and will cable these

to you promptly as well as the Department's decision concerning the form to be used in communicating them to the Nicaraguan Government. In this connection we presume Legation has full set of texts of all trade agreements concluded to date.

HULL

611.1731/189 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, March 7, 1936—2 p. m.

[Received March 7—4:55 p. m.]

57. Department's 29, March 6, 3 p. m. Information regarding Costa Rican and Guatemalan negotiations apparently impressed favorably Nicaragua's this morning. Will telegraph further after afternoon session.

Have decided to leave March 14 and have so advised Mr. Long who will presumably arrive March 16.

LANE

611.1731/176 : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, March 7, 1936—6 p. m.

33. Your 51, section B. Commitments which we have made in other trade agreements but which cannot for reasons of policy already explained to you be included in Schedule 2 of the Nicaraguan agreement include the following: From the agreement with Haiti—pineapples, prepared or preserved guavas, mango and guava paste and pulps, rum, sisal fiber, and ginger root.

From the Honduran agreement—sarsaparilla root.

From the agreement with the Netherlands—cocoa and chocolate, cocoa butter, sisal cordage, harvest hats, aloes, kapok, crude gutta percha, citronella oil, palm oil, tapioca and cassava.

From the Brazilian agreement—castor beans and beeswax.

You may use the above information orally. If Nicaragua strongly desires this information in writing you are authorized to indicate that it may be supplied informally in the normal course of routine correspondence in response to an inquiry from the Nicaraguan Government. If this arrangement is satisfactory we will cable proposed drafts of communications to be exchanged. The Department trusts that these details may be postponed until after signature of the agreement in order not to cause delay at the present time.

HULL

611.173/182 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, March 7, 1936—8 p. m.

[Received March 8—1:24 a. m.]

58. My 57, March 7, 2 p. m. Following is Nicaraguan counter-proposal on Schedule 1 subject to certain conditions which we shall transmit in my telegram 59:

Nicaraguan tariff item No. 367 proprietary and patent medicines, mixed or compounded: (a) ad valorem 40 per cent (b) ad valorem 60 per cent; No. 368 pharmaceutical products et cetera bound at 30 per cent No. 387 varnishes et cetera 8 centavos gross kilo; 392 (d) paints 3 centavos gross kilo; 503 cotton stockings and socks bound at 1.10 cordobas per gross kilo; 799 hides and skins (b) bound at 19.6 centavos net (e) bound at 7 centavos net; (f) bound at 14 centavos net; 800 hides and skins heavily varnished et cetera bound at 28 centavos net; 890 to 893 inclusive industrial machinery bound free of duty; 896 (a) dynamos et cetera bound free of duty; ex 896 (a) bis, batteries bound at 10 per cent. ad valorem; ex 896 (b) radio equipment et cetera bound at 15 per cent ad valorem; ex 904 typewriters bound at 10 per cent ad valorem; 956 lard 10 centavos per net kilo; 964 wheat flour bound at 2.10 cordobas per 100 net kilos; 987 dried fruits 12 centavos net per net kilo; 990 beans bound at one cordoba per 100 net kilos; 1042 canned fruits 8 centavos net per net kilo; ex 1073 condensed milk, evaporated milk, dried whole milk and dried skimmed milk—7 centavos each per net kilo or, as an alternative, at 5, 4, 10 and 7 centavos per kilo respectively; 1078 canned vegetables 10 centavos net per net kilo, 1082 (a) tires and tubes bound at 30 centavos per net kilo; ex 1082 J rubber heels 15 centavos net per net kilo (present 30 per cent reduction on tariff of 25 centavos will not apply); ex 1113 (Castro wishes to eliminate fresh fruits from Schedule 1 with a view to satisfying local public opinion but stated new tariff provides for duty of only 1 centavo per kilo. He did not accept my compromise offer of limiting this item to apples, grapes and pears).

LANE

611.1731/181 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, March 7, 1936—10 p. m.

[Received March 8—1:35 a. m.]

59. On the basis the Department's 29 in which was given the number of concessions and bindings believed to be carried in Schedule 1 of Guatemalan and Costa Rican agreements, I suggested this morning

to Castro that he submit a list based on as many reductions as possible. His revised counter-proposals which supersede those contained in my 50 and 51 are transmitted in my 58. These counter-proposals were submitted on the following conditions:

(1) that some concession be granted on sugar either by means of quota or otherwise;

(2) that 25 per cent French conventional discount is not to be deducted from items 799, 800, 987, 1042, and 1078.

(3) that through exchange of notes or otherwise Nicaragua should receive through the entire life of the Nicaraguan agreement the benefit of concessions which may have been granted in Schedule 2 with other countries.

Please telegraph instructions.

LANE

611.1731/182 : Telegram

(The Secretary of State to the Minister in Nicaragua (Lane))

WASHINGTON, March 8, 1936—2 p. m.

34. Your telegrams 58 and 59. Castro's counterproposals seem satisfactory but final approval by the Trade Agreements Committee cannot be obtained today. As regards Castro's conditions: (1) the drawback provision included in article II of the trade agreement with Haiti is all that we can do on sugar (see Department's 31 of yesterday⁴⁷); if no alternative, we will accept condition (2) on the understanding that we will enjoy the present 25 per cent discount on items 799 and 800 as long as any third country does; (3) Article X of the trade agreement itself adequately covers this point and no further assurance necessary.

Your 58 states Nicaragua offers to bind 799 E at 14 centavos (on which we understand rate is now 7) and does not mention 799 F. Please clear this up and report status of Notes 1 and 2 in Schedule I.

If you can clear text by tomorrow morning every effort will be made to permit you to sign Wednesday.

HULL

611.1731/190 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, March 9, 1936—noon.

[Received 3:30 p. m.]

66. Department's 34 (1). With regard to sugar the main difficulty is political, in view of the fact that principal stockholders of

⁴⁷ Not printed.

Nicaraguan Sugar Estates Limited have conservative affiliations. Conservative organ *La Prensa* is attacking treaty violently and Government fears conservative opposition in Congress. Federico Sacasa realizes that we cannot commit ourselves as to the future with respect to Nicaraguan sugar quota but states it would be most helpful if I should address to Minister for Foreign Affairs an informal letter, not for publication, to the following effect:

"I am authorized by my Government to say that, fully appreciating Nicaragua's difficult economic position, it will give the most sympathetic consideration to any recommendations which the Nicaraguan Government may make in the future with a view to facilitating the marketing of Nicaraguan sugar in the United States.["]

It would be a tremendous help if the Department would authorize me to send such a letter.

Please telegraph.

LANE

611.1731/197 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, March 10, 1936—2 a. m.

[Received 9:25 a. m.]

74. As we are now in accord on all points, Nicaraguan negotiators (Francisco Castro and Federico Sacasa) have just informed me that agreement can be signed Wednesday afternoon March 11th. Minister for Foreign Affairs was not present at tonight's session, hence I am unable now to specify hour of signature. He will sign for Nicaragua as Leonardo Argüello. My exact signature is Arthur Bliss Lane.

Shall telegraph as soon as possible proposed hour of signature.

I hope that the Department notwithstanding the foregoing will answer affirmatively my 66, March 9, noon.

LANE

611.1731/190 : Telegram

The Secretary of State to the Minister in Nicaragua (Lane)

WASHINGTON, March 10, 1936—10 a. m.

40. Your 66, March 9 noon. In line with the procedure being followed in connection with other matters you may give the following memorandum:

"The Government of the United States, fully appreciating Nicaragua's difficult economic position, will give the most sympathetic consideration to any recommendations which the Nicaraguan Government may make in the future with a view to facilitating the marketing of the Nicaraguan sugar quota in the United States."

HULL

[For text of reciprocal trade agreement between the United States and Nicaragua, signed March 11, 1936, see Department of State Executive Agreement Series No. 95, or 50 Stat. 1413.]

REVOLUTION IN NICARAGUA *

817.00/8369 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 11, 1936—5 p. m.
[Received 9:10 p. m.]

18. My 17, February 11, noon.⁵⁰ Somoza⁵¹ informed me at 12:20 p. m. that the mob had greatly increased in number and that the situation was getting out of hand. Mob was led by chauffeurs and workers and demanded removal of Porfirio Perez.⁵² Latter agreed to resign but President Sacasa refused to accept resignation and ordered Somoza to ask the crowd to disperse and to open fire if it refused to obey. Somoza telephoned me and said that would mean civil war.

On invitation of the President, and accompanied by Somoza, I called on the President and stated [that?] while I did not want to interfere in internal matters, I must insist, as Dean of the Diplomatic Corps and American Minister, that order be maintained for the protection of the lives and property of Americans and other foreigners.

President authorized Somoza to address mob and say that resignation of Perez had been accepted. Somoza went to address the mob some two blocks away from the Legation.

Certain leaders of the mob have endeavored to incite the crowd against foreigners, but as yet Americans do not appear to be in danger. . . .^{52a}

Politically, the trend of events are favoring Somoza. He is the only man who can quell the riot by force and certain elements of the mob are demanding that he take over the Government at once.

Will telegraph later this evening after seeing the President and others.

LANE

⁴⁹ For previous correspondence see *Foreign Relations*, 1935, vol. iv, pp. 842 ff.

⁵⁰ Not printed; it reported that rioting had broken out in Nicaragua, as a result of the chauffeurs' strike in protest against a shortage of gasoline (817.00/8368).

⁵¹ Commander of the Nicaraguan Guardia Nacional.

⁵² President of National District.

^{52a} Omission indicated in the original.

817.00/8370 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 11, 1936—11 p. m.

[Received February 12—1:56 a. m.]

19. My 18 February 11, 5 p. m. I have just returned from conferences with the President and Somoza, respectively, in the order named. The President informed me that Somoza instead of complying with his instructions of this morning, given in my presence, to prevent further meetings and manifestations, was in fact encouraging them; that under Somoza's "tolerance", radical elements were proceeding with plans for further meetings which would demand, in view of Government's concession of today, (in accepting resignation of Perez), resignations of Chief of Police Melendez, of other officials and finally that of the President himself. The President indicated that this movement on the part of chauffeurs and others is political in character instigated by Guardia and other elements unfriendly to the Government. I said that the Diplomatic Corps is in agreement that we are not to be used as instruments for any political element but that we insist on the maintenance of order and the protection of foreign interests.

I said that in the interests of maintaining peace I would be glad to see Somoza immediately and ascertain whether appropriate measures had been taken to guarantee order.

At interview with Somoza he informed me that the body of the chauffeur killed this morning has been sent to Masaya by special train with a view to avoiding further demonstrations here; that he had given adequate orders to maintain order and that he is issuing a public circular this evening, after having consulted with Sub-Secretary of Gobernacion, to calm public intranquility. He promised me that no further mob influence on the Government would be permitted and that any attempt to organize groups would be quickly frustrated.

Somoza promised me that he would take no step against the Government. I reminded him of his having given me similar promises prior to the killing of Sandino.⁵³ Nevertheless, he gave me his word of honor that he would not attempt anything against the constituted authorities.

This evening quiet appears to be restored, crowds having been dispersed.

LANE

⁵³ For the killing of Sandino, see telegrams Nos. 57 and 58, February 22, 1934, 5 a. m. and 4 p. m., from the Minister in Nicaragua, *Foreign Relations*, 1934, vol. v, pp. 529 and 531.

817.00/8371 : Telegram

The Minister in Nicaragua (Lane) to the Secretary of State

MANAGUA, February 11, 1936—midnight.
[Received February 12—2 a. m.]

20. Confirming my telephone conversation with Mr. Duggan,⁵⁴ due to the apparently critical nature of the situation this morning with mob excited against foreign interests, I made representations to the President, as reported in my 18, with a view to averting bloodshed and possibly civil war. Immediately afterwards I convoked the Diplomatic Corps, informed them of the steps I had taken which they stated they approved. (Representatives of El Salvador, Honduras, Guatemala, Great Britain, Mexico and Italy were present.)

LANE

817.00/8386 : Telegram

The Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, March 28, 1936—2 p. m.

57. Your telegrams regarding political developments in Nicaragua have been helpful and informative and I appreciate your conveying to me promptly the reports you have received. I hope you will continue to keep me informed of the situation.

Your reports appear to indicate a continuation of a situation which has existed for some time and which has long threatened to precipitate a serious political crisis. Under the circumstances it may be helpful briefly to recapitulate our present policy with Nicaragua in order that you may have the benefit of a precise statement that will serve you as a guide.

From 1912 to 1932, inclusive, American Marines were almost continuously stationed in Nicaragua, and during this period, which was marked by intense political friction between the Conservative and Liberal Parties, the American Legation frequently endeavored to solve internal crises. The result was continual interference in and often domination of Nicaragua's internal affairs.

With the withdrawal of the Marines on January 2, 1933,⁵⁵ it was announced that any special relationship which had existed between the United States and Nicaragua had terminated. Our relations with Nicaragua today are on exactly the same basis as our relations with other countries, that is, on a basis of full friendship and scrupulous respect of sovereignty. To continue this relationship, we must refrain from interference in Nicaragua's internal affairs even though such interference is requested or suggested by Nicaraguans.

⁵⁴ Laurence Duggan, Chief of the Division of Latin American Affairs.

⁵⁵ See *Foreign Relations*, 1932, vol. v, pp. 852 ff., and *ibid.*, 1933, vol. v, pp. 848 ff.

It is not improbable, as you already know, that you will be approached for advice with reference to political matters in Nicaragua, for a friendly and perhaps personal word pointing to the desirability of a particular course of action, or for some indication of the attitude of this Government. When controversies arise, the parties involved may approach you and present to you their versions in order to gain your sympathy and support and even your intervention. If this Government is not again to become involved in the internal political situation in Nicaragua, it is obvious that we must avoid expressing opinions or giving suggestions with reference to internal politics in that country (see in this connection Department's instruction 339 of October 3, 1935,⁵⁶ Legation's telegram 99 of October 7, 1935,⁵⁷ and Department's telegram 59 of October 8, 1935⁵⁸). I have frequently been approached by Nicaraguans of every party and rank for expressions of opinion, but have consistently declined to comment without, I believe, losing their friendship and confidence. I have every reason to believe that under similar circumstances your tact and discretion will enable you to do likewise.

In Nicaragua, where such great importance has been attached to the office of American Minister, I am firmly convinced that it is essential not only to decline comment or advice, but scrupulously to avoid giving ground for belief that this Government is taking any part in Nicaragua's domestic affairs. I am inclined to believe that your presence at such a conference as mentioned in your telegram No. 102, March 27,⁵⁹ might result in efforts to involve this Government in responsibilities arising out of decisions reached. I am sure that you will be able to keep yourself fully advised of all important developments through your contacts without the necessity of attending meetings of this character.

A comprehensive instruction⁶⁰ to all the Central American Missions is now being drafted which will amplify the foregoing.

HULL

817.00/8388 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, March 30, 1936—9 p. m.

[Received March 31—12: 27 a. m.]

103. Department's telegram No. 57, March 28, 2 p. m. My reports indicate, as you conclude, continuation of a situation which has ex-

⁵⁶ Not printed.

⁵⁷ *Foreign Relations*, 1935, vol. iv, p. 882.

⁵⁸ *Ibid.*

⁵⁹ Not printed.

⁶⁰ See instruction No. 103, April 30, to the Minister in Honduras, p. 134.

isted for some time, including differences between the Loma⁶¹ and the Jefe Director.⁶² However, within the last few days the differences included the officials of the Guardia, as indicated in my despatch No. 18.⁶³ Some 60 of these officials in open meeting considered refusing to obey the President's orders. This situation threatened an immediate rupture and, while not as dramatic as the recent riot during the gasoline crisis, was really dangerous.

At the conference in question I made it clear that I was present only by urgent request of the President and that there had been no change in my Government's policy of nonintervention or interference in the internal affairs of Nicaragua and that I was there in the hope that order might be maintained for the protection of lives and property of Americans and other foreigners. The discussion took place between the President, Somoza, and Dr. de Bayle and it was understood that differences which had produced the ruction would be harmoniously settled. Being familiar with the Department's instructions contained in the telegram under acknowledgement, I shall be guided by the policy laid down.

LONG

817.00/8407

Memorandum by the Secretary of State

[WASHINGTON,] May 5, 1936.

The Chargé d'Affaires of Nicaragua⁶⁴ came in to see me. He frankly stated that he was in a very difficult situation on account of certain exigencies, in the nature of a political crisis, which exist in his country just now in connection with the forthcoming presidential election there. He undertook to get before me what appeared to be a memorandum or translation of a despatch from his Government, setting out the danger of a revolution or of a collapse of the Government on account of the candidacy of Somoza, Commander of the Nicaragua National Guard and a nephew of the present President, Mr. Sacasa. The despatch then suggested that I be requested to say anything possible relative to their political affairs in Nicaragua that might be calculated to aid in avoiding a revolutionary outbreak or an uprising accompanied by force in connection with the coming election.

⁶¹ Presidential Palace.

⁶² Commander of the Guardia.

⁶³ March 28, not printed. It reported a meeting at which President Sacasa received General Somoza (Commander of the Guardia), Dr. Luis H. De Bayle (father-in-law of General Somoza), and the American Minister, Boaz Long. Disagreements between President Sacasa and General Somoza were discussed (817.00/8392).

⁶⁴ Henri De Bayle.

I promptly replied that there was not a single word I could say about the domestic affairs of Nicaragua, either pro or con; that the attitude of the twenty-one American nations towards each other, I felt sure, was a hope and a prayer for the good welfare of each and for the fullest measure of success for the people in each country.

The Chargé then sought to ask me a somewhat similar question for his personal information or guidance, and to this I made a similar negative reply, accompanied by expressions of warm personal friendship and a disposition to be of all possible service in any other way. He finally inquired as to what would be the policy of the United States on recognition in case the election should go off in a way as to raise the question of recognition or of non-recognition. I again said that I regretted exceedingly there was nothing I could say on this subject at this particular time, for the reasons already advanced.

The Chargé at the conclusion said that he fully understood and appreciated the position of this Government as set forth in my statements. I repeated that all of our twenty-one nations had been steadily preaching the doctrine of non-interference with the domestic affairs of each other and naught could be said or done that would lend color to the opposing view.

C[ORDELL] H[ULL]

817.00/8405 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, May 8, 1936—10 a. m.

[Received 2:05 p. m.]

118. Last Monday the Salvadorean Minister who is Dean of the Diplomatic Corps called and after giving his analysis of the political situation expressed the view that sane Nicaraguan public opinion is with the Sacasa administration whereas the extremists and radicals are with Somoza, adding that it is so dangerous for the Somoza element to come into power that he thinks his country might lend Sacasa some aid provided it would not meet with our disapproval.

Yesterday Minister Miranda requested me to advise the Department of what he had said on Monday as it appears improbable that the Salvadorean Minister at Washington may take up the matter with the Department. It is Miranda's idea that Somoza has most of the arms and ammunition of the country and that the Sacasa administration is in the embarrassing position of being unable to preserve constituted government, unless given friendly aid.

LONG

817.00/8403 : Telegram

The Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, May 8, 1936—2 p. m.

66. Your telegrams 116 and 117, May 7.⁶⁵ While this Government of course shares with every other Government the hope that the peace of Nicaragua will not be disturbed, it cannot itself make or authorize you to make any statement however informal with reference to the internal political situation, or in any other manner endeavor to influence events in Nicaragua. The responsibility for the solution of Nicaragua's internal problems rests on the Nicaraguans themselves.

HULL

817.00/8405 : Telegram

The Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, May 9, 1936—6 p. m.

68. Your 118, May 8, 10 a. m. You may state to the Minister of Salvador informally that although appreciative of being informed of the views of the Salvadoran Government, this Government, which no longer has any special relationship with Nicaragua, and which conducts its relations with Nicaragua on identically the same basis as those with any other sovereign and independent nation, is not in a position to express any opinion with regard to the policy which the Government of Salvador may determine to pursue in its relations with the Nicaraguan Government. What that policy shall be is a matter solely for the determination of the Government of Salvador.

In order that the policy of this Government may be clearly understood you may inform your Salvadoran colleague that you have been instructed by your Government to decline to express any opinion or to take any action with reference to the internal affairs of Nicaragua.

Please repeat your 118 and this telegram to the Legation at San Salvador.

HULL

817.00/8417a

The Assistant Secretary of State (Welles) to the Minister in Nicaragua (Long)

WASHINGTON, May 19, 1936.

MY DEAR MR. LONG: I had intended sending on Friday last a cable, but in view of our telephone conversation of last Saturday, the 16th, and in view of the encouraging reports which De Bayle gave me

⁶⁵ Neither printed.

yesterday, it seemed unnecessary to send a cable and I am accordingly quoting in this personal letter what I had intended to send in order that you may be fully advised of our correspondence with the Government of Salvador. The intended cable reads as follows:

"Since his conversation with the Secretary, referred to in instruction No. 27 of May 11, 1936," the Nicaraguan Chargé d'Affaires, acting on instructions from President Sacasa, has had a number of further conversations in the Department. He has reiterated the request for some friendly advice by the Department in connection with the present political crisis. To these requests for assistance the Department has consistently declined to give any advice or comment, or, in fact, to take any action of any kind to influence internal political affairs in Nicaragua.

"The Minister of El Salvador called, as you indicated he might, on May 13th and stated that his Government is greatly concerned with the political situation in Nicaragua and, with the knowledge of the Government of Nicaragua, had instructed him to discuss the situation with officials of the Department. The Department's policy of non-interference was fully explained to the Minister. At the same time he was told that if no satisfactory solution should be arrived at, and if the situation should become so critical as to threaten life and property, and if requested by all contending factions, this Government would consider the possibility of rendering some assistance but that this Government would not act alone, but only in company with a group of nations, and that even under these circumstances this Government would not take the initiative.

"The foregoing views which were given to the Minister of El Salvador have also been conveyed to the Nicaraguan Chargé and are repeated to you for your own information only.

"Although it was believed advisable to state in these very general terms what the Department might consider doing under the circumstances mentioned, nevertheless, in view of the unlikelihood that all the conditions mentioned would be met, and in view of the extreme reluctance of this Government to take any action, under any circumstances, you should be very careful not to lend any encouragement to the possibility, or to discuss the matter with anyone without prior consultation with the Department."

Yours very sincerely,

SUMNER WELLES

817.00/8427 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, May 28, 1936—9 p. m.

[Received May 29—9:20 a. m.]

138. President Sacasa requests that a small naval vessel be sent temporarily to the east coast. He is considering closing the ports

⁶⁶ Instruction No. 27 not printed; see memorandum by the Secretary of State, May 5, p. 819.

of that coast because of (1) the advent of Communists and agitators; (2) the desire to prevent possible seizure of goods.

The President believes that the presence of the vessel would enable him to delay action in closing of ports.

Up until now the bank and the customhouse at Bluefields have not been attacked but the President believes that it is only a matter of time until they will be endangered despite Somoza's order for their protection because of the latter's need for funds.

Based upon the foregoing, President Sacasa reaffirmed his great friendship for the United States and expressed the hope that, as we had not been able to grant some other of his requests, it may be possible to accede in this case.

LONG

817.00/8430 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, May 29, 1936—11 a. m.

[Received 5:50 p. m.]

141. The President informed me last night that Liberal and Conservative negotiators of bi-party agreement met with him from 11 a. m. to 5 p. m. and succeeded in selecting 12 additional names as provided for in article 5 of the agreement and that letter was then written Somoza informing him of action taken. Instead of sending letter it was carried to Campo Marte by the same negotiators who had been meeting with President. This was done under commitment to discuss names with Somoza before delivering letter and, if he showed any disposition to negotiate further, not to deliver letter but to report back any names he might suggest, thus to ascertain if any person acceptable to Somoza would be admitted to the list by the President. If Somoza proved unwilling negotiate further then bi-party negotiators were to meet and select one of four pre-candidates. President said he wished to talk to me as one Pan Americanist to another and then discussed merits of the four pre-candidates and asked me to express my views and when I declined to do so he was annoyed considerably. He said his query as Dr. Sacasa might be answered by me as Boaz Long. I replied that I really did not know the men well enough to venture a guess but that even if I had formed any opinion, which I had not, it would be impossible for me to express it and be consistent with the policy of my Government. The President then gave me a dissertation about his long and close friendship for the United States, his great desire to finish his term without internal conflict in Nicaragua, and his fear that conflict is now well-nigh inevitable. He stated that only the submissiveness of his officials in permitting themselves to be removed without a fight and to be

replaced by Somocistas had prevented ruptures so far. He predicted that the moment would come when some untoward incident would occur and that once civil war had begun the banditry would be terrible. He spoke of former members of Sandinista affiliate activities, of how the Guardia had been temporizing with them, and of the possibility that arms might now come to the east coast, thus leading up to the substance of my telegram No. 138 of May 28.

Word has just reached me that the bi-party negotiators conferred with Somoza until 9 last night, ate together, and then continued their discussion into the night without reaching an agreement. . . .

During the evening, Somoza mentioned the following named doctors as being persons he might accept: Desiderio Roman of Carazo and Philadelphia; Sequiera of Leon; Ramon Gonzalez of Carazo; Benjamin Vidaurri of Rivas. This morning the bi-party negotiators are bringing these four names to the attention of the President.

LONG

817.00/8427: Telegram

The Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, May 29, 1936—5 p. m.

72. Your 138, May 28, 9 p. m. Please express to President Sacasa the deep appreciation of this Government of his expression of friendship which the Government of the United States warmly reciprocates. The long continued ties of friendship between the two countries constitute an especial reason for the deep regret with which this Government has learned of the recent disturbances in the public order of Nicaragua.

However, with specific respect to the suggestion made by President Sacasa that this Government might see its way to sending a naval vessel temporarily to the east coast of Nicaragua, I am sure that President Sacasa will recognize the justice of the conviction of this Government that the responsibility for maintaining order in Nicaraguan territory must be borne by the Nicaraguan authorities themselves, and that under similar conditions in some other republic of this continent, the Government of the United States would be unwilling to take the steps suggested. If there is any belief on the part of President Sacasa that arms and ammunition are being exported from the territory of the United States in violation of existing United States statutes for the purpose of promoting revolutionary activities in Nicaragua, this Government would appreciate having all pertinent information at the earliest opportunity.

In conclusion, you should inform the President that while this Government hopes earnestly that in the continued negotiations be-

tween the President, the political leaders, and the present military authorities a peaceful solution of the present serious crisis may be obtained, the Government of the United States cannot consent to take any action which would in reality constitute any form of interference in the strictly domestic concerns of the Nicaraguan people.

Your 140, May 29, noon.⁶⁷ You may communicate the pertinent portions of the foregoing to General Chamorro.

HULL

817.00/8500

*The President of Nicaragua (Sacasa) to the Secretary of State*⁶⁸

[Translation]

MEMORANDUM

The National Guard was established in this country, as the only military and police force of the Republic and organized with field and company officers of the regular forces of the United States for the purpose of contributing to the maintenance of peace, and in conformity with the Agreement concluded on December 22, 1927, between the Government of Nicaragua and that of the United States.⁶⁹

On November 5, 1932, the day before that of the presidential election of that year, the candidates for President and Vice President of the Republic of the two parties between which public opinion is divided—the Conservative and the Liberal—signed an agreement⁷⁰ under the auspices of the United States Minister at Managua, Mr. Matthew E. Hanna, whereby both parties agreed that the National Guard would continue to function until December 31, 1936, as the sole military and police force of the Republic, with a non-partizan character, charged with assuring the rights of the nation, the observance of the law, the maintenance of public order and with guaranteeing the functions of the authorities.

Both the said agreement and the replacement of the American field and company officers by Nicaraguan field and company officers formed a part of the plan approved by the Government of the United States and that of Nicaragua. Together with the written objections to the plan of organization of the new command of the National Guard, which I duly presented, I accepted it, as candidate and in

⁶⁷ Not printed.

⁶⁸ Handed to the Secretary of State by the Nicaraguan Chargé, June 1. See memorandum of June 1, by the Secretary of State, p. 830.

⁶⁹ *Foreign Relations*, 1927, vol. III, p. 434.

⁷⁰ *Ibid.*, 1932, vol. v, p. 887.

the event of governing the Republic, being convinced of the keen interest and the good will of the United States for the conservation of peace in Nicaragua.

During the American intervention, the National Guard subordinated itself to the control and command of the President of the Republic, in accordance with the provisions in Article 109 of the Constitution.⁷¹

On January 1, 1933, coincidentally with the inauguration of the present Government and with the evacuation of the national territory by the American Marines,⁷² the National Guard was placed under the command of Nicaraguan field and company officers, with General Anastasio Somoza as Director in Chief, which officers had been appointed previously, so that they might be trained.

Ever since the Director in Chief of the National Guard, General Somoza, began his work in favor of his candidacy, he has been usurping the functions which belong to me, as Commander in Chief of the Army, disregarding orders emanating from my authority. The sedition which occurred day before yesterday at Bluefields, with appearances of a popular rising, was fomented by the National Guard, for the purpose of deposing, as they did in fact, the governmental authorities of that region, replacing them with persons favoring the candidacy of their chief, General Somoza; and they are already following the same procedure in other sections of the Republic, as this is the announced plan which the National Guard would put into practice, with the object of establishing a military government or one subject to the pressure of militarism, in contempt of legitimate authority which the National Guard swore to defend.

At any moment blood will probably be shed, anarchy will reign in the country and latent communism, favored by those events, will find a favorable field in which to develop with all facility, imperilling not only this Nation but the others of Central America.

As the institutions and society, seriously threatened, have been left to my authority without sufficient military support to defend them; and as I am certain of the interest which the peace of Nicaragua inspires in the enlightened Government of the United States, I do not hesitate to request of it a joint action of friendly cooperation with the governments indicated in the note at the foot of this document, in order to settle the great conflict in question, in the most appropriate and effective way, for the purpose of avoiding the evils which might be suffered in the near future by this nation which has both given and received so many proofs of friendship as regards the American

⁷¹ Nicaragua, *Constitución Política de la República de Nicaragua* (Managua, Imprenta Nacional, 1930), p. 29.

⁷² See *Foreign Relations*, 1932, vol. v, pp. 852 ff.

Government and people, which cannot but count in advance on the appreciation and gratitude of the Nicaraguan Government and people.

JUAN B. SACASA

MANAGUA, May 29, 1936.

Note: A similar communication has been addressed to the Governments of Mexico, Guatemala, El Salvador, Honduras, and Costa Rica.

817.00/8439 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, May 30, 1936—6 p. m.

[Received 10:10 p. m.]

152. The Diplomatic Corps met this afternoon in response to a note from the Minister for Foreign Affairs requesting good offices and valuable mediation to preserve the peace and to prevent civil war. The Dean in replying to the note deplored the situation which caused the Minister for Foreign Affairs to make request of the Corps and stated that the members are communicating with their governments asking for instructions.

Guardias were removed from the down-town Legations last night but have been replaced today.

Every effort has been made to inform the Department of the most important developments in Nicaragua's present internal struggle and, because fighting is likely to occur at any time, it will be appreciated if the Department will provide me with any special instructions that the situation may seem to demand.

LONG

817.00/8441 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, May 30, 1936—7 p. m.

[Received 11:05 p. m.]

153. Referring to first paragraph, section 2, Department's telegram No. 72,⁷³ President Sacasa and General Chamorro have no knowledge of any arms coming from the United States for the purposes indicated.

LONG

⁷³ May 29, 5 p. m., p. 824; reference, apparently, is to second paragraph of telegram.

817.00/8504

*Memorandum by the Chief of the Division of Latin American
Affairs (Duggan)*

[WASHINGTON,] May 31, 1936.

Mr. Boaz Long telephoned at about 11:30 to state that fighting had broken out in León where General Somoza was endeavoring to take the *Fortín*. Mr. Long stated that the Government had approached the Diplomatic Corps to suggest that the Corps send a communication to General Somoza suggesting in the name of humanity and in order to prevent bloodshed that he discontinue the use of force and use peaceful means toward the settlement of the political crisis. Mr. Long said that the representatives in Managua of the Governments of Great Britain, France, Salvador, and Honduras had indicated that they would sign such a message. The Mexican representative stated that he would sign if the representative of this country did. Mr. Long said that the Guatemalan representative was showing great reluctance to sign any such communication. Mr. Long inquired whether he might sign in the name of this Government. I informed Mr. Long that I would have to consult the Secretary and would notify him at the earliest possible moment.

817.00/8440 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, May 31, 1936—noon.

[Received 4:05 p. m.]

154. A few minutes after my telephone conversation with Mr. Duggan firing again became quite heavy near offices where Warren⁷⁴ and I were working, so that I could not return to the meeting of the Diplomatic Corps. I have telephoned Dean Miranda who said that the Mexican Chargé had signed and Miranda made last appeal for me to join them in the name of humanity. I replied that, having telephoned Washington, I would await the Department's answer.

Sentiment of the Diplomatic Corps is that if fighting at Leon could be stopped temporarily mass meeting [*it might*] cease here, thus giving an interval of rest from the strain of fighting that would emphasize the reasonableness of entering into some amicable adjustment.

Somoza forces seem to have possession of the electric light plant, the brewery, and strategic buildings in the city and to have placed a picket in the eastern part of the city between the Legation and Chico Pelon. This picket probably surrounds the city. It is said that Gen-

⁷⁴ Fletcher Warren, Second Secretary of Legation.

eral Moncada, in uniform, is in charge at Campo Marte and Colonel Reyes at the camp beyond the airport. There is a report of two killed and two wounded on La Loma and several wounded at Campo Marte.

LONG

817.00/8439 : Telegram

The Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, May 31, 1936—6 p. m.

74. Your 152, May 30, 6 p.m. This Government which has followed carefully developments in the present political crisis continues to hope that some peaceful solution will be found. It would, of course, like to be helpful if it could do so consistent with its policy of abstaining from involvement in the domestic concerns of other countries. The present political difficulties facing Nicaragua, while obviously critical, appear however to be of a strictly internal character. If the Department's estimate of the situation is correct it would not appear that a favorable response can be made to the request of the Minister of Foreign Affairs. Please without fail inform the Department immediately, however, of the precise attitude of each of the other governments approached.

It is realized, of course, that a situation may develop threatening the life and property of foreigners in Nicaragua. You should inform both the President and General Somoza that the Government of the United States confidently anticipates that the local authorities of Nicaragua will give adequate protection to the life and property of United States citizens and in the event of losses or injury to either this Government, of course, will be forced to hold the Government of Nicaragua responsible therefor in accordance with the universally recognized principles of international law. The consideration by this Government of its participation in any tender of good offices must depend in the first place upon the willingness of all political factions, including General Somoza, to invite the good offices of other friendly American nations; if such willingness is forthcoming this Government will be disposed promptly to consult with a suitable number of appropriate nations of this hemisphere. You may inform the appropriate Nicaraguan authorities of the foregoing, making it clear that this Government will not consider acting alone, but only in company with other countries, and will take no initiative in the matter.

With regard to your inquiry by telephone as to whether you may add your name to an appeal on the part of the Diplomatic Corps to General Somoza that he discontinue the use of force in Leon, I believe after very careful consideration that in authorizing you to inform the Nicaraguan Government as indicated in the second para-

graph of this telegram, this Government has gone as far as it appropriately can at this juncture.

CORDELL HULL

817.00/8505

Memorandum by the Secretary of State

[WASHINGTON,] June 1, 1936.

The Chargé d'Affaires of Nicaragua came in and delivered to me an air mail letter from President Sacasa of Nicaragua,⁷⁵ in which he described anew the dislocated internal conditions in his country, the threatened military uprising, and possibilities of a collapse of law and order in Nicaragua. He then referred to the long standing friendship between the two countries and between this Government and himself as President, and earnestly appealed for collective action in the way of exercising good offices on the part of the Central American countries, Mexico and the United States, to compose the situation.

I expressed great concern about the serious state of conditions in Nicaragua, adding that of course in common with all the friends of Pan Americanism, I was disappointed to see such a seriously threatened collapse of their political or governmental structure; that all earnestly hoped that ways might yet be found for working out amicably and peacefully the matters of difference in Nicaragua which threatened a catastrophe in the internal affairs of the country. I repeatedly emphasized the fact, however, that this Government was preserving absolutely intact its policy of non-intervention and non-interference with the internal affairs of other countries; that since the time this letter from President Sacasa was written, on Friday last, this Government had, on yesterday, sent to its representative at the capital of Nicaragua a statement setting forth fully and definitely its attitude, present and prospective, with respect to the question of exercising good offices on the part of a suitable number of American nations; that, therefore, I knew of nothing more that could be said at the present time, but that of course I should be pleased to make suitable acknowledgment of the letter of President Sacasa.

C[ORDELL] H[ULL]

817.00/8450 : Telegram

The Minister in Guatemala (Des Portes) to the Secretary of State

GUATEMALA, June 2, 1936—1 p. m.

[Received 5 p. m.]

54. Acting Minister for Foreign Affairs pursuant to instructions from President Ubico just told me that the Salvadorean Minister in

⁷⁵ Dated May 29, p. 825.

Guatemala had proposed that an invitation should be extended the Government of the United States to cooperate with the four neutral Central American States in order to settle peacefully present disturbed conditions in Nicaragua. Acting Minister added that Guatemala is favorable to the plan and would reply affirmatively to Salvador if it could be advised as to probable reaction of the United States to invitation.

Minister added that Ubico did not favor candidacies of Argüello and Espinoza.

I made no comment except to say that I would ascertain viewpoint of the Department.

Please telegraph instructions immediately.

DES PORTES

817.00/8451 : Telegram

The Minister in Guatemala (Des Portes) to the Secretary of State

GUATEMALA, June 2, 1936—3 p. m.
[Received 9:20 p. m.]

55. Acting Minister of Foreign Affairs sent for me this morning and, on behalf of President Ubico, told me the following:

Foreign Office had just received telegram from the Guatemalan Minister in Costa Rica reporting the receipt of a memorandum from the Chilean Minister to Central America. Memorandum referred to report that Nicaragua supported by other Central American States would request United States intervention in that country. According to Acting Minister for Foreign Affairs, memorandum added that Chile would protest such action as compromising the general interests of all American Republics. The Minister then told me that his Government had informed its representative in San Jose to reply to memorandum stating nothing definite but indicating Chile had no right to interfere in Central American affairs.

The Acting Minister for Foreign Affairs then gave me a copy of telegram dated June 1 from Guatemalan Minister in Managua, reporting alleged statement made to Diplomatic Corps by Minister Long, pursuant to instructions from Department, to the effect that the Government of the United States would only consider participating in mediatory measures provided it was requested to do so by all political factors, including General Somoza, and then only in union with other friendly American nations, and further with the understanding that the United States would not have to take the initiative. The Acting Minister for Foreign Affairs then told me that he was informing the Guatemalan representative in Managua to act only in complete accord with Minister Long.

Acting Minister for Foreign Affairs then showed me telegram from Guatemalan Embassy in Mexico, stating that Nicaraguan Chargé d'Affaires and Salvadoran Minister there, on instructions from their Governments, had requested Mexican Government to initiate cooperation with Guatemala and Honduras to mediate in Nicaragua. The telegram read that General Hay had stated that Mexico would not interfere in internal affairs of Nicaragua.

Acting Minister for Foreign Affairs told me that his Government had received request for support from President Sacasa to which Guatemala was replying that it must remain absolutely neutral. The Minister told me, however, that Guatemala would be open to and welcome suggestions for mediation from the United States only and not from any other American nation.

I thanked the Minister for his courtesy in informing me of the above and stated that I would be glad to advise the Department thereof.

Repeated to Central American Missions.

DES PORTES

817.00/8463

The Chilean Embassy to the Department of State

[Translation]

MEMORANDUM

It has come to the knowledge of the Government of Chile that the President of Nicaragua has addressed himself to the Presidents of the other Central American republics with a request for support before the Department of State at Washington, in order to bring about intervention by the United States in the present domestic political difficulties of Nicaragua. Although we are certain that the Government of the United States and the Governments of the Republics addressed are far from desiring to lend themselves to impugning the agreement concluded at Montevideo⁷⁶ after a prolonged Pan American diplomatic procedure, the Minister of Foreign Relations of Chile deems it indispensable to express the profound surprise with which the Government of Chile views such an initiative of the President of Nicaragua; its protest against it; and its determination to omit no action that may be incumbent on it to prevent the general interest and the higher concern of all the American Republics from being compromised in this way.

WASHINGTON, June 2, 1936.

⁷⁶ Convention on Rights and Duties of States; for text see *Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933* (Washington, Government Printing Office, 1934), p. 165.

817.00/8461

The Chilean Ambassador (Trucco) to the Assistant Secretary of State (Welles)

WASHINGTON, June 3, 1936.

DEAR MR. WELLES: Referring to our conversation of a moment ago with regard to the memorandum of my Government on Nicaraguan affairs, which I had the honor to place in your hands, I feel that I should repeat to you what I had the opportunity of telling you verbally:

1. All the memorandum's observations in disagreement refer solely and exclusively to Nicaragua.
2. Only that is shown by the text itself of the memorandum.
3. Furthermore, I stated to you that my chancellery ordered me to emphasize:

(a) That, in its protest, my Government only had in view the initiative of Nicaragua which it considered contrary to the Montevideo Agreement;

(b) That it said nothing and had nothing to say with regard to the United States, whose lofty spirit it knew extremely well and in whose policy, particularly in these circumstances, it had the greatest confidence;

(c) That neither did it make observations or reservations with respect to any other Republic.

I avail myself [etc.]

M. TRUCCO

817.00/8450: Telegram

The Secretary of State to the Minister in Guatemala (Des Portes)

WASHINGTON, June 3, 1936—11 a. m.

40. Your 54, June 2, 1 p.m. You may inform the Acting Minister for Foreign Affairs that this Government appreciates the friendly courtesy of the Government of Guatemala in advising it of the proposal addressed to it by the Government of Salvador, as well as of the views of the Government of Guatemala concerning such proposal.

You may further state that in the opinion of this Government an essential prerequisite for the consideration by the United States of any proposal to join with other American republics in tendering their joint good offices to the various factions in Nicaragua would be an invitation from all of the factions involved including that headed by General Somoza and his associates, for the extension of such good offices and the consequent assurance on the part of this Government that such offer of good offices would be not only accepted but in fact welcomed by all of the political leaders in Nicaragua. It is the view

of this Government that except upon this basis the proposal in question might legitimately be construed as foreign interference in the strictly domestic concerns of the Nicaraguan people. You may likewise state that the American Minister in Nicaragua has been instructed to this effect and has been further informed by this Government that in the event that the necessary prerequisite above outlined is forthcoming, this Government would then be disposed promptly to consult with the appropriate Governments of other American republics in order then to determine whether participation by the United States in such a contingent tender of good offices is practicable.

You may further inform the Acting Minister for Foreign Affairs that the Government of Salvador has already been informed of the views of this Government as above indicated and that the American Minister in Nicaragua has been instructed to make the position of this Government known to the various factions in that republic.

In conclusion you should take occasion to make it clear to the Acting Minister for Foreign Affairs that the Government of the United States has no preference and no opinions to express with regard to the various potential candidates for the Nicaraguan presidency.

HULL

817.00/8461

*The Assistant Secretary of State (Welles) to the Chilean
Ambassador (Trucco)*

WASHINGTON, June 4, 1936.

MY DEAR MR. AMBASSADOR: In view of the publication in the press this afternoon of a communiqué issued by the Peruvian Foreign Office quoting the text of the communication made by the Government of Peru to the Government of the United States with reference to the situation in Nicaragua, this Government has felt it necessary to make a statement to the press, which I take pleasure in enclosing for the information of Your Excellency's Government."

I want particularly to thank you for your personal letter of June 3d and for its contents. You will appreciate, however, I am sure, that it is a matter of particular regret to this Government in view of the peculiarly close and friendly relations existing between the Government of Chile and the Government of the United States, that before the memorandum formulated by your Government and transmitted to the Governments of the Central American Republics as well as to this Government was thus communicated, your Government should not have first inquired of this Government in order that we might have had the privilege of acquainting the Government of

" *Post*, p. 836.

Chile fully with all of the facts at our disposal regarding the policy which this Government had been carrying out from the outset, and in this way, the Government of Chile would readily have ascertained that no request had ever been received by the Government of the United States to intervene in Nicaragua.

Please accept [etc.]

SUMNER WELLES

817.00/8462

The Peruvian Embassy to the Department of State

[Translation]

MEMORANDUM

The Government of Peru is certain that the United States Government is not contemplating the possibility of intervening in the domestic affairs of Nicaragua. The Government of Peru proclaims and maintains the absolute principle of non-intervention by one State in the domestic affairs of another, in conformity with the declaration adopted in article 8 of the Convention on Rights and Duties of States, signed at the Seventh International Conference of American States at Montevideo, December 26, 1933, with the signatures of Peru, the United States and Nicaragua, and the express declarations which, with the approval of the Continent, the Delegation of the United States made, on signing it.

WASHINGTON, June 4, 1936.

817.00/8462

The Assistant Secretary of State (Welles) to the Peruvian Ambassador (Freyre)

WASHINGTON, June 4, 1936.

MY DEAR MR. AMBASSADOR: In view of the publication in the press this afternoon of a communiqué issued by the Peruvian Foreign Office quoting the text of the communication made by the Government of Peru to the Government of the United States with reference to the situation in Nicaragua, this Government has felt it necessary to make a statement to the press, which I take pleasure in enclosing for the information of Your Excellency's Government.⁷⁸

It is, of course, however, a matter of particular regret to this Government, in view of the peculiarly close and friendly relations existing between the Government of Peru and the Government of the United States that the Government of Peru should not have first inquired of this Government as to its policy with regard to the situ-

⁷⁸ *Infra.*

ation which had arisen in Nicaragua before the communication was made, in order that this Government might have been privileged to advise the Government of Peru of all pertinent facts, of its own policy, and that no request for intervention had ever been made.

Please accept [etc.]

SUMNER WELLES

817.00/8468

*Statement by the Secretary of State*⁷⁹

[WASHINGTON,] June 4, 1936.

Within the past two days, the Department of State has received communications from the Government of Chile and from the Government of Peru with reference to the internal disturbances which are unfortunately taking place in the Republic of Nicaragua, which communications are apparently based upon the erroneous impression that the United States has received a request from the Government of Nicaragua to intervene in that Republic.

The relations between the United States and the Republic of Nicaragua are identical with those between the United States and every other American republic. No suggestion has been received from any source that the Government of the United States intervene in Nicaragua, and in accordance both with its established policy as well as in accordance with the provisions of the Convention on the Rights and Duties of States entered into at the Seventh Inter-American Conference at Montevideo, this Government will not intervene directly or indirectly in the domestic concerns of any American republic.

During the course of the recent internal disturbances in the Republic of Nicaragua, this Government has received suggestions from various sources that it cooperate with the governments of certain other American republics in a tender of good offices to the various political factions in Nicaragua with the hope that such exercise of friendly good offices would result in a peaceful solution of the difficulties which had arisen. The United States Minister in Managua has been consistently instructed from the outset to inform both the Nicaraguan authorities as well as the representatives of the other American governments accredited to the Government of Nicaragua that even the consideration by the Government of the United States of its participation in any joint tender of good offices must depend in the first place upon the willingness of all political factions in Nicaragua to invite the good offices of other friendly American nations; that in the event, and only in the event, that such invitation were unanimously extended, this Government would then be disposed to determine whether it would take part in a joint tender of good offices after

⁷⁹ Released to the press on June 5.

consulting with other interested nations of this hemisphere. The United States Minister was further instructed that the Government of the United States would take no initiative in the matter and would under no circumstances even consider whether or not it would exercise its good offices except in association with other American nations.

This Government has been glad to note that in both the communication received from the Government of Chile, as well as in that received from the Government of Peru, these Governments have expressed their certainty that the Government of the United States has had no intention of intervening in Nicaragua.

817.00/8458½ : Telegram

The Chilean Minister for Foreign Affairs (Cruchaga) to the Assistant Secretary of State (Welles)

SANTIAGO, June 4, 1936.

[Received June 4—8:20 p. m.]

Truly regret scope and purpose attached to our memorandum. At no time have we doubted lofty intentions your Government and the very wording of memorandum shows our complete confidence in attitude United States. My desire has been to cooperate with you in warding off such disturbing requests by warning the governments which may wish to formulate or share in one of them that we are unalterably opposed thereto.

Very sincerely yours,

MIGUEL CRUCHAGA

817.00/8461 : Telegram

The Assistant Secretary of State (Welles) to the Chilean Minister for Foreign Affairs (Cruchaga)

WASHINGTON, June 5, 1936.

I am most appreciative of Your Excellency's welcome message because of the very friendly and reassuring statement which it contains. Because of the mistaken implications which had been drawn in some quarters from your Government's memorandum, with widespread publicity attendant upon the communication in similar vein made public yesterday by the Peruvian Foreign Office, this Government felt it indispensable to make both its policy and all of the facts in the matter public in full detail. You may be sure that this Government will welcome the opportunity to cooperate at all times with the Government of Chile in upholding the policy of non-intervention which this Government champions in its dealings with every nation of the world. My kindest regards.

SUMNER WELLES

817.00/8468 : Telegram

*The Secretary of State to the Ambassador in Chile (Philip)*⁸⁰

WASHINGTON, June 5, 1936—4 p. m.

34. It is assumed that the statement issued by the Department for publication in this morning's newspapers regarding the communications received from the Governments of Chile and Peru concerning the political crisis in Nicaragua and setting forth the policy of this Government thereto, was carried in full in the local press.

In replying to the Chilean communication there was transmitted a copy of the Department's statement. In addition, deep regret was expressed that, considering the peculiarly close and friendly relations between the Governments of Chile and the United States, inquiry was not made of this Government before formulation of the memorandum and its transmittal by the Chilean Government to the Governments of the Central American republics, as well as to this Government; had such inquiry been made the opinion was expressed that the Government of Chile would readily have ascertained that no request for intervention in Nicaragua had been received by the Government of the United States.

For your confidential information, the Ecuadoran Government has informed the Department that it received an invitation from the Chilean Government to make to this Government similar observations to those of the Chilean Government. The Ecuadoran Government replied stating that it "Has full confidence in the anti-interventionist policy of the United States and does not consider it appropriate to rush ahead and protest either against the acts of Nicaragua, which is free to determine its own destiny, or at the mere receipt by the United States of any Nicaraguan petition."

It is presumed that you will report fully by telegram any information you may have as to the reasons for this action of the Chilean Government.

HULL

817.00/8473 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, June 8, 1936—1 p. m.

[Received 4: 50 p. m.]

162. General Somoza just called here and informs me that the Vice President departed this morning for Costa Rica, after resigning, and received before departing 20,000 cordobas and a promise of an intro-

⁸⁰A similar message was sent to the Ambassador in Peru June 5, 4 p. m. as telegram No. 23.

duction of a bill in Congress to grant him 10,000 cordobas to be used in repairing his health.

Congress is expected to meet tomorrow and General Somoza is in doubt as to which is the better course for him to pursue. The General has assured us of his friendly feeling for our country and asserted he desires to conduct an honest government and to use in building roads and other public works certain funds which have eluded the Treasury in recent years. He states that he will require our moral backing and asked if we might not as a friendly act consider the two courses of action open to him and intimate which seemed the more desirable.

Course (*a*) contemplates having Congress, when it meets tomorrow, to give second reading to the 1926 Executive Decree, to amend the constitution and then to call a constitutional convention whereupon Congress dissolves and the country elects delegates to the constitutional convention to meet December 15, the convention to assume at that time all powers of attorney and to appoint the President, that [*and?*] the judges of the courts to take office on January 1, 1937. Thereafter the constitutional convention will rewrite the constitution. General Somoza points out that by following this course he will not have to resign, and assumes that enough of the delegates would favor him to insure his selection as President to take office next January 1.

Course (*b*) contemplates having the Congress pass a law when it convenes tomorrow, postponing the elections from the first Sunday in October until the second Sunday in December, so that the elections will take place 6 months after the departure of ex-President Sacasa. The second Sunday in December is the 13th, and the 15th of December is the date on which Congress must convene to confirm the elections but before that the Consejo Nacional de Elecciones usually scrutinizes the election returns, thus leaving rather limited time to gather returns and effect the scrutiny.

The General adds that he favors course (*a*) because in that method the people would not have to vote directly for President (and there might be several candidates), whereas in electing delegates to the constitutional convention the vote would be indirect, the latter course being far less expensive and more peaceful, without again agitating the public at this time over electoral matters.

I reminded him that our policy was definitely known as one of non-interference and we could not possibly express an opinion upon a purely internal matter but because of his insistence and because this is the first request of what may eventually be called the Somoza administration I venture to transmit the substance of his remarks.

LONG

817.00/8473 : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, June 9, 1936—4 p. m.

79. Your 162, June 8, 2 [1] p. m. Please inform General Somoza that it would not be in conformity with this Government's policy of non-interference to give any advice regarding the course of action which should now be pursued.

For the Department's information please telegraph a brief résumé of steps in the succession to the presidency already taken, citing pertinent constitutional provisions; also, when the Congress has met and acted, of action taken.

Confirm by air mail.

PHILLIPS

817.00/8485 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, June 9, 1936—4 p. m.

[Received 10:35 p. m.]

165. Referring to my telegram No. 164, June 9, 3 p. m.,⁸¹ there follows my understanding of the legal basis of the new Government.

Doctors Sacasa and Espinosa resigned the offices of President and Vice President. Doctor Sacasa deposited the Executive powers with the Minister Gobernación as provided for in article 107 of the Constitution, when he understood that the Vice President would not accept the office.

In accordance with article 84 of the Constitution, Congress each year must elect a First and Second Designate who are to occupy the Presidency or Vice Presidency in the order of their election. Today the Congress elected Doctor of Medicine Carlos Brenes Jarquin, a member of the House of Deputies as First Designate.

This morning the Congress received from the Minister of Gobernación the Executive powers and bestowed them upon the First Designate, as implied in articles 106 and 107. Apparently Dr. Brenes Jarquin's accession to the Presidency of Nicaragua is legal, unless we wish to go into the causes which impelled the President and Vice President to resign. Thus far there does not seem to be any faction of Nicaraguan public life to question the legality of the present proceedings. However, it is said that the conservative members of Congress stated this morning that their vote was given to further peaceful solution of present problems but that from now on they desired to

⁸¹ Not printed.

be known as the party on the opposition and to reserve the right to name a candidate in the Presidential elections.

Tomorrow we will doubtless receive a note advising us of today's congressional action, which will probably call for a reply.

Luis Manuel DeBayle has just advised the Legation that he will be the new Minister for Foreign Affairs. Other members are understood to be Roman Gonzales, Fomento; Jose Benito Ramirez, Hacienda; Jeronimo Ramirez Brown, Gobernación; Colonel Rigoberto [Reyes?], Minister of War; Dr. Roberto Gonzalez, Hygiene.

LONG

817.01/54a : Telegram

The Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, June 11, 1936—3 p. m.

80. Your conversation with Welles. On the basis of information available here, there appears to be no reason why you should not treat with the present Government which seems to be in control of the country and all governmental machinery and to be performing the regular functions of government as the Government of Nicaragua.

Although the Department perceives no reason for any formal act of recognition, you should if you receive a note from the Minister of Foreign Affairs raising the question communicate the pertinent parts to the Department with such information and comment as you consider would be helpful in the preparation of instructions.

HULL

817.01/55 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, June 11, 1936—4 p. m.

[Received 8:52 p. m.]

170. Department's 80. I have received note from Minister for Foreign Affairs which does not raise the question of recognition. It states the facts regarding the change of government and closes with these words:

"In carrying out the duties with which the President has honored me, I shall take special pleasure in cooperating in every endeavor to make closer the ties of fraternal friendship which happily unite our respective Governments and peoples."

I plan to acknowledge receipt of the note tomorrow noon in the following terms:

"I have the honor to acknowledge the receipt of Your Excellency's note No. 67/36 of June 10, 1936, informing me of the changes that

have taken place in the Government of Nicaragua as a result of the resignation of the Honorable Dr. Juan B. Sacasa as President and the Honorable Dr. Rodolfo Espinosa R. as Vice President. I thank Your Excellency for the courteous note and warmly reciprocate the cordial sentiments contained therein."

LONG

817.01/55 : Telegram

The Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, June 12, 1936—10 a. m.

81. Your 170, June 11, 4 p.m. The text of your proposed reply is satisfactory.

HULL

817.00/8501 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, June 12, 1936—7 p. m.

[Received 9 : 35 p. m.]

172. The following is of interest today:

1. Legation delivered note to new Government (see Department's telegram No. 81).

2. Reliable quarter states that Somoza has decided to reach power by an election to be held in December. He is not to use a constitutional convention.

3. More tension in relations here and there is evidence of friction between Moncada and other supporters of Somoza. It is understood that Moncada wants Somoza to use the 1926 Executive Decree as a basis for calling a constitutional convention.

LONG

817.00/8558 : Telegram

The Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, August 27, 1936—5 p. m.

109. Rear Admiral Meyers has confirmed that he wrote a letter to General Somoza along the lines mentioned in your personal letter to Duggan, although owing to difficulty of communicating with him, it has not been possible to secure the exact text. You are requested to leave with the Minister for Foreign Affairs the following note at once:

"Under instructions from my Government, I desire to inform Your Excellency that there has been brought to my Government's attention a letter addressed by Rear Admiral George J. Meyers, Commander

of the Special Service Squadron, to General Anastacio Somoza, Chief of the National Guard of Nicaragua, expressing the gratitude of Admiral Meyers for the courtesy shown him by General Somoza on the occasion of his recent visit to Nicaragua.

Although confident that Your Excellency appreciates that this letter represents merely a personal expression of gratitude of Admiral Meyers for the hospitality and attentions tendered him during his visit, nevertheless my Government believes, to its particular regret, that the terms of the letter are such as to permit of the mistaken construction that the Government of the United States is interfering in Nicaraguan internal affairs.

Inasmuch as no authority has been delegated to Admiral Meyers to speak for the Government of the United States, no official importance may be attributed to this letter. As you know, the Government of the United States is pledged to a policy of non-interference in the internal affairs of other countries. This policy has repeatedly been made clear by official statements of the President of the United States, and of the Secretary of State. As you know also, this policy has been scrupulously adhered to in the case of Nicaragua. In keeping with it my Government desires me to reiterate that it has not, and will not, endeavor to influence in any way the course of political developments in Nicaragua, and to state that the contents of Admiral Meyers' letter, insofar as they appear to constitute an endorsement of a presidential candidate in Nicaragua, are disavowed."

No publicity should be given to this note without prior consultation with the Department.

HULL

817.00/8604

*Memorandum by the Chief of the Division of Latin American Affairs
(Duggan)*

[WASHINGTON,] October 22, 1936.

Dr. Juan B. Sacasa called on Mr. Welles. After a preliminary exchange of courtesies Dr. Sacasa talked at some length of the political situation in Nicaragua, which he portrayed as very serious, holding no promise for law, order or public morality. Dr. Sacasa reviewed the difficulties he encountered when he took over the presidency, his efforts to combat the disastrous economic situation of the country caused by the world-wide depression, and his belief that the United States Government would lend him cooperation to overcome the difficulties with which he was faced. He went on to say that owing to the organization of the Guardia by the United States Government and to the fact that the agreement for maintaining the non-partisan character of the Guardia had been witnessed by Minister Hanna, he believed then and believes now that the United States has a continuing responsibility for Nicaragua's welfare.

Mr. Welles told Dr. Sacasa that the United States Government of course was desirous of Nicaragua's welfare, that it wished to assist the Nicaraguan Government in every appropriate way, and that it is disposed to lend its cooperation for the improvement of Nicaragua's economic position, in road building, in education, et cetera, but that political cooperation is out of the question. Mr. Welles reminded Dr. Sacasa that over twenty years of attempted assistance in the political realm had brought benefits neither to Nicaragua nor the United States. Mr. Welles also replied to Dr. Sacasa's argument that this Government has a certain responsibility towards Nicaragua owing to the connection of the American Government with the Guardia. He stated plainly that with the withdrawal of the Marines on January 2, 1933, any special relationship which the United States Government may have had with Nicaragua terminated.

Dr. Sacasa said that he had seen General Chamorro and Adolfo Diaz in New York, both of whom had expressed a desire to pay their respects to Mr. Welles. Mr. Welles said that he would of course be pleased to receive them and suggested next Monday afternoon at three o'clock.

817.00/8612 : Telegram

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

MANAGUA, November 24, 1936—noon.

[Received 2:27 p. m.]

233. Committees representing conservative and liberal supporters of biparty agreement met yesterday and decided to abstain from voting on December 8th thus virtually withdrawing Argüello-Espinosa ticket and leaving Somoza as sole Presidential candidate.

RAY

817.00/8618

Señores Juan B. Sacasa, Emiliano Chamorro, and Adolfo Diaz to the Secretary of State

[Translation]

NEW YORK, November 30, 1936.

[Received December 3.]

EXCELLENCY: The keen interest and friendly goodwill displayed at all times by the United States of America for the good of Nicaragua, especially in what concerns the upholding of a foundation for a lasting peace, prompts us to address ourselves to you.

We are three of the four signatories of the agreement subscribed in the American Legation, in Managua, on the 5th. of November 1932,⁸²

⁸² *Foreign Relations*, 1932, vol. v, p. 887.

wherein the then candidates to the Presidency and Vice-Presidency of Nicaragua agreed to the continuance of the National Guard after the withdrawal of the United States Marines, in accordance with a plan previously approved by both Governments for transferring the National Guard to complete Nicaraguan control.

Previous to the signing of the agreement, we called the attention of the American Minister, Hon. Matthew E. Hanna, to the danger that the maintenance of the National Guard, under the new command called for in the plan, would eventually constitute a threat to peace and order, for, under such command, it would hardly retain the non-political character it had previously enjoyed.

To this, Minister Hanna replied that we could rest assured that the American Government would morally guarantee the agreement, which for that reason would be subscribed under his good offices, would bear his signature and have the seal of the Legation. Trusting in this promise, of which we could not doubt, both because of the personality of the American Minister and of the official communications containing his Government's suggestions regarding the National Guard, we agreed to sign the proposed agreement.

The independence from Government control which it had been considered convenient to give the National Guard at the time of its establishment in 1927 under American officers, took away from the Executive all effective interference in the management of that institution. Therefore, when the United States Marines withdrew, the new Nicaraguan Government, forbidden to organize any armed body, even a police force, was left, except for promised United States moral support, entirely at the mercy of the Guard. Nevertheless, had the officers of the Guard refrained, according to the agreement, from interfering in politics, the Guard could have rendered invaluable services to the Nation. This unfortunately was not the case.

General Somoza, head of the National Guard, nominated himself a candidate for President and launched his electoral campaign supported by the National Guard long before the time within which political parties are permitted to do so according to law.

President Sacasa exhausted all pacific means in his power to induce the Chief Director of the National Guard to remain within the limits of respect for the national institutions, and of submission to his authority as Commanding General; and more than once the American Minister exerted his good offices for the cause of peace, endeavoring always to avoid a break between the Government and the National Guard.

In the presence of constitutional impediments for the candidacy of General Somoza for the Presidency of the Republic in the coming elections, not only by reason of the bonds of affinity within the third de-

gree that relates him to ex-President Sacasa, but also by the fact that he is in active military service, which also inhibits him internationally in accordance with the Central American Treaty of 1923, signed in Washington, and in view, further, of the fact that a militaristic candidacy forced on the people by the army would be a menace to the welfare of the country, President Sacasa and the Board of Directors of both parties, Liberal and Conservative, which sum up the mass of public opinion in Nicaragua, succeeded in reaching an accord for the harmonious solution of the political problem created by General Somoza with the National Guard.

The efforts made by President Sacasa and both parties to make General Somoza desist from his candidacy were all in vain, notwithstanding his repeated promises in this sense, some of them made in the presence of the American Minister, Hon. Arthur Bliss Lane.

General Somoza, aware of the fact that the two political parties had formed a single union based on a formulae headed by Dr. Leonardo Argüello, launched himself into open rebellion, forcing the resignations of both President Sacasa and Vice-President Espinoza R.; and since then holds sway over the country by armed force and violence, treading on liberty and suffrage, thus bringing about one of those conditions that sooner or later have everywhere and always resulted in civil wars, which at present would be more than ever disastrous in Nicaragua since its low economic condition makes her an easy prey to communism and anarchy.

The lack of guarantees which make impossible all electoral activities has already caused the withdrawal from the campaign of the Argüello-Espinoza R. ticket, in spite of the weighty volume of public opinion supporting it. Were a truly honest election to be conducted, one in which the National Guard would not take any active political part, the popular vote would never favor General Somoza's candidacy.

Therefore Nicaragua is at present in a critical state of affairs that may bring about grave consequences for domestic peace and wellbeing; and any serious disturbance in our country could easily result in deep repercussions in her sister Republics of Central America.

The Government of the United States, guided by its lofty and humanitarian spirit, and of true Pan Americanism, could lend Nicaragua in these times of need the valuable moral support of its friendly influence to the end that all the evils emanating from the National Guard, which have thwarted the sentiments and purposes that inspired the Governments of Nicaragua and the United States in creating and sustaining that institution, be remedied.

The electoral supervision, carried out three times in Nicaragua with the consent and assistance of both political parties, is generally regarded as the first step towards the withdrawal of the American intervention and gave the natural benefits of a free election in the school

of democracy, awakening at the same time a spirit of conviviality and conciliation between the Parties. The source of the troubles which now afflict the Republic is not to be found in the political parties themselves or in the people but in the present defective organization of the National Guard.

The principle of non-intervention, dear to all the Latin-American peoples and on which is based the policy of "good-neighbor" so full of prestige and so emphatically proclaimed by President Roosevelt, must not exclude the friendly cooperation between the American countries, in as much as indifference to the struggles and misfortunes of a friendly or sister nation can in no way denote goodwill towards her.

In the present case of Nicaragua, such cooperation from the United States follows as a natural sequence of the international origin of the National Guard, and as a means to the complete realization of the purposes of order and peace which beyond any doubt guided the American Government in suggesting the maintenance of that institution. In our capacity as Ex-Presidents of that Republic, we are fully aware of the effective value of that friendly influence in Central America and the much good that can be attained by it, when properly directed, without blemish for the autonomy of our country or impairing the prestige of the American Continental policy.

We are not asking for the occupation of the country nor an intervention in favor of any person or political party, but merely the disinterested moral cooperation of the American Government in favor of the Nicaraguan people.

The constructive and cordial ideology that inspires President Roosevelt in his inter-American policy encourage the Nicaraguan people in their longing for liberty by peaceful and orderly means.

With expressions [etc.]

EMILIANO CHAMORRO
JUAN B. SACASA
ADOLFO DIAZ

817.00/8625

The Minister in Nicaragua (Long) to the Secretary of State

No. 358

MANAGUA, December 14, 1936.

[Received December 21.]

SIR: I have the honor to refer to my telegram No. 239, of December 9, 1936,⁸³ and to confirm that General Anastasio Somoza and Francisco Navarro were elected on December 8th as President and Vice President of Nicaragua, respectively, for the four year term beginning January

⁸³ Not printed.

1, 1937. In this connection, please refer also to my telegram No. 240, of December 14, 5 p. m.²⁴

According to the latest figures published by the local press, Somoza and Navarro had received 64,000 Nationalist Liberal votes and 15,433 Nationalist Conservative votes, making a total vote of 79,433, results having been received from 325 districts, with 104 remaining unknown. The tabulated vote for Argüello-Espinosa was: Constitutionalist Conservatives, 1,038 and Constitutionalist Liberals, 162, a total of 1,200 votes. It is reported that Somoza supporters claim that he will register a final vote of about 110,000 votes. So soon as the final returns are available, they will be furnished the Department, along with the complete results of the elections for Senators and Deputies. For the Department's records and ready reference for comparison, I am enclosing copies of tables²⁴ showing the complete voting by Departments in 1932, as well as the totals for 1924 and 1928.

It seems to be the general opinion that practically all the Senators and Deputies elected are known supporters of Somoza and that the latter will be able to dictate to the Congress as he sees fit.

The situation continues to be quiet and there is no reason to believe that any disturbances may be expected in connection with the inauguration of Somoza and Navarro on January 1, 1937.

Respectfully yours,

BOAZ LONG

817.001 Somoza, Anastasio/2: Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, December 15, 1936—10 a. m.

[Received 1:35 p. m.]

241. Legation understands that President Roosevelt returning Washington today. I respectfully suggest that if the Department perceives no objection it might be appropriate to invite the President's attention to the idea of sending a telegram of congratulation to General Anastasio Somoza on latter's election to Presidency of Nicaragua, reciprocating the telegram of congratulation which it is understood Somoza sent to President Roosevelt on his reelection. It is assumed that there is no doubt as to our recognition of Somoza and the Legation feels that Somoza would appreciate a friendly gesture on the part of the United States and that such action would go far towards increasing Nicaragua's feeling of friendship toward us.

LONG

²⁴ Not printed.

817.001 Somoza, Anastasio/2 : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, December 19, 1936—1 p. m.

137. Your 240, December 14, 5 p. m.⁸⁵ You should of course attend the inaugural ceremonies. Keep the Department informed by telegraph if additional special ambassadors are named.

Your 241, December 15, 10 a. m. It is not customary for the President to send congratulatory telegrams to Presidents-elect either at time of election or inauguration, and it is not believed that an exception should be made in this case.

MOORE

817.00/8618

*The Acting Secretary of State to the Former President of
Nicaragua (Sacasa)*

WASHINGTON, December 22, 1936.

MY DEAR DR. SACASA: The receipt is acknowledged of your letter of November 30, 1936, which was signed also by General Emiliano Chamorro and don Adolfo Diaz, in which you refer to the political situation in Nicaragua and request "the disinterested and moral cooperation on the part of the Government of the United States in favor of the Nicaraguan people". You state specifically that the friendly influence of the United States might be exerted in order to correct certain conditions which you state have resulted from the organization of the Guardia Nacional de Nicaragua.

As has frequently been stated during the last four years, this Government considers that its relations with Nicaragua since January 2, 1933, when the marines were withdrawn, are on the same basis as those with any other American country, any special relationship having terminated. In order that there might be no misunderstanding on this score, the Government of the United States issued a public statement on January 2, in which it stated, among other things, that:

"This act of turning over the direction of the Guardia to Nicaraguan officers marks the realization of the other major commitment which the United States assumed at Tipitapa.

"The withdrawal of the American forces, therefore, follows upon the fulfillment of the above-mentioned obligations and marks the termination of the special relationship which has existed between the United States and Nicaragua."

This Government is, of course, desirous of cooperating with all governments of the world in any legitimate way, with a view to ad-

⁸⁵ Not printed.

vancing the interests of its people and the peoples of other countries. But the kind of action which you appear to have in mind would not, in the opinion of this Government, constitute legitimate and appropriate cooperation with the Government of Nicaragua, because it would appear to constitute interference in Nicaragua's internal political affairs.

In view of the circumstance that no special relationship any longer exists between the United States and Nicaragua, and in view further of the announced determination of this Government to refrain from intervening in the internal affairs of other countries, a determination which has just been reiterated at the Conference now in session at Buenos Aires, I am sure you will realize upon consideration that this Government cannot give favorable consideration to the request contained in your letter under acknowledgment.

Sincerely yours,

For the Acting Secretary of State:

FRANCIS B. SAYRE
Assistant Secretary

817.001 Somoza, Anastasio/9 : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, December 24, 1936—3 p. m.

139. The President has named you as his Special Representative with the rank of Ambassador Extraordinary and Plenipotentiary of the United States of America at the inauguration of President-elect Anastasio Somoza on January 1st.

No special Letters of Credence will be sent to you but the Minister for Foreign Affairs of Nicaragua has been advised by telegraph of your designation and asked to arrange for your recognition in the character mentioned.

MOORE

817.001 Somoza Anastasio/7a : Telegram

The Acting Secretary of State to the Nicaraguan Acting Minister for Foreign Affairs (Ramirez Brown)

WASHINGTON, December 24, 1936.

I have the honor to advise you that the President of the United States of America has named the Honorable Boaz W. Long, Envoy Extraordinary and Minister Plenipotentiary, as his Special Representative with the rank of Ambassador at the ceremonies of the inauguration of President-elect Anastasio Somoza on January 1st.

I have the honor to request that Your Excellency will kindly arrange to have this notification of Mr. Long's designation accepted

in order that he may be recognized as the Special Representative of the President of the United States of America at the ceremonies.

R. WALTON MOORE

817.001 Somoza, Anastasio/8 : Telegram

The Nicaraguan Acting Minister for Foreign Affairs (Ramirez Brown) to the Secretary of State

MANAGUA, December 24, 1936.

[Received 8:30 p. m.]

I have the honor to acknowledge receipt of Your Excellency's kind radiogram in which you were good enough to inform me that His Excellency President Roosevelt has designated His Excellency Mr. Boaz Long, at present Envoy Extraordinary and Minister Plenipotentiary of the United States at Managua, as his special representative with the rank of Ambassador for the ceremonies of transmission of the power of this Republic. While advising you that said designation is particularly satisfactory, I beg you to express to Your Excellency's enlightened Government the sentiments of gratitude of that of Nicaragua for the evidence of friendly cordiality which said gesture implies. I renew to you sentiments distinguished consideration.

G. RAMIREZ BROWN

817.001 Somoza, Anastasio/11 : Telegram

The Minister in Nicaragua (Long) to the Secretary of State

MANAGUA, January 1, 1937—noon.

[Received 3:50 p. m.]

1. Somoza and Navarro inaugurated this morning without incident as President and Vice President respectively.

LONG

ATTITUDE OF THE UNITED STATES TOWARD THE FORMATION OF A DEFENSIVE ALLIANCE AGAINST COMMUNISM IN CENTRAL AMERICA AND POSSIBLE FOREIGN INTERVENTION IN NICARAGUA AS A RESULT THEREOF

810.00B/108

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

No. 344

MANAGUA, November 26, 1936.

[Received December 3.]

SIR: I have the honor to refer to my despatch No. 340 of November 24, 1936,⁸⁸ and to transmit herewith copies of the communication re-

⁸⁸ Not printed.

ferred to in my telegram No. 234 of November 26, 12 noon,^{86a} together with a translation thereof.

The Minister for Foreign Affairs explained to me that he hoped the memorandum would be considered in the same light as if it were a formal note, but what he wanted to keep it strictly confidential and did not wish even the members of his office to know of the contents; for that reason, he said, he had presented an unnumbered memorandum which he had prepared himself.

Respectfully yours,

GUY W. RAY

[Enclosure—Translation]

The Nicaraguan Acting Minister for Foreign Affairs (Ramirez Brown) to the American Chargé (Ray)

MEMORANDUM

1. The Government of Nicaragua has been able to ascertain the existence in the nation of certain communistic organizations connected with other international organizations; and as it considers those pernicious doctrines a real menace of destruction and social anarchy it has the firm and decided intention to oppose with all energy their dissemination and to annihilate drastically the germs of communism which are appearing.

2. For that purpose the President of the Republic through the initiative of General Anastasio Somoza,⁸⁷ candidate to the Presidency of Nicaragua for the Nationalist Liberal and Conservative Parties, has proposed informally to the Government of the other states of Central America the formation of a defensive alliance against communism. The Central American Governments have expressed their agreement in general terms to the organization of that common anti-communist front and the Government of Nicaragua therefore is undertaking to initiate formal action to bring this salutary plan into effect.

3. It is desired to know the opinion of the Department of State of the United States of America on this subject; and what would be the attitude of the United States of America in case, as a consequence of this anti-communistic campaign, Nicaragua should be attacked (*molestada*) by some large nation on the continent either directly or by supporting some revolutionary movement with arms or tangible forces.

G. R[AMIREZ] B[ROWN]

^{86a} Not printed.

⁸⁷ Director of the Nicaraguan National Guard.

810.00B/106a : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Ray)

WASHINGTON, November 27, 1936—5 p. m.

132. Your 234, November 26, noon.⁸⁸ Make no reply to Nicaragua note until receipt of instructions from the Department. Transmit to the Department a copy of the note if you have not already done so.

MOORE

810.00B/109 : Telegram

The Secretary of State to the Acting Secretary of State

BUENOS AIRES, December 5, 1936—2 p. m.

[Received December 5—12:44 p. m.]

31. Department's 64, December 3, 4 p. m.⁸⁹ The text of the memorandum which it is suggested be delivered to the Nicaraguan Government through the Legation at Managua is satisfactory.

It is preferable, however, for the Department when delivering a copy of this memorandum to the Chargé d'Affaires in Washington to make it wholly clear that the step contemplated by the Nicaraguan Government is one which that Government will have to determine for itself as well consequently as one upon which the Government of the United States has no comment to make. You may then merely add that your Government assumes of course that the Nicaraguan Government fully realize the gravity of the step under consideration.

HULL

810.00B/112 : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Long)

WASHINGTON, December 8, 1936—2 p. m.

134. Legation's 234, November 26, noon.⁸⁸ You are requested to submit the following memorandum to the Acting Minister for Foreign Affairs:

The Legation is instructed to make the following reply to the confidential memorandum of the Acting Minister of Foreign Affairs dated November 24, 1936:

⁸⁸ Not printed.

⁸⁹ Not printed; it transmitted to the Secretary of State, who was then attending the Inter-American Conference for the Maintenance of Peace, the text of proposed memorandum for approval (810.00B/107). For text of memorandum, see *infra*.

With reference to the third paragraph of this memorandum the Government of the United States sincerely hopes that the hypothetical contingency referred to therein will never arise and believes that if there are differences which might lead to such a contingency an endeavor should be made to arrive at a satisfactory adjustment by friendly negotiation between the parties concerned. The Government of the United States is happily at peace with and has the most friendly relations with every one of the other American republics, and will direct its efforts to continuing and strengthening those friendly relations with all.

In delivering this memorandum to the Acting Minister for Foreign Affairs you should orally make it wholly clear that the step contemplated by the Nicaraguan Government is one which that Government will have to determine for itself as well consequently as one upon which the Government of the United States has no comment to make. You may then merely add that your Government assumes of course that the Nicaraguan Government fully realizes the gravity of the step under consideration.

MOORE

PANAMA

UNPERFECTED CONVENTION BETWEEN THE UNITED STATES AND PANAMA PROVIDING FOR THE REGULATION OF RADIOCOMMUNICATIONS IN THE REPUBLIC OF PANAMA AND THE CANAL ZONE, ACCOMPANIED BY THREE SUPPLEMENTARY EXCHANGES OF NOTES, SIGNED MARCH 2, 1936

[Text printed as Ex. C, 74th Cong. 2d sess. On April 8, 1947, the President sent a message to the Senate expressing his desire to withdraw this convention for further study and consideration in the light of developments since it was formulated (Ex. M, 80th Cong., 1st sess.). On April 17, 1947, the Senate directed that it be returned to the President (*Congressional Record*, vol. 93, pt. 3, p. 3584).]

GENERAL TREATY OF FRIENDSHIP AND COOPERATION BETWEEN THE UNITED STATES AND PANAMA AND EXCHANGES OF NOTES, SIGNED MARCH 2, 1936¹

[For text of the treaty and notes, signed at Washington, see Department of State Treaty Series No. 945, or 53 Stat. 1807. Exchanges of notes on February 1 and July 25, 1939, clarified certain provisions of the General Treaty affecting the security and neutrality of the Panama Canal. For texts, see Department of State Treaty Series No. 945.]

UNPERFECTED CONVENTION BETWEEN THE UNITED STATES AND PANAMA PROVIDING FOR THE TRANSFER TO PANAMA OF TWO NAVAL RADIO STATIONS, SIGNED MARCH 2, 1936

[Text printed as Ex. D, 74th Cong., 2d sess.; also printed in *Congressional Record*, vol. 86, pt. 12, p. 13803. This convention was approved by the Senate on December 2, 1940 (see *ibid.*), but was never ratified.]

CONVENTION BETWEEN THE UNITED STATES AND PANAMA FOR A TRANS-ISTHMIAN HIGHWAY, SIGNED MARCH 2, 1936

[For text of the convention, signed at Washington, see Department of State Treaty Series No. 946, or 53 Stat. 1869.]

¹ For previous correspondence, see *Foreign Relations*, 1935, vol. iv, pp. 889 ff.

OBJECTIONS BY PANAMA TO RECEIVING PAYMENT OF PANAMA
CANAL ANNUITY IN DEVALUED DOLLARS²

711.1928/507b

The Secretary of State to the Secretary of the Treasury (Morgenthau)

WASHINGTON, February 17, 1936.

MY DEAR MR. SECRETARY: Under the provisions of Article XIV of the Convention between the United States and the Republic of Panama, concluded November 18, 1903,³ there will be due and payable on February 26, 1936, to the Republic of Panama, or its agent, the sum of \$250,000.00 in liquidation of the twenty-fourth annual payment due from the Government under the terms of which Congress appropriated \$250,000.00 in the Department of State and Justice Act approved March 22, 1935.⁴

I, therefore, enclose herein Certificate No. 1, dated February 4, 1936, in favor of William Nelson Cromwell, Fiscal Agent of the Republic of Panama, for \$250,000.00 in settlement of this payment.

It is respectfully requested that a warrant for the amount due be forwarded to the Bureau of Accounts of this Department for transmission to Mr. Cromwell.

Sincerely yours,

CORDELL HULL

711.1928/507a

*The Secretary of State to the Fiscal Agent of the Republic of
Panama (Cromwell)*

WASHINGTON, February 26, 1936.

SIR: The Department encloses herewith copy of the Comptroller General's settlement certificate No. 0391039 dated February 26, 1936, and check on the Treasurer of the United States, No. 48,769, dated February 26, 1936, payable to your order as Fiscal Agent of the Republic of Panama, for \$250,000.00, in settlement of the annuity due the Republic of Panama on February 26, 1936, under Treaty of November 18, 1903.

Please sign the enclosed receipt and return it to the Department for its files.

Very truly yours,

For the Secretary of State:

WILBUR J. CARR

Assistant Secretary

² Continued from *Foreign Relations*, 1935, vol. iv, pp. 911-931.

³ *Foreign Relations*, 1904, pp. 543, 548.

⁴ 49 Stat. 67, 73.

711.1928/508

*The Fiscal Agent of the Republic of Panama (Cromwell) to the
Secretary of State*

NEW YORK, February 28, 1936.

[Received February 29.]

DEAR SIR: I beg to acknowledge herewith your letter of February 26, 1936 ("BA" 711.1928/) addressed to me, as Fiscal Agent of the Republic of Panama, and enclosing a copy of the Comptroller General's Settlement Certificate No. 0391039, dated February 26, 1936, check on the Treasurer of the United States, No. 48,769, dated February 26, 1936, to my order as Fiscal Agent of the Republic of Panama, for \$250,000 "in settlement of the annuity due the Republic of Panama on February 26, 1936, under Treaty of November 18, 1903", and a form of receipt therefor.

This form of receipt contains the statement that the aforementioned check is "in full payment of the annuity due the Republic of Panama February 26, 1936", etc.

I beg to acknowledge your communication and to advise you that the Republic of Panama maintains the position that under the terms of the above mentioned Treaty, the Annuity should be paid in gold coin like that existing in 1904. Consequently, and in view of the aforementioned advice from the Government of Panama that it does not consider that the payment in question constitutes payment in full of the said Treaty Annuity, I, as such Fiscal Agent, consider that I cannot and do not accept the check as tendered and am returning the check herewith.

Respectfully yours,

WM. NELSON CROMWELL

PARAGUAY

REVOLUTION IN PARAGUAY

834.00 Revolutions/5 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 17, 1936—9 a. m.

[Received 4: 46 p. m.]

15. Revolutionary movement broke out early this morning. It is rumored that garrison at Paraguarí and several local forces, including military school and aviation, have revolted and are said to be marching on Asunción. There is intermittent firing in the center of the city.

Repeated to Buenos Aires.

HOWARD

834.00 Revolutions/7 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 17, 1936—5 p. m.

[Received 7: 50 p. m.]

16. My 15, February 17, 9 a. m. Fighting in center of town continues with undetermined results. General Estigarribia and Minister for Foreign Affairs Riart are reliably reported to be prisoners of the insurgents. President Ayala appears to be directing resistance either from one of the gunboats or the police headquarters which together with marine barracks and the arsenals are said to have remained loyal.

HOWARD

834.00 Revolutions/6 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 17, 1936—11 p. m.

[Received February 18—12: 40 a. m.]

17. My 16, February 17, 5 p. m. President and most of Cabinet said to be still holding out on gunboat. Revolutionists now claim

victory by reason of submission of the loyal forces who have been defending the central section of the city. Latest information seems to confirm this claim. So far as known navy and arsenals still loyal.

HOWARD

834.00 Revolutions/8 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 18, 1936—9 a. m.

[Received 12:15 p. m.]

18. Entire city now in undisputed control of insurgents. Fighting ceased about 1 a. m. Ayala variously reported a prisoner and as safe on gunboat. Colonel Franco is expected to arrive this morning and to assume charge.

Repeated to Buenos Aires.

HOWARD

834.00/794 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 19, 1936—4 p. m.

[Received February 20—11:55 a. m.]

21. Colonel Franco arrived at Asunción at 3 o'clock. It is understood that he traveled in a plane chartered by the Buenos Aires newspaper *Crítica*. It is probable that efforts to form a provisional government will begin at once.

Repeated to Buenos Aires.

HOWARD

834.01/1 : Telegram

The Minister in Uruguay (Lay) to the Secretary of State

MONTEVIDEO, February 19, 1936—5 p. m.

[Received February 19—4:45 p. m.]

13. In a conversation with Marques Castro, prominent official of the Foreign Office, at luncheon today he told me (as if it were the opinion of the Foreign Office) that at least the mediating countries in the Chaco dispute should make their recognition of the new Government in Paraguay conditional on Paraguay's acceptance of the recent international pacts which it has ratified.

Repeated to Rio de Janeiro and Buenos Aires.

LAY

834.01/2 : Telegram

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

BUENOS AIRES, February 19, 1936—6 p. m.

[Received February 19—5:32 p. m.]

43. From Braden.¹ In conversations yesterday with neutral delegates Saavedra Lamas² expressed the belief that the new Paraguayan regime should not be recognized by the six neutral governments represented on the Chaco Peace Conference until after consultation between them and that any such recognition should be more or less simultaneous, being held in abeyance until it can be ascertained whether the new regime will honor the Buenos Aires protocols.³ He requested my colleagues and me to ascertain the views of our Governments.

Chilean delegate stated he had received similar suggestion from his Minister for Foreign Affairs who had telegraphed Lima asking its support; Uruguayan delegate expressed complete agreement with suggestion; Brazilian delegate and I stated we would consult our Governments. [Braden.]

WEDDELL

834.01/2 : Telegram

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

WASHINGTON, February 20, 1936—3 p. m.

22. Your 43, February 19, 6 p. m. Please inform Dr. Saavedra Lamas that this Government shares the opinions he expressed to you and that it will welcome the opportunity of consulting with the Argentine Government and the neutral governments represented on the Chaco Peace Conference before reaching any decision concerning recognition of the new regime in Paraguay.

HULL

834.00/796 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 20, 1936—4 p. m.

[Received February 21—noon.⁴]

23. I have just received two notes from the Ministry for Foreign Affairs. The first announces that Colonel Franco today took oath as

¹ Spruille Braden, American delegate to the Chaco Peace Conference at Buenos Aires.

² Carlos Saavedra Lamas, President of the Chaco Peace Conference and Chairman of the Argentine delegation.

³ The protocols of June 12, 1935, and January 21, 1936, signed at Buenos Aires, provided for the solution of the Chaco conflict between Paraguay and Bolivia; see *Foreign Relations*, 1935, vol. iv, pp. 73-77, and *ante*, pp. 35-39.

⁴ Telegram in four sections.

Provisional President "by decision of the plebiscitary decree of the liberating army," and that he has constituted his Cabinet as follows: Minister of Interior, Dr. Gomez Freire Esteves. Minister for Foreign Affairs and ad interim Minister of War and Marine, Dr. Juan Stefanich. Minister of Justice, Worship and Public Instruction, Dr. Anselmo Jover Peralta. Minister of Agriculture, Don Bernardino Caballero. Minister of Finance, Dr. Luis Freire Esteves.

The second notifies this Legation that the Minister for Foreign Affairs, "has fixed tomorrow, Friday, the 21st from 9 to 11 o'clock to receive in special audience the members of the Diplomatic Corps accredited before the Government of Paraguay."

The members of the Cabinet are not persons of prominence and probably were chosen largely because of their personal friendship with Franco. Hastily gathered information indicates that the two Freire Esteves are brothers, are not party members, have so-called extremist views and were implicated in the 1915 January revolution (see despatch 40, January 4, 1915⁵). Stefanich is the former representative in Paraguay of the League of Nations and leader of the virtually inactive Liga Nacional Independiente. (See despatches 100, February 14, 1936, 247, June 22 [20], 1935, and 662, November 14, 1928.⁶) Peralta is a former deputy, also said to entertain extremist opinions. He was accused by the Ayala administration of being Communist and unquestionably is the person referred to in the first paragraph of my despatch 168 [63], January 11, 1936,⁵ as having been deported. Caballero is said to have returned recently from Germany and to approve Hitlerism. He is a member of the National Republican Party and also was implicated in the 1915 January revolution.

It is generally believed and is my opinion that the insurrection which placed the Franco government in power may properly be designated a military coup, that it was based upon jealousies and possibly just grievances among the military resulting from favors bestowed upon a few while the majority of the ex-combatants considered themselves to be neglected and that its first objective was the overthrow of the Ayala-Estigarribia regime rather than the establishment of any system. The deportation of Colonel Franco furnished a popular pretext for action. In consummating the uprising, however, other groups joined the army and the ex-combatants, such as the militant students and certain civilian elements hostile to the administration and the Liberal Party. Such participation was in part based upon economic grounds, discussed in despatches 293, September 3, 1935; and 324, October 8, 1935.⁷ Their victory almost certainly implies the eclipse of the Liberal Party although not necessarily the supremacy

⁵ Not printed.

⁶ None printed.

⁷ Neither printed.

of another, such as the Republican, for the time being. The so-called extremist or allegedly Communist tendencies of some members of the Cabinet, the advanced program of the ex-combatants (see despatch 15, November 15, 1935⁸), and the references in hand bills and similar literature circulated during the last few days to "foreign capital" et cetera probably will not influence the conduct of the Government to a dangerous degree although it is likely that Colonel Franco may find himself committed to numerous social reforms affecting land holdings, food prices, pensions and similar domestic questions. No indication of foreign policy has as yet been made but several of my informants are of the opinion that while the Chaco protocols may not be popular among all members of the new Government (in this connection see despatch 247 above cited) they will be respected, as is asserted by tonight's newspapers. The army decree mentioned in paragraph No. 1 confers upon the Provisional President the power to convoke a constituent convention "to modernize the Constitution" but I am not informed regarding the intentions of the Government in this respect.

While unbiased information is not available it is probable that the authority of the Franco government is established throughout the Republic. The principal leaders of the liberal regime are refugees in legations in hiding, or have escaped to Argentina. This [*they?*] presumably only await a propitious moment to undertake to recover. For the moment, however, it is probably safe to assume that they are impotent. The uncertain element in any appraisal of the immediate prospects of the Provisional Government is General Estigarribia. There is reason to believe that he may be boisterous [*sic*] in the Chaco and that he might be able to utilize a portion of the forces there against Franco although he might be unwilling to weaken those forces in view of possible danger from the Bolivian side.

Concludes as No. 24, February 20, 7 p. m.⁹

HOWARD

834.00/797 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 20, 1936—7 p. m.

[Received February 21—10:05 a. m.]

24. My 23, February 20, 4 p.m. At a meeting of the Diplomatic Corps this evening my colleagues, with the uncertain exception of the Argentine Chargé d'Affaires, decided to call at the Foreign Office tomorrow morning in compliance with Dr. Stefanich's invitation.

⁸ Not printed.

⁹ *Infra*.

They do not, with the exception of the Mexican [representative?], regard such action as implying recognition. I stated that I must await instructions.

In so far as can be judged the present *de facto* government appears able to maintain itself for the immediate future although in many quarters there still exists a feeling of uncertainty. If formal recognition is to be accorded upon this basis I can see no grounds for refusal and it would seem advisable not to delay. It would also be conducive to friendly relations with the new Government if I could join my colleagues in their call at the Foreign Office tomorrow.

HOWARD

834.00/798 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 21, 1936—11 a. m.

[Received 12:35 p. m.]

25. My 24, February 20, 7 p.m. In view of instructions to the Argentine Chargé d'Affaires implying the withholding of recognition, the Italian, German, French, Spanish and British Diplomatic Representatives altered their decision of last evening and did not attend Dr. Stefanich's special audience this morning. In the absence of instructions I of course did not attend. Consequently only the Mexican, Brazilian, Chilean, Cuban and Uruguayan representatives presumably visited the Foreign Office.

HOWARD

834.00/796 : Telegram

The Secretary of State to the Minister in Paraguay (Howard)

WASHINGTON, February 21, 1936—2 p. m.

2. Your 24, February 20, 7 p.m. received this morning 10:05 a.m. Reference is also made to your 23, February 20, 4 p.m.

Your action in refraining from attending meeting called at the Foreign Office this morning in compliance with the invitation of the Minister for Foreign Affairs on the ground that you must await instructions is approved by the Department. While recognition of the new regime in Paraguay will be solely dependent upon the intent of this Government to accord such recognition, your attending a meeting of the Diplomatic Representatives accredited to Paraguay called by the new Foreign Minister would undoubtedly be construed locally as constituting recognition and would obligate this Government officially to state that such action was not intended. Consequently, for the present, it is desired that you refrain from entering into any relations with the newly formed government which could

in any way be construed as implying recognition of the present Paraguayan regime.

At the instance of the Governments of Argentina, Brazil, Chile, and Peru, this Government has agreed with the Governments mentioned not to accord recognition to the new government in Paraguay until formal and satisfactory assurances are received that the new government will recognize the validity of all of the Chaco peace obligations entered into by the preceding Paraguayan Government, and furthermore, that the five Governments would reach a common agreement as to the proper time for recognition so that recognition by them may be accorded more or less simultaneously.

With reference to the last paragraph of your cable No. 24, it would seem as yet premature in any event to determine whether the new government in Paraguay meets with a substantial measure of popular support; whether it is able to maintain itself in power; whether it is able to carry out the functions of a stable government; and finally, whether it intends to comply with its international obligations previously contracted.

Please cable Department your views on all of these points as soon as you are able to form considered judgment thereon.

HULL

834. 01/6

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

No. 3308

MEXICO, February 21, 1936.

[Received February 25.]

SIR: I have the honor to report the announcement yesterday by *Excelsior* of the transmission of instructions by the Foreign Office to the Mexican Minister at Asunción that the latter remain at his post and carry out his mission as usual, in accordance with the "Estrada Doctrine,"¹⁰ thus *ipso facto* recognizing the Government established in Paraguay by the successful *coup d'état* of Colonel Rafael Franco.

Respectfully yours,

JOSEPHUS DANIELS

834.01/5 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 25, 1936—noon.

[Received February 25—11:35 a. m.]

27. The Minister for Foreign Affairs invited the Brazilian Chargé d'Affaires, the British Chargé d'Affaires and myself separately and by telephone to call at the Foreign Office today and tomorrow. The

¹⁰ Instituto Americano de Derecho y Legislación Comparada, *La Doctrina Estrada* (Mexico, Publicaciones del Instituto Americano de Derecho y Legislación Comparada, 1930).

Brazilian and I have declined to go. I do not know what action will be taken by the British representative who at the moment is not at his Legation.

HOWARD

834.01/7 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 26, 1936—4 p. m.

[Received February 27—12: 16 a. m.]

28. My 27, February 25, noon. The Minister for Foreign Affairs of the Provisional Government Dr. Juan Stefanich has today made the following statement to the press (text furnished by the United Press representative):

“The pronouncements of the governments of foreign nations with respect to official recognition of the new situation is momentarily awaited. As is known the revolution has decreed the dismissal of the diplomatic and consular personnel accredited by the overthrown regime and in consequence the Provisional Government lacks foreign representation at the moment. No negotiation to that end can be anticipated through Paraguayan representatives abroad.”

After detailed reference to the special audience mentioned in my 25 February 21, 11 a.m., and to desire to grant time for resident Diplomatic Corps to furnish full reports to their governments, the statement continues:

“In view of the declarations of the Provisional President on the occasion of the great popular demonstration of support of his Government setting forth the fundamental principles that would govern his Government’s action, and believing that the governments of the friendly powers are now perfectly informed by their representatives, the Paraguayan Ministry for Foreign Affairs initiated the first conversations with the members of the Diplomatic Corps who came to the Foreign Office relative to the opening of official relations with the foreign governments, and is awaiting the instructions they may receive from their governments. This Ministry does not consider that reasons exist that make it advisable to send special missions abroad to negotiate the reestablishment of Paraguay’s official relations with the friendly powers since it confides fully in the good will of all the governments with respect to the Provisional Government of Colonel Franco.

“The Minister for Foreign Affairs confirms that the Provisional Government views with the best disposition the initiative of President Roosevelt with respect to the holding of an American peace conference¹¹ and it will be pleased to give its reply as soon as it is invited by the Government of the United States.”

¹¹ For correspondence concerning the Inter-American Peace Conference, see pp. 3 ff.

In a special statement to the United Press Dr. Stefanich further said:

“The Provisional Government is interested in accelerating as much as possible the execution of the agreements relative to the repatriation of the prisoners of war. To this end it gave orders to the future members of the Military Committee on Repatriation, Colonel Irrazabal, Lieutenant Colonel Recalde and Major Sosa Valdez to proceed without delay to Buenos Aires so that when official relations with the foreign governments are reestablished they may immediately initiate the negotiations that will consummate the return of the prisoners to their respective countries.”

Repeated to Buenos Aires.

HOWARD

834.01/8 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 26, 1936—6 p. m.

[Received February 27—2:38 a. m.]

29. The “declarations” of Provisional President Franco cited in my 28, February 26, 4 p. m., are contained in his address to the people who participated in a popular demonstration Monday afternoon at which a Communist orator spoke and a banner with a Communist legend was displayed. The address as published in today’s newspapers was directed to “the Paraguayan people of Antequera, of Rodriguez de Franci, and of the Lopez” and its salient points are as follows:

(1) “International peace will find the firmest support in our decision to respect existing pacts and to cultivate relations of fraternity with foreign nations”; (2), “The renovating work of the revolution is based upon respect for the authentic worth of our nation and they are mistaken who suppose that the action of the Provisional Government might be inspired by the doctrines of the extreme Left”; and (3), “It is necessary that national and foreign opinion have the most complete confidence in the intentions of the new Government. We are not headed for dissolution or anarchy.”

It is reported that the Government appreciates the unwisdom of becoming identified with extremists, is already embarrassed by them, and will take steps to curtail their activities.

In his interviews this morning with the members of the Diplomatic Corps who acceded to his renewed invitation Dr. Stefanich asserted that the Provisional Government is firmly established and enjoys the support of the army, the ex-combatants, the public and the resident foreigners (this statement being based upon the participation in the popular demonstration on behalf of the foreign civil legion, which

includes American citizens) and can maintain itself. He added that the Communist element would be eradicated as soon as possible and that foreign interests would be respected. In these circumstances he expressed the desire that the new government be accorded recognition.

The five European representatives met this evening and decided to inform their governments of the foregoing and to state that the Franco government appears to be stable and capable of maintaining itself subject however to disruption as a result of internal strife. The Spanish Minister probably will recommend immediate recognition. The German Minister will probably state that recognition at this time would be premature, as will the British Chargé d'Affaires who will also recommend that his Government maintain contact with the governments of the states associated in the Chaco mediation and follow their [example]. Mexico of course has recognized the Provisional Government.

Repeated to Buenos Aires.

HOWARD

834.01/7: Telegram

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

WASHINGTON, February 27, 1936—7 p. m.

23. Referring to telegrams numbers 28, February 26, 4 p. m., and 29, February 26, 6 p. m., from the American Legation at Asunción, please cable the Department of any views which may have been expressed to you by the Minister for Foreign Affairs regarding present developments in Paraguay. The public declarations as to its foreign policy made by the new Paraguayan regime would appear to be reassuring.

The Department would be glad to know particularly the views of the Argentine Government as to the stability of the new regime and the probability that it can maintain itself in power.

HULL

834.01/7: Telegram

The Secretary of State to the Ambassador in Brazil (Gibson)

WASHINGTON, February 27, 1936—7 p. m.

46. The Department has received the following telegrams from the Legation at Asunción: Quote text of No. 28, February 26, 4 p. m., and No. 29, February 26, 6 p. m.

Please cable the Department of any views which may have been expressed to you by the Minister for Foreign Affairs regarding present developments in Paraguay. The public declarations as to its foreign policy made by the new Paraguayan regime would appear to be reassuring.

The Department would be glad to know particularly the views of the Brazilian Government as to the stability of the new regime and the probability that it can maintain itself in power.

HULL

834.00/803 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 27, 1936—7 p. m.
[Received February 28—8:45 a. m.¹²]

30. Your 2, February 21, 2 p. m. My views with respect to the new regime in Paraguay are as follows:

1. Popular support. Public opinion in Paraguay has been suppressed throughout almost the entire history of the nation. Long accustomed to repression and sudden changes of government the general public has become highly conformable. Consequently, despite nominal or sincere party affiliations, it may be assumed, and reports so indicate, that in general the inhabitants of the country accept with relative indifference the *fait accompli* of the new Government. There are, moreover, many Paraguayans, especially of the laboring and farming classes, who consider that they have been the unheeded victims of an unfair politico-economic system and who look to the new regime to better their condition. Finally, it is becoming apparent that the Republican (Colorado) Party is favored by and favorable to the new order and it is to be assumed that it will lend its support to the Franco government and eventually become an important part of it. This party, however, still is not reunited and a section may hold aloof. On the other hand, of course, are the militant liberals now demoralized but who presumably will take the first opportunity to overthrow the new regime and regain control. This group possesses influence and leaders, not all of whom have been apprehended.

2. Ability to maintain itself. The insurrection of February 17th was organized and executed principally by the army, with the support of the ex-combatants and the later accretion of the students and civilian elements, some of which were of extremist and Communist tendencies and affiliations. Not all the army however was involved in the insurrection and the authorities are now engaged in the elimi-

¹² Telegram in two sections.

nation of those officers, especially of high rank, with respect to whose wholehearted allegiance they are doubtful. A group of such officials is said already to have been despatched to the penal island of Pena Hermosa, in the Paraguay River above Puerto Sastre. As was reported in telegram 29, February 26, 6 p. m., whatever may have been the personal views of the members of the new regime they seem already to have perceived the unwisdom of becoming identified with the extremists and are now disposed to attempt early separation from them. If this military and political rehabilitation can be effected the internal structure of the government should be strengthened. The bulk of the army and of the association of ex-combatants (of which Franco was chief and which claims a membership of 60,000) appear unquestionably to support the new regime and able to maintain it against any effort to overthrow it by external attack.

3. Ability to carry out functions of a stable government. Railway and river traffic, street car and bus services, the postal, telephone, and telegraph services, and all administrative offices are operating in a normal manner, although of course the rearrangement of the Cabinet and induction of new personnel have impaired the functioning of some Government bureaus. Business establishments and banks are also functioning, the former subject to certain control as to the prices of prime materials and the latter as to transfers and exchange operations. The exchange office has been "intervened" and the "Bank of the Republic of Paraguay" established in its stead and with its resources. New police and municipal authorities have been designated and all city activities appear to be proceeding normally. It is understood that similar administrative normality prevails elsewhere in the Republic.

4. Intention to comply with international obligations. An unrefuted "manifesto" issued by Colonel Franco February 6th and published in the Buenos Aires *La Prensa* of February 19th asserts that the military victory of the Chaco was about to be lost through diplomacy and that "our triumphal military advance was checked by the criminal armistice of the field as well as in the mistaken peace protocol of June made before the imminent capture of the Standard Oil wells and the invasion of Santa Cruz". In an undated quotation from *La Razon* of Buenos Aires he is further said to have asserted that the general situation in Paraguay was aggravated upon receipt of knowledge of the terms of the peace protocols as "these conventions have not satisfied Paraguayan opinion which considers that the victory on the field of battle has been sacrificed". The new "Colorado" sheet *Patria* in an editorial on February 21st denounced the Buenos Aires protocols as incompatible with the ends of the revolution and advocated an army of 25,000 men with corresponding equipment.

However, since assuming the provisional presidency Colonel Franco has modified his public attitude toward the Chaco peace proposals, as is shown by his statements cited in telegrams 28, February 16 [26], 4 p. m.; and 29, February 16 [26], 6 p. m. The same is true of Dr. Stefanich, who has made similar attacks in the past.

As to international obligations in Geneva, Dr. Stefanich yesterday assured the diplomatic representatives who conferred with him that the new Government will respect all previously contracted obligations—such as the London loans, the railway concessions, et cetera.

To summarize: it is my judgment that the Franco regime enjoys at the moment a popular acceptance ranging from apathetic acquiescence to enthusiastic support, with the exception of the more aggressive element of the Liberal Party; that it is able to maintain itself against any immediately foreseeable external attack, although no opinion can be formed as to its probable immunity from internal disruption; that it is able to carry out the functions of a stable government and is discreetly doing so, including the affording of protection to foreign interests and activities despite the inimical attitude of a radical and anti-foreign element in its ranks; and finally, that notwithstanding earlier ill-advised utterances of Colonel Franco and other evidences of antagonism toward the Chaco peace protocols (based in part upon the restrictions they impose upon the army) the new regime will consider it expedient to uphold them, as well as other international obligations previously contracted. In this connection, it is my impression that the delay in obtaining recognition is causing concern to the Franco regime, and that in return therefor it would be disposed to give formal and satisfactory assurances that it will faithfully execute the Chaco peace protocols.

HOWARD

834.01/21

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

No. 132

BUENOS AIRES, February 27, 1936.

[Received March 9.]

SIR: I have the honor to report that in accordance with your instructions I called on Minister of Foreign Relations Saavedra Lamas at 12 noon on the 21st instant and verbally informed him of the sense of your telegram No. 22 of February 20, 3 p. m. He expressed his appreciation of the attitude adopted by the State Department. Due to the fact that Carnival holidays (22nd to 25th inclusive) intervened, it was impossible similarly to inform other delegates until the meet-

ing of the Conference Executive Committee held at 6 p. m. on the 26th instant, at which time the several neutral delegates expressed the adherence of their respective Chancelleries to the suggested program of maintaining a united front in regard to recognition of the new Paraguayan Government.

At this Executive Committee meeting Ambassador Rodrigues Alves presented a form resolution proposing that the Conference: (1) recommend recognition of the new Paraguayan Government to the six participating neutral Governments, (2) suggest to the new régime that they forthwith make a strong declaration of their intention to abide by the June 12th and January 21st Protocols, and (3) urge the appointment of new Paraguayan delegates to the Conference and members to serve on the Special Repatriation Committee. Several of the delegates favored item No. 2 but all were opposed to Nos. 1 and 3. I stated that in my opinion the new Government perhaps might be inexperienced and unacquainted with usual diplomatic procedure to be followed by a nation seeking recognition and, therefore, we properly might make a declaration which would facilitate the new Paraguayan régime's endeavors to contact the Conference so that our deliberations could be renewed, preparations for prisoners' repatriation be continued and the prisoners' return initiated as soon as possible.

Minister Saavedra Lamas was opposed to any declaration being made by the Conference and called attention to press announcements that Lieutenant Colonel Recalde, a leader of the revolution, had been appointed to serve on the Special Repatriation Committee, instructed to leave for Buenos Aires immediately and also was charged with a special mission, which he—Saavedra Lamas—assumed had to do with recognition. Therefore, the Minister felt no action should be taken by the Conference until the beginning of next week when Colonel Recalde would be in Buenos Aires. After some discussion, the Conference passed the following resolution:

The Executive Committee of the Peace Conference assembled with the delegates on February 26. After considering the situation produced by the fulfillment of the Protocol of January 21 as a result of events in Paraguay, it was resolved to maintain right of actions and declarations which make it possible to continue, within the briefest possible space the functions assigned it by the said Protocol of January 21.¹³

Saavedra Lamas requested no publicity be given this resolution until on the 27th instant he had had an opportunity to discuss the Paraguayan situation with the ex-chief of the former Argentine Military Commission in Paraguay, Colonel Switzer. However, it was

¹³ Translation supplied by the editors.

understood that the Executive Committee would meet again on the afternoon of the 27th instant at which time it probably would be decided informally to advise the new Paraguayan Government of this resolution. The meeting of the Executive Committee was postponed until the 28th, apparently upon orders of its President.

Respectfully yours,

SPRUILLE BRADEN

834.01/10 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, February 28, 1936—7 p. m.

[Received 7:12 p. m.]

82. Department's 46, February 27, 7 p. m. Minister for Foreign Affairs still being absent in Sao Paulo and not returning to Rio until tomorrow, I took up the matter of Paraguayan recognition with the Secretary General of the Foreign Office. He had discussed the matter fully with President Vargas last evening.

The President feels that it would be premature to accord recognition now. The declarations made by Colonel Franco are in themselves reassuring but he feels it would be prudent for the mediating governments to bide their time until they see how far his words are borne out by his acts.

The Brazilian Government has information that Paraguayan and foreign Communists deported from Paraguay by President Ayala have now been summoned back and that a number of them are playing an active role including Peralta, the Minister of Education.

In any event the President feels that no recognition should be accorded until satisfactory guarantees are given that the new Government will respect all commitments undertaken at the Chaco Peace Conference.

GIBSON

834.01/11 : Telegram

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

BUENOS AIRES, February 28, 1936—11 p. m.

[Received February 29—1:15 a. m.]

47. Department's 23, February 27, 7 p. m. Mr. Braden has already seen the Foreign Minister and reports as follows:

1. Saavedra Lamas has not arrived at definite conclusion as yet on developments in Paraguay but is inclined to believe new Government will remain in power for at least several months. At conference

executive committee meetings on February 26th and 28th he suggested the following general course of action:

(a) Six neutral nations should proceed carefully and slowly in respect to recognition and in any event await arrival here next Monday of Lieutenant Colonel Ricalde, one of the principal revolutionary leaders whom new Government has appointed as member of Special Repatriation Commission;

(b) Before granting recognition six neutral nations should receive a definite written declaration of new Government's intention to respect June 12th and January 21st protocols thus confirming public statements made by Dr. Stefanich.

2. It should be borne in mind that Saavedra Lamas' viewpoint is probably influenced by several considerations quite apart from the Chaco question and purely concerning Argentine-Paraguayan relations.

3. While agreeing that caution is essential I have urged that we must consider the following:

(a) New regime according to available information appears likely to maintain itself in power at least for several months;

(b) Dr. Stefanich's statements indicated full intention to comply with all foreign obligations including Buenos Aires protocols;

(c) repatriation should begin by March 9 in accordance with article 4 of January 21st protocol;

(d) in order to carry forward repatriation, recognition of new regime by six neutrals probably will be essential;

(e) therefore were the six neutrals to delay recognition excepting for good and sufficient cause they might endanger Buenos Aires protocols, repatriation of prisoners and subject themselves to justifiable criticism.

4. No definite decision has so far been reached by the Committee as to recommending recognition to their respective governments. I expect frequent Committee meetings during next week.

WEDDELL

834.01/13 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, February 29, 1936—noon.

[Received 2:05 p. m.]

32. My 29, February 26, 6 p. m., last paragraph. I am reliably informed that the French Chargé d'Affaires has received instructions to accord recognition to the Franco regime concurrently with the Italian and British diplomatic representatives. The Spanish Minister has received somewhat similar instructions. The British Chargé has received no instructions. I understand in this connection that

the Argentine Government has expressed the hope that the British Government will defer recognition until it is accorded by the mediatory states.

HOWARD

834.01/12 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, March 1, 1936—11 a. m.

[Received 5 p. m.]

33. At casual meeting at the Union Club last evening, not of my seeking, I have talked informally with Dr. Stefanich the Minister for Foreign Affairs of the *de facto* government. After a long explanation of the background of the recent revolution he stated that the *de facto* government is firmly established with nearly unanimous popular support and that they have succeeded in reestablishing order and practically normal conditions within the country. With reference to the intensely nationalist and somewhat anti-tone of the press he stated that the newspapers were being edited by the students and the younger element whose views had been long suppressed and that it was advisable for the time being to permit them to let off steam. Stating that the new Government is desirous of restoring normal relations with other nations and calling attention to the fact that both he and Provisional President Colonel Franco had repeatedly stated that all international agreements and especially the Buenos Aires protocols would be faithfully fulfilled, he stated that being without diplomatic representation abroad he had implanted the idea of recognition with such of the Diplomatic Corps here as had called upon him. I inquired whether any other steps looking to recognition had been taken and was assured that nothing further had been done.

He then asked my opinion as to what should be done, inquiring particularly as to whether I thought a special commission should be sent (presumably to Buenos Aires). I replied that I did not possess sufficient information or instructions to place me in a position to offer sound advice and that in the absence thereof I did not feel free to venture any opinion. He then stated that he would be very grateful if I would communicate with my Government with a view to giving him my personal opinion as to the best course of procedure in the matter of recognition, saying that he then and there solemnly reaffirmed the position of the *de facto* government with reference to the fulfillment of international obligations. I told him that I would endeavor to comply with his request.

Please instruct.

HOWARD

834.01/14 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, March 2, 1936—7 p. m.

[Received March 2—6: 15 p. m.]

85. Italian Ambassador here has shown me telegram from Italian Minister at Asunción who reports that Colonel Franco has made strong appeal to him through his Minister for Foreign Affairs for immediate recognition. In answer to the Italian Minister's inquiry as to whether the new Government would respect the Chaco agreements, it was answered that two delegates would be sent to Buenos Aires, which would appear to be somewhat evasive. Asked whether Colonel Franco proposed to wipe out Communism, it was said that he was opposed to Communist activities but could not combat it or come out with any clear public declaration at this time because of internal difficulties but proposed to do so later.

GIBSON

834.01/12 : Telegram

The Secretary of State to the Minister in Paraguay (Howard)

WASHINGTON, March 3, 1936—2 p. m.

4. Your 33, March 1, 11 a. m. The Department has received during the past few days full information as to the considered views of the Governments of Argentina, Chile, Peru, and Brazil¹⁴ with regard to the question of recognition of the new Paraguayan Government. Consensus of opinion appears to be that it would be expedient to await the result of the conversations which will take place in Buenos Aires between the new Paraguayan delegates and the delegates at the Chaco Peace Conference before reaching any decision as to the wisdom of according recognition to the new regime at this time.

The Government of Chile has intimated that it would seem that the official statements issued by Colonel Franco and Dr. Stefanich concerning the intention of the new regime to maintain inviolate the Chaco peace agreements previously concluded by the Ayala government are at variance with certain of the declarations made by officials of the new Government to the public in Paraguay, and specifically, to the Paraguayan Army. The Government of Brazil is perturbed because of its belief that extremist elements are preponderant in the new Paraguayan regime.

¹⁴ See telegrams No. 82, February 28, 7 p. m. from the Ambassador in Brazil, p. 872, and No. 47, February 28, 11 p. m. from the Ambassador in Argentina, p. *ibid.* No report of information as to the views of the Governments of Chile and Peru has been found in Department files.

This Government believes it to be wise, in so far as the matter of recognition is concerned, to act in harmony so far as may be possible with the other mediatory nations represented at the Chaco Peace Conference, and furthermore believes it to be clearly desirable that formal commitments be given by the new Paraguayan regime demonstrating its firm intention of upholding all of the Chaco peace agreements previously arrived at. If satisfactory assurances on this point were not proffered by the new regime, there could be no assurance that the work of the Buenos Aires conference, concluded after so much difficulty during the past year would not be destroyed.

For all of these reasons this Government is unwilling at this time to reach any conclusion on the matter of recognition.

If a further informal opportunity such as that mentioned in your telegram under reference is presented to you to talk with Dr. Stefanich, you may intimate that it would seem as if a satisfactory contact with the representatives of the mediatory governments were presented to the new Paraguayan Government by the arrival in Buenos Aires of its military delegates and that you are certain that formal and satisfactory assurances demonstrating the intention of the new Paraguayan Government to respect all of the Chaco peace agreements would have a very reassuring effect and promote a favorable reaction on the part of the governments represented at the Peace Conference.

Please continue to keep the Department fully informed by telegram.

HULL

834.01/17 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, March 4, 1936—10 p. m.

[Received March 6—2 p. m.¹⁵]

39. The following observations are respectfully submitted in response to the Department's telegram No. 4, March 3, 2 p.m.

The Peruvian Government has been without diplomatic representation in Paraguay since the first of the year (see my 77, January [December] 16, 11 a. m.¹⁶) and consequently has no first hand information regarding recent developments here. Its only reports which would not have come from Buenos Aires whence its Minister to Paraguay, who arrived here today, recently submitted a despatch on the situation.¹⁷ The Chilean Government has recently changed its Minister at this post, the new representative having arrived January 15. A profound antagonism toward Chile exists among Paraguayan officers which is I understand reciprocated. (See Legation's 22, April

¹⁵ Telegram in two sections.

¹⁶ Not printed.

¹⁷ This sentence is apparently garbled.

4, 4 p. m.^{17a}) The Chilean Minister informed me a few days ago when it was rumored that Colonel Irrazabal might be appointed Minister at Santiago, that he would not be received "nor would any other Paraguayan Army officer". The recent uprising in Brazil has apparently inspired in its Government a keen preoccupation with Communism in adjacent countries. The Brazilian Legation in Asunción has reflected that condition, and appears to be of the opinion that Prestes¹⁸ is a refugee in this country. Just before his downfall President Ayala assured me that Prestes was not here and I do not believe he is here now. The special position of Argentina with respect to Paraguay is of course axiomatic. The British Embassy at Buenos Aires has informed the British Legation in Asunción that the Argentine Government "is highly displeased" by the Paraguayan insurrection. Eye witnesses report that two Argentine gunboats and at least six Argentine Army airplanes are assembled at Corrientes and it is fair to infer from the foregoing that while honestly concerned for the fate of the Chaco peace arrangement, the governments named are also influenced in their attitudes towards the new regime in Paraguay by inadequate information, or expert advisers or other considerations.

I share the Department's opinion that we should as a member of the mediatory group act concurrently with it in regard to recognition and base recognition upon the receipt from the Franco regime of formal assurances that it will respect the Chaco peace agreements. However [apparent omission] are to be the criterion it would seem to be proper to take some positive action designed to elicit such assurances. Through ineptitude and inexperience the new Government destroyed its own means of communication with other governments and to the best of my knowledge its initiatives through the locally accredited Diplomatic Corps have not produced any constructive suggestions. The military mission now in Buenos Aires is not, I understand, empowered to negotiate on any subject other than the return of prisoners and to do that only after relations with the mediatory states are restored although I have no doubt it would be suitably empowered if an intimation of the advisability of such action were to be conveyed to the Provisional Government. Protracted non-recognition without explanation or indication of the course to be pursued in order to obtain it will soon provoke hostility and stimulate the anti-foreign element and might hasten or provoke the collapse of the present regime—in which event it is not improbable that a period of civil war would follow during which the Chaco agreements might be seriously impaired if not irrevocably lost. Constructive action leading to recognition, on the other hand, presumably (al-

^{17a} Not printed.

¹⁸ Luis Carlos Prestes, leader of the Communist uprising.

though of course it is impossible to know) would strengthen the new Government and facilitate the early conclusion of the present phase of the Chaco negotiations.

Prior to the establishment on February 20th of the Provisional Government some of its present members and the insurrectionary army officers indulged in intemperate utterances especially concerning the Ayala regime and its works including the conduct of the war and the peace arrangements. As spokesmen for the new Government they have become conscious of their responsibilities and the inducements of expediency and have publicly avowed its intention to conform to the practices of international intercourse. If further attacks on the Chaco agreements have been made from these quarters they have not come to the attention of this Mission. On the contrary reliable information indicates that the Bolivian prisoners are now being assembled preparatory to early repatriation. As to the Communist and extremist elements there is evidence that they are being curbed. Certainly they have as yet been prevented from engaging in other than verbal activities although it is true that the students and ex-combatants have, as is not unusual in Latin America, been permitted to seize and operate the liberal newspapers. The Government is proceeding with the reorganization of the administrative establishment (the three branches of Government were declared overthrown by the army on February 17). Public order continues to prevail and no attempt at opposition has yet been reported although widespread uneasiness still exists. The Government is structurally unsound by virtue of its heterogeneous composition and lack of an established party foundation. At the moment an attempt is being made to found a national party inspired by nationalistic sentiments to promote which the memory of Francisco Solano Lopez is being officially evoked. It is more likely that strength will develop through a consolidation of army opinion or the ascendancy of the Republicans, conversely the new Government may abrogate at any time. It is probable, however, that it is as satisfactory a government as we may look forward to in Paraguay for the immediate future and it is of course the only agency through which the accomplishments of the Chaco mediation can for the moment be made effective.

HOWARD

834.01/30 : Telegram

Colonel Rafael Franco to President Roosevelt

[Translation]

ASUNCIÓN, March 5, 1936—10:45 p. m.

[Received March 6—12:29 a. m.]

In name Provisional Government Republic of Paraguay and people my native land closely united in constituting new political situation

created by events 17th February last I have high honor to address myself to Your Excellency in your character as President of the United States of America nation mediating and forming part of the Peace Conference Buenos Aires charged with giving friendly solution problems arising from Paraguayan-Bolivian war transmitting to Your Excellency anxieties which preoccupy mind my Government with reference fulfillment of the pacts subscribed with intervention peace conference and particularly to repatriation of prisoners war. This Provisional Government was constituted 16 days ago with unanimous support of all the Paraguayan people having given its attention from first moment to issuing official declarations regarding its will faithfully to carry out international obligations and pacts in force as well as with regard to democratic principles which will guide new organization of the State and the resolution proceed without delay with the repatriation of captives of war. Notwithstanding such antecedents and the firm consolidation public tranquillity until now there has not been re-establishment of official relations with Your Excellency's Government and with the Peace Conference and in consequence my Government feels legitimate fears that the time periods agreed upon in the peace pacts may come to an end without its being possible to give fulfillment to undertakings despite our firm will to do so. In view possibility of so regrettable a circumstance occurring my Government sees itself under the necessity of having recourse directly to Your Excellency in order to state that it disassociates itself from any responsibility arising therefrom, being assured that it has thus given one more proof of its spirit of peace of justice and of right and of its eagerness for fraternal collaboration with friendly nations which so earnestly labor for the peace of our peoples.

I avail myself [etc.]

RAFAEL FRANCO
*Colonel and Provisional President
of the Republic of Paraguay*

834.01/19 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, March 7, 1936—11 a. m.

[Received March 7—10:20 a. m.]

91. My 85, March 2, 7 p. m. Have been informed in strictest confidence by the Italian Ambassador that his Government has instructed the Italian Minister at Asunción to say that recognition will be withheld until after favorable action by mediatory powers.

GIBSON

834.01/18 : Telegram

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

WASHINGTON, March 10, 1936—2 p. m.

29. For Braden. Cable the Department briefly the nature of the reply which has been made or will be made by the President of Argentina to the telegram addressed to him under date of March 5 by Colonel Franco, as well as such information as you may possess concerning the nature of the replies made by the Presidents of the other mediatory governments receiving identic telegrams.

HULL

834.01/22 : Telegram

The Ambassador in Brazil (Gibson) to the Secretary of State

RIO DE JANEIRO, March 10, 1936—5 p. m.

[Received 5:11 p. m.]

93. The Brazilian Foreign Office has been informed by Aranha¹⁹ that the United States Government is prepared to recognize the new Paraguayan Government, basing its action upon information received from the American Minister in Asunción to the effect that Colonel Franco is making a determined effort to eliminate all extremist elements from the Government and has also signified his willingness to respect all commitments undertaken by Paraguay at the Chaco Conference.

The Brazilian Government proposes to accord recognition simultaneously with the United States.

GIBSON

834.01/23 : Telegram

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

BUENOS AIRES, March 10, 1936—11 p. m.

[Received March 11—7:15 a. m.]

57. From Braden. My 55, March 8, 11 p. m.²⁰

1. In view of failure by Paraguayan Government to make a categorical written declaration that it will respect the Buenos Aires protocols and in order therefore to prevent any future misunderstanding on the score, the Conference Executive Committee (subject to approval of the respective mediatory governments) today recommended the following procedure:

¹⁹ Oswaldo Aranha, Brazilian Ambassador in the United States.

²⁰ Not printed.

(a) The following note in Spanish to be signed and handed jointly by the six Chiefs of Mission in Asunción to the Minister for Foreign Affairs:

“The Governments of Brazil, United States, Chile, Uruguay, Peru and Argentina in accordance with the recommendation of the Peace Conference of Buenos Aires, have resolved to proceed to the recognition of the Provisional Government of Paraguay presided over by Colonel Franco.

Therefore, these Governments have considered: (1) the manifestations contained in the Provisional President's telegram directed to the presidents of the mediating nations under date of the 5th instant; (2) those contained in the telegram of the Minister of Foreign Affairs, Dr. Stefanich, of the 8th of this month directed to the President of the Peace Conference; (3) the expressions contained in the first of the above-mentioned communications relative to the proposal of the Government to respect the democratic principles which prevail in America; (4) the desire manifested by the new Government to proceed without delay to the repatriation of prisoners as already initiated, in accordance with the above-mentioned communication from the Minister, Dr. Stefanich; and, (5) other declarations of the same Government publicly formulated.

From all of which there results the express desire of the Paraguayan Government to respect in every way the peace protocols signed in Buenos Aires the 12th of June, 1935, and the 21st of January, 1936.

Therefore, the representatives of the Governments of Brazil, United States, Chile, Uruguay, Peru and Argentina accredited in Asunción are pleased to inform Your Excellency that they will continue to maintain with the Government of Your Excellency the diplomatic relations in keeping with the traditional ties existing between their respective countries and Paraguay since their common historical origins.”

(b) The Argentine Minister in Asunción has been instructed by Saavedra Lamas to obtain as soon as possible an agreement from Stefanich that upon receipt of this joint note he will in note of reply acknowledge the receipt of the afore-quoted note and “accept all the declarations and considerations contained therein.”

(c) Once (a) and (b) above are agreed upon by mediatory governments and by Stefanich, Conference will recommend recognition and the six Chiefs of Mission will determine upon a day for delivery of joint note in afore-described form or as modified in accordance with desires of respective governments.

(d) Saavedra Lamas will advise other American and European governments in advance of proposed recognition since most of them have agreed with him to defer their recognition until the mediatory nations recognize the new Government.

3[*sic*]. Clause 3 of the above-quoted joint note was inserted to satisfy Brazilian fears with respect to communistic tendencies of the new regime.

4. I suggest that it would perhaps be preferable for the representatives of the six mediatory nations in Asunción to deliver identic notes but my colleagues felt that the joint note would be stronger and more acceptable to Paraguayan Government.

5. Please instruct by telegraph as soon as possible. [Braden.]

WEDDELL

834.01/24 : Telegram

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

BUENOS AIRES, March 10, 1936—midnight.

[Received March 11—7:22 a.m.]

58. From Braden. Your 29, March 10, 2 p.m.

1. President Terra²¹ of Uruguay telegraphically acknowledged Franco telegram and stated that it had been referred to the Peace Conference.

2. None of other Presidents have replied but my colleagues proposed today that their respective Chiefs of Mission in Asunción would advise Dr. Stefanich that Franco's telegram had been received and that reply would be delayed pending action of Peace Conference looking to recognition which they presumed was what primarily interested Colonel Franco and Dr. Stefanich. I suggest foregoing procedure be followed.

3. As soon as simultaneous recognition has been granted in accordance with my 57, March 10, 11 p.m., President Justo²² will prepare reply to Franco, text of which will be submitted to me in advance for our information.

4. Cruchaga²³ instructed Minister at Asunción to request confirmation of Franco's telegram in a note. Stefanich refused to do so. [Braden.]

WEDDELL

834.00/811 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, March 11, 1936—5 p.m.

[Received 10:35 p.m.]

43. My 42, March 11, 2 p.m.²⁴ Decree No. 152, dated March 10, prepared in consultation with and signed by the Cabinet, is published in this afternoon's papers. It may be summarized as follows:

²¹ Gabriel Terra.

²² Agustín P. Justo, President of Argentina.

²³ Miguel Cruchaga Tocornal, Chilean Minister for Foreign Affairs.

²⁴ Not printed.

Preamble. Considering that the organic act of the new regime provides for the convocation of a constituent assembly; that the magnitude of the change that has been effected shows that "the advent of the liberating revolution in Paraguay is of the same nature as the totalitarian social transformations of contemporaneous Europe in the sense that the liberating revolution and the state are identical"; that several groups of demagogic tendencies have been introducing into the popular ranks the germs of erroneous ideas as to the political, juridic, social, and state character of the revolution, the Provisional President decrees:

Article 1, the revolution and the state are identic; article 2, the revolution—state will immediately mobilize volunteers from among the citizens of the Republic for the fulfillment of its permanent objectives; article 3, for 1 year all political acts or organizations of a partisan or syndicalist nature not emanating explicitly from the State or the revolution is prohibited; article 4, all matters relating to the social policy of the state including relations between labor and capital are placed within the jurisdiction of the Ministry of the Interior; article 5 establishes a mobilization committee pursuant to article 2; article 6 establishes a national Department of Labor.

Repeated to Buenos Aires.

HOWARD

834.01/23 : Telegram

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

WASHINGTON, March 11, 1936—6 p. m.

30. For Braden. Your 57, March 10, 11 p. m. This Government believes it to be undesirable to accord recognition to the government of Paraguay in the manner indicated in your telegram under reference and shares most decidedly the opinion suggested in paragraph 4 of your telegram that recognition by the mediatory nations should be undertaken by means of identic notes and not by means of a joint note.

The form of identic note more satisfactory to this Government would be worded as follows:

"The Government of the United States of America has noted with gratification:

1. The statements contained in the telegram dated March 5 from the Provisional President of Paraguay to the Presidents of the mediating nations represented at the Peace Conference;

2. The statements contained in the telegram of the Minister for Foreign Affairs, Dr. Stefanich, addressed to the Chairman of the Peace Conference under date of March 8;

3. The expressions contained in the first of the above-mentioned communications relative to the proposal of the Government to respect the democratic principles which prevail in America;

4. The desire manifested by the new Government to proceed without delay to the repatriation of prisoners of war as already initiated, in accordance with the above-mentioned telegram from the Minister for Foreign Affairs; and

5. Other public declarations formulated by the same Government.

As a result of its deliberation and after consulting with the governments of the other mediatory nations represented at the Peace Conference, the Government of the United States has with much pleasure reached the conclusion that it is the express intention of the Government of Paraguay to respect in every way the peace protocols signed in Buenos Aires on June 12, 1935, and on the 21st of January, 1936, as well as its other international obligations.

Consequently, I have the honor to inform Your Excellency that my Government will be pleased to maintain with the Government of Paraguay the friendly relations that are traditional between our two countries."

Please consult Dr. Saavedra Lamas and the other delegates to the Peace Conference at the earliest opportunity and advise them of the preference of this Government for notification of recognition to be undertaken by means of identic notes delivered simultaneously rather than for notification of recognition by joint note as suggested.

The draft note above quoted appears to the Department to be preferable in sequence of considerations as well as in form to that suggested by the Conference and it hopes that you may be able to persuade the other delegates to agree to this form.

Please cable as far in advance as possible what day and time may be determined upon for recognition by the other powers in order that full instructions may be sent in ample time to the Legation in Asunción.

HULL

834.01/26 : Telegram

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

BUENOS AIRES, March 11, 1936—11 p. m.

[Received March 12—12:33 a. m.]

60. From Braden. Department's 30, March 11, 6 p. m. Argentine Minister Asunción has informed Saavedra Lamas that Stefanich agrees to procedure outlined in my 57, March 10, 11 p. m. Therefore, he should have no objection to procedure of identic notes.

Will confer with Saavedra Lamas and other delegates tomorrow noon. [Braden.]

WEDDELL

834.01/26a : Telegram

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

WASHINGTON, March 12, 1936—11 a. m.

31. Department's 30, March 11, 6 p. m. In view of the text of Article III of Decree 152, dated March 10, issued by the Paraguayan Government, as reported by the Legation in Asunción and in the American press this morning, which text provides that all activities of a political nature are prohibited for 1 year, the contents of Paragraph 3 in the draft of the proposed identic note would appear to be decidedly inaccurate, and if the paragraph, as now drafted, were contained in any note actually presented it would doubtless give rise to wide misinterpretation and general misunderstanding. While the Department recognizes that this paragraph was inserted at the instance of the Government of Brazil, it is suggested that under present conditions the paragraph be either omitted or rephrased in some manner more in conformity with the facts.

PHILLIPS

834.01/27 : Telegram

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

BUENOS AIRES, March 12, 1936—3 p. m.

[Received 6 p. m.]

61. From Braden. Department's 30, March 11, 6 p. m.

1. At meeting this noon opinion had crystalized strongly in favor of joint note as quoted in my 57, March 10, 11 p. m. Cruchaga had instructed Chilean delegate this noon to insist upon identic notes with elimination of clause 3 of joint note and of the word "recognition" but upon personal telephone appeals by Saavedra Lamas and Martinez Thedy²⁵ through their Santiago Embassies and Rodriguez Alves²⁶ through Chilean Ambassador here, Cruchaga withdrew all his objections and agreed to presentation of joint note.

2. The following arguments were advanced in favor of joint note:

(a) Solidarity of six mediatory nations will be emphasized forcibly; the note will be generally referred to as "the note of the six mediatory nations" and this unity of action should have an important and highly beneficial influence in our negotiations on the territorial question. I earnestly recommend your serious consideration of this point.

²⁵ Eugenio Martinez Thedy, Uruguayan delegate to the Chaco Peace Conference.

²⁶ José de Paula Rodrigues Alves, Brazilian delegate to the Chaco Peace Conference.

(b) Stefanich, now committed to acceptance of joint note, might try to squirm out if proposed procedure were to be altered.

(c) The extraordinary circumstances surrounding the participation of the six mediatory nations in the Peace Conference would seem to warrant this departure from usual practice.

3. Decision was deferred until tomorrow morning in order for me to submit the following alternatives for your consideration:

(a) Joint note to be as drafted in my 57, March 10, 11 p. m., except at end of paragraph 3 of proposed note there should be added after the words "January 1936": "as well as its other international obligations" and the joint note shall be accompanied by Portuguese and English translations thereof, authenticated by the Brazilian and American Ministers respectively, the English translation to prevail insofar as we are concerned.

(b) If the Department still opposes joint note then six mediatory nations will present individual notes simultaneously and these shall be as nearly identic as possible.

4. Saavedra Lamas desired to recognize new regime tomorrow, but in order to obtain your further views time for recognition has been set tentatively for noon, Saturday.

5. Saavedra Lamas and all others felt very strongly that in introductory paragraph of either joint or of individual notes word "recognition" should be [employed.]

6. Referring to your 31, March 12, 11 a. m., Cruchaga objected to clause 3 because it might be interpreted as an interference with internal affairs of Paraguay. However, Stefanich has accepted its inclusion and the broad interpretation may be made that Paraguayan Government at the end of 1 year will restore full political freedom. If you decide in favor of procedure outlined 3 (a) above, I will endeavor to have this clause rephrased; if you favor procedure 3 (b) then we may eliminate or rephrase.

Please telegraph your further instructions. [Braden.]

WEDDELL

834.01/27: Telegram

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

WASHINGTON, March 13, 1936—noon.

32. For Braden. Your 61, March 12, 3 p. m. The Department has given very serious consideration to your own suggestions as well as to the views of the other mediatory nations represented in the Chaco Peace Conference. This Government, however, cannot acquiesce in the suggestion that extension of recognition by the Government of the

United States to the government of another American republic be undertaken through a joint note of the character proposed. From every point of view it seems better to follow the established precedent that recognition be accorded by each of the governments involved as an independent act of individual sovereignty.

I cannot see how any of the advantages referred to in A of the second paragraph of your telegram under reference would be lost through the according of recognition by means of identic notes presented simultaneously. Consequently, you are instructed to state to the Argentine Minister for Foreign Affairs and to the other delegates that this Government favors alternative B, paragraph 3 of your telegram and will act accordingly.

In so far as the text of the identic notes is concerned, in view of the conditions which now obtain, this Government cannot include in its note of recognition clause 3 of the text telegraphed to you in the Department's 30, March 11, 6 p. m. For your confidential information, the press in this country has given an unusual amount of prominence to the Decree No. 152 of March 10 issued by the Paraguayan Government and that Decree is generally construed as an indication that the Paraguayan Government intends to establish a Government amounting in fact to a Fascist dictatorship. For this Government to term such a regime as a government pledged "to respect the democratic principles which prevail in America" would be ludicrous. Furthermore, it might well be taken as an indication that this Government viewed with favor the possibility that other governments on the American continent might follow the same course. Finally, in my opinion, the original views expressed by the Chilean Minister for Foreign Affairs are well founded and it does not seem desirable to refer in the note of recognition to matters which relate strictly to the internal affairs of Paraguay.

Consequently, in the note of recognition which the American Minister in Asunción will be instructed to deliver to the Paraguayan Government, the text telegraphed to you in the Department's 30, March 11, 6 p. m., will be adhered to except that numbered paragraph 3 will be omitted. If the Brazilian delegate raises any objection to the omission by this Government in its note of recognition of numbered paragraph 3 above referred to, you may call his attention to the fact that in the final numbered clause of the American note of recognition reference is made to "other public declarations formulated by the same Government" and that this all embracing clause is sufficiently ample in the opinion of this Government to refer to any public declarations made by the Paraguayan Government regarded as generally satisfactory by the mediatory powers.

Telegraph the Department as soon as a time for the presentation of the identic notes has been set, and telegraph the American Legation at Asunción directly accordingly.

PHILLIPS

834.01/25 : Telegram

The Acting Secretary of State to the Minister in Paraguay (Howard)

WASHINGTON, March 13, 1936—noon.

9. Department's 8, March 12, 11 a. m.²⁷ The Department has telegraphed Braden that it prefers the procedure of notes of recognition delivered simultaneously by the mediatory powers, such notes to be as nearly identic as may be possible. It is understood that it is intended that such identic notes of recognition be delivered simultaneously by yourself and your colleagues at noon tomorrow, March 14th. The Department has, however, instructed Braden to advise you directly by telegram of the time finally fixed by the delegates at Buenos Aires.

The following is the text of the note which you are instructed to present at that time:

"Excellency: The Government of the United States of America has noted with gratification:

1. The statements contained in the telegram dated March 5 from the Provisional President of Paraguay to the Presidents of the mediating nations represented at the Peace Conference;

2. The statements contained in the telegram of the Minister for Foreign Affairs, Dr. Stefanich, addressed to the Chairman of the Peace Conference under date of March 8;

3. The desire manifested by the new Government to proceed without delay to the repatriation of prisoners of war as already initiated, in accordance with the above mentioned telegram from the Minister for Foreign Affairs and

4. Other public declarations formulated by the same Government.

As a result of its deliberation and after consulting with the Governments of the other mediatory nations represented at the Peace Conference, the Government of the United States has with much pleasure reached the conclusion that it is the express intention of the Government of Paraguay to respect in every way the peace protocols signed in Buenos Aires on June 12, 1935, and on the 21st of January, 1936, as well as its other international obligations.

Consequently, I have the honor to inform Your Excellency that my Government will be pleased to maintain with the Government of Paraguay the friendly relations that are traditional between our two countries.

Accept, Excellency, etc.,"

²⁷ Not printed.

You will, of course, consult with the Argentine Minister and with your other colleagues as to the manner in which the identic notes are to be delivered. It would seem preferable that all of the diplomatic representatives of the mediatory powers arrange to call upon the Minister for Foreign Affairs at the same time.

Cable the Department as soon as the Government of Paraguay has been accorded recognition in the manner indicated.

PHILLIPS

834.01/28 : Telegram

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

BUENOS AIRES, March 13, 1936—9 p. m.

[Received 10:50 p. m.]

63. From Braden. 1. I have telegraphed Asunción as follows:

"Confidential. In accordance with Department's instruction you are informed that it was agreed this afternoon that Ministers of mediatory nations would at 6 p. m. tomorrow, Saturday, simultaneously in person deliver notes of recognition. Argentine Minister at Asunción advises that Stefanich has agreed to deliver to each Minister a note of reply accepting all the declarations and considerations contained in each note of recognition; it is important in connection with future work of Conference that this be done. I understand Department has telegraphed you text of note to be delivered.["]

2. Nieto²⁸ telephoned me this afternoon from Chile that his Government's note will be almost the same as ours. Others probably will be identic and phrased in accordance with proposed joint note quoted in my 57, March 10, 11 p. m.

3. Your 29, March 10, 2 p. m. As soon as Argentine Minister at Asunción advises tomorrow that recognition notes have been exchanged, President Justo will telegraph Provisional President Franco acknowledging his telegram, stating that his reply had been deferred pending the receipt of information from Peace Conference and the accord of mediatory nations, and that he was now pleased to renew diplomatic relations, closing [with?] customary courteous expressions hoping for prosperity Paraguayan people. President Alessandri's²⁹ reply will go into considerable detail with regard to faithful compliance with peace pacts. [Braden.]

WEDDELL

²⁸ Presumably Félix Nieto del Río, Chilean delegate to the Chaco Peace Conference.

²⁹ Arturo Alessandri, President of Chile.

834.00/813 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, March 13, 1936—9 p. m.

[Received 11:25 p. m.]

45. My 43, March 11, 5 p. m. Explanatory statements made by Colonel Franco to the local newspapers and to the United Press describe Decree Number 152 as an emergency measure establishing a political truce to enable the new political organization to be formed and contain an appeal for the advance of the revolution toward its great objectives of social and economic emancipation. He expresses the belief that the traditional political parties have fulfilled their mission and should be substituted by organizations compatible with the new state and affirms that a constitutional dictatorship will not be formed. The Paraguayan State will not be Communist or Fascist, and that the definitive program of the new regime will be determined by the constituent assembly to be convoked. No indication of the date of convocation is given.

Repeated to Buenos Aires.

HOWARD

834.00/814 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, March 14, 1936—6 p. m.

[Received March 15—noon.]

46. My 45, March 13, 9 p. m. It continues to be difficult to gauge the consequence of the recent "revolution—state" decree. It appears certainly to have effected the suppression of the extremists and of the nascent Republican Party, which has addressed to Colonel Franco a communication "in the desire to avoid great and irreparable evils" urging that the decree be revoked. Assurances are said to have been given by Franco to the ex-combatants, workers, and students that the restrictions of the decree do not apply to them and despite evidence of some discontent (the extent of which is not known) it is probable that as announced by the students they continue to support the new regime.

The position of the Franco government would accordingly appear to be as follows: in hostile alignment against it are the Liberal Party (disorganized but powerful and dangerous) and the Republican Party (also disorganized, but strong), which combined constitute almost the entirety of the Paraguayan electorate; and the Communists (presumably negligible in numbers but troublesome by virtue

of their methods). In support are the army (not all of whose numbers were voluntary participants in the insurrection and which is persistently reported to be divided and restless); the ex-combatants (which there is reason to believe is a less cohesive group than seems to be believed); the workers (who despite strenuous organizing activities during the last few weeks probably are not a compact group and as in the case of the ex-combatants may have in their ranks many who still would heed old party influences); the students (who while vocal are believed not to possess physical strength). It does not seem likely that this material could be welded by a decree into a state party capable of sustaining the Franco regime, although a judgment on this score might be premature. In any event pending the outcome of the experiment it would appear to be certain that the new Government must be based primarily upon the army and that its policies must be shaped accordingly.

HOWARD

834.01/30 : Telegram

*President Roosevelt to the Provisional President of Paraguay
(Franco)*

WASHINGTON, March 14, 1936.

I have the honor to acknowledge the receipt of Your Excellency's cabled communication of March 5th. It has been with the utmost satisfaction that I have learned from Your Excellency's message of the determination of your Government faithfully to carry out its international obligations and to know that in accordance with that decision the Government of Paraguay is proceeding without delay with the repatriation of its prisoners of war.

This Government has therefore reached the conclusion, after consultation with the Governments of the other American Republics represented at the Peace Conference at Buenos Aires, that it is the express intention of Your Excellency's Government to respect in every way the peace protocols signed in Buenos Aires on June 12, 1935, and on the 21st of January, 1936. I have, consequently, with much pleasure, instructed the Minister of the United States in Paraguay to inform Your Excellency's Government that the Government of the United States will be pleased to maintain with the Government of Paraguay the friendly relations that have been traditional between our two countries.

I avail myself of this occasion to extend to Your Excellency the assurances of my highest consideration and to express my best wishes for the welfare and prosperity of the people of the Republic of Paraguay.

FRANKLIN D. ROOSEVELT

834.01/29 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, March 14, 1936—7 p. m.

[Received 9:18 p. m.]

47. Your 9, March 3 [13], noon. Notes of recognition were handed to Dr. Stefanich by me and the representatives of the other mediatory governments at 6 o'clock this evening. The Minister for Foreign Affairs orally expressed gratification and said that replies to the notes dated as of today will be delivered promptly.

At the same time Dr. Stefanich informed us of the text of a decree about to be promulgated declaring the termination of the state of war with Bolivia.

HOWARD

834.01/31 : Telegram

The Minister in Paraguay (Howard) to the Secretary of State

ASUNCIÓN, March 16, 1936—6 p. m.

[Received 8:42 p. m.]

49. My 47, March 14, 7 p. m., and 48, March 14, 8 p. m.³⁰ I have just received from the Minister for Foreign Affairs two notes as follows:

1. A note dated March 14th reading as follows:

“I have the pleasure of acknowledging the receipt of Your Excellency's note No. 1 dated today and in reply I am pleased to say that the Government of Paraguay, accepting all the declarations and considerations contained in that document, is happy to say that it views with intimate satisfaction the reestablishment of diplomatic relations.”

2. A note conveying an authenticated copy of the decree (promulgated March 14, as No. 258) terminating the state of war with Bolivia.

Repeated to Buenos Aires.

HOWARD

³⁰ Latter not printed.

PERU

REPRESENTATIONS BY PERU REGARDING THE SUGAR IMPORT QUOTA ALLOWED UNDER THE JONES-COSTIGAN ACT

611.236 Sugar/10

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

No. 4695

LIMA, August 31, 1936.
[Received September 9.]

SIR: Referring to the Embassy's despatch No. 4682 of August 21, 1936,¹ concerning the Anglo-Peruvian Commercial Agreement, I have the honor to report that during the course of a conversation this morning the Foreign Minister again brought up the sugar question and informed me that the Peruvian Agrarian Society was continuing strong pressure upon the Government to find some early solution for the sugar situation and that President Benavides was still hoping that some arrangement could be made to dispose of some of Peru's excess production in the United States. He added that Peru was desirous of negotiating a commercial agreement² so as to provide an outlet for this excess sugar production. I explained to Dr. Ulloa that already some months ago Ambassador Dearing had held conversations on this subject with his predecessor, Dr. Concha, and had communicated to the Department at that time Peru's desire to dispose of some of its excess sugar in the United States, but that nothing had come of it due to the inhibitions of existing legislation on this subject. Dr. Ulloa thereupon said that he hoped I had not failed to communicate to the Department what he had said about the difficult situation for Peruvian sugar as a result of the dumping practised in the world's markets by the Cuban sugar growers. (See last paragraph of above mentioned despatch.) I replied that I had done so. He then went on to say in a nice way that if the United States continued its preferential treatment to Cuban sugar, which alone made it possible for Cuban sugar growers to carry on their dumping in other markets, he did not see why some influence should not be exerted on Cuba to induce it to accept a smaller quota than was allotted under the Jones-Costigan Law,³ in which case, perhaps, something could be done to give Peru a larger quota.

¹ *Post*, p. 917.

² For preliminary discussions concerning a trade agreement, see pp. 928 ff.

³ Approved May 9, 1934; 48 Stat. 670.

It would seem that the insistence of Dr. Ulloa in bringing this subject up again so soon may be attributed to his desire to deflect from the Government of Peru the pressure brought against it by the National Agrarian Society, making it appear that the next step must be taken by the American Government.

Inasmuch as Dr. Ulloa during the same conversation brought up the matter of his attendance at the opening session, on September 30, 1936, of the Peruvian-Ecuadoran Boundary Delegations,⁴ it seems plausible to believe that he may desire also during his visit to explore the possibilities of negotiations for a commercial treaty between Peru and the United States.

Respectfully yours,

LOUIS G. DREYFUS, JR.

611.236 Sugar/11

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

No. 4726

LIMA, September 16, 1936.

[Received September 22.]

SIR: Referring to the Embassy's despatch No. 4720⁵ of September 14, 1936, particularly its penultimate paragraph concerning the local sugar crisis and Peru's efforts to assure a quota for her sugar exports, I have the honor to enclose a copy of the text of the memorandum which Dr. Alberto Ulloa, Minister for Foreign Affairs, handed to me this morning.⁶ Since the Foreign Minister advised me that a copy of this communication had been sent to the Peruvian Ambassador at Washington in the preceding airmail for delivery to the Department, a translation has not been prepared.

The memorandum is practically a reflection of the series of articles which have appeared in the Lima press during the last few weeks. It is considered an indication that now the Government of Peru has placed itself squarely behind the sugar growers in their demand for a 200,000 ton sugar quota in the United States market, with a virtual threat that if this request is not given favorable consideration, the Government of Peru will be constrained to retaliate against the United States by placing restrictions on the latter's exports to Peru: the Government evidently has in mind Chile's recent action⁷ along these lines. Other countries would then have the opportunity to supply the products which will no longer be permitted to come from

⁴ See pp. 106 ff.

⁵ Not printed.

⁶ The same memorandum was presented to the Secretary of State by the Peruvian Ambassador on October 6; for text, see *infra*.

⁷ See section entitled "Efforts of the Department of State to Secure Equitable Treatment for American Interests With Respect to Chilean Exchange Restrictions," pp. 324 ff.

the United States. This is the impression which is gained from the first paragraph of the Foreign Minister's memorandum and also from the language in the eighth paragraph which states that failure to assure the sugar quota which Peru requests would result in Peru's "immediate adoption of a policy of action which would bring about at the same time a more balanced trade (between the two countries), by means of a change in the present method of imports from the United States, since public opinion requires such action".

The Government of Peru is firmly convinced that the United States is responsible indirectly for the loss of Peruvian sugar markets abroad, as a result of the preferential treatment accorded by the United States to Cuban sugar. In this connection, the special attention of the Department is directed to the following statements contained in the memorandum:

"... if the Government of the United States wishes to aid the Government of Peru, it can secure from the Government of Cuba the cession or transfer in favor of Peruvian sugar of 200,000 tons, which is only a small proportion of the enormous quota of 1,700,000 tons accorded to Cuba".

also

"... the Government of Peru is convinced that the Government of the United States could advise Cuba (to suppress its dumping of sugar on the world markets) and that this advice would be followed by the Government of Cuba".

A further important point in the memorandum is the proposal that, provided the 200,000 ton quota is granted,—

"it would permit the Government of Peru to secure from the sugar growers an equitable tax which could be utilized for service on the external debt".

This proposal has been made repeatedly to the Ambassador by the President and the Minister for Foreign Affairs during the exploratory conversations concerning the possibilities of negotiating a commercial agreement between Peru and the United States.

The decision of the Government as contained in the memorandum was reached after due investigation of the economic, political and social problems involved in the local sugar industry, and due consideration was given to the petitions of the National Agrarian Society. For background purposes, it may be recalled that members of this Society have been sufficiently influential to jam through the recent Commercial Agreement with Chile; to overthrow the Leguia regime through their support of Sanchez Cerro;⁸ and to bring to a

⁸ See *Foreign Relations*, 1930, vol. III, pp. 720 ff.

successful conclusion the new Commercial Agreement with Great Britain,¹⁰ which is ready for signature.

Respectfully yours,

LOUIS G. DREYFUS, JR.

611.236 Sugar/16

The Peruvian Ambassador (Freyre) to the Secretary of State

[Translation]

WASHINGTON, October 6, 1936.

EXCELLENCY: I have the honor to transmit to Your Excellency, in compliance with instructions sent by my Government, a Memorandum on the grave crisis through which the Peruvian sugar industry is passing and on the only remedies which, in the judgment of my Government, and that of the public opinion of the nation, could relieve the evil.

As Your Excellency will see, the action of the Government of the United States in the sense suggested by the enclosed Memorandum would succeed not only in relieving a situation which has serious economic, political and social repercussions, but would, at the same time, facilitate the conclusion of a commercial agreement between our two countries, based on terms of real reciprocity.

I therefore highly request, Your Excellency, to give the said memorandum your special attention; and confident that the observations of my Government will merit a favorable reception from the Government of the United States, I improve the opportunity to reiterate etc.

M. DE FREYRE

[Enclosure—Translation]

The Peruvian Embassy to the Department of State

MEMORANDUM

1. The Government of Peru considers that the crisis in the national sugar industry has reached an extremely acute period and can no longer suffer further delays. It also considers that no local factor is present in the situation of the Peruvian sugar industry which could be subjected to an independent and decisive action of the Peruvian Government. Consequently, it has to face the problem from the point of view of the international commercial relations of Peru and adopt a policy sufficiently active, on the basis of real compensations, with other countries, to open or broaden markets for Peruvian sugar.

2. In order to judge of the gravity of the sugar crisis in Peru, we must consider that upon sugar depend 200,000 persons; that it represents huge capitals, represented both by the value of the land given to the cultivation of sugar, and by the investment in its industrial

¹⁰ See pp. 908 ff.

exploitation; that in the great sugar zone there is no possibility of substituting any other crop for the cultivation of sugar cane; that for reasons of a political and social character, the paralyzing of the sugar industry would have the gravest repercussions; and that public opinion, represented by all of the important press organs of Lima, demands energetic and prompt solutions.

3. The Peruvian Government has repeatedly received memorials and documents from the National Agrarian Society—the representative center of agricultural interests,—and from the industrialists affected, but it has not desired to be guided solely by interested opinions and has subjected the general situation to a profound study by the Commercial Department of the Ministry of Foreign Relations. By that study, it has been established that one of the indispensable measures to overcome the ruinous crisis of the Peruvian sugar industry is that this industry should be able to place 200,000 tons in the United States, from which it is excluded by the established system; and that, furthermore, in the Liverpool market, which is free to our sugar, the excess Cuban production is effecting a dumping which is lowering the price to a point below the cost of production. As is natural, no industry can resist this situation.

4. Now, both the opening of the market of the United States to Peruvian sugar up to the limit of 200,000 tons, and the suppression of Cuban dumping on the English market, depend on the action of the Government of the United States. The limit which the Jones-Costigan law places on this action is more apparent than real, because the quota fixed for Cuba can be modified in this year and if the Government of the United States desires to aid the Government of Peru it can obtain from the Cuban Government the yielding or transfer of the amount of 200,000 tons to Peruvian sugar which is a small amount of the enormous Cuban quota of 1,700,000 tons.

5. In concurrence with, or independently of, this measure, the Government of the United States can exert influence on the Cuban Government for the suppression of dumping. The over-production represented by the dumping had its origin in the necessity of caring for the problem of unemployment in Cuba, but this problem has lost seriousness, so that now an artificial situation is being maintained, the termination of which would not injure Cuba and would save the Peruvian sugar industry from ruin. The Peruvian Government is convinced that the United States Government could give counsel in this sense which would be followed by the Cuban Government.

6. If, as a consequence of the measures which might be adopted by the United States Government, the price of Peruvian sugar should, as is certain, reach seven shillings or more, the Peruvian Government could secure from the sugar producers the payment of an equitable

tax which could be assigned to caring for the settling of the external debt.

7. In the situation which has been created, the Peruvian Government laments to observe that the statistics of its commerce with the United States strongly favor this latter country. Thus, in the year 1934 imports totaled more than S/o. 46,000,000, while exports, after deduction of the re-exports which cannot be considered, only amounted to somewhat more than S/o. 4,000,000. In the year 1935 imports were over S/o. 59,000,000 while exports did not reach S/o. 6,000,000. To this visible commerce there must be added the greater disproportion created by the invisible commerce (freights, passenger fares, maritime insurance, profits of enterprises established in Peru).

8. Only sugar could relieve the deficit, for Peru, in the balance of payments, and if this should not be possible by means of a rapid action of the United States Government, the Peruvian Government could not consider concluding a Commercial Agreement, in which the United States Government has shown interest. Furthermore, the Peruvian Government would have to consider immediately the adoption of a policy of measures capable of producing rapidly also a leveling up of the balance, by means of a régime different from the present régime towards imports of the United States, because public opinion so requires.

9. This public opinion of Peru is not unaware, because of the ample expositions which have been made on the problem, of the part of the United States in it, nor is it unaware of the fact that the bonus price granted in that country to Cuban sugar is a direct cause of the dumping effected by Cuba on the English market, and that it would not be possible if that special price did not protect the Cuban industry from the loss which, in principle, the dumping, under the circumstances in which Cuba does it, ought to represent for it.

LIMA, September 7, 1936.

611.236 Sugar/17

The Department of State to the Peruvian Embassy

MEMORANDUM

Careful consideration has been given by the Government of the United States to the memorandum dated September 7, 1936, transmitted by His Excellency the Peruvian Ambassador.

With respect to the request of the Peruvian Government for a quota of 200,000 tons for the importation into the United States of sugar for consumption, the Government of the United States cannot but be wholly sympathetic with those sugar-producing countries which are today suffering the effects of the unfortunate conditions of the world market for this important commodity. As the Peruvian Gov-

ernment is undoubtedly aware, the Government of the United States has announced its readiness to be represented at an international conference for the purpose of improving the conditions of the world sugar market.¹¹ The Government of the United States is obliged at the same time to reiterate what has been previously communicated to the Peruvian Government, viz., that the existing sugar quotas of the United States are provided for by legislation which is declared to be in force until the end of 1937. The Peruvian Government will recall that the quotas established by this legislation have been based upon the average importation of sugar for the various foreign countries concerned in three representative years in a nine-year period beginning in 1925. There are given below the figures according to statistics compiled by the United States Department of Commerce for general imports of dutiable cane sugar into the United States from Peru, and for comparative purposes from Cuba and from all foreign countries excepting Peru and Cuba for the years 1912 to 1933, inclusive. It will be noted that the general imports of Peruvian sugar in most of this period have been very small, while those of sugar from Cuba have been substantial.

<i>Fiscal years ending June 30</i>	<i>From Peru (short tons)</i>	<i>From Cuba (short tons)</i>	<i>From all foreign countries except Peru and Cuba (short tons)</i>
1912	6, 578. 9	1, 593, 315. 2	228, 385. 6
1913	6, 836. 1	2, 155, 891. 2	14, 389. 2
1914	4, 490. 8	2, 463, 303. 1	4, 613. 7
1915	35, 557. 6	2, 392, 444. 1	117, 892. 4
1916	41, 397. 9	2, 575, 425. 8	90, 217. 2
1917	40, 153. 5	2, 334, 548. 7	156, 145. 5
1918	21, 981. 1	2, 280, 374. 8	48, 021. 4
<i>Calendar years ending December 31</i>			
1918	2, 760. 5	2, 476, 844. 7	28, 031. 4
1919	8, 482. 2	3, 343, 071. 0	60, 132. 2
1920	103, 891. 1	2, 881, 076. 4	870, 288. 3
1921	10, 246. 1	2, 590, 072. 5	212, 233. 7
1922	3, 242. 6	4, 527, 144. 9	49, 911. 2
1923	50, 500. 2	3, 426, 343. 0	138, 188. 0
1924	31, 818. 9	3, 692, 447. 6	70, 147. 9
1925	1, 050. 0	3, 923, 093. 7	32, 302. 0
1926	. 2	4, 279, 892. 4	43, 565. 3
1927	. 2	3, 650, 353. 8	28, 995. 3
1928	. 1	3, 249, 499. 4	32, 970. 6
1929	2. 8	4, 148, 719. 6	25, 476. 3
1930	19, 033. 9	2, 642, 563. 3	33, 535. 7
1931	. 0	2, 314, 321. 6	40, 038. 7
1932	2. 6	1, 904, 368. 1	21, 590. 8
1933	15, 638. 8	1, 588, 367. 7	35, 494. 1

¹¹ See vol. I, pp. 521 ff.

The Government of the United States could not, either in equity or in accordance with most-favored-nation stipulations embodied in the general provisions of treaties and agreements made with other countries, grant a materially increased sugar quota to Peru, even if such action were possible under existing legislation, without granting proportionately increased quotas to other sugar-producing countries, and to do this would obviously be to multiply many times such an increase in the quota given Peru. The result would be to increase very greatly the imports of foreign sugar into the United States and to decrease by a corresponding amount sugar production in the country.

Concerning the sugar quota allotted to Cuba on the basis of representative years, it is relevant also to advert to the special commercial relations which, as the Peruvian Government knows, have existed between the United States and that country for more than thirty years. This exceptional relationship has been consistently recognized for many years in the commercial treaties and trade agreements into which the United States has entered with other countries, and for the United States to adopt any inconsistent course at this time would be manifestly a departure from a long-established policy which was initiated not for narrow or selfish considerations of commercial interests, but as a basis for the economic development of a country whose political independence the United States was instrumental in establishing.

As to the restrictions which are placed upon the imports of sugar into the United States from Peru and other countries, it may be observed that a much higher import duty on sugar has been established by the Peruvian Government than has been fixed by the Government of the United States. So prohibitive has this restriction proved that it is understood that almost no sugar is being imported into Peru from other countries.

The memorandum of the Peruvian Government states that the Cuban Government is selling in the world market such sugar as it is unable to dispose of within the country or in the United States at prices which serve to depress world market prices, and suggests that the Government of the United States counsel the Government of Cuba in an effort to produce the discontinuance of this alleged practice. Without commenting upon the merits of this contention, the Government of the United States is of the opinion that the subject could more properly be made one for discussion directly between the Peruvian and the Cuban Governments, or for consideration at an international sugar conference. It may be mentioned in this connection that, according to reports received, representatives of Cuban sugar producers have indicated a disposition to discuss mutual sugar questions with representatives of sugar interests of Peru and other countries.

The Government of the United States greatly regrets the statement in the memorandum under reference to the effect that the Peruvian Government deplores to observe that it has a passive balance of trade with the United States and that it is considering measures calculated to balance the imports and exports in the Peruvian commerce with the United States. It is noted that the memorandum claims that in 1934 the imports into Peru from the United States amounted to more than 46,000,000 soles, while the exports to the United States after deducting reexports, which it states cannot be considered, aggregated only slightly over 4,000,000 soles, and that in 1935 the figures were about 59,000,000 soles and 6,000,000 soles, respectively. It is apparent that in calculating these figures, the Peruvian Government has assumed that all of its exports of mineral products to the United States are to be reexported and the Peruvian Government is evidently of the opinion that for this reason exports of minerals to the United States are not to be considered a true part of the Peruvian-United States trade.

According to the Peruvian official publication *Boletín Mensual del Comercio Especial del Peru* for June, 1936, the total exports from Peru to the United States in 1934 and 1935 amounted to approximately 43,399,000 soles and 64,476,000 soles, respectively. The Government of the United States believes that to deduct from these figures the exports of all mineral products from Peru to the United States on the assumption that they are to be subsequently reexported gives a picture of the trade between the two countries that is clearly erroneous. An analysis of the exports of the minerals to the United States in these two years reveals that a large amount of such exports was metals other than copper on which there have been no customs duties in the United States and which, for the most part, were not destined for reexport. The copper imported into the United States from Peru for reexport in 1934 and 1935, according to figures compiled by the United States Department of Commerce, amounted not nearly to the total amounts of Peruvian exports of all mineral products to the United States, but to 60,082,976 pounds, valued at \$4,278,437 (or about 18,600,000 soles), and 68,563,798 pounds, valued at \$4,856,478 (or approximately 20,350,000 soles), respectively. While it is true that annual figures of imports into the United States do not coincide exactly with those for exports of foreign countries to the United States, there is normally over a period of time little difference between the two sets of figures. By subtracting from the total of the exports from Peru to the United States the above amounts for imports of Peruvian copper for reexport, there will result remainders of approximately 25,000,000 soles for 1934 and approxi-

mately 44,000,000 for 1935, which are very much greater than the figures of 4,000,000 and 6,000,000 soles for 1934 and 1935, respectively, mentioned in the Peruvian Government's memorandum.

It may be observed also that according to the publication *Boletín Mensual del Comercio Especial del Peru* of the Peruvian Government for June last, the exports of Peruvian merchandise to the United States have in recent months been increasing more rapidly than the imports into Peru of goods originating in the United States. In this connection it is noted in the publication mentioned that the exports in the Peruvian-United States trade increased from approximately 43,399,000 soles, or 14.2 percent of the total exports, in 1934 to approximately 64,476,000 soles, or 21.5 percent, in 1935, while the imports rose from approximately 46,061,000 soles, or 26.9 percent of the aggregate imports in 1934, to about 59,582,000 soles, or 33.8 percent in 1935. Thus, the Peruvian exports to the United States increased by approximately 21,077,000 soles, and the imports from the United States increased by only about 13,521,000 soles.

The same trend has been noted in comparing the years ending June 1935 and June 1936. According to figures published by the Bureau of Foreign and Domestic Commerce, United States Department of Commerce, the imports from Peru increased from approximately \$6,160,000 in the first of these periods to \$8,923,000, or by about \$2,763,000, while the exports to Peru increased from about \$11,247,000 to \$13,550,000, or by approximately \$2,303,000.

Apart, however, from the matter of the actual figures in the commercial relations between the United States and Peru, the Government of the United States believes that any measures that might be deemed expedient to establish a strictly bilateral balance and operation of commerce, would, particularly in view of the close trade relations that have long subsisted between the two countries, be most unfortunate. It seems apparent that if the various countries which have an excess of imports over exports in their trade with Peru should see fit to adopt such a policy, and if similarly the United States should call upon those countries with which it has a passive trade balance to level imports to the export figures, international commerce would suffer a still further shock, which would be severely felt by all countries of the world. Countries would be thereby prevented from purchasing and selling in markets where they can now most profitably do so, and trade would be still further diverted from natural channels of commerce.

The fact that an important trading nation like Peru has been so successful in recovering from the world depression owing largely to wise avoidance of policies of bilateral balancing and restriction of trade and payments has given great encouragement to other govern-

ments which are working for the general adoption of liberal trade policy, based on equality of treatment as an indispensable means of lessening economic and political tension. The Government of the United States has appraised very highly the effective cooperation which the Peruvian Government has in the past offered in the way of attempting by collective efforts to break down the various kinds of trade restrictions which are now so lamentably reducing international commerce with corresponding detrimental effects upon standards of living and upon world peace. It is therefore most earnestly hoped that the Government of Peru will defer any action of the character indicated in its memorandum of September 7, 1936, until at least after the forthcoming Inter-American Conference at Buenos Aires,¹² when the countries of this hemisphere will have the opportunity of consulting jointly with one another with respect to problems of mutual interest.

WASHINGTON, October 29, 1936.

611.236 Sugar/19

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

No. 4811

LIMA, November 14, 1936.
[Received November 24.]

SIR: I have the honor to refer to the Department's air mail instruction No. 939 of October 31, 1936,¹³ with reference to the Embassy's despatch No. 4726 of September 16, 1936, respecting a memorandum prepared by the Peruvian Ministry of Foreign Affairs on the subject of the commerce between the United States and Peru and particularly the sugar quota granted to Peru by our Government. The Embassy notes that a similar memorandum was transmitted to the Department by the Peruvian Ambassador in Washington on or about October 6th. The Department encloses, for the Embassy's information, a copy of a memorandum which was being sent to the Peruvian Ambassador¹⁴ and requests that its contents be communicated *mutatis mutandis* to the Peruvian Minister for Foreign Affairs in reply to the memorandum presented to this Embassy.

When I was recently in Washington in the first days of October, I had a talk with the Assistant Secretary of State, Mr. Welles, who asked me to do what might be possible after my return to Peru to keep the situation represented by the Peruvian Government's memo-

¹² See pp. 1 ff.

¹³ Not printed.

¹⁴ *Supra*.

randum from becoming more serious until the Inter-American conference should have taken place in Buenos Aires and the nations in this part of the world could become aware of our general policies and desirable cooperative efforts as the result of such resolutions and agreements as might be arrived at in Buenos Aires.

Returning to Lima I found the Government completely engrossed in election complications and the sugar situation, for the moment, quite forgotten. A member of the Agrarian Society, Mr. Gerardo Klinge, a few days ago agitated the question at a meeting of that society and caused the society's organ, *La Prensa*, to print the gist of his remarks which was that something should be done and that measures of reprisal should be adopted unless the United States was willing to grant the additional quota Peru desired.

The Director and virtual owner of this paper is a close personal friend of the Embassy and I, therefore, called upon him and told him quite frankly that I thought the moment a most inopportune one for taking the line that Mr. Klinge had taken, saying to him that it seemed to me bad psychology when someone wanted something to approach the other party with threats. I told him that our legislation in the matter was in no sense directed against Peru, and we then discussed the matter pro and con at great length.

Whether it was due to my expression of our Government's point of view or not I do not know (I refrained from requesting that the paper should not publish anything further, insisting that I was merely trying to point out the facts and to keep the feeling between the two countries from becoming in any sense embittered), but there has been no further agitation of the sugar question and meanwhile the Buenos Aires Conference comes nearer.

The Department has, of course, handed the memorandum to the Peruvian Ambassador and I have no doubt he has transmitted it to the Foreign Office here. In view of all the circumstances, however, I thought that very likely it would be better for the Embassy to withhold the presentation of the memorandum for at least a week or two, in order to avoid stirring up the question prior to the time when we shall know what has been agreed to in Buenos Aires in the matter of general commercial policies, etc.

Meanwhile, however, I have discussed its contents carefully with our Commercial Attaché and he has been good enough to give me a memorandum in which he brings out what he believes to be even more convincing figures than the Department supplies in its memorandum. He thought that possibly, in order to be prepared for any rebuttal the Peruvian authorities might present, the Department might be holding back its ammunition for use in case a further memorandum has to be presented. At any rate, it seemed to me that since it appears

best to defer the presentation of the memorandum for a short while, we have an opportunity to lay before the Department the Commercial Attaché's figures, to request the Department to consider them in connection with its memorandum, and then to instruct the Embassy as to whether it desires the memorandum to be presented eventually in exactly the form in which it has been given to the Peruvian Ambassador in Washington, or whether it feels warranted—in the light of Mr. Greenup's observations—in altering or reinforcing any of the figures. A supplementary corrective memorandum could be sent to the Peruvian Ambassador merely to keep the records straight.

I copy the Commercial Attaché's memorandum¹⁵ to me to the Department for its information, and shall appreciate the Department's instructions by air mail.

Respectfully yours,

FRED MORRIS DEARING

611.236 Sugar/20 : Telegram

The Acting Secretary of State to the Ambassador in Peru (Dearing)

WASHINGTON, November 30, 1936—2 p. m.

51. Your despatch No. 4811, of November 14. Department has no objection to your withholding presentation of memorandum if upon inquiry you are convinced that the Department's memorandum handed the Peruvian Ambassador has been received by the Peruvian Foreign Office and brought to the attention of the Minister of Foreign Affairs. In case of any doubt you should present the memorandum.

As regards your suggested changes in the memorandum, it is to be noted that the memoranda of the Peruvian Government dated September 7 was presented to the Department and your Embassy in identic form and the Department believes that the reply memoranda should also be identic.

MOORE

611.236 Sugar/22

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

No. 4865

LIMA, December 21, 1936.
[Received December 29.]

SIR: I have the honor to refer to the Embassy's despatch No. 4850 of December 12, 1936,¹⁵ regarding the sugar question and Peru's desire for a larger import quota in the United States, and to inform the Department that the publication here of despatches from the

¹⁵ Not printed.

United States regarding the fixing of import quotas for 1937, and the expenditure of some eighty million dollars or more for compensation to sugar planters, has galvanized this into new life. The Embassy feels that the preparation of a memorandum summarizing the situation in its various aspects by the Department of Agriculture and the Department of State would be of great benefit in clarifying the issue and in enabling the Embassy to meet the Peruvians' initiatives, questions and objections.

A day or two ago the Counselor of the Embassy was asked by the Chief of the Diplomatic Division of the Foreign Office, during a call at that office, whether he had seen the article published in *La Prensa* of December 8, 1936—which forms the enclosure of the despatch under reference. Señor Bedoya informed Mr. Dreyfus that the Foreign Office was again being pressed by Peruvian sugar interests, and especially by the Gildemeisters, the Aspillagas and the Cohens, to take some active steps of a retaliatory nature against the United States. Their suggestion was, Señor Bedoya stated, that imports of American moving picture films or American automobiles be restricted to a certain quota, and their argument was that this would “wake up the United States”.

Mr. Dreyfus remarked to Señor Bedoya that he felt certain the Peruvian sugar planters would not be so insistent if they understood the situation better and if they would study and comprehend the difficulties of the sugar planters in the United States. Mr. Dreyfus called Señor Bedoya's attention to the character of the Jones-Costigan bill; to the curtailed production of sugar in the United States required by this act; to the manner in which the quotas for various foreign countries were arrived at; and to the sums expended by the A. A. A.¹⁷ for sugar crop control in the Islands and on the Continent.

As the Department is aware, the Embassy—on the basis of such information as it has been able to collect—has made repeated representations, particularly to the President, and to Dr. Concha and Sr. Ulloa when they were in Lima, with regard to the factors controlling the action of our Government in this matter of the importation of foreign sugar.

The Embassy is aware of the bearing of the discriminatory clause in the Peruvian-British Trade Treaty¹⁸ upon American imports into Peru, and of the recently initiated efforts to bring about conversations at an early date between Cuban, Dominican and Peruvian repre-

¹⁷ Agricultural Adjustment Administration.

¹⁸ For correspondence on this subject see pp. 908 ff.

sentatives preliminary to a general conference of sugar interests to be held eventually in London to discuss the world sugar situation.

I may say, in passing, that Sr. Bedoya had not been informed of this phase of the matter, although the Peruvian Ambassador in Washington has been in correspondence with the Department on the subject. It would seem, therefore, that a careful exposition of the whole situation and of the chief factors controlling our policy, would be of great value in enabling the Embassy to inform interested Peruvians and in assisting it in keeping the atmosphere from becoming embittered. Some one will have to keep cool and deal with the facts if the question is to be properly worked out. Correct information and its friendly presentation seem most calculated to accomplish this purpose, and more than likely some resolution adopted at the Buenos Aires Conference having a bearing upon international trade and trade treaties will be of assistance.

The moment seems to have arrived, therefore, for the crystallization of the situation in a statement coming from the authoritative source, which can be used in the representations that will need to be made here in Peru. The Embassy trusts, therefore, that its suggestion will be adopted.

Two sidelights on the situation are:

1st. The statement by the German Chargé d'Affaires to Mr. Dreyfus that Germany is planning to take certain amounts of raw sugar from Peru for use in making Marzipan and candy. He conveyed the impression that Germany would be rewarded with something in return for doing so, and remarked that importations of German automobiles were beginning to increase.

The Embassy learns from the Commercial Attaché that German importations may amount to from thirty to fifty thousand tons, and that the Germans are counting rather confidently upon being able to get a good deal in return for the use of more Peruvian sugar.

The second development is the possibility that Mr. Sumner Welles¹⁹ will be able to return to the United States, after the Buenos Aires Conference, via the West Coast. Being fresh from the Conference, conscious of the results which might affect trade and sugar, having first-hand knowledge of our general problems, and having a thorough acquaintance with Cuban conditions, a meeting between Mr. Welles and President Benavides and possibly with the foremost sugar producers, might do more than almost anything else to clarify this troublesome issue and thus open the way not only for a solution of the sugar question, but for the negotiation of a general trade treaty and even for a better performance in taking care of service on Peruvian bonds held by American citizens.

¹⁹ Assistant Secretary of State.

I have the honor to request the Department's advice and instructions.

Respectfully yours,

FRED MORRIS DEARING

611.236 Sugar/23

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

No. 4874

LIMA, December 28, 1936.
[Received January 5, 1937.]

SIR: I have the honor to refer to the Department's instruction No. 939 of October 31, 1936,²⁰ transmitting a copy of a memorandum presented by the Peruvian Minister for Foreign Affairs to the Department of State,²¹ respecting commerce between the United States and Peru, more particularly in regard to the sugar quota granted to Peru by our Government.

I also have the honor to refer to the Embassy's despatches Nos. 4850²⁰ and 4865 of December 12 and 21, 1936, respectively.

In accordance with the Department's instructions, and in view of the fact that the Conference at Buenos Aires has now been brought to an end, I have the honor to inform the Department that the contents of its memorandum has been communicated *mutatis mutandis* to the Peruvian Minister for Foreign Affairs in reply to the memorandum presented to this Embassy.

Respectfully yours,

FRED MORRIS DEARING

**REPRESENTATIONS TO THE PERUVIAN GOVERNMENT RESPECTING
THE ANGLO-PERUVIAN COMMERCIAL AGREEMENT OF OCTOBER 6,
1936**

611.2331/53 : Telegram

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

LIMA, January 14, 1936—11 a. m.
[Received 12:45 p. m.]

4. Referring to the Embassy's telegram 2, January 9, 2 p. m.,²⁰ Minister of Finance decree of January 8th, suspends higher import duties on woolen and cotton textiles from Great Britain until negotiations for Commercial Treaty with England has been approved.

²⁰ Not printed.

²¹ Memorandum of September 7, p. 896.

The decree mentions that the treaty negotiations almost concluded and that action taken is intended to prevent obstacles to favorable termination of this agreement.

This decree, which the Minister of Finance has ordered not to be made public, is discriminatory and gives competitive advantages to British goods.

DEARING

611.2331/53 : Telegram

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

WASHINGTON, January 21, 1936—7 p. m.

4. Your No. 4, January 14. You are requested to supply the Department by air mail with as full information as possible regarding discriminatory treatment resulting from decree of January 8. The Department assumes from your communication that the suspension of higher import duties on woolen and cotton textiles applies only in favor of Great Britain. I should be glad to know in particular: First, is there any evidence that the British Government urged discriminatory action? Second, if the suspension of higher duties on these products is consolidated in the agreement with Great Britain, is it likely that this concession will be extended to the United States? Third, can text of the decree be secured?

HULL

611.2331/55

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

No. 4383

LIMA, January 22, 1936.

[Received January 28.]

SIR: I have the honor to acknowledge receipt of the Department's telegram No. 4 of January 21, 7 p. m. requesting information by air-mail regarding the discriminatory treatment resulting from the decree of January 8th, 1936, which was reported in the Embassy's telegram No. 4 of January 14, 1936, 10 [11] a. m. and in the Embassy's airmail despatch No. 4372 of January 15, 1936.²²

The Embassy has not heard of any direct evidence that the British Government urged discriminatory action in the negotiations to obtain the preferential treatment accorded in the decree referred to. However, in this connection, I desire to call particular attention to the Embassy's telegram No. 6 of January 18, 1935,²³ regarding the Foreign

²² Despatch not printed.

²³ Not printed.

Minister's warning that Peru would in all likelihood soon have to grant to Great Britain either advantageous quotas or tariff concessions, since Great Britain imports four times as much from Peru as she sells to Peru and Peru could not risk losing the British market upon which she is so dependent. The negotiations between Peru and Great Britain, which have been taking place in London, have been going on for over a year. Although the new Peruvian Customs Tariff had been ready for months, it was generally known that the enforcement of the new schedule was being delayed until the negotiations for the commercial agreement with Great Britain were concluded, as mentioned in the Embassy's despatch No. 4184 of October 2, 1935,²⁵ page 3. The new tariff schedule enters into effect on February 1, 1936 in accordance with a decree of January 8, 1936, as was reported in the Embassy's despatch No. 4359 of January 10, 1936,²⁶ with which a copy of the new tariff schedule was enclosed.

It is worthy of note that the two decrees mentioned in this despatch were issued on the same date and that the one giving preference to British textiles has not been printed or even mentioned in the local newspapers.

With regard to the second question in the Department's telegram as to whether it is likely that the concessions accorded to Great Britain will be extended to the United States, in view of the Foreign Minister's warning of January 18, 1935, mentioned above, there is no reason to believe that these special concessions will be extended to the United States. The prospects are just the reverse. From external evidence it is likely that England will maintain these preferential advantages in compensation for concessions to Peruvian exports to the British market.

In answer to the third question in the Department's telegram copies of the text and a translation of the decree of January 8, 1936 were forwarded to the Department with the Embassy's despatch No. 4372 of January 15, 1936.²⁶

The long drawn out negotiations for the commercial agreement between Great Britain and Peru, which the Embassy has followed as far as the confidential nature of those negotiations have permitted, leads this Embassy to believe that England may be enabled to secure and maintain preferential treatment on a series of articles in the Peruvian market in exchange for assurance that an equitable part of the Peruvian sugar crop will be assured a more or less permanent outlet in the British Isles. The problem of marketing its sugar is paramount to Peru. In this connection the Department's attention is called to the Embassy's telegram No. 99 of August 28th, 10 [9]

²⁵ *Foreign Relations*, 1935, vol. iv, p. 937.

²⁶ Not printed.

p. m., 1935,²⁷ and despatches Nos. 4176 of September 29, 1935, 4183 of October 2, 1935, 4184 of October 2, 1935, 4326 of December 20, 1935²⁸ and 4360 of January 10, 1936.²⁹

Respectfully yours,

FRED MORRIS DEARING

611.2331/59 : Telegram

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

LIMA, June 19, 1936—noon.

[Received 5:35 p. m.]

36. Referring to my despatch No. 4592 of June 9,³⁰ and to Commercial Attaché's special report No. 105 of June 15.³¹ The collaboration of the Commercial Attaché enables me to report as follows:

1. According to unofficial information, which, however, appears authentic, the Anglo-Peruvian commercial agreement which is expected to be signed in the next few days apparently reduces Peruvian rates of import duty for the United Kingdom only, on products representing approximately 19 per cent of Peruvian imports from the United Kingdom, and binds its rates on products representing about 24 per cent of the same. The reduced rates apparently not applicable to the United States and hence discriminatory, affect roughly 2 per cent of Peruvian imports from the United States, while bindings affect about 5 per cent of the same.

2. Peru assures the United Kingdom of unconditional most-favored-nation rates.

3. Provision is made for the immediate application of articles 4 and 5 which reduce or bind rates, pending ratification.

4. In a section headed confidential, the Peruvian Government undertakes to give instructions to the different Ministries and dependencies to give preference to the purchase of goods from the United Kingdom when conditions improved, price and quality equal.

In view of this development, the Department's opinion is requested concerning the advisability of undertaking preliminary exploratory conversations for a trade agreement between the United States and Peru³² pending full verification of the foregoing.

Further report with text of Peruvian-British agreement by air mail.

Please communicate numbered paragraphs above to Commerce.

DEARING

²⁷ Not printed.

²⁸ For despatches mentioned, see *Foreign Relations*, 1935, vol. iv, pp. 933, 935, 937, and 944.

²⁹ *Post*, p. 928.

³⁰ *Post*, p. 930.

³¹ Not found in Department files.

³² See pp. 923 ff.

611.2331/59 : Telegram

The Acting Secretary of State to the Ambassador in Peru (Dearing)

WASHINGTON, June 23, 1936—6 p. m.

28. Your 36, June 19, noon.

(1) With reference to the reported impending agreement between Peru and Great Britain please ascertain definitely whether the report is correct that the proposed agreement will accord exclusive preferences to Great Britain. If so, take up the matter orally with the Foreign Minister in the following sense: You should express the deep regret with which this Government would view the conclusion of an exclusive bilateral agreement by such an important trading nation as Peru, which, whatever the apparent temporary advantages, would be deleterious to the broader interests of trade as a whole. Such action by the Peruvian Government would be a departure from the principles set forth in the Resolution on Economic, Commercial and Tariff Policy³³ which was unanimously adopted by the governments of this hemisphere at the Seventh International Conference of American States at Montevideo. In that Resolution the subscribing governments declared "that the principle of equality of treatment stands and must continue to stand as the basis of all acceptable commercial policy. Accordingly, they undertake that whatever agreements they enter into shall include the most-favored-nation clause in its unconditional and unrestricted form, to be applied to all types of control of international trade, limited only by such exceptions as may be commonly recognized as legitimate, and they undertake that such agreements shall not introduce features which, while possibly providing an immediate advantage for the contracting parties, might react disadvantageously upon world trade as a whole".

In accordance with this policy the United States Government has extended to Peru the benefits of all duty reductions and concessions granted under its trade agreements with other countries. This Government assumes that the Government of Peru will no doubt wish to consider whether it desires to enter into an agreement which would deviate from the broad principles set forth in the resolution unanimously adopted at Montevideo, particularly since any such step would be at variance with the purposes of the forthcoming Inter-American Conference at Buenos Aires³⁴ as set forth in the proposed agenda, one of which is the adoption of measures to promote closer economic re-

³³ Resolution V, Economic, Commercial, and Tariff Policy, approved December 16, 1933, *Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933* (Washington, 1934), p. 196.

³⁴ See pp. 3 ff.

lations among the American republics based upon the broad principle of equality of opportunity.

(2) With reference to your despatch No. 4592, June 9,^{34a} the Department is making a careful study of the possibilities of a trade agreement and of the various questions which will arise in connection therewith. This study will give direction to the exploratory conversations with the Peruvian authorities. Until the results of this study are known, it seems advisable to avoid if possible any further discussions of this matter except in the most general terms.

PHILLIPS

623.4131/32

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

No. 4615

LIMA, June 25, 1936.

[Received July 6.]

SIR: I have the honor to report that on receipt of the Department's telegram No. 28 of June 23rd, 1936, concerning the impending commercial agreement between Peru and Great Britain, I at once conferred with Mr. Dreyfus³⁵ and with Mr. Greenup, the Commercial Attaché. We concluded that in order to be effective action should be taken at once. Since it was a holiday, it was impossible to see the Foreign Minister the same day, so this morning, June 25th, after further conference with Mr. Dreyfus and being myself ill in bed, he went to the Foreign Office and inquired of Señor Bellido, Chief of the Diplomatic Section, as to the truth of the reports of discrimination reaching us indicating that only in case they were correct did we wish to say anything further. Mr. Dreyfus and I felt this direct approach was the best as there was nothing to be gained by indirection except delay and possibly evasion. Mr. Dreyfus then conveyed to Mr. Bellido the substance of the Department's message. Without committing himself, Señor Bellido took note of what Mr. Dreyfus had to say and said he would immediately lay it before the Minister.

The Embassy feels that the Department's purposes have thus been accomplished. If the reports are untrue, the Foreign Office can tell us so. If they are true, it has been informed in time and can shape its course accordingly and we shall doubtless soon know the result.

The British Minister who was waiting for a conference regarding the trade treaty was received by the Foreign Minister just after Señor Bellido had reported to him what Mr. Dreyfus had to communicate.

^{34a} *Post*, p. 930.

³⁵ Louis G. Dreyfus, Jr., Counselor of Embassy.

The Foreign Minister, therefore, has the opportunity to straighten things out before we are presented with a *fait accompli*, and Mr. Dreyfus' representations would seem to have been most timely.

Further developments will be reported as they occur.

Respectfully yours,

FRED MORRIS DEARING

623.4131/33

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

No. 4624

LIMA, July 1, 1936.

[Received July 11.]

SIR: Referring to the Embassy's despatch No. 4615 of June 25, 1936, reporting the communication to Dr. Bellido, Chief of the Diplomatic Service, of the contents of the Department's telegram No. 28 of June 19 [23], 1936, concerning the impending commercial agreement between Peru and Great Britain, I have the honor to report that Mr. Bellido informed Mr. Dreyfus last evening that he had brought the message in question to the attention of the Foreign Minister who desired to point out:

1. When the Peruvian Government was initiating its conversations with the British Government regarding the commercial agreement, it had been communicated to Ambassador Dearing that the agreement would undoubtedly not be favorable to American commercial interests (See Embassy's telegram No. 6 of January 18, 9 a. m.²⁶);

2. On the same occasion, the Foreign Minister expressed to the Ambassador the desire of the Peruvian Government that some concession be made to permit the importation into the United States of a larger quota of Peruvian sugar, but that apparently nothing had been done along these lines;

3. The Jones-Costigan Law²⁷ is considered to be discriminatory against Peru, inasmuch as it favors the importation of Cuban sugar.²⁸ This law is interpreted to be out of harmony with the principle of equality of treatment;

4. The Anglo-Peruvian Commercial Agreement is similar to the many other commercial agreements recently made such as the Argentine-British Commercial Treaty.

The Embassy understands that certain points in the Anglo-Peruvian Commercial Agreement are still under discussion and the timely communication to the Foreign Minister of the Department's views on exclusive preference and discrimination will give that official an opportunity to introduce any changes that he feels should be made in

²⁶ Not printed.

²⁷ Approved May 9, 1934, 48 Stat. 670.

²⁸ See pp. 893 ff.

the final draft of the commercial treaty to bring it into harmony with the American viewpoint.

Respectfully yours,

For the Ambassador:
LOUIS G. DREYFUS, JR.
Counselor of Embassy

611.2331/61

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

No. 919

WASHINGTON, August 4, 1936.

SIR: Reference is made to the Embassy's despatch No. 4624 of July 4 [1], 1936, reporting the observations of the Peruvian Foreign Minister with regard to points raised by the Embassy, in accordance with the Department's telegram No. 28, of June 23, 1936, in connection with the pending Anglo-Peruvian Commercial Agreement. The despatch under reference cited four observations of the Foreign Minister with respect thereto.

You are authorized, in your discretion, to bring orally to the attention of the Foreign Minister the following observations of the Department relative to points two and three mentioned in the despatch under reference. You may state that the Ambassador (pursuant to the Department's instruction No. 838 of November 21, 1935³⁹) had already explained to Dr. Concha in a clear and concise manner that existing legislation, particularly the Jones-Costigan Act governing the importation of sugar, rendered it impossible for this Government to give any assurances whatsoever, either in advance of or in connection with trade agreement negotiations, provided the present sugar legislation is in force at that time, that any quantity of sugar in excess of the quota already allotted to Peru would be permitted to enter the United States from that country. You may state further that the Ambassador directed the Foreign Minister's attention to the fact that if the restrictions on sugar importations were removed there would be a return to a free market, and hence Peruvian sugar would have unrestricted quantitative entry into the United States.

In connection with the immediate foregoing you may wish to proffer the informal observation that recently drafted and projected legislation regarding sugar includes a section dealing with the matter of quota reallocations among the full-duty countries, which reads as follows:

"If, on the 1st day of August in any calendar year, the quota then in effect for any foreign country except Cuba has not been filled, the

³⁹ Not printed.

Secretary shall revise the quotas for all other foreign countries, except Cuba, by prorating the deficient quantity so determined to all other foreign countries, except Cuba, which have filled their quotas by such date, on the basis of the quotas then in effect, ability to supply additional sugar, and other pertinent factors.”

You may inform Dr. Ulloa y Sotomayer that, should this draft legislation become law and the quotas of the full-duty countries be not filled on the basis of the quotas in effect at the time, there might be a possibility of increasing the allotment to Peru, in accordance with the procedure provided for in the projected legislation. You may point out also that although the legislation in question did not pass the recent Congress, nevertheless it may be considered to be indicative of the liberal policy of this Government. Further, as evidencing the liberal administration of existing legislation, you may inform the Foreign Minister that on July 2, 1936, the Secretary of Agriculture authorized from the unallocated reserve the entry of 600,000 pounds of Peruvian sugar, over and above the quota allotted that country.

With further reference to point three of the Embassy's despatch, it is desired that you again make it quite clear to the Foreign Minister that it is the Department's considered opinion that the Jones-Costigan law is in no sense discriminatory, the sugar quotas established therein having been based upon the most representative three years of the period 1925-1933. You may recall that during two years of the base period (1925-1933) no Peruvian sugar was marketed in the United States and that in four other years less than two tons of Peruvian sugar were marketed annually.

In so far as the Foreign Minister's objection to the quotas allotted Cuban sugar is concerned, you may point out that this quota allotment was made in the same manner as that to Peru. If he should mention the preferential tariff rate accorded sugar from Cuba, you may, if you deem it advisable, review in a very discreet and informal manner the circumstances out of which the special tariff relationship between the United States and Cuba has grown and point out that this relationship existed over a period of more than thirty years.

After communicating the above orally to the Minister of Foreign Affairs you should reiterate to him the observations embodied in the Department's telegram No. 28 of June 23, and inform him that the Department is communicating with the Peruvian Ambassador in this matter, to which it attaches so much importance.

The Department will await the result of your informal representations with interest.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

623.4131/33

The Department of State to the Peruvian Embassy

MEMORANDUM

The American Embassy in Lima has reported an interview between the American Chargé d'Affaires ad interim and Señor Bellido, Chief of the Diplomatic Section and the Ministry of Foreign Affairs, in which the latter indicated that the trade agreement under negotiation between Peru and Great Britain might not be favorable to American commercial interests.

Leaving aside at this time the question of possible detriment to the trade of the United States with Peru, this Government desires to express the earnest hope that Peru will take no action nor make any commitments at this time which would be counter to the policy of equality of treatment unanimously subscribed to by the American Republics in the Economic Resolution adopted at the Seventh International Conference of American States at Montevideo. The support which Peru has given in general to a liberal commercial policy based upon equality of trade opportunity and her success in recovering from the world depression while following such a policy has given much encouragement to other governments working for the restoration of international trade and the adoption of liberal policy in international economic relations. If, however, the Government of Peru actually is giving consideration to departing from the principle of equal treatment of trade it is hoped that action will be withheld until after the forthcoming Inter-American Conference for the Maintenance of Peace, when all the nations of this hemisphere will have had the opportunity of consulting jointly for the purpose of promoting their mutual interests.

WASHINGTON, August 12, 1936.

623.4131/35

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

No. 4682

LIMA, August 21, 1936.

[Received August 28.]

SIR: Referring to the Department's instruction No. 919 of August 4, 1936, concerning the pending Anglo-Peruvian Commercial Agreement, I have the honor to report that I had the opportunity, at an audience with the Minister for Foreign Affairs on August 19th, to lay before him the several points contained therein.

The existing legislation governing the importation of sugar into the United States was reviewed by us. I took occasion to point out

that the Jones-Costigan Law is in no sense discriminatory, and I proffered the informal observations concerning the drafted and projected legislation with regard to quota reallocations, explaining the liberal administration of the existing legislation whereby on July 2, 1936, the Secretary of Agriculture authorized from the unallocated reserve the entry of 600,000 pounds of Peruvian sugar, over and above the quota allotted this country. I also reiterated the contents of the Department's telegram No. 28 of June 23rd, explaining the attitude of the Department with regard to the conclusion of the Peruvian-British Commercial Agreement which seems to accord certain advantages, including exclusive preferences to Great Britain.

The Foreign Minister stated that Peru's absolute need for an outlet for its sugar made necessary the negotiation of a commercial agreement with Great Britain at this time and that the agreement now being negotiated was similar to other bi-lateral pacts which had been signed between nations in recent years. He added that the Peruvian Government had taken the position recently that under present circumstances it was unable to favor the inclusion of a most-favored-nation clause in any commercial agreement which might be made. After explaining the fundamentals of Secretary Hull's trade agreements program and his efforts to bring about economic rehabilitation throughout the world, I inquired whether the trade agreement between Great Britain and Peru was not in contradiction to the commercial and tariff policy adopted jointly at the Seventh International Conference of American States. To this, Dr. Ulloa replied that conditions had changed somewhat since the Montevideo Conference and that he had observed a growing tendency to get away from those principles, as the basic obligation of each nation is to insure foreign markets for its products, and in his opinion this could be more readily accomplished through the completion of bi-lateral trading conventions without the most-favored-nation clause.

At this point, I mentioned that the Embassy had been informed that the draft of the agreement between Peru and Great Britain contained a clause concerning purchases by Peruvian Government officers, which seemed to give preference to British firms. Dr. Ulloa replied that this subject was treated not in the agreement itself but in notes to be exchanged at the moment the agreement is signed. After calling for the treaty file, Dr. Ulloa read to me the section which provides that Government offices must request bids from British firms whenever purchases of goods are to be made abroad, and in cases of equal merit the bids of the British firms should be given preference over those of other countries, after giving due consideration to quality, prices and terms of payment. Dr. Ulloa inquired if in my opinion this was special preference, to which I replied that indeed it seemed to

give British manufacturers a distinct advantage. The Foreign Minister did not agree with this view, saying that the British Government had drafted and insisted on the inclusion of the text as it stood but that he could not see that the British would benefit greatly therefrom as it produced a hypothetical situation which meant little, as only in rare instances could two articles be of equal merit, especially where British products were concerned, as he had observed that in general the prices of the British articles were noncompetitive and the products of other nations were often preferred. He added that this was not the only point on which there had been insistence on the part of the British who were pressing also for the inclusion of two other clauses which were not viewed with favor by his Government. One of these was the requirement that the Peruvian Government was to engage itself to declare that certain of its laws should be inapplicable to British firms doing business in Peru, and the other that the law requiring the registration of foreigners was to be amended so that the amount to be paid in connection therewith should not be called a tax but a registration fee. The Foreign Minister pointed out that this utter disregard on the part of the British for local laws seemed quite amazing to him.

Dr. Ulloa did not give any indication as to the date when the agreement might be signed. He said that the signature had been delayed by minor points which still had to be agreed upon. He stated that the British Government had objected that the decisions of the Peruvian negotiators in London were not final and that the final draft had to be submitted to Lima for approval. Dr. Ulloa added that the signing of the agreement would take place in Lima and that it contained the provision that a three-months' notification by either party was required for abrogation which would allow its prompt termination any time that this might be desired.

Towards the end of our conversation, the Foreign Minister observed that he understood that nothing could be done at this time to amend the Jones-Costigan Law, inasmuch as our Congress was not in session. He then referred to the other situation which was causing so much concern to the Peruvian Government and to the Sugar Industry, viz: the dumping of Cuban sugar in the British and other foreign markets at illusory prices with which Peruvian sugar could not compete. He remarked that this dumping was made possible by the profits accruing to Cuban sugar planters as a result of the preferential tariff on their sugar imported into the United States. He added that the Cuban Government had urged sugar growers to increase their production so as to employ more workers and thereby help to relieve the unemployment situation. He explained that the local sugar growers as well as the National Agrarian Society were bringing heavy pressure on the

Peruvian Government to take immediate action to rescue the sugar industry from imminent ruin, and that this compelled him to find some solution to relieve this situation, and to assure a permanent market for Peruvian sugar.

Dr. Ulloa then added that since the unemployment situation in Cuba is not a serious problem, there is no need for that Government any longer to urge increased sugar production under artificial conditions which owe their existence to the preferential tariff relations between Cuba and the United States and which permit Cuba to dump large quantities of sugar abroad, thereby ruining Peru's normal sugar trade. (See Embassy's despatch No. 4656 of August 1, 1936,⁴¹ particularly page 2, item 6.) He stated further that the Government of Peru would appreciate it very much if I could transmit to the Department of State the idea that the Government of the United States might possibly be willing to suggest to Cuba that this practice of dumping its surplus sugar abroad might be given up. I replied that I considered this question one that ought to be treated directly between Peru and Cuba. He assented to this, but added that the crucial fact should not be overlooked that Cuba was precisely enabled to dump her sugar in foreign markets as a direct result of the United States' special preferential tariff on Cuban sugars, and that his statement was therefore predicated on this fact and that as a consequence the United States Government might be willing to study his suggestion and perhaps lend its aid in finding a method whereby Cuba's sugar dumping in foreign markets may be curtailed or eliminated, or that Peru could be assured by special agreement of an import sugar quota in the United States of not less than 200,000 tons in order to save the Peruvian sugar industry from imminent ruin.

Respectfully yours,

LOUIS G. DREYFUS, JR.

623.4131/41

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

No. 4954

LIMA, October 8, 1936.
[Received October 13.]

SIR: Referring to the Embassy's despatch No. 4720 of September 14, 1936,⁴¹ anticipating the early signature to the Agreement between Great Britain and Peru relating to Commerce and Navigation, I have the honor to enclose, in duplicate, a copy of the official Spanish and

⁴¹ Not printed.

English text of this document with protocols, signed at Lima on October 6, 1936.⁴²

These pamphlets were received by the Embassy only a few minutes before the closing of today's air mail and therefore it has not been possible to examine them with care.

Respectfully yours,

LOUIS G. DREYFUS, JR.

623.4131/41 : Telegram

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

WASHINGTON, October 23, 1936—6 p. m.

46. Last paragraph of your despatch No. 4756, October 11,⁴³ indicates commercial agreement with Great Britain not to become effective until ratification although as special concession Peru is now allowing British goods to enter under duties in old tariff. It is noted that the first protocol of the agreement states that pending exchange of ratifications, Articles 4 and 5 enter into force provisionally October 9. Kindly telegraph whether protocol now operative and if so its relationship to special concession mentioned.

Also please ascertain from Customs authorities without approaching Foreign Office whether American goods are being given benefits accorded Great Britain in recent commercial agreement or by special concessions.

HULL

623.4131/45 : Telegram

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

LIMA, October 26, 1936—10 a. m.

[Received 11 : 10 a. m.]

57. Your telegram No. 46, October 23, 6 p. m. Articles IV and V of the commercial agreement with Great Britain went into effect on October 9th. Statement to the contrary contained in the last paragraph despatch 4756 of October 11th⁴³ inaccurate.

According to the Superintendent of Customs tariff advantages accorded Great Britain are not being extended to merchandise imported from the United States or from any other country.

DEARING

⁴² For text, see Peru, Ministerio de Relaciones Exteriores, *Memoria*, April 13—October 22, 1936 (Lima, 1938), Apéndice 20, p. 105; also British Cmd. 5288, Peru No. 1 (1936): *Agreement Relating to Commerce and Navigation*.

⁴³ Not printed.

623.4131/46

The Peruvian Ambassador (Freyre) to the Secretary of State

WASHINGTON, November 6, 1936.

YOUR EXCELLENCY: With reference to the Memorandum of the Department of State, dated 14th [12th] August, 1936, expressing the earnest hope that my Government would take no action nor make any commitments which could be counter to the policy of equality of treatment unanimously subscribed to by the American Republics in the Economic Resolution adopted at the Seventh International Conference of American States at Montevideo, my Government have directed me to expose as follows their views on the subject.

The principal object of the Resolution above mentioned was to free international trade from such restrictions as high tariffs, quotas, etc., whereby various countries were endeavoring to protect their national economic structure.

According to Mr. Braden, one of the American Delegates to the Conference, the essence of the Resolution was that it favored the reduction of tariffs, as the main barrier to international trade, and the removal of quotas, as contrary to the equality of treatment; but that it did not prevent any country from establishing quotas, should they be considered necessary.

Doctor Saavedra Lamas, Chairman of the IX Committee where the Resolution was discussed and adopted, declared, on 13th December, 1933, without having been contradicted, that "Mr. Hull's proposal amounted to a wish or a declaration, without implying any commitment whatsoever".

The Peruvian Delegate, Doctor Barreda y Laos, stated that the Delegation of Peru accepted the Resolution with the following reservation: "The Delegation of Peru declares that the principle of equality of treatment is and should be the commendable basis on which to build international trade. But that Peru, with regard to the clause of the most favored nation, does not undertake any commitment which might be contrary to her interests in the treaties of commerce she may or will adjust in the future."

The Resolution apparently has two separate aspects:

1. A doctrinarian bearing, that is in reality a declaration of principle;
2. A practical bearing, as to the form American countries should adopt for their treaties of commerce.

It does not seem to my Government that in either case have American countries, or other countries invited to accept these principles, complied with them.

No independent, simultaneous or concerted action has been taken to reduce tariffs, or remove other barriers that restrict the flow of international trade, except on the basis of mutual and specified concessions. No multilateral agreements have been stipulated, eliminating prohibitive measures or lowering tariffs in a general way and to the benefit of all countries. Import duties continue to be as high as ever. A great majority of countries have failed to apply the principle of equality of treatment or the clause of the unconditional most favored nation, except with restrictions often seriously detrimental to the main products of Peru and to her economic structure.

The reservations made by the Delegation of Peru at the Montevideo Conference define the line of conduct methodically followed by the Peruvian Government in adjusting commercial treaties. This line of conduct is traced in general terms according to a commercial policy that excludes from such trade agreements as the Peruvian Government may negotiate the clause of the most favored nation, providing instead bilateral agreements with adequate and reciprocal concessions destined to facilitate trade exchange. For this reason my Government, without opposing subtopics *a*) and *c*), topic 9, of the Program for the forthcoming Inter-American Conference, formulated thereto a reservation.

Consequently, the trade agreement between Peru and Great Britain, to which the Memorandum of the Department of State refers, cannot be said to infringe any commitment made by Peru in subscribing to the Economic Resolution of the Montevideo Conference, since on that occasion Peru through her Delegation expressly stated, with regard to the clause of the most favored nation, that she did not undertake any obligation which might run counter to her interests, etc.

Finally, my Government wishes to recall that, before initiating negotiations for a trade agreement with Great Britain, Doctor Carlos Concha, then Minister of Foreign Affairs of Peru, stated to the American Ambassador at Lima that Peru must needs place her sugar on the American or British markets in order to save the Peruvian sugar industry from impending ruin; and Doctor Concha added that he wished in the first instance to approach the United States Government on the subject. The American Ambassador replied in due time that the United States Government could not grant any special facilities to the Peruvian sugar industry; that the United States Government had in view the possibility of negotiating a treaty of commerce with Peru; that however the United States Government was then unable to open the corresponding negotiations; and that, fully aware of the difficulties confronting the Peruvian Government, the United States Government would not deem prejudicial such concessions as might even-

tually be made by Peru to Great Britain in the trade agreement to be negotiated.

I avail myself [etc.]

M. DE FREYRE Y S.

623.4181/45a

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

No. 946

WASHINGTON, November 11, 1936.

SIR: Reference is made to your telegram No. 57, of October 26 last, and previous correspondence in regard to the recently signed commercial agreement between Peru and Great Britain.

The Department encloses a draft note concerning this subject and requests that you communicate its contents to the Peruvian Government.

If the information is now available, the Department would like to know whether the secret supplementary agreements discussed during the negotiations for the commercial agreement were finally executed and whether they are now in force.

Very truly yours,

For the Secretary of State:
FRANCIS B. SAYRE

[Enclosure]

Draft of a Note To Be Presented to the Peruvian Minister for Foreign Affairs

EXCELLENCY: I have the honor to state to Your Excellency upon instruction that my Government, having been informed of the conclusion of a commercial agreement between Peru and Great Britain and of the coming into force of Articles IV and V in accordance with the first protocol annexed to the agreement, assumes that imports into Peru of goods from the United States will be granted the benefits accorded those of British merchandise, as otherwise it would have no course other than to regard the operation of the agreement as discriminatory. In this connection, I am directed again to invite the attention of Your Excellency's Government to the practice, established by law, of my Government in generalizing for the benefit of other countries concessions granted in trade agreements, with the single exception of the agreement made with Cuba, provided that discrimination is not made against the commerce of the United States.

623.4131/47

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

No. 4822

LIMA, November 19, 1936.

[Received November 27.]

SIR: I have the honor to refer to the Department's Instruction No. 946 of November 11, 1936, concerning the recently signed Commercial Agreement between Great Britain and Peru, and to report that the draft note transmitted to the Embassy with the aforementioned Instruction was prepared in final form and forwarded to the Foreign Office. (For completion of the Department's file a copy of this note, No. 1200 of November 18, 1936 is enclosed.)⁴⁴

In reply to the Department's inquiry as to whether the secret supplementary agreements discussed during the negotiations for the Commercial Agreement were finally executed, I have to inform the Department that it has not been possible to secure a direct statement from the Foreign Office in regard to this phase of the matter.

The question of the secret supplementary agreement was taken up with Dr. Bellido of the Foreign Office. He insisted that he did not know of any secret supplementary agreement, until he was informed that this Embassy had knowledge that an agreement was under discussion during these negotiations, granting preference to bids from British manufacturers, providing conditions were equal in regard to quality, as well as price and payment terms. Dr. Bellido thereupon replied that an agreement of this kind would give more apparent than real advantages as it was unlikely that conditions in such cases would ever be equal as to price, quality, etc., and that, therefore, the British would benefit little by such an arrangement.

This attitude on the part of Dr. Bellido may be taken as an indication that such an agreement may exist. In this connection it will be recalled, as reported in the Embassy's despatch No. 4682 of August 21, 1936, that Dr. Ulloa, who was Foreign Minister at that time, admitted that an agreement of this nature had been under discussion during the negotiations; and also that the British Minister to Peru made a similar admission to Commercial Attaché Greenup. (See weekly report No. 13 of September 26, 1936 to the Department of Commerce from the Commercial Attaché.)

Dr. Bellido then went on to say that the Commercial Agreement between Peru and Great Britain has not as yet been ratified and very probably would not be ratified,—only Articles 4 and 5 concerning tariff concessions remaining in force,—as the Constituent Assembly would doubtlessly not meet again before December 8, 1936, when its term

⁴⁴ Not printed.

expires. He added that treaty ratification was one of the powers of Article 123 of the Constitution which has not been delegated to President Benavides by Law No. 8463 of November 14, 1936,⁴⁵ (See Embassy's despatch No. 4812 of November 15, 1936⁴⁶) for the three year period he is to continue in office.

Respectfully yours,

FRED MORRIS DEARING

623.4131/46

The Secretary of State to the Peruvian Ambassador (Freyre)

WASHINGTON, February 25, 1937.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's courteous note of November 6 last, which was in reply to the memorandum of the Department of State dated August 12, 1936, on the subject of discriminatory effects of the trade agreement then being negotiated between Peru and Great Britain.

This Government has noted that in referring to the principle of equality of treatment unanimously subscribed to by the American Republics in the Economic Resolution adopted at the Seventh International Conference of American States at Montevideo in 1933, Your Excellency's note states that "No independent, simultaneous or concerted action has been taken to reduce tariffs, or remove other barriers that restrict the flow of international trade, except on the basis of mutual and specified concessions". The note adds that "Import duties continue to be as high as ever".

With respect to these statements, I am sure that Your Excellency has overlooked the application of the liberal trade policy which has formed one of the major policies of this Government during the past four years. The United States has concluded in this period fifteen reciprocal trade agreements with other countries. Each of these agreements has provided for tariff reductions, as well as the binding of a number of already existing rates, and the United States extends these reductions and bindings to the trade of all countries which are not discriminating against American commerce. This has meant in effect a considerable reduction in the tariff rates of this country, and Peru without making any concessions to the United States specifically in exchange, has, together with most of the other countries of the world, shared both directly and indirectly in the benefits of these agreements. The extent of these benefits may be judged from the publication of the United States Tariff Commission, entitled *Changes in*

⁴⁵ Peru, Laws, Statutes, etc., *Anuario de la Legislación Peruana* (Lima, 1936), vol. XXVIII, p. 363.

⁴⁶ Not printed.

Import Duties Since the Passage of the Tariff Act of 1930, dated January 21, 1937, which I have the honor to enclose for Your Excellency's information. It should also be observed that the American trade agreements program has further contributed to the reduction of trade barriers throughout the world by the action of a number of other countries in generalizing the concessions which they have granted to the United States.

I may add that this Government is now negotiating additional trade agreements, and studying the possibilities of still other agreements, all of which will serve to liberalize further the customs treatment accorded by this and other countries to the importation of foreign products.

It has been noted in the concluding paragraph of Your Excellency's note under acknowledgment that the American Ambassador is reported to have informed the Peruvian Government that the United States would not deem prejudicial such concessions as might eventually be made by Peru to Great Britain in the trade agreement then being considered between the two countries. In this regard, I must say emphatically that any statements made by a representative of this Government in the sense mentioned must have been predicated upon the definite assumption that such concessions would not be of an exclusive nature; any other interpretation would be obviously inconsistent with the cardinal principle of the commercial policy which this Government is pursuing and which it has earnestly urged other countries to adopt, namely, the unconditional most-favored-nation principle.

On November 18 last, the American Ambassador, upon instruction, presented a note to Your Excellency's Government referring to the coming into effect of Articles IV and V of the Commercial Agreement of October 6, 1936, between Peru and Great Britain, and stating that this Government assumed that imports into Peru of goods from the United States would be granted the benefits accorded like goods from Great Britain, as otherwise it would have no course other than to regard the operation of the Agreement as discriminatory. At the same time, the Ambassador again invited the attention of Your Excellency's Government to the practice, established by law, of this Government in generalizing for the benefit of other countries concessions granted in trade agreements, with the single exception of Cuba, provided that discrimination was not made against the commerce of the United States. This Government has regretfully learned, however, that the concessions recently granted to Great Britain have not been applied by the Peruvian customs authorities to goods from the United States.

In consideration of the policy of this Government to generalize for the benefit of other countries customs concessions granted in trade agreements, I feel confident that Your Excellency's Government will agree that it is only fair for this Government to expect from Peru the same treatment that it accords to Peru. I trust, for this reason, and in view of the reaffirmation of the principle of equality of trade contained in the Final Act of the recent Inter-American Conference for the Maintenance of Peace, that Your Excellency's Government will cause appropriate instructions to be issued to its customs authorities in order that American goods will not be further subjected to discriminatory treatment.

Accept [etc.]

For the Secretary of State:
FRANCIS B. SAYRE

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT
BETWEEN THE UNITED STATES AND PERU

611.2331/54

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

No. 4360

LIMA, January 10, 1936.
[Received January 18.]

SIR: Referring to the Embassy's despatch No. 4326 of December 20, 1935 (File FA 611.3231/49 [611.2331/51])⁴⁷ concerning the possibility of the inauguration of negotiations for a trade agreement between Peru and the United States, I have the honor to report that on my visit to the Foreign Office on January 7th, I inquired of the Minister for Foreign Affairs⁴⁸ whether or not he had been able to give any further consideration to the matter of the exploratory conversations for the purpose of discovering whether a basis exists for a Trade Treaty between Peru and the United States.

At first Dr. Concha was of the opinion that it would be useless to proceed with the conversations unless something could be done to help dispose of Peru's sugar surplus.⁴⁹ He added that Peru sold practically nothing in the United States. My reply to this was that nothing would give me more pleasure than to be able to assist in bringing it about that Peru could market 200,000 tons of its sugar in the United States and thus relieve the difficult condition created for the Peruvian Government by the excess of sugar produced in Peru. I also expressed the opinion that sugar was certainly not the only export in which Peru was interested and said that it seemed to me

⁴⁷ *Foreign Relations*, 1935, vol. iv, p. 944.

⁴⁸ Carlos Concha.

⁴⁹ See pp. 893 ff.

that there was so broad a field for doing something with all the other Peruvian products that the matter should be studied so as to find a way by which a number of them could find a market, or a larger market, in the United States, while the interests of our exporters might be satisfied through concessions on the part of Peru. I stressed the point that the very reason for exploring the possibilities was contained in his statement that Peru was not selling any great amount of her products in the United States. I suggested that a way might be found to do so. Dr. Concha, thereupon, replied that he would consider the matter and let me know whether his Government felt it would be in any way worth while for Peru to go on with the exploratory conversations.

At the close of the conversation Dr. Concha said that he had read in the newspapers about the recent decision of the United States Supreme Court⁵⁰ declaring the Agricultural Adjustment Act⁵¹ unconstitutional in certain respects. He inquired whether this might have any effect on the sugar quotas which he believed were related somehow to this legislation. My reply to the Minister was that I had not yet seen the text of the decision to which he referred and therefore could say nothing about it. I added that if it did so develop that some consideration could be given the sugar matter again, I would not fail to let him know about it.

Respectfully yours,

FRED MORRIS DEARING

611.2331/57

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

No. 4559

LIMA, May 18, 1936.

[Received May 27.]

SIR: I have the honor to refer to the Embassy's despatch No. 4360 of January 10, 1936, reporting a conversation with Dr. Carlos Concha, the Foreign Minister at that time, regarding the possibility of the inauguration of negotiations for a trade agreement between Peru and the United States.

On my visit to the Foreign Office on May 9th, I spoke to Dr. Ulloa, the present Foreign Minister with regard to the possibility of exploratory conversations to prepare the way for a trade agreement. Dr. Ulloa said that the question was one of obvious interest for the present because he was on the point of closing up the negotiations for the trade treaty with Great Britain,⁵² which was Peru's best

⁵⁰ *United States v. Butler et al.*, Receivers of Hoosac Mills Corp., Jan. 6, 1936; 297 U. S. 1.

⁵¹ Approved May 12, 1933, 43 Stat. 31.

⁵² See pp. 908 ff.

market for her exports. He said the Trade Treaty with Great Britain would be signed here in Lima and that he expected the ceremony would take place within a month's time. After that and after Peru knows what her situation is vis-à-vis Great Britain, the Minister indicated he would be prepared to have an informal talk with me about trade arrangements with the United States.

I suggested to Dr. Ulloa, as I had to his predecessor, that sugar was not the only thing in the world and that while I could appreciate the Peruvian Government's attitude in the matter, there were many other things that could be traded and that I hoped we could talk about them and leave sugar until some time when some change in the situation would offer a prospect of doing something to assist the issue there.

I pointed out to the Minister that while the situation of the Peruvian sugar producers was distressing, that that of a good many sugar producers in the west and in the south of the United States was equally so, and that our Government had exactly the same motive for protecting its sugar producers that the Peruvian Government had for protecting its own.

The Minister seemed to understand the nature of the case and of the difficulty constituted by the Jones-Costigan Act⁶⁸ and the administration of the Act by the Agricultural Department.

Mr. Iglehart, President of W. R. Grace & Company, who called at the Embassy a few days ago, mentioned the importance of the sugar and the trade treaty questions for the Grace line and expressed the opinion that our Government might be giving almost too much consideration to the Cuban situation. This, of course, is a large subject about which there could be a lot of difference of opinion. He also added that President Benavides had informed him Peru could do better in servicing the National Debt, if it could sell more of its products in the United States. While the President's statement is quite obvious, it is certainly not quite an adequate excuse for Peru's poor performance on the debt obligation.

Respectfully yours,

FRED MORRIS DEARING

611.2331/58

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

No. 4592

LIMA, June 9, 1936.

[Received June 16.]

SIR: I have the honor to refer to my despatch No. 4559 of May 18th regarding possible exploratory conversations looking to the negotiation of a trade agreement between Peru and the United States, and to

⁶⁸ Approved May 9, 1934, 48 Stat. 670.

inform the Department that I have recently discussed this matter both with the President and with the Minister for Foreign Affairs.

During a luncheon on board the U. S. S. *Louisville* tendered to the President on June 1st by Admiral Snyder, officer in command of the naval units recently visiting Peru, I sat next to the President and we had an opportunity to talk, among other things, about the advantages that would arise from a trade treaty between Peru and the United States similar to the trade treaties we have negotiated with other countries.

Recalling the President's great emphasis upon the situation of Peruvian sugar planters, I spoke to him in the same way that I have reported having spoken to Dr. Ulloa, the Minister of Foreign Affairs, in my despatch No. 4559 of May 18th, but added that although nothing could be done now, some day in the future the situation might change and it might be possible to do something for sugar. I remarked to the President, however, that the case of American sugar producers was actually no less painful than that of the Peruvian sugar planters.

I then went on to say to the President that many other things were traded in between the two countries and that it seemed to me it ought to be possible to find a way to do something advantageous in the case of a number of articles, or at least to assure ourselves, for a reasonable length of time, that nothing more disadvantageous than the present situation would develop. I stressed the fact that under the most favored treatment Peru stood to benefit, not only by what might be achieved in the direct exchanges, but by concessions made in a number of other treaties.

The President seemed to be interested in what I had to say, remarked that he thought exploratory conversations would be advantageous, and told me I might initiate conversations to this end with the Foreign Minister.

Heretofore the President has been reluctant even to talk about a trade treaty, hoping by emphasizing the sugar situation, to oblige us to include sugar in any conversations we might have. He seems now to realize at last that the Embassy has been sincere in what it has had to say regarding sugar, and that notwithstanding the fact that his wishes cannot be met for the present, it would be worth while, and a start in the right direction, to consider the remainder of the commerce between the two countries and see what can be done to benefit it.

I have followed up my conversation with the President by sending him a purely personal note in which I enclose to him an article by Walter Lippmann which undertakes to do away with some misconceptions about the effect of imports. It was published in the *New York Herald Tribune* about the middle of May and is entitled "Topsy-Turvydom".

When I was speaking to the Minister of Foreign Affairs on the afternoon of June 8th, I mentioned the conversations I had had with President Benavides. The Minister said the President had spoken about them and I got the impression that the Minister had also been shown the personal note I had sent to the President. I repeated to Dr. Ulloa once more what I have set out in my despatch No. 4559 of May 18th and what I have said to the President.

The Minister seemed quite prepared to initiate the exploratory conversations but told me that he wished to prepare himself technically to a certain extent. I said to him that I thought it would be advantageous if he could let me know what Peru would like to obtain in a trade treaty such as we had in mind. To this the Minister replied that Señor Pedro Paulet, of the Commercial Division of the Foreign Office, would be back in Lima on Saturday, June 13th, and that he would have Señor Paulet take up the matter and give us some sort of an initial statement or memorandum.

I said to Dr. Ulloa that the sort of agreement we were seeking was, of course, one which would be mutually advantageous, but with some definite information in hand as to what Peru would like to obtain, the exploratory conversations could begin.

In this connection may I inquire whether the Department as a matter of tactics prefers to await an expression of Peru's wishes or whether it would care to inform the Embassy what our own Government would like to have and whether it is prepared to make certain concessions?

Since the outstanding fact in the whole situation is that our tariff rates bar practically all of Peru's major products from the American market, there may be some advantage in our making an initial move and in offering some concessions as a starter.

I shall greatly appreciate as much guidance from the Department as possible in this matter of the exploratory conversations, and I shall be obliged for specific instructions as to whether, in view of the other work falling upon the trade treaty officials of the Department it is desired that this matter shall now be vigorously followed up.

The Department has doubtless been informed that Señor Pedro E. Paulet of the Foreign Office, together with Señor Guillermo Salinas Cossio and Señor Juan Chávez Dartnell, have been in Chile to straighten out various questions arising under the Chilean-Peruvian treaty of commerce. The Communiqué of the Chilean Foreign Office—published in Lima this morning—states that the Peruvian-Chilean delegates have just completed twelve conferences initiated the 11th of May, and that all of the questions between the two countries have been quite satisfactorily settled.

I enclose herewith a clipping⁵⁴ quoting the Chilean Foreign Office's communiqué which the Department also has doubtless received from our Embassy in Santiago.

I have the honor to await the Department's specific instructions.⁵⁵
Respectfully yours, FRED MORRIS DEARING

⁵⁴ Not reprinted.

⁵⁵ See final paragraph of telegram No. 28, June 23, 6 p. m. to the Ambassador in Peru, p. 912. Discussions were continued the following year.

URUGUAY

EFFORTS TO SECURE EQUITABLE TREATMENT FOR AMERICAN CREDITORS IN THE SERVICING OF URUGUAYAN NATIONAL AND MUNICIPAL DEBTS

883.51/672 : Telegram

The Minister in Uruguay (Lay) to the Secretary of State

MONTEVIDEO, February 27, 1936—5 p. m.

[Received 5:53 p. m.]

14. In informal unofficial conversation with Uruguayan Minister of Finance he told me that he is anxious to effect a definitive integrated adjustment of Uruguay's national and municipal dollar indebtedness in agreement with the bondholders. He advanced the following plan as embodying in general the maximum which Uruguay could offer, adding that he could not offer more than equality of treatment with France and England. He observed that Uruguay is meeting a larger service on its foreign indebtedness than any other South American country except Argentina which has much larger resources.

National debt: for the 5 and 6 per cent issues the present interest rate of $3\frac{1}{2}$ per cent will be maintained; cumulative amortization will be resumed after July 1, 1936 on the following basis, first year one fourth per cent, second year one half per cent, third and succeeding years 1 per cent. On the 8 per cent issue interest shall be definitely fixed at $3\frac{1}{2}$ per cent and cumulative amortization as follows: first year 1 per cent, second year $1\frac{1}{2}$ per cent, third and succeeding years 2 per cent. Municipal bonds will be exchanged for national bonds which shall be accorded following treatment: For the 6 per cent issue the arrangement will be identical with that stated above regarding the 6 per cent nationals; for the 7 per cent issue interest at $3\frac{1}{2}$ per cent will be paid and cumulative amortization resumed as follows: first year one half per cent, second year three fourths per cent, third and succeeding years $1\frac{1}{2}$ per cent. Unpaid back interest will be amortized by scrip issued on each obligation.

The Minister has asked me to obtain confidentially and to communicate to him personally the views of the Foreign Bondholders Protective Council as to whether this plan would be of sufficient interest to the Council as a basis of negotiations to warrant a visit by him

to New York. Provided the reply is favorable and encouraging he will go to the United States in May from the League of Nations' Labor Conference at Geneva to discuss a settlement. He does not want this plan discussed with others.

Please ask the Council to send me a prompt telegraphic reply through the Department that I can communicate verbally to the Minister before his departure for Geneva on March 6.

LAY

833.51/672 : Telegram

The Secretary of State to the Minister in Uruguay (Lay)

WASHINGTON, March 6, 1936—7 p. m.

10. Your 14, February 27, 5 p. m. Please communicate without comment the following reply of the Foreign Bondholders Protective Council:

"The Foreign Bondholders Protective Council, Incorporated, is very happy to receive an indication that the Government of Uruguay is prepared to undertake discussions looking to an arrangement for service of its dollar bonds. Before the Council can give full consideration to the suggestions already made it would like to be clear in its understanding on two matters: First, is the proposal now made intended to cover a temporary arrangement during the pendency of the existing world-wide depression, or is it intended to be a conversion plan by which new bonds shall be issued for the present outstanding bonds. Second, does the proposal for equality of treatment with the French and English mean a proposal for proportionate equal treatment based upon different contractual services, or an identic flat rate for both sterling and dollar bonds. The latter plan would result in great discrimination against the dollar bonds."

HULL

833.51/678 : Telegram

The Minister in Uruguay (Lay) to the Secretary of State

MONTEVIDEO, March 13, 1936—noon.

[Received 3:46 p. m.]

16. Communicated contents Department's telegram No. 10, March 6, 7 p. m. without comment to Minister of Finance a few hours before his departure for Europe, to which he replied verbally.

First—proposal now made intended to be a conversion plan by which new bonds shall be issued for previous and outstanding bonds; second—the proposal means an identic flat interest rate for both sterling and dollar bonds.

The Acting Minister of Finance handed me a statement yesterday in which the following appears "formula of settlement would be consolidation and conversion of the loans to be issued in three new issues, contemplating only that portion held abroad. For the bonds held in Uruguay an internal loan would be issued".

This statement, forwarded by air mail today shows that the increased cost of the service on national and municipal dollar bonds under proposed plan over present cost would amount in third and subsequent years to approximately \$1,500,000. Acting Minister will radio any communication received by this Legation from Foreign Bondholders Protective Council to the Minister who will be on steamer until March 21st.

I do not believe that Minister will go to New York unless he is encouraged to believe that the prospects are favorable for an adjustment on the basis of the plan he has proposed.

LAY

833.51/678 : Telegram

The Secretary of State to the Minister in Uruguay (Lay)

WASHINGTON, March 24, 1936—7 p. m.

11. Your 16, March 13, noon, with the exception of the last paragraph, has been communicated to the Foreign Bondholders Protective Council, which has drafted the following reply that should be communicated to the Acting Minister of Finance:

"Foreign Bondholders Protective Council has been pleased to learn that His Excellency the Minister of Finance of Uruguay is considering coming to the United States in the near future. The Council sincerely hopes that His Excellency will do so as it feels confident that in personal conversations, dealing with the matter directly, it would be possible to work out an arrangement which would be fair, just and equitable both to the bondholders and to the Republic of Uruguay and the City of Montevideo. It is extremely difficult to carry on a satisfactory negotiation at long range by cable, which is never adequate for dealing with a difficult problem and indeed in spite of all that be done to the contrary may give an erroneous impression of the true sympathy and feeling which underlies the discussion.

In order to save time when His Excellency arrives here it would be most helpful if the Council could receive from the Uruguayan Government, at its earliest convenience through the courtesy of the American Minister in Montevideo, full details regarding the arrangement that the Government has been contemplating, including the amounts yielded in recent years by the revenues to be allocated as security for the new bonds; the arrangements it has made or proposes to make to its other creditors, foreign and domestic, and as much other financial and economic data on the Republic of Uruguay

and the City of Montevideo as will help to a consideration of the proposal.

The Council has no other desire than to facilitate a mutually acceptable arrangement which it is confident can be reached through direct conversations with the Minister of Finance which, it repeats, it most earnestly hopes will be made possible by a visit on his part to New York."

In presenting this message from the Council you may orally support the expressed hope of the Council that the Minister of Finance visit New York, pointing out the difficulties of negotiation by cable and the advantages of personal and direct conversation.

HULL

833.51/688

The Minister in Uruguay (Lay) to the Secretary of State

No. 210

MONTEVIDEO, April 1, 1936.

[Received April 11.]

SIR: I have the honor to report that upon receipt of the Department's telegram No. 11 of March 25 [24], 9 a. m. [7 p. m.] I communicated to the Acting Minister of Finance that part of this telegram within quotations from the Foreign Bondholders Protective Council and, as instructed, expressed the hope that Dr. Charlone, the Minister of Finance, who is now in Geneva, would be able to visit the United States en route home from Europe, and pointed out how difficult it would be to carry on negotiations looking to an adjustment of the debt situation at long range by cable and the long delays entailed thereby.

The Acting Minister told me that President Terra found it most difficult to spare Dr. Charlone at this time when a number of financial and fiscal measures were being discussed in the Uruguayan Congress which required the personal attention of Dr. Charlone. I told the Acting Minister that a side trip to the United States would extend Dr. Charlone's absence only ten days and that the Minister could accomplish more toward an adjustment of this very important matter in a few days discussion than by months of correspondence. The Acting Minister then said that he would show President Terra the translation of the cable from the Council and let me know whether the President approved of Dr. Charlone going to the United States at this time. The Department will be advised by cable when I hear from the Acting Minister of the President's decision.¹

Respectfully yours,

JULIUS G. LAY

¹ In despatch No. 216, April 17, the Minister reported that he concluded from a brief conversation with President Terra that Dr. Charlone would not be permitted to go to New York at that time (833.51/692).

833.51/696

The Secretary of State to the Minister in Uruguay (Lay)

No. 74

WASHINGTON, May 14, 1936.

SIR: The Foreign Bondholders Protective Council, Incorporated, has recently requested the Department to urge upon the Uruguayan Government the desirability of having the Minister of Finance return to Uruguay by way of New York in order to take up directly with the Council the question of Uruguay's foreign indebtedness in the United States. In view of the fact, however, that you have reported that the President of Uruguay had decided to order the Minister of Finance to return directly to Montevideo because of the numerous important matters awaiting his attention, the Department informed the Council that it did not feel it advisable to instruct you to again press this matter.

The Department is now in receipt of a letter dated May 7th, from the Council, a copy of which is enclosed,² in which, as you will note, the suggestion is made that the Uruguayan Government give consideration to either sending someone else or authorizing some other official in the United States to deal with the Council. If you perceive no objection to such course you are authorized to transmit this suggestion to the appropriate Uruguayan authorities. However, the Department leaves entirely to your discretion the question of whether you take up this matter or not with the Uruguayan Government.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

833.51/706

The Minister in Uruguay (Lay) to the Secretary of State

No. 255

MONTEVIDEO, June 4, 1936.

[Received June 13.]

SIR: Referring to the Department's Instruction No. 74 of May 14th last, I have the honor to report that I have asked Dr. Ignacio Reyes Molné, the Acting Minister of Finance, whether his Government would give consideration to either sending someone else than Dr. Charlone or authorizing some other official in the United States to deal with the Foreign Bondholders Protective Council, Inc. regarding Uruguay's dollar indebtedness. He said he would give this suggestion his careful consideration but, confidentially, it has been apparent since Dr. Charlone first mentioned to me his desire to effect some adjustment of the dollar debt, that he is anxious, for political reasons, to carry on

² Not printed.

any negotiations directly himself and not through any Government representative.

I reminded Dr. Reyes Molné that Señor Jorge West, the President of the Bank of the Republic, was leaving for the United States on June 20th (See my despatches No. 242 of May 22 and No. 247 of May 29, 1936³) to attend to some official business in New York for the Government and enquired whether he could not be authorized to deal with the Council. He replied that he saw no objection to Señor West discussing in New York the question of debts with the Council and said that he would talk to Mr. West about doing so. Dr. Molné did not, however, intimate that Señor West would be authorized to deal with the Council.

In a previous conversation with Dr. Reyes Molné, he observed that since it seemed most unlikely that Dr. Charlone could go to the United States en route from Europe, it would be best for a representative of the bondholders to come here upon Dr. Charlone's return from Europe. I discouraged this idea at the time because there was some chance of the President changing his mind about Dr. Charlone going to the United States and it did not seem practicable, but possibly the Council would, under the circumstances, deem it expedient to send a representative here to deal with Dr. Charlone.

Respectfully yours,

JULIUS G. LAY

833.51/710

The Minister in Uruguay (Lay) to the Secretary of State

No. 264

MONTEVIDEO, June 11, 1936.

[Received June 20.]

SIR: I have the honor to refer to my despatch No. 255 of June 4, 1936, with respect to my suggestion to the Acting Minister of Finance that Señor Jorge West, President of the Bank of the Republic, be authorized to deal with the Foreign Bondholders Protective Council regarding Uruguay's dollar debt, while Señor West is in the United States next month.

The Acting Minister called at the Legation yesterday, under instructions from the President, and informed me that Señor West's stay in the United States would be so short and his entire time would be occupied with business of the Bank of the Republic that he would be unable to deal with the Council on the question of an adjustment of the debt. I then suggested to the Acting Minister that the Uruguayan Minister in the United States or some other representa-

³ Neither printed.

tive now there be authorized to deal with the Council but he did not favor this suggestion. Confidentially, I do not believe Dr. Charlone, the Minister of Finance, is willing that anyone except himself should discuss with the Council any adjustment of the Uruguayan dollar debt.

I understand from a reliable source that Señor West will be in the United States only eight days and during that time he will consult with representatives of the Federal Reserve Banks in New York and Washington with regard to making connections between these banks and the Bank of the Republic of Uruguay similar to the contacts recently made between the National Bank of the Argentine and the Bank of England and the Bank of France. Señor West will go from the United States to England to discuss similar arrangements for the Bank of the Republic.

Respectfully yours,

JULIUS G. LAY

833.51/715

The President of the Foreign Bondholders Protective Council (Clark) to the Chief of the Division of Latin American Affairs (Duggan)

NEW YORK, July 21, 1936.

DEAR MR. DUGGAN: I enclose herewith a copy of the cable ⁴ which I sent today to the Minister of Finance of Montevideo regarding the Uruguayan bonds in default.

When Mr. Reed of the Legation in Montevideo was recently in New York he was good enough to call at the Council and he informed us that apparently Mr. Cosio misinterpreted the Council's views when he returned to Montevideo last Autumn. Mr. Cosio apparently had been stating that the Council was perfectly happy with the 3½% payment made by Uruguay whereas Mr. Cosio was definitely advised that the Council was willing to let the matter continue as it was for three or four months from the end of September 1935 in view of Mr. Cosio's statement that Uruguay was about to devalue its currency. My cable is designed to clear up that misunderstanding and to induce the Uruguayans to discuss this matter with the Council without further delay. Any help which the Legation may be good enough to give to that end will, needless to say, be highly appreciated by us.

Faithfully yours,

J. REUBEN CLARK, JR.

⁴Not printed.

833.51/724

The Minister in Uruguay (Lay) to the Secretary of State

No. 314

MONTEVIDEO, September 2, 1936.

[Received September 11.]

SIR: Referring to the Department's instruction No. 84 of July 25, 1936,⁵ relative to Uruguay's dollar debt, I have the honor to report that, at a dinner recently in conversation with Dr. Charlone, the Uruguayan Minister of Finance, he told me that he intended to go to New York in January next to discuss the question of the adjustment of Uruguay's dollar debt. When I expressed the hope that the Uruguayan Government would at least increase the interest rate on the dollar issues to the proportional equivalent of the interest paid on Sterling issues, he said that, while Uruguay was unable to pay as yet more than a basic rate of 3½ per cent, he would tell me confidentially that he intended to propose an increase to about 4% on the 8% dollar issue, but that it would be inadvisable for him to recommend an increase of the basic rate of interest which this country might be able to bear for a short time and then be obliged to reduce it again if the financial situation became more unfavorable later. He then observed that his Government has no intention of seeking further foreign loans in the United States or elsewhere.

The Minister said that he was sending me a confidential brief outline of what he intends to propose when he goes to New York. I told him that I could not comment on any proposals as I was not in a position to say what the bondholders were likely to accept but that he would find the Council most helpful in recommending to the bondholders for their favorable consideration an equitable and reasonable proposal. When he sends me this outline, a copy will be forwarded to the Department.

I suggested to Dr. Charlone that it would assist the Council if he would furnish it with pertinent facts, explanations and detailed budget figures showing the extent of Uruguay's ability to meet the service of her dollar debt. Perhaps it would be advisable, without alluding to Dr. Charlone's proposed visit to the United States in January, for the Council to write to the Minister of Finance for the financial and fiscal figures which it requires for a comprehensive study of the Uruguayan debt situation.

Respectfully yours,

JULIUS G. LAY

⁵ Not printed; it transmitted a copy of the letter, and enclosure, of July 21, 1936, from the President of the Foreign Bondholders Protective Council, printed *supra*.

REPRESENTATIONS RESPECTING CUSTOMS DISCRIMINATIONS
AGAINST AMERICAN IMPORTATIONS INTO URUGUAY⁶

633.113/21

The Minister in Uruguay (Lay) to the Secretary of State

No. 148

MONTEVIDEO, January 9, 1936.

[Received January 18.]

SIR: I have the honor to refer to my Despatch No. 94, of October 1, 1935,⁷ with which was enclosed a copy of my Note No. 16 to the Foreign Office in Montevideo concerning customs discrimination against American products, and to my Despatch No. 140 of December 27, 1935,⁸ transmitting copy and translation of the reply from the Foreign Office to that Note; and to submit for the consideration of the Department a further presentation of the case designed to secure an adjustment of this situation by local authorities.

It will be immediately manifest that the Bank of the Republic, to which the protest was submitted for consideration, has failed to show that my allegation of unequal customs treatment for American goods was not well founded. On the contrary, the reply admits that only certain articles within quota limitations receive the benefits of the lower rate.

The Bank enters into an explanation of how certain articles become eligible to receive more favorable rates and indicates that increasing amounts of American goods in more and more categories are being granted those rates but leaves the argument and the real issue unanswered. Whatever the cause of establishing various rates, or whatever the means of applying them, the fact of their application to numerous American products constitutes actual discrimination.

The reason for the adoption of varying rates is the same as the reason for adoption of the quota system on imports. The mechanics consist of the conversion of 25% of the customs duties (which part is stated in gold but payable in paper currency) at two different rates of exchange established by the terms of admission of the merchandise into this market; i. e., whether the articles are brought in under a quota and are consequently paid for by controlled exchange, or are outside the quota and must be paid for at the free exchange rate.

The Bank's implied argument is that the rate of conversion of 25% of the duties is dependent on the quotas which are granted to American importers which, in turn, depend upon the balance of payments

⁶ Continued from *Foreign Relations*, 1935, vol. iv, pp. 949-957.

⁷ Not printed.

⁸ *Foreign Relations*, 1935, vol. iv, p. 957.

(it should be noted that the Uruguayan Government does not say balance of trade) between the two countries.

If my interpretation of the policy of the American Government is correct, I desire to point out to the Foreign Office that customs duties constitute a question apart from quota limitations and that unequal duties assessed against like products from two countries constitutes *de facto* discrimination regardless of the fact that such duties depend upon quota limitations. With that object, I respectfully submit a draft⁹ of a further Note on this subject which I shall submit to the Foreign Office upon approval by the Department.

It is respectfully requested that the Department's reply be transmitted to me by air mail.

Respectfully yours,

JULIUS G. LAY

633.113/21

The Secretary of State to the Minister in Uruguay (Lay)

No. 54

WASHINGTON, February 12, 1936.

SIR: The Department acknowledges the receipt of your despatch No. 148, of January 9, 1936, with respect to Uruguayan customs discriminations on certain American products, and enclosing a draft of a note on this subject which you propose to address to the Uruguayan Minister of Foreign Affairs.

The Department is of the opinion that your observations should not be confined to the discrimination resulting from the practice of converting that portion of Uruguayan customs duties payable in gold at differential rates according to the origin and nature of the importation, but that you should also discuss the question of the tariff preference given Brazilian pine over American pine lumber reported in your despatch No. 128 of December 6, 1935,⁹ and the tariff preference accorded imports from Spain of sardines and oil and other products reported in your despatch No. 139 of December 27.⁹ If you believe that it is desirable to submit your observations in writing in order to insure their careful consideration by the proper Uruguayan authorities, you are authorized to address a note to the Minister of Foreign Affairs along the lines of the draft note herewith enclosed.

You will note that some revision has been made of the draft submitted in your despatch under acknowledgment. The Department deemed it desirable to eliminate the fourth paragraph of your note as it would seem to imply that tariff discrimination was more objectionable than discrimination resulting from exchange control and

⁹ Not printed.

quantitative restrictions on trade and might therefore be interpreted as conveying some measure of acquiescence in these latter restrictions.

In connection with the tariff preferences accorded Brazilian pine there is transmitted for your information and comment a table prepared by the National Lumber Manufacturers Association, contrasting Uruguayan tariff treatment of lumber from South American countries and from the United States. Your comments as to whether the official valuation of American hardwoods has the same relation to their actual market price as the official valuation of the South American hardwoods has to their local selling price would be appreciated.

Very truly yours,

For the Secretary of State:

WILLIAM PHILLIPS

[Enclosure]

Draft of a Note To Be Presented to the Uruguayan Minister for Foreign Affairs

EXCELLENCY: I have the honor to refer to my note of August 10, 1935,¹¹ with reference to the practice of Uruguayan Customs in levying on certain merchandise customs duties lower than have been levied on like merchandise from the United States of America, and to Your Excellency's reply dated December 23, 1935,¹¹ embodying an opinion of the Bank of the Republic to which the question was referred.

It appears that the Bank of the Republic is not clear as to the basis of the discrimination which was alleged in my note. The bank has explained the manner of determining the rates of liquidations of duties applied against the numerous products of the United States and other countries, but the reason for establishing varying rates or the mechanics involved in obtaining these variations do not appear to affect the issue. My Government has also instructed me to bring to Your Excellency's attention the fact that Brazilian pine is now admitted free of duty when entering Uruguay through land or river ports, whereas American pine lumber is subject to the payment of customs duties. My Government has also been informed that imports from Spain into Uruguay of sardines in oil, and tuna fish in oil, are exempted from the payment of twenty-five per cent of the Uruguayan customs duties in gold or its equivalent, and that such exemption is apparently not accorded to like American products.

I therefore earnestly request Your Excellency to give this question early consideration, with a view to restoring to the American products affected the equality of treatment which my Government extends to Uruguayan products.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest consideration.

¹¹ Not printed.

633.113/22

The Minister in Uruguay (Lay) to the Secretary of State

No. 190

MONTEVIDEO, March 6, 1936.

[Received March 14.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 54 of February 12, 1936, concerning Uruguayan customs discrimination on certain American products, with which was enclosed a draft of a note for submission to the Foreign Office.

It is observed that this note embodies an implied protest against privileges granted by a recent treaty to Brazilian pine lumber over similar American lumber. In informal discussions with the Foreign Office, I have ascertained that local authorities interpret that treaty provision as coming within the category of privileges to limitrophe countries since it specifies "lumber from Brazil entering Uruguay by land or river ports", specifically excepting imports through maritime ports. They hold that such privileges constitute recognized exceptions to the application of the most-favored-nation principle whether embodied in a treaty or followed as a simple principle of international commercial intercourse.

In view of the fact that the United States Government has maintained that limitrophe countries may in certain cases be accorded special treaties with third parties embodying the most-favored-nation clause, I believe that the case of the American Government might be weakened by the inclusion of the question of treatment of Brazilian pine with those others forming the basis of representations in the draft note. I therefore respectfully request that the elimination of that question be considered by the Department and that I be instructed accordingly.

With reference to the last paragraph of the Department's instruction, I have to report that investigations are now being made concerning differences in valuation and market prices of Brazilian and American hardwoods, the results of which will be transmitted to the Department as soon as obtained.

Respectfully yours,

JULIUS G. LAY

633.113/22

The Secretary of State to the Minister in Uruguay (Lay)

No. 70

WASHINGTON, April 18, 1936.

SIR: Reference is made to your despatch No. 190, of March 6, 1936, in which you question the advisability of including in the note to be submitted to the Foreign Office an implied protest against privileges

granted by a recent treaty to Brazilian pine lumber over similar American lumber.

While the Department appreciates your comment, it is still of the opinion that mention of these privileges should be included in the proposed note. The tariff preference in question cannot be considered as falling within the class of privileges accorded to traffic between limited frontier zones nor to customs unions, exceptions frequently admitted to the principle of equality of tariff treatment. Nor can it be held to possess any special status or justification simply because Brazil and Uruguay are contiguous countries. No customs union exists between these two countries, nor is this tariff preference a part of an extensive reciprocity arrangement between countries closely united by ethnic, historical or economic ties of such special significance as to make it possible for the United States to acquiesce in unequal treatment to its trade.

The Department has a sympathetic appreciation of the difficulties which confront Uruguayan trade. It does not wish to criticize nor to interpose itself in Uruguay's efforts to solve its trade problems in its own way. The Department, however, regards the maintenance of the principle of equality as a condition essential to the success of the endeavors which are being made to free and restore international trade. Obviously, if all countries should seek exclusive preferences or advantages merely on account of geographical situation or some other special circumstance, it would not be possible to proceed with any program to reduce trade barriers and thereby restore international trade.

Reports of extensions of the practice of exclusive customs preferences and bilateral trade relationships, which has developed during the depression in international trade, are used by certain elements in this country as arguments against the practicability of the liberal commercial policy, with its basis of equality of treatment, which this Government desires to pursue. This opposition hinders and retards the progress of the program of reciprocal trade agreements through which this policy is being put into effect. It would strengthen the position of this Government with respect to its trade agreements program if it could be announced that Uruguay intended to pursue a policy of strict equality of customs treatment, in accordance with the principles of the resolution on economic, commercial and tariff policy adopted by the Seventh International Conference of American States held in Montevideo in 1933.¹²

¹² *Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933* (Washington, 1934), p. 196.

In any conversations you may have in the matter with the Uruguayan authorities, you may informally express the foregoing observations.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

633.113/24

The Minister in Uruguay (Lay) to the Secretary of State

No. 269

MONTEVIDEO, June 26, 1936.
[Received July 6.]

SIR: Referring to the Department's instruction No. 70 of April 18, 1936, I have the honor to report that on June 4th, when calling the attention of the Foreign Minister to the Legation's unanswered note of April 27, 1936,¹³ regarding tariff privileges that are granted by treaties to Brazilian pine lumber and to sardines in oil and tuna fish in oil from Spain over the same products from the United States, I took advantage of this appropriate opportunity to informally express to the Minister the observations set forth in the last paragraph of the Department's instruction first above mentioned.

This conversation with the Minister has evidently had little effect, at least for the present, since the Legation has received the enclosed note dated June 23, 1936 from the Foreign Office stating in effect that, owing to the existence of treaties with Spain and Brazil, Uruguay cannot accord equality of customs treatment to these products from the United States and the note makes no mention whatever of the observations in the Legation's note of April 27, 1936 regarding the discrimination resulting from its practice of converting that portion of Uruguayan customs duties payable in gold at different rates according to origin and nature of importation. The Foreign Office note in the last paragraph indicates, however, a willingness to consider the question of according equality of treatment to products from the United States when the matter of a trade agreement is discussed with the Government of the United States.

The Uruguayan Government is apparently unwilling to make an announcement that Uruguay intends to pursue a policy of strict equality of customs treatment in accordance with the principles of the resolution adopted by the Seventh International Conference of American States as long as it believes that the present bilateral bargaining treaties and private "banking agreements" are essential to maintain Uruguay's export markets, especially in Europe, and therefore it seems to be opposed, at least for the present, to make an announcement that would nullify these treaties and agreements.

Respectfully yours,

JULIUS G. LAY

¹³ Presumably note sent to the Foreign Minister in accordance with Department's instructions No. 54, February 12, p. 943, and No. 70, April 18, *supra*.

[Enclosure—Translation]

The Uruguayan Minister for Foreign Affairs (Espalter) to the American Minister (Lay)

MONTEVIDEO, June 23, 1936.

MR. MINISTER: I have the honor to acknowledge receipt of Your Excellency's Note of April 27, last, in which you bring up the question of the preferential treatment which this country specifically accords for imports of Brazilian pine—when brought into the country over land or by river—and for imports of sardines and tuna coming from Spain.

The present customs procedure applied to this class of imports derives, as is well known, from the commercial agreements signed with Brazil¹⁴ and with Spain.¹⁵ In both cases the contracting Governments have granted each other reciprocal or compensatory advantages.

For this reason, for the present at least, equality of treatment cannot be offered for similar United States products.

The Government of Uruguay, nevertheless, shall give its best consideration to this subject presented by your Legation when the matter of an agreement for the purpose of intensifying commercial interchange between both countries is discussed with the Government of the United States.

I reiterate [etc.]

For the Minister:
LUIS GUILLOT
Director General

633.113/25

The Minister in Uruguay (Lay) to the Secretary of State

No. 277

MONTEVIDEO, July 10, 1936.

[Received July 18.]

SIR: Referring to my despatch No. 269 of June 26th and previous despatches with reference to the practice of Uruguayan Customs in levying on certain merchandise customs duties lower than have been levied on like merchandise from the United States, I have the honor to enclose herewith copy and translation of a note dated June 29, 1936 from the Foreign Office, quoting a letter from the Bank of the Republic in which that institution, to which my representations were referred, still fails to satisfy the Legation's complaint that many articles of American origin actually pay higher customs duties than

¹⁴ Signed at Rio de Janeiro, August 25, 1933; for text see League of Nations Treaty Series, vol. CLXXVI, p. 393.

¹⁵ Signed at Montevideo, January 2, 1935; for text see *ibid.*, vol. CLXIV, p. 95.

those collected on like articles from other countries resulting from the practice of converting that portion of Uruguayan customs duties payable in gold at differential rates according to the origin and nature of the importation.

Respectfully yours,

JULIUS G. LAY

[Enclosure—Translation]

The Uruguayan Minister for Foreign Affairs (Espalter) to the American Minister (Lay)

MONTEVIDEO, June 29, 1936.

MR. MINISTER: Referring to the first portion of Your Excellency's Note No. 53, of April 27 last,¹⁶ I have the honor to quote you the report submitted by the Bank of the Republic, to which the matter had been referred:

"Within the limits permitting import quotas fixed for the different countries, the Bank determines which shall be the merchandise that may be included in and benefited by such quotas, taking into preferential consideration for such discrimination the items most indispensable to meet the present needs of the country. In accordance with this principle, the Bank has included in the quota for the present quarter granted to the United States all classes of goods except automobiles, spun goods, crepe rubber, radios, electrical appliances, electrical refrigerators, and domestic electrical appliances, without prejudice to the fact that as the availability of exchange for that country increases, as is presumed it will, in the new quotas to be fixed provision will be made for other articles which for the time being have been excluded, it being very probable that in the very near future the importation of all classes of goods without any limitation whatever may be authorized."

I reiterate [etc.]

For the Minister:
LUIS GUILLOT
Director General

633.113/26

The Minister in Uruguay (Lay) to the Secretary of State

No. 287

MONTEVIDEO, July 31, 1936.

[Received August 7.]

SIR: I have the honor to refer to my Despatch No. 269 of June 26, 1936 relating to customs discrimination against American goods en-

¹⁶ See footnote 13, p. 947.

tering Uruguay and to report a further development in connection with imports of sardines and tuna fish in oil into Uruguay.

On July 11, 1936 President Terra signed a decree, published in the *Diario Oficial* on July 27, 1936, granting equivalent treatment to imports of French sardines and tuna fish in oil. The following is the text of that decree:

“26-17436—It is hereby declared that sardines and tuna of French origin are entitled to the same benefits of customs treatment as is accorded the same merchandise of other origin, being included, therefore, in the exemption from payment of duties in gold.”

It will be observed that the decree does not mention the grounds for extending this privilege to French products. In view of the statements made to this Legation by the Foreign Office in paragraphs two and three of its note of June 23, 1936, a translation of which was forwarded as an enclosure to my Despatch No. 269, it appears that the Uruguayan Government holds that such privileges, arising from treaties, can be granted to third parties only through the granting of reciprocal or compensatory advantages by the third party to Uruguay.

I am unable to find any treaty provision between France and Uruguay which would justify the extension of this privilege to the former. It is possible that it is based on the secret provisions of one of the so-called “private banking arrangements” which the Department is aware exists between this and other countries.

In an effort to discover on what grounds this further privilege, adversely affecting American imports into Uruguay, is based, I have addressed a note to the Foreign Office and transmit as an enclosure hereto a copy thereof.

Respectfully yours,

JULIUS G. LAY

[Enclosure—Translation]

The American Minister (Lay) to the Uruguayan Minister for Foreign Affairs (Espalter)

No. 70

MONTEVIDEO, July 31, 1936.

EXCELLENCY: I have the honor to refer to Your Excellency's note dated June 23, 1936 concerning preferential treatment accorded by Uruguay to sardines and tuna fish in oil from Spain, and to a decree signed on July 11, 1936 and published in the *Diario Oficial* on July 17, 1936 granting equality of treatment to such imports from France.

In this connection I desire to refer to certain statements made in the second and third paragraphs of Your Excellency's note referred to previously, i. e. “The present customs procedure applied to this

class of imports derives as is well known, from the commercial agreements signed with Brazil and with Spain. In both cases the contracting governments have granted each other reciprocal or compensatory advantages. For this reason, for the present at least, equality of treatment cannot be offered for similar United States products."

Since it appears, therefore, that Your Excellency's Government bases equality of treatment on the existence of treaty provisions to that effect, and since the decree of July 11, 1936 does not set forth the grounds on which the preferential treatment was extended to imports of sardines and tuna fish in oil from France, I respectfully request that Your Excellency inform this Legation of the treaty provision under which exemption from payment of the duties in gold was extended to such French products.

I avail myself [etc.]

JULIUS G. LAY

633.113/27

The Minister in Uruguay (Lay) to the Secretary of State

No. 297

MONTEVIDEO, August 13, 1936.

[Received August 21.]

Subject: Proposed increase of Uruguayan customs duties on galvanized iron sheets.

SIR: I have the honor to enclose herewith a memorandum¹⁷ from the Consulate General here reporting that a prominent Uruguayan concern has requested the Uruguayan Government to increase the present duty on galvanized iron and that another firm, Juan M. Gonzalez, now importing the product from the United States suggests that this Legation "make some kind of a protest against this action as tending to destroy a market for American products here."

I have advised a member of the firm of Juan M. Gonzalez that this Legation could not make a protest against a proposed increase in duties on galvanized iron if such an increase is levied on this product from all countries alike. Would the Department, however, approve of my informally and verbally pointing out to the Foreign Minister that such increases in tariff duties do not seem to be in accord with the principles established in the Resolution on the future Economic, Commercial and Tariff Policy adopted by the Seventh International Conference of American States at Montevideo in 1933.

Respectfully yours,

JULIUS G. LAY

¹⁷ Not printed.

633.113/27

The Secretary of State to the Minister in Uruguay (Lay)

No. 93

WASHINGTON, September 30, 1936.

SIR: The Department acknowledges the receipt of your despatch No. 297 of August 13, 1936, in which you report that you are informed by a local importer that the Uruguayan Government is contemplating increasing customs duties on galvanized iron. You inquire whether the Department would approve of your informally and verbally pointing out to the Uruguayan Minister for Foreign Affairs that the contemplated increase would not seem to be in accord with the principles established in the Resolution on the future Economic, Commercial and Tariff Policy adopted by the Seventh International Conference of American States at Montevideo in 1933.

If discreet investigation should reveal that this report is founded and it appears likely that the Uruguayan Government will give favorable consideration to the proposed increase in customs duties on galvanized iron, you may, if you believe such action advisable, informally express to the Minister for Foreign Affairs the hope of this Government that such action will at least be suspended until after the forthcoming Inter-American Conference for the Maintenance of Peace¹³ when all the nations of this hemisphere will have had the opportunity of consulting jointly for the purpose of promoting their mutual interests and of giving effective consideration to the problem of arresting the imposition of barriers to mutually profitable trade.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

633.113/28

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

No. 359

MONTEVIDEO, October 9, 1936.

[Received October 16.]

SIR: I have the honor to refer to this Legation's Despatch No. 297, of August 7 [13], 1936, subject: "Proposed increase of Uruguayan customs duties on galvanized iron sheets," in which it was reported that, according to a local importer, the Uruguayan Government was contemplating increasing customs duties on galvanized iron sheets, and inquired whether the Department would approve of informally and verbally pointing out to the Uruguayan Minister of Foreign Affairs that such increase would not seem to be in accord with the principles

¹³ See pp. 3 ff.

established in the Resolution on the Future Economic, Commercial and Tariff Policy adopted by the Seventh International Conference of American States at Montevideo in 1933; and to the Department's Instruction of September 30, 1936 in reply, authorizing this Legation, should it appear likely that the Uruguayan Government would give favorable consideration to the proposed increase in customs duties, to informally express to the Minister for Foreign Affairs the hope of this Government that such action would at least be suspended until after the forthcoming Inter-American Conference for the Maintenance of Peace.

In the meantime, it has been learned that the application of a Uruguayan company for this increase in the duty on corrugated galvanized iron sheets has been rejected, since this particular duty is a specific one and can not be increased without special legislation. It is understood that such legislation has been requested and that a bill which would permit increases in specific duties has been introduced in the Chamber of Deputies. Until this bill has received legislative sanction and promulgation by the President, however, it is not deemed advisable to take up with the Minister for Foreign Affairs the possible increase of the duty on galvanized iron sheets. The possibility of such an increase will continue to receive the attention of this Legation, and, should such action seem desirable, the informal expression of opinion authorized by the Department will be conveyed to the Minister for Foreign Affairs.

Respectfully yours,

LESLIE E. REED

633.113/30

The Minister in Uruguay (Lay) to the Secretary of State

No. 397

MONTEVIDEO, November 5, 1936.

[Received November 13.]

SIR: I have the honor to refer to this Legation's Despatch No. 367, of October 14, 1936,¹⁹ entitled "Uruguayan customs discrimination against certain American imports reported terminated," with respect to a decree granting to imports of sardines and tuna fish of French origin the same benefits of customs treatment as is accorded to such products of Spanish origin by the Spanish-Uruguayan Trade Agreement of November 16, 1935,^{19a} and to report that the decision of the Uruguayan Government to extend to similar articles of American origin like exemption from certain customs duties, has now been confirmed by the publication of an official decree.

¹⁹ Not printed.

^{19a} The treaty, signed at Montevideo January 2, 1935, was ratified November 16, 1935.

It will be recalled that notes were addressed by this Legation to the Uruguayan Ministry of Foreign Affairs, first, requesting similar treatment for American sardines and tuna fish in oil, and then, when this was declined on the ground that no treaty with the United States existed which would justify such action, inquiring as to the treaty provision under which this privilege had been extended to French sardines.

A reply, dated October 30, 1936, has now been received from the Ministry of Foreign Affairs, reading as follows:

“With reference to Your Excellency’s Note of July 31st last, relative to the preferential treatment granted by Uruguay to imports of sardines and tuna fish in oil of Spanish origin, and similar treatment granted for such products of French origin, I have the honor to inform you that in virtue of the representations made by this Chancellery to the Ministry of Finance, the Executive Power has dictated the decree copy of which is appended by which sardines and tuna fish in oil imported by Uruguay of American origin are exempted from the surcharge in gold (*recargo a oro*).”

A copy of the decree, with English translation, is enclosed. The Department will note that it refers to the request of this Legation and states that

... “although no commercial agreement has as yet been made with the United States of America, the treatment which that country grants to Uruguayan merchandise is beneficial, because it is the same as that which is given to the imports of other favored countries by means of commercial agreements, and in consequence our goods receive most favored treatment. While this preferential treatment conceded to our goods continues, there is no objection to exempting from the payment of the surcharge in gold requested, because this would amount to reciprocating the facilities which are granted to us.”

The decree was published in the Government gazette *Diario Oficial* on October 31 last.

Respectfully yours,

JULIUS G. LAY

VENEZUELA

PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND VENEZUELA

611.3131/50

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

No. 271

CARACAS, May 7, 1936.

[Received May 12.]

SIR: I have the honor to inform the Department that on May 6 the Minister for Foreign Affairs called upon me at the Legation to express his readiness to negotiate a reciprocal trade agreement between Venezuela and the United States.

Mr. Gil Borges explained that prior to leaving Washington early this year, he had discussed the subject with Mr. Henry F. Grady, Chief of the Division of Trade Agreements, but that in view of the fact that most of Venezuela's products now enter the United States without tariff restrictions, it had been decided that there was no urgency in the matter. At the outset of his conversation with me, however, the Minister for Foreign Affairs introduced the topic of certain oil legislation now pending in the United States Congress, and it was clear that recent developments in that connection had led him to set forth the desire of the Venezuelan Government to enter into negotiations for a trade agreement without further delay.

The pending oil legislation to which the Minister referred consisted of Senate Resolution 2106 of February 28, 1935; House Resolution 10483 of January 22, 1936,¹ to provide revenue from the importation of crude petroleum and its products; and House Resolution 12161 of April 3, 1936, to impose taxes on fuel oil. While he expressed himself as unprepared technically to interpret the provisions of the bills in question, and doubtful as to whether they would pass at the present session of Congress, it was obvious that he felt some concern as to the possible effect of such legislation on the oil industry of Venezuela and, particularly, on the royalties received by the Venezuelan Government from American oil companies operating in this country.

¹ Introduced by Wesley E. Disney, Representative from Oklahoma; *Congressional Record*, vol. 80, pt. 1, p. 941.

Without going into details, Mr. Gil Borges indicated that his object in negotiating a reciprocal trade agreement would be to safeguard the Venezuelan oil industry from possible adverse legislation in the United States, and that his Government would be satisfied if the *status quo* could be preserved. Asked as to the concessions which the United States might expect from Venezuela, he replied that he had not yet devoted sufficient study to the present Venezuelan tariff laws, but that he was aware of the fact that duties on many products imported from the United States were considered high. It is my opinion that, should negotiations for a trade agreement be undertaken, the Venezuelan Government might be disposed to grant more favorable treatment for such American products.

The Foreign Minister also mentioned that a general revision of Venezuela's trade policy would probably take place in the near future, and that he intended to negotiate with various foreign countries temporary or provisional agreements based on the principle of "buy from those who buy from us." While he did not specify the exact nature of the agreements he had in mind, it seems likely that he plans to introduce a system of barter or clearing agreements in some form, which nevertheless would be wholly temporary in character and adjusted from time to time as world conditions changed. The desire to negotiate a reciprocal trade agreement with the United States was, however, uppermost in his mind, and he made it plain that he was prepared to enter into such negotiations immediately.

I should be glad if the Department will instruct me as to what reply I may make to the Foreign Minister on this subject. I should also appreciate it if the Department would forward for the Legation's information copies of the pending bills referred to above.

Respectfully yours,

MEREDITH NICHOLSON

611.3131/50

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

No. 73

WASHINGTON, June 9, 1936.

SIR: Reference is made to the Legation's despatch No. 271, May 7, 1936, in regard to the interest of the Venezuelan Minister for Foreign Affairs in the early negotiation of a trade agreement between the United States and Venezuela, and in regard to several bills relating to import charges on petroleum and petroleum products which have been introduced in the Congress.

In response to your request, a copy of each of the three bills mentioned in the despatch under reference (S. 2106, H. R. 10483, and H. R. 12161) is enclosed. In addition, copies of five other bills re-

lating to the importation of petroleum and petroleum products are enclosed for the Legation's file on this subject.² Only one of these eight bills, namely H. R. 10483, has advanced beyond the point of reference to the appropriate committee of the House of Representatives or the Senate.³ In the case of the other bills, the Department understands that no action has been taken in committee and that no hearings or other action has been scheduled. Hearings before the Committee on Ways and Means, House of Representatives, on H. R. 10483, began on May 18, 1936, and it is understood that the bill has been ordered reported out. Although the Department cannot, of course, know in advance what the final outcome will be, it is not believed probable at this time that the proposed legislation will be acted upon favorably by both Houses at this session of the Congress. The Legation will be kept informed of developments in regard to this bill and any other bills relating to the importation of petroleum and petroleum products.

There is enclosed, for the Legation's confidential information, a copy of the Department's letter to the Chairman of the House Committee on Ways and Means in which the views of the Department in regard to H. R. 10483 are set forth.⁴

In the event that Dr. Gil Borges should again raise the question of proposed legislation which, if enacted, would tend to restrict further the importation into the United States of petroleum and petroleum products, you may inform him that the Department is following closely the course of such proposed legislation, with full realization of the bearing it has upon the maintenance of mutually profitable trade relations between the United States and Venezuela.

You may, in your discretion, inform Dr. Gil Borges that the question of a trade agreement with Venezuela is receiving the careful consideration of the appropriate officers of the Department.

Very truly yours,

For the Secretary of State:
SUMNER WELLES

611.3131/66 : Telegram

The Chargé in Venezuela (Villard) to the Secretary of State

CARACAS, December 3, 1936—4 p. m.

[Received 7:57 p. m.]

82. The Foreign Minister yesterday and again today informally brought up the subject of a reciprocal trade agreement between the

² None attached to file copy.

³ See House Report No. 2953, 74th Cong., 2d sess., vol. 3.

⁴ Presumably letter of May 7, not printed.

United States and Venezuela. He said that he considered it highly desirable to regulate trade relations of the two countries and pointed out that with the exception of Japan, the United States was the only important country whose commerce did not receive most-favored-nation treatment in Venezuela.

The Minister said that he had recently discussed the proposed trade agreement with the Minister of Hacienda and that he anticipated no special difficulties. In so far as the text of such an agreement was concerned, he regarded the problem as primarily a tariff issue and indicated that the reductions in import duties, promised under article XVII of the customs tariff,⁵ could best be granted if they were incorporated in a trade agreement similar to those negotiated by the United States with other countries of Latin America. He said that he intended to continue his conversations with the Minister of Hacienda today and tomorrow and that he would like to pursue the subject further with me next Monday.

I should appreciate the Department's guidance as to what I may say to the Foreign Minister. In the event that the question of petroleum is delaying a decision to negotiate, it is my impression that trade agreement discussions could be initiated and if necessary carried to a conclusion without reference to that commodity.

VILLARD

611.3131/66 : Telegram

The Acting Secretary of State to the Chargé in Venezuela (Villard)

WASHINGTON, December 5, 1936—3 p. m.

52. Your 82 is receiving consideration and instructions will be sent you in a few days.

Please telegraph whether there is likelihood of obtaining substantial concessions without some concession by the U. S. on petroleum.

MOORE

611.3131/67 : Telegram

The Chargé in Venezuela (Villard) to the Secretary of State

CARACAS, December 7, 1936—10 a. m.

[Received 12:25 p. m.]

83. Department's 52, December 5, 3 p.m. It is difficult to estimate the extent of concessions obtainable without entering into more formal

⁵ October 20, 1936; for text see Venezuela, Laws, Statutes, etc., *Recopilación de Leyes y Decretos de Venezuela* (Caracas, 1937), vol. LIX, pt. 2, pp. 413, 417.

discussions with the Foreign Minister, but from our last conversation I am inclined to believe that the subject of petroleum weighs less heavily with him than was previously the case. The Minister's prime desire now appears to be to remedy the lack of treaty relations between the United States and Venezuela by means of a reciprocal trade agreement, rather than to make use of the latter for the particular purpose of safeguarding the Venezuelan oil industry.

VILLARD

611.3131/70a : Telegram

The Acting Secretary of State to the Chargé in Venezuela (Villard)

WASHINGTON, December 19, 1936—3 p. m.

54. You are requested to draft a note to the Venezuelan Government incorporating the substance of the following:

"I have the honor by instruction of my Government to invite the attention of Your Excellency's Government to the fact that since the effective date of the recently enacted Venezuelan customs tariff, the importation of certain goods from the United States has not been receiving the customs benefits granted the importation of like goods from various other countries.

In this respect I am directed to say that as Your Excellency is probably aware, it has been the practice of my Government to extend to Venezuelan commerce the concessions granted to other countries in trade agreements with the single exception of that with Cuba,⁶ whose relations with the United States have for many years been generally recognized as being of a special nature. It is therefore earnestly hoped by my Government that the Venezuelan Government will accord to the imports of goods from the United States the most-favored-nation treatment which was being granted until recently."

You are requested in presenting the note to state orally that this Government is giving careful consideration to the suggestions with respect to initiating negotiations for a trade agreement made by the Foreign Minister in recent conversations with you as reported in your telegram No. 82.⁷ You may also state that your representations with respect to discrimination are not being made with any thought of delaying negotiations for a trade agreement, but that on the contrary your Government believes that Venezuela's action in removing the existing discriminatory treatment of American commerce would place

⁶ Signed at Washington, August 24, 1934; for text see Department of State Executive Agreement Series No. 67, or 49 Stat. 3559; for correspondence see *Foreign Relations*, 1934, vol. v, p. 108.

⁷ December 3, 4 p. m., p. 957.

the two countries again on a basis of reciprocal most-favored-nation treatment which should serve to facilitate negotiations.

The Department understands from Special Report No. 65 dated November 24 from the Commercial Attaché, and your telegram No. 81, of November 30,⁸ that the Venezuelan Government considers that its obligation assumed in the French commercial agreement⁹ to give preferential rates to France in the event of the subsequent enactment of tariff increases precludes the Venezuelan Government from now granting American products the benefits given France although these benefits are being accorded certain other countries having most-favored-nation agreements. You are requested to report to the Department more fully on this point, particularly on the extent to which the Venezuelan Government appears to feel itself bound to this interpretation of the French agreement.

MOORE

611.3131/71

The Chargé in Venezuela (Villard) to the Secretary of State

No. 549

CARACAS, December 22, 1936.

[Received December 28.]

SIR: I have the honor to refer to the Department's telegram No. 54 of December 19, 3 p. m., instructing me to present a note to the Venezuelan Government on the subject of most favored nation treatment for the imports of certain goods from the United States, the benefits of which had not been received since the effective date of the recently enacted Venezuelan customs tariff. In accordance with the Department's instructions, I obtained an appointment with the Minister for Foreign Affairs and this morning presented the note in question, a copy of which is attached for the Department's ready reference.

The Foreign Minister at first stated that the objective of granting preferential rates on certain goods as provided for in the Franco-Venezuelan Commercial Agreement would be lost if such concessions were extended to all countries regardless of whether those countries were entitled by treaty to most favored nation treatment. He made

⁸ Neither found in Department files.

⁹ Agreement by exchange of notes signed August 6, 1936, renewing agreements of February 26 and August 7, 1935; for text see Venezuela, *Gaceta Oficial*, August 8, 1936.

this the basis for an argument to the effect that it constituted an excellent reason why the United States should negotiate a reciprocal trade agreement with Venezuela, under which preferential tariff rates granted to other countries would immediately be extended to the like products of American origin. If imports from the United States had until the enactment of the new Venezuelan customs tariff enjoyed the same treatment as imports from other countries, he said, it was because his Government had maintained a single tariff policy for all. This policy, he indicated, would now be changed in accordance with Venezuelan Government's intention to accord trade favors only to those countries making concessions to Venezuela or entitled by treaty to most favored nation treatment.

When I pointed out that the United States had extended to Venezuelan commerce the concessions granted to other countries in reciprocal trade agreements, with the special exception of Cuba, the Minister stated that he had not realized this to be the case. A copy of the Trade Agreements Act¹⁰ was obtained, and after the Minister had perused its provisions, he admitted the existence of a situation which he had not been familiar with before. He thereupon said that he would go into the matter more fully and that as soon as he had completed his studies he would communicate with me.

Dr. Gil Borges stated that he was anxious and willing to do anything in this connection consistent with the policy of his Government if it would speed the initiation of negotiations for a trade agreement with the United States. He said he would take into particular consideration the items in the French Commercial Agreement regarding which American interests had displayed concern, namely silks, rayons and cosmetics, and would endeavor if possible to extend to these articles the tariff benefits enjoyed by countries having treaty relations with Venezuela. It was obvious, however, that the Minister was not fully informed on the subject and his "studies" will doubtless be made in consultation with the Minister of Hacienda.

Until my next interview, therefore, I am unable to report fully on the last sentence of the Department's telegram of December 19, but it may be stated definitely that a recent customs circular gave instructions to extend the preferential rates in the French agreement to goods from all countries entitled by treaty to most favored nation

¹⁰ Approved June 12, 1934; 48 Stat. 943.

treatment. The initiative in this, I understand was taken by the Italian Minister in Caracas, who was closely followed by the German Minister, their representations having had the effect of obtaining in regard to the items specified in the French agreement the same treatment for all other countries which have a commercial agreement with Venezuela. The United States and Japan are, of course, notable exceptions.

The Foreign Minister said that he was prepared at any time to proceed with negotiations for a trade agreement and appeared desirous of discussing the various aspects of the subject immediately. I told him that the Department had informed me, in its telegraphic instruction of December 19, that it was giving careful consideration to this matter; but as the Legation first intimated to him some six months ago, in accordance with the Department's instruction No. 73 of June 9, 1936, that the question of a trade agreement with Venezuela was "receiving the careful consideration of the appropriate officers of the Department", it is becoming increasingly difficult to evade a more direct reply to the Minister's oft-expressed interest in the subject.

Respectfully yours,

HENRY S. VILLARD

[Enclosure]

The American Chargé (Villard) to the Venezuelan Minister for Foreign Affairs (Gil Borges)

No. 167

CARACAS, December 21, 1936.

EXCELLENCY: I have the honor, by instruction of my Government, to invite the attention of Your Excellency's Government to the fact that since the effective date of the recently enacted Venezuelan customs tariff, the importation of certain goods from the United States has not been receiving the customs benefits granted the importation of like goods from various other countries.

In this respect I am directed to say that, as Your Excellency is probably aware, it has been the practice of my Government to extend to Venezuelan commerce the concessions granted to other countries in trade agreements with the single exception of that with Cuba, whose relations with the United States have for many years been generally recognized as being of a special nature. It is therefore earnestly hoped by my Government that the Venezuelan Government will accord to the imports of goods from the United States the most favored nation treatment which was being granted until recently.

Accept [etc.]

HENRY S. VILLARD

611.3131/71 : Telegram

The Acting Secretary of State to the Chargé in Venezuela (Villard)

WASHINGTON, December 31, 1936—6 p. m.

57. Your despatch No. 549, December 22. The Department authorizes you to inform the Venezuelan Foreign Minister orally and informally that this Government is now prepared to enter into preliminary conversations looking towards the conclusion of a reciprocal trade agreement as soon as the Venezuelan Government removes the existing discrimination against American commerce. You should qualify this statement, however, by saying that this Government before discussing possible schedules desires to limit the conversations to discussions of the general provisions of the agreement in order to ascertain whether the two Governments are in accord with respect to these. You should add that this Government desires that no publicity be given to such conversations, it being the intention of this Government to make a public announcement at an appropriate time in accordance with its customary procedure if a mutually satisfactory basis for an agreement is found.

Please keep the Department informed on developments by telegraph.

MOORE

**REPRESENTATIONS TO THE GOVERNMENT OF VENEZUELA
REGARDING INCREASES IN ITS CUSTOMS TARIFF**

631.003/509

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

No. 323

CARACAS, June 18, 1936.

[Received June 23.]

SIR: I have the honor to report that the Venezuelan firm of Capriles Hermanos, local representatives of Chesterfield cigarettes, has approached the Legation through the office of the Commercial Attaché in regard to a bill recently introduced in the Congress which provides, in part, for an increase in the internal revenue tax on imported cigarettes from Bs. 10, the present rate, to Bs. 25 per gross kilogram. It has been estimated that in the case of American cigarettes imported into Venezuela, the effect of such a measure would be to raise the retail price of each package from Bs. 1.50 (37½ cents) to about Bs. 2.25 (55 cents), an increase of approximately 50 per cent.

The bill in question is understood to have for its purpose the encouragement of Venezuelan agriculture and the section referring to tobacco is reputedly designed to benefit the Venezuelan tobacco grower as well as to provide additional revenue from cigarettes imported from

abroad. However, according to information supplied the Legation by Capriles Hermanos, the consumption of imported cigarettes is only about two per cent of the total production in Venezuela and thus offers but little competition to the native industry; moreover, it would appear that any increase in the already high price of imported cigarettes would make the cost prohibitive, resulting in an actual loss in revenue to the Venezuelan Government. It is stated that about 90 per cent of the foreign cigarettes imported into Venezuela are of American manufacture, the balance being British or Cuban, so that the effect of the measure would be felt chiefly by products of the United States.

On June 9, 1936, I brought the above considerations to the attention of the Minister for Foreign Affairs, leaving with him an *aide-mémoire* on the subject, a copy of which is enclosed.¹¹ In the absence of the Commercial Attaché, who was on a trip to Ciudad Bolívar, and having been approached on the subject not by the American interests concerned but by the local agents whose business was likely to be affected, I did not feel justified at that time in making a formal protest against the bill in question. Instead, I limited my representations to an inquiry as to the accuracy of the report regarding the provisions of the bill and as to the present status of the measure. Under date of June 17, 1936, I received a note from the Foreign Minister, a copy and translation of which are enclosed,¹¹ stating that the matter had been referred to the competent Ministry and that I would be informed as soon as a reply was received.

The bill under reference is understood to have the backing of the Minister of Hacienda and to have had its first reading in the Senate on June 8. Capriles Hermanos, who have the Chesterfield agency for all of Venezuela except the Maracaibo district, state that about \$8,000 worth of American cigarettes are imported into Venezuela every month and that the local representatives of other American cigarette manufacturers are equally concerned at the proposed legislation. About 40 per cent of these American cigarettes, according to Capriles Hermanos, are Chesterfields; they add that the prospects seem favorable for an increased business for American exporters provided no heavier tax burdens are imposed.

The Department will, of course, be kept informed as to developments in this matter.

Respectfully yours,

MEREDITH NICHOLSON

¹¹ Not printed.

631.003/510

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

No. 337

CARACAS, June 26, 1936.

[Received July 6.]

SIR: I have the honor to refer to my despatch No. 323 of June 18, 1936, concerning a proposed law for an increase in the internal revenue tax on cigarettes imported into Venezuela, and to enclose herewith a copy and a translation of a note No. 1371, dated June 23, 1936,¹² from the Minister for Foreign Affairs on this subject.

In the *aide-mémoire*¹² which I left at the Foreign Office on June 9, it was observed that since American cigarettes were reported to constitute 90 per cent of the foreign cigarettes imported into Venezuela, a measure of this kind would appear to be directed chiefly against products of the United States. The reply of the Minister for Foreign Affairs states that the measure in question is at present being studied in the Senate, but that it should not be interpreted as being directed against the products of the United States, or of any other country, since the object of the law is to protect the national industry. It would seem, however, that notwithstanding the assurances of the Foreign Office, American cigarettes will be chiefly affected by the proposed measure and that it would, therefore, even if not intentionally, result in discrimination in fact against American products.

On June 23, the Commercial Attaché discussed the matter during the course of a conversation with the Minister of Hacienda, and a copy of his report on the subject is enclosed herewith.¹² The Minister pointed out that the project as originally introduced into Congress called for a tax increase from Bs. 10, the present rate, to Bs. 50 per kilogram, and that the Ministry of Hacienda had had the rate reduced to Bs. 25. This, he claimed, although high was not prohibitive to the sale of American cigarettes, and, he added, it might be found advisable later on to lower the customs duty on imported cigarettes.

The Minister of Hacienda also said that the measure was designed to combat smuggling, and that if it discriminated against the cigarettes of any particular country, it was against those of Colombia. While reliable estimates are not available as to the amount of Colombian cigarettes, which are of a relatively cheap grade, actually entering Venezuela either legally or otherwise, principally over the Western border of Venezuela, the Commercial Attaché was unable to find customs statistics to support the Minister's statement that Colombia is the principal source of Venezuelan cigarette imports.

¹² Not printed.

The Foreign Office's note of June 23 concludes with a statement which seems to intimate that the Venezuelan Government is reserving the question of cigarette duties as a bargaining point in negotiations for the reciprocal trade agreement which this Government is anxious to negotiate with the United States.¹⁴ The note suggests that should the internal revenue measure in question be adopted, the Venezuelan Government would be in a position to lower customs duties on cigarettes imported from countries extending favors or advantages to Venezuelan products, with the result that the retail price of such cigarettes in Venezuela would remain the same as it is now. Article 18 of the Venezuelan Import Tariff Law¹⁵ empowers the Federal Executive to raise or lower customs duties for "justifiable reasons", and it is under this provision of law that the Government would probably act should it decide to lower the cigarette tariff as part of a reciprocal trade agreement.

The Legation will continue to follow this matter closely and will report to the Department any further developments that may occur.

Respectfully yours,

MEREDITH NICHOLSON

631.003/511

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

No. 424

CARACAS, August 21, 1936.

[Received August 25.]

SIR: I have the honor to enclose a copy of a memorandum regarding a conversation which the Secretary of the Legation, Mr. Villard, recently had with the Minister for Foreign Affairs in respect to the increases which it is proposed to make in the Venezuelan customs tariff insofar as such increases affect American products, particularly passenger automobiles.

These increases are part of a general upward revision of the import duties, amounting to two per cent for most products but to very considerably more in certain instances, which accompany the new tariff bill submitted to the current extraordinary session of the national Congress. Pending a detailed study of the bill which is being made by the Commercial Attaché, it is not possible to affirm that the new rates of duty would be directly discriminatory against American trade, but it is obvious that they would fall heavily on many products

¹⁴ For correspondence concerning a trade agreement between the United States and Venezuela, see pp. 955 ff.

¹⁵ Signed July 31, 1934; for text see *Venezuela, Laws, Statutes, etc., Recopilación de Leyes y Decretos de Venezuela* (Caracas, 1935), vol. LVII, pp. 457, 461.

which are the manufacture of the United States. While in some cases a reduction in duties is contemplated, such reductions for the most part neither compensate for the increases insofar as American products are concerned, nor do they affect importations of greatest importance to American trade with Venezuela.

A preliminary study of the proposed law reveals, for example, an increase of 530 per cent in the duty on passenger automobiles in the lowest price class, with proportionate increases in the rates on higher priced cars; an increase of 1,777 per cent in the rates on radio and telegraph transmitters and instruments for electrical measurement; an increase of 1,309 per cent on electrical transformers; an increase of 964 per cent on typewriters and accessories and calculating machines; and an increase of 666 per cent on cash registers. Other increases proposed are: machines, apparatus and accessories not otherwise specified, from 27 to 609 per cent; electric refrigerators from 410 to 538 per cent; storage batteries, and cinematographs, accessories and exposed films, 155 per cent; metal furniture, 126 per cent; and radio receiving sets of the 25-50 kilo category, 104 per cent.

Reductions amounting to 50 per cent are provided for silk hosiery and silk clothing; 57 per cent for rayon clothing; 43 per cent for certain classes of fresh fruits; and 29 per cent in the case of apples.

While the memorandum enclosed herewith shows that the Foreign Minister has disclaimed any intention of his Government to use these increased rates for bargaining purposes in connection with the suggested negotiations for a reciprocal trade agreement between the United States and Venezuela, it is apparent that an upward revision in many items imported from the United States has been proposed on the very eve of such possible negotiations. From a confidential but reliable source, moreover, I have learned that this "bargaining plan" was probably in the mind of the late Minister of Hacienda, Dr. Alberto Adriani, who died a short time ago while still occupied with drafting the tariff bill in question.

It is clear that in any trade agreement that might be negotiated between the two countries, Venezuela would have more to offer to the United States in respect of tariff reductions—even without the proposed increases—than the United States would be able to offer to Venezuela. For this reason it might be argued that the Venezuelan position in the matter of the new tariff rates is a relatively strong one and that under the circumstances Venezuela would have little to gain by entering into reciprocal trade negotiations with the United States. In this connection I may observe, however, that the Venezuelan Government is apparently anxious to negotiate such an agreement for the reasons mentioned in my despatch No. 271 of May 7, 1936.¹⁶ Since

¹⁶ *Ante*, p. 955.

that date, the Foreign Minister has several times brought up the subject and, I feel sure, would be keenly disappointed if the Venezuelan tariff should prejudice the success of any possible negotiations in the matter of a trade agreement.

Respectfully yours,

MEREDITH NICHOLSON

[Enclosure]

Memorandum of Conversation, by the Second Secretary of Legation in Venezuela (Villard)

When I called on the Foreign Minister on August 13, I took the occasion to refer to the proposed heavy increases in the Venezuelan customs tariff affecting importations from the United States, particularly passenger automobiles. I said that although I realized the Venezuelan tariff was being raised as a whole, the burden of the increases seemed to fall heavily on American goods and that in the case of automobiles I understood such increases amounted to four or five hundred percent. I also remarked that I had discussed this last point informally with Dr. Adriani, Minister of Hacienda, two days before his death, who had promised to go into the subject more fully before the tariff bill was presented to Congress.

I pointed out to the Foreign Minister that these very large increases in customs duties on American products were being introduced at the very moment when consideration was being given to the idea of negotiating a reciprocal trade agreement between Venezuela and the United States, and that such action on the part of Venezuela might have a most unfortunate effect in Washington at this time. I said I feared that the building up of customs barriers on the eve of negotiations for a trade agreement might produce the impression that Venezuela was raising its duties on American goods for bargaining purposes, in which case the success of any such negotiations might be prejudiced from the start.

Dr. Gil Borges replied that it was not the intention of the Venezuelan Government to raise the customs duties for bargaining purposes, but solely as a source of revenue, and that it was planned to tax so-called "luxury" goods with the latter plan in mind. He admitted that this might make a bad impression just prior to the start of trade agreement negotiations, but disclaimed any intention of his Government to impose especially heavy duties on American goods or to discriminate against the products of the United States in any way. With respect to passenger automobiles, he said that he realized low-priced cars were a necessity, and not a luxury, in the development of the country, and that while the Government planned to place heavy

duties on such makes as Packards, Cadillacs or Lincolns, he was not in favor of doing so in the case of cars in the Ford or Chevrolet class. He said he would take up this matter with the Director of the Commercial Policy Division with a view to modifying the proposed increases on cars of that type.

HENRY S. VILLARD

AUGUST 15, 1936.

631.003/512

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

No. 426

CARACAS, August 22, 1936.

[Received August 29.]

SIR: I have the honor to refer to my despatches No. 323 of June 18, 1936 and No. 337 of June 26, 1936 regarding the proposed increase in the internal revenue tax on cigarettes imported into Venezuela from Bs. 10, the present rate, to Bs. 25 per gross kilogram.

During its second reading of the bill containing the increase above mentioned the Chamber of Deputies on August 3 voted to place the tax at Bs. 15, and the local representatives of American cigarette manufacturers expressed themselves as satisfied with this compromise figure. However, during the third reading of the bill on August 21, the tax was raised to Bs. 20, which is much less satisfactory from the American point of view but which is nevertheless more acceptable than the originally proposed rate of Bs. 25 per kilogram.

The bill has already passed its three readings in the Senate, but in view of the changes made by the Chamber of Deputies it now goes back to the former body for approval. Unless unforeseen objection is made, the internal revenue tax on imported cigarettes will now stand at Bs. 20 per kilogram.

Respectfully yours,

MEREDITH NICHOLSON

631.003/511: Telegram

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

WASHINGTON, September 22, 1936—5 p. m.

44. The Department is disturbed by the proposed increases in the Venezuelan customs tariff reported in your despatch No. 424 of August 21, 1936, and believes that you should promptly seek an appointment with the Minister of Foreign Affairs and express the hope that the Venezuelan Government will decide to suspend the imposition of any decisive increases in its customs tariff, at least until after the forthcoming Inter-American Peace Conference.¹⁷

¹⁷ See pp. 3 ff.

It is believed advisable that your presentation should cover the following points which should be embodied in a memorandum to be left with the Minister.

1. According to information received by this Government, the proposed increases of Venezuelan duties on many products of importation are not large. This Government notes with gratification that duties would be reduced on other products, a number of which figure in trade between the two countries.

2. On a considerable number of items, however, which moreover are of importance in American export trade with Venezuela and other countries, extreme increases have been proposed according to reports received by the Department. As examples of the increases so reported may be mentioned the suggested increases on oatmeal, metal furniture, passenger automobiles, radio receiving sets, electric refrigerators, typewriters and cash registers.

3. It may be observed that the efforts of liberal forces in this country desiring to prevent the adoption of measures which would impair the full restoration of mutually profitable trade between this country and other nations are greatly weakened when such nations increase barriers against exports of this country's products. As the Venezuelan Government is aware, legislation was proposed in the last Congress of the United States the effect of which, if enacted, would be to restrict the entry of certain Venezuelan products. The arguments of opponents of this proposed legislation would lose greatly in effectiveness if it were shown that, in the meantime, Venezuela had increased its tariff barriers against American export trade, even if the final tariff revision should not contain all of the extreme increases in duties which, according to current reports, have been proposed.

4. This Government is not solely concerned however with the possible adverse effect on American trade of the proposed heavy increases in the Venezuelan customs duties on certain products. It is particularly concerned with the general outlook, both as regards international trade and international relations. At this time of critical difficulties in international trade and relations the announcement by a country of Venezuela's importance in international trade, of decisive increases in its tariff barriers to such trade would be an unfortunate development.

5. This Government fully realizes the difficult problems of trade and finances with which Venezuela, in common with other countries today, must contend, and does not desire to interpose in any way in the efforts of the Venezuelan Government to solve these problems in its own way. The hope is expressed, however, that the Venezuelan Government will decide to suspend the imposition of any decisive increases in its customs tariff at least until after the forthcoming Inter-American Conference for the Maintenance of Peace, at which it is hoped the nations of this hemisphere will have the opportunity of consulting jointly, for the purpose of promoting their mutual interests and of giving effective consideration to the problem of arresting the imposition of barriers to mutually profitable trade.

After study of this memorandum please advise Department by cable if you have any suggestions for change, either in substance or tone.

Also, please report briefly by cable, fully by air mail, the course of your conversations.

The reference to the proposed legislation in the memorandum, the result of which, if enacted, would be to restrict Venezuelan exports to the United States, is to the Disney Bill.¹⁸

No definite decision has been reached as to whether it may be possible to negotiate a trade agreement with Venezuela, but you may inform the Minister orally that the Department is giving very serious study to the possibility of such an agreement. For your confidential information you are advised that although the Trade Agreements Committee has not passed on the question, an interdepartmental committee has been formed to collect data and study the possibility of such agreement. You may also state orally to the Minister that in the trade agreements thus far concluded by this Government it has been the rule to base reciprocal concessions on the tariff rates which were in effect prior to the negotiations and not on tariffs increased coincidentally with or subsequent to conversations looking forward to a trade agreement.

HULL

631.003/513 : Telegram

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

CARACAS, September 24, 1936—3 p. m.

[Received 4:15 p. m.]

66. Department's 44, September 22, 5 p. m. Memorandum presented to Foreign Minister today. He expressed sympathetic interest and promised immediate consideration of its contents in consultation with Minister of Finance with whom he also made an appointment for the Commercial Attaché to discuss technical details tomorrow morning.

While the Foreign Minister may be relied upon to appreciate the American viewpoint in its various aspects, the tariff bill has already made such progress that it seems very doubtful whether legislation can be postponed until after Inter-American Peace Conference.

NICHOLSON

631.003/513 : Telegram

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

WASHINGTON, September 25, 1936—6 p. m.

45. Your 66, September 24, 3 p. m. The Department notes your opinion that it is doubtful that the proposed Venezuelan tariff legis-

¹⁸ See footnote 1, p. 955.

lation can be postponed. The Department earnestly hopes, however, that the Venezuelan Congress will decide to omit the decisive increases proposed on typical American export products such as those mentioned in paragraph 2 of the memorandum which you left with the Minister for Foreign Affairs. The Department cannot judge whether further representations would be of avail but if you believe that such action would be advisable you are of course authorized again to take up the matter with the Venezuelan Minister for Foreign Affairs and to point out to him the adverse effect that decisive tariff increases on American export products would have on Venezuelan trade relations with the United States.

HULL

631.003/516 : Telegram

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

CARACAS, October 1, 1936—4 p. m.

[Received 7:10 p. m.]

67. My 66, September 24, 3 p. m. In renewed discussion this morning, the Foreign Minister stated that conversations were continuing with Minister of Finance and that he hoped to reply to my representations early next week. He repeated his assurances of anxious concern not to disturb existing amicable trade relations between Venezuela and the United States but stressed desire of Finance Ministry to increase revenue through higher tariffs and to curtail importation of luxury goods including automobiles.

Meanwhile, Chamber of Deputies in second reading of tariff bill has approved the proposed high duties on passenger cars. While the Foreign Minister personally views this move with regret, I am not optimistic as to his ability to bring about a substantial reduction in the proposed increases on American export products.

NICHOLSON

631.003/518

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

No. 480

CARACAS, October 2, 1936.

[Received October 6.]

SIR: I have the honor to refer to my telegram No. 67 of October 1, 4 p. m. and to previous correspondence concerning the proposed increases in the Venezuelan customs tariff, and to report more fully concerning my interview with the Minister for Foreign Affairs on October 1,

Dr. Gil Borges was at pains to repeat his assurances that the proposed tariff increases were not directed against the United States, with which it was a policy of his Government to cultivate friendly relations, nor were they intended to serve as bargaining points in any negotiations for a reciprocal trade agreement between the United States and Venezuela. He appeared to be genuinely concerned as to the effect which the new legislation might have on commercial relations between the two countries and explained that he was continuing his discussions with the Minister of Hacienda in an endeavor to arrive at a compromise which would satisfy the proponents of higher customs duties and at the same time eliminate the principal grounds for objection on the part of the United States. He hoped that these discussions would have proceeded far enough to make a definite reply to my representations early next week.

The Minister stated that from the Venezuelan viewpoint, not only was the balance of trade of this country with the United States unfavorable, but that almost half of the imports into Venezuela from the United States represented supplies of various kinds brought in by the oil companies, which were exempt from customs duties in accordance with the terms of the oil concessions. He said that automobiles were regarded as luxuries because many Venezuelans, including laborers, were paying out more than they could afford for private cars, tires and accessories, and that the streets of Caracas had already reached the saturation point as far as motor vehicles were concerned. Moreover, he said, the Ministry of Finance was determined to utilize every possible source of revenue to enable the country to proceed on its program of economic rehabilitation, and that higher customs duties were regarded as essential to a balanced budget.

It was evident that the Foreign Minister in our conversation was employing arguments supplied in a memorandum left with him by the Minister of Hacienda, a copy of which he promised to send me later for the Legation's information. Some of his statements in regard to importations by the oil companies appeared of rather doubtful accuracy, and the Commercial Attaché is preparing a digest of data on this subject which he will request Dr. Planchart, Chief of the Commercial Policy Bureau, to deliver to the Foreign Minister. Dr. Planchart is inclined to favor the American position in connection with the imposition of increased customs duties, but the Ministry of Finance and members of his office are not so easy to convince.

In replying to Dr. Gil Borges, I endeavored to show, among other things, that the use of automobiles might be considered an important factor in developing the country when the lack of railways was so obvious; that the great part of Venezuelan products entered the United States free of import duty and that the proposed heavy increases in

automobile duties here might be compared to quota or other restrictions on the entry of Venezuelan coffee or cacao in the United States; that the United States appeared to be the only country adversely affected to any extent by the new Venezuelan tariff scale; that the action of Venezuela in raising its customs duties at this time was a disappointing development to those who were working for a reduction of trade barriers in all parts of the world; and that any negotiations which might be undertaken for a Venezuelan-American trade agreement might be rendered very difficult thereby. These and other arguments have also been used by the Commercial Attaché in his conversations with the Minister of Finance and the Chief of the Commercial Policy Bureau of the Foreign Ministry.

At this writing it would appear that the Foreign Minister is endeavoring to do everything possible to meet our views and it is possible that the matter may be discussed in a Cabinet meeting. I am not optimistic as to the possibility of obtaining drastic reductions on the proposed duties affecting all American products but I believe there is some chance of having the duties on passenger cars brought down to a more reasonable level. The Legation will of course, lose no suitable opportunity of continuing its representations on the subject and will keep the Department fully informed as to any change in the situation.

Respectfully yours,

MEREDITH NICHOLSON

611.3131/59a : Telegram

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

WASHINGTON, October 5, 1936—7 p. m.

46. Your despatch No. 470 of September 25, 1936,¹⁹ and telegram No. 67 of October 1, 4 p. m. For a number of considerations to be mentioned hereafter the Department attaches great importance to the suspension by Venezuela of the imposition of decisive increases in its customs tariff. You are requested to seek an immediate interview with the Foreign Minister, the Minister of Finance, and with the President if in your judgment this would be advisable, and to them vigorously and forcefully set forth the Department's point of view as set forth in its telegram No. 44 of September 22, and hereafter.

1) On a number of occasions the Venezuelan Government has stated its willingness to conclude a trade agreement with the United States in order, presumably, to safeguard the flow of its commerce to the United States. Although it has not been feasible for this Government to proceed with the negotiation of an agreement with Vene-

¹⁹ Not printed.

zuela, this Government desires to make it clear that it is not for lack of interest or desire that it has not been possible thus far to proceed to negotiate an agreement. On the contrary, it is this Government's hope that in the near future it will be in a position to give consideration to proceeding with the negotiation of an agreement. However, these proposed tariff increases which the Venezuelan Government is now considering would narrow the scope of any trade agreement between the two countries in a degree that might preclude negotiations. The full exercise of the authority of the Executive, mentioned by the Foreign Minister, to lower tariff rates by 25 per cent would in the case of several important items, still leave the proposed rates far above present rates. This Government is not in a position to state at this time that the proposed increases, if adopted, would preclude negotiation. It has no hesitation in stating, however, that it has invariably followed the rule of basing reciprocal concessions on the tariff rates of other countries in effect prior to any possibility of negotiations being considered. For this reason it would appear that if the Venezuelan Government is still desirous of exploring the possibilities of an agreement with the United States serious consideration should be given to this aspect of the proposed revision of the Venezuelan tariff.

2) You should inquire of the Venezuelan Government whether it has fully considered what the effect would be in this country were Venezuela at this time to increase its tariff on important American goods. The Venezuelan Government cannot be unaware of various measures which have been introduced into our Congress which would have the effect of greatly increasing import charges on Venezuelan products. Although none of these measures, which are earnestly desired by certain groups in this country, thus far has been adopted by Congress, it is believed that the possibility of their enactment would be greatly enhanced were the proposed tariff increases on prime American export products to become law in Venezuela. Proponents of the legislation introduced into our own Congress would be able to point to the Venezuelan tariff treatment as ground for laying new burdens on Venezuelan products.

3) As the Venezuelan Government is fully aware, this Government has taken the lead in endeavoring to expand the sum total of international trade as necessary and essential to the healthy economic life of this country and every country, and to the peace of the world itself. Every day there are fresh evidences of the fundamental validity of this policy, and every day there are fresh evidences of its recognition by statesmen and governments. Within the last fortnight the Economic Committee of the League of Nations has come out squarely in support of the necessity for relaxing trade restrictions of all kinds.

The steps which have been taken to reduce trade barriers have had their beneficial effect, but they must be followed by others if trade is to attain its full measure of recovery.

It would be regrettable indeed were a country of Venezuela's importance and traditionally moderate tariff policy to deviate from a course so generally recognized as beneficial in the long run to every country; particularly were it to act in this sense at this time, on the eve of the forthcoming conference at Buenos Aires.

HULL

611.3131/60 : Telegram

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

CARACAS, October 6, 1936—6 p. m.
[Received 7:45 p. m.]

68. Department's 46, October 5, 7 p. m. I have again set forth the Department's views to the Foreign Minister, who received me in a special interview this afternoon, despite his illness. He is continuing his conversations with the Minister of Finance and will arrange for me to see the latter tomorrow, after which he will seek an appointment for me with the President, if I desire him to do so.

The Legation is sparing no effort to emphasize the considerations set forth by the Department, but various political aspects make results problematical. I doubt whether the President would be able to exercise a decisive influence in this matter, while the ability of the Foreign Minister to prevail over the attitude of the Minister of Finance is also subject to question.

NICHOLSON

631.003/521

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

No. 490

CARACAS, October 16, 1936.
[Received October 20.]

SIR: I have the honor to confirm my telegram No. 71 of October 14,²⁰ sent on behalf of the Commercial Attaché, in regard to the passage by the National Congress on October 13 of the new Venezuelan tariff bill. After its third reading in the Senate, the bill was considered jointly by that body and the Chamber of Deputies, with the result that all changes made by the former were approved. The Congress adjourned next day and the bill will become law after it has been signed

²⁰ Not found in Department files.

by the President and printed in the *Gaceta Oficial* in about a week's time.

Accurate information is still impossible to obtain as to the final rates on various articles of American manufacture, but there is no doubt that on many items of interest to the United States the import duties will be much higher than before. The Commercial Attaché is endeavoring to obtain a copy of the bill and will report thereon as soon as the official text becomes available. Meanwhile the Legation will bear in mind the oral assurances of the Minister of Hacienda that the rates of duty on some American products, particularly automobiles, will be reduced by the Federal Executive under Article 18 of the Tariff Law, and will seek an opportunity in due course of reminding the Minister of these assurances, should it appear desirable to do so.

.

There were several last minute editorials in Caracas newspapers protesting against the increase in duties on automobiles as a hindrance to the development of the country, but the failure of the local representatives of American motor car manufacturers to make a united stand, or even to voice objection as long as their competitors were hurt more than they, prevented proper consideration being given to such protests.

Respectfully yours,

MEREDITH NICHOLSON

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