

GERMANY

TREATY BETWEEN THE UNITED STATES AND GERMANY, SIGNED DECEMBER 8, 1923, REGARDING FRIENDSHIP, COMMERCE, AND CONSULAR RIGHTS

711.622/21a

The Secretary of State to the German Ambassador (Wiedfeldt)

WASHINGTON, July 25, 1923.

EXCELLENCY: Following conversations recently had with Your Excellency, I have the honor to inform you that this Government is cordially disposed to enter into negotiations with the German Government for the conclusion of a treaty of amity, commerce and consular rights. As appropriate to that end there is submitted to you herewith the draft of a proposed treaty of which the text is self-explanatory.¹

You will observe from the preamble that the document embodies a treaty of friendship as well as of commerce and of consular rights. It is designed to promote the friendly intercourse between the peoples of the United States and Germany. Through the text submitted it is sought to lay the foundation for a comprehensive arrangement responsive to the modern and exacting requirements of important maritime states. To that end the several Articles are expressed in terms which definitely and clearly set forth the principles involved. It is sought by this means to avoid as far as possible danger of conflicting interpretations.

You will be interested in noting that Article VII makes full provision for the enjoyment of the most favored nation clause in its unconditional form, as applied to persons, vessels and cargoes, and to articles the growth, produce or manufacture of the Contracting Parties. It will be seen, moreover, that the most favored nation clause is applied to duties on imports and exports and to other charges, restrictions and prohibitions on goods imported and exported. The document in its present form may, of course, be subjected to minor changes by the United States in the course of negotiations.

In transmitting this treaty to Your Excellency, I am glad to confirm the understanding that negotiations are to be had at this capital.

Accept [etc.]

CHARLES E. HUGHES

¹ Enclosure not printed.

711.622/28 : Telegram

*The Acting Secretary of State to the Ambassador in Germany
(Houghton)*

WASHINGTON, November 30, 1923—5 p.m.

92. Merely for your information.

Your 192 November 1.² In some manner unknown to the Department a copy of the proposed German-American treaty has been furnished from Berlin to an organization calling itself Chamber of German-American Commerce, Inc., with an office in New York. This organization has given the text of the treaty full publicity which, naturally, creates a most unfavorable impression in the United States. The German Ambassador saw the Secretary on November 28 and expressed his great regret that the text had been made public. He said he believed there were only a few points of difference between the American and German wishes with regard to the treaty, and that possibly an early signature might be arranged. The Secretary said that it would help matters if the treaty could be signed at once; that we were in an embarrassing position, as we did not wish to be uncandid in answering inquiries of which there are many in consequence of the premature publication and that it might be necessary for this reason to withdraw the treaty. The Ambassador will come to the Department today to go over the few points which have to be considered with the Solicitor of the Department, and if an agreement can be reached, he will cable his Government for authority to sign immediately. If it proves possible to agree fully, the Ambassador will be requested to ask his Government to give you immediately a copy of his authorization to sign on behalf of the German Government and you should immediately cable to the Department the text of this authorization.

PHILLIPS

711.622/29 : Telegram

The Ambassador in Germany (Houghton) to the Secretary of State

BERLIN, December 2, 1923—11 a.m.

[Received 2 p.m.]

216. Your 91 [92], November 30, 5 p.m. Herr von Schubert called on me last evening and showed me full power to be sent Wiedfeldt. Translation of text is as follows:

"Doctor Otto Wiedfeldt, Ambassador Extraordinary and Minister Plenipotentiary at Washington, is hereby authorized to conduct negotiations with the Government of the United States of America, in the

² Not printed.

name of the German Reich, relating to a treaty of amity, commerce and consular matters and to sign the treaty, subject to ratification. Berlin, December 1, 1923. Signed, Ebert, President of the Reich. Signed, Stresemann. (Seal)."

[Paraphrase.] Schubert told me that the premature publication of the treaty greatly distressed his Government. The treaty had been handled by the Foreign Office in the same manner as has been used for fifty years and never before had its confidence been betrayed. . . . As the treaty would serve as a model for other similar treaties the German Government had hoped to have certain minor changes made; but, considering the unfortunate circumstances, it was now willing to sign without delaying further. The German Ambassador at Washington had already been given telegraphic instructions to this effect. [End paraphrase.]

HOUGHTON

711.622/40

*The Counselor of the German Embassy (Von Lewinski) to the
Solicitor for the Department of State (Hyde)*

WASHINGTON, December 3, 1923.

MY DEAR MR. HYDE: Enclosed I beg to transmit the draft of a Memorandum containing the explanations, which you were kind enough to give us, as regards to the Treaty of friendship and commerce, for your kind examination and consent.

I should further like to suggest that the text of the Treaty might be amended in the following points:

In Art. XV b par. 2 the word "customs" between "said" and "officials" should be erased.

In Art. XXIII par. 2 the words "or misdemeanours" should be inserted after the word "crimes".

It might further be useful, to make the Preamble conform with the heading of the Treaty by inserting after the word "Commerce" the words "and Consular Rights".

I am [etc.]

KARL VON LEWINSKI

[Enclosure]

Memorandum Regarding the Conference Held in the State Department between Messrs. Castle, Hyde, McClure, Metzger, and Barnes, on behalf of the United States, and Messrs. Wiedfeldt and Von Lewinski, on behalf of Germany, December 1, 1923

The Draft of a Treaty of Friendship and Commerce was discussed Article by Article.

Article I

(1) It was explained that the sentence concluding paragraph 1 ("submitting themselves," etc.) refers to the entire contents of Article I, par. 1.

(2) The term "local laws and regulations" as used in section 1 comprises all laws, whether National, State, Provincial, Municipal or otherwise, duly in force at the time when and at the place where any event occurs which comes within the terms of the Treaty.

(3) Whereas the Treaty only confers the right to own buildings within the territory of either High Contracting Party to the nationals of the other, it does not exclude such nationals from the right to own land as far as the local laws permit that land may be owned by foreigners.

(4) It was mentioned that under the law of some States of the United States buildings may be owned though the owner of such building is not the owner of the lot on which the building is erected, that, however, under German law it is impossible that the owner of the lot be not at the same time the owner of the building, the ownership of the building following the ownership of the lot.

Article II

(5) This article takes regard only of relatives and dependents of an injured party and is intended to place the nationals of one of the High Contracting Parties in the same position in respect to the subject matter of the Article as the nationals of the other Party enjoy.

Article IV

(6) It is ascertained that par. 1 refers only to immovable property and par. 2 to movable property.

(7) This Article is intended to secure to the beneficiaries of a will and to heirs the right to dispose of the property bequeathed or descending to them and to receive the proceeds of the sale of the property notwithstanding that, according to local law they, because of alienage, are not eligible to own the property.

Article VII

(8) The term "manufactured" in par. 2 shall include any kind and any stage of manufacturing process regardless of the material used in such process.

Article VIII

(9) The view was expressed that the term "duties, charges, and taxes" as used in the Treaty throughout shall comprise all duties, charges, taxes, fees or other pecuniary burdens whatsoever, which are duly imposed by National, State, or Provincial laws and/or

regulations, and levied by or on behalf or by authority of the competent authorities. It was observed that Article VIII implies that no discrimination of whatever kind shall by any means take place in regard of the goods, wares and merchandise of the nationals of either High Contracting Party within the territory of the other in respect of the before-mentioned duties, charges and taxes.

Article IX

(10) It was the consensus of view that Government vessels, if used for mercantile purposes, shall come under this provision.

Article XII

(11) The view was expressed that corporations and associations should be deemed to come within the meaning of this Article only in so far as they are distinct and separate legal entities under the laws of the respective countries, and that partnerships do not constitute legal entities within the meaning of the Article.

Article XV

(12) It was indicated that it was not intended, with reference to Section d, that the usual charges for personal baggage other than samples should be effected or that preference shall be granted in regard to transportation facilities or railway charges or otherwise.

Article XVII

(13) It was the prevailing view that the term "reciprocity" as used in this Article meant "mutually".

(14) It was the consensus of opinion that under the provisions of this Article consular officers of the other High Contracting Party might take the testimony on oath of the nationals of the country where such consular officers reside, provided that such nationals are willing to give their testimony before such consular officers.

Article XVIII

(15) The question was raised whether the term "consular officials" comprises consuls de Carrière, vice-consuls, honorary consuls, interpreters, vice-interpreters. It was the general view that the term included these officials.

Article XXII

(16) It was explained that under the German law certain acts for the passing of title in real property situated in Germany are reserved for and are to be executed before courts of law. The view was expressed that nothing in this Treaty should be construed to dispense with the respective provisions of the German law.

Article XXIII

(17) The view was expressed that controversies having a criminal aspect might come within this Article and that consular officers are so far subjected to the law of procedure of the country within the territory in which they reside that they may not claim the right to appear before the judicial authorities when such laws prevent them from doing so.

Article XXIV

(18) The question was asked whether the expression "pending the appointment of an administrator" meant the appointment of an administrator by the authorities of the country in which the consular officer resides. It was answered in the affirmative.

Article XXVI

(19) It was observed that the German Government would find difficulty in imposing pressure upon the master or crew of any foreign vessel to admit a consular officer. It was the view that such pressure was not contemplated.

Article XXX

(20) In respect of this Article special reference is taken to par. 3[2], section 1 of Article II of the Treaty Restoring Friendly Relations between the United States and Germany concluded August 25, 1921,³ reading as follows:

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

Germany, when concluding the treaties ending the world war, undertook to conclude certain further treaties and give certain rights to third powers. All treaties which have in consequence of these former treaties been concluded or will be concluded by Germany granting certain treatment in economic questions, customs, prices, transportation facilities, or otherwise, would be concluded in compliance with the peace treaties as an obligation and a right of Germany, establishing thereby no precedent out of which claims for a most-favored-nation treatment may arise except as such claims might be made under the Treaty of August 25, 1921, between the United States and Germany and the provisions of the Treaty of Versailles to the benefits of which the United States became entitled by the Treaty of August 25, 1921, and provided that Germany does not grant such treatment to

³ *Foreign Relations*, 1921, vol. II, p. 29.

any third power to which she is under no obligation to fulfill one of the above-mentioned treaties concluding the world war.

This memorandum is prepared as a minute of conversations, and is in no sense an agreement supplemental to the treaty or binding on the parties to the treaty as interpretative of its provisions.

711.622/41

The Solicitor for the Department of State (Hyde) to the Secretary of State

[WASHINGTON,] December 5, 1923.

DEAR MR. SECRETARY: On Friday afternoon, November 30, 1923, the German Ambassador and his Counsellor, Dr. von Lewinski, called at this office in reference to the proposed treaty of friendship, commerce and consular rights. The Department was represented by Mr. Castle, Doctor McClure, Messrs. Metzger, Barnes and the undersigned.

The Ambassador made numerous inquiries and proposed numerous changes. After two conferences concluded at 11 A.M. December 1st, the representatives of the Department undertook a careful study of the proposals made. At 6 P.M. they were virtually satisfied as to what could and what could not be accepted.

The final conference took place at 9 P.M. December 1st, and at 11:15 P.M., the German Ambassador agreed to accept the treaty, subject to the modifications to which the Department found it possible to yield or desired to offer. The changes in the text are attached hereto.⁴ For the most part they are of slight consequence.

Without adverting to the German proposals which it seemed unwise or impossible to accept, attention is called simply to what was perhaps the major German proposal. It was amendatory of that provision of Article I which contemplates that "property shall not be taken without due process of law and without the payment of just compensation". The Ambassador stated that the German Constitution permitted the taking of property without payment of just compensation, and that the sentence quoted might be a violation of their fundamental law. While he intimated that it would be unlikely that the German legislature would avail itself of its constitutional right to take property of aliens without payment of just compensation, he stated there was a strong feeling in his country that the Constitution should not be interfered with. The reply in behalf of the Department was that the sentence in the American text did not contemplate a yielding of anything which the German Constitution forbade, and it was, therefore, in no sense

⁴ Not printed.

a violation of that document; that it merely marked an agreement by Germany not to exercise a constitutional right, and one which if exercised would cause immediate protest by this Government in so far as it applied to American citizens. A copy is appended hereto of a letter⁵ which, in view of the Department's position, will probably be submitted by the Ambassador upon the signing of the treaty. It is doubted whether any reply thereto should be made.

On the accompanying papers⁵ are shown the precise changes in the treaty which are submitted for your approval for incorporation in the text. The work of aligning the English and German text is not quite completed. It is hoped, however, that both versions may be in exact and final form and ready for signature tomorrow. It may be added that the Ambassador has also filed a statement setting forth his understanding of explanations of the treaty made by representatives of the Department.⁶

It is a satisfaction to refer to the valued cooperation of Mr. Castle and Doctor McClure throughout these negotiations, as well as of Messrs. Metzger and Barnes.

C[HARLES] C. H[YDE]

Treaty Series No. 725

*Treaty between the United States of America and Germany, Signed at Washington, December 8, 1923*⁷

The United States of America and Germany, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a 'Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America,

Mr. Charles Evans Hughes, Secretary of State of the United States of America, and

The President of the German Empire,

Dr. Otto Wiedfeldt, German Ambassador to the United States of America,

⁵ Not printed.

⁶ See memorandum *supra*.

⁷ In English and German; German text not printed. Ratification advised by the Senate, with reservations and understandings, Feb. 10, 1925; ratified by the President, Oct. 6, 1925; ratified by Germany, Aug. 20, 1925; ratifications exchanged at Washington, Oct. 14, 1925; proclaimed by the President, Oct. 14, 1925.

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles:

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.⁸

ARTICLE II

With respect to that form of protection granted by National, State or Provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of either of the High Contracting Parties and within any of the territories of the other, shall regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and

⁸ For Senate reservation concerning this article, see bracketed note, p. 45.

privileges as are or may be granted to nationals, and under like conditions.

ARTICLE III

The dwellings, warehouses, manufacturies, shops and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE IV

Where, on the death of any person holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party, whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V

The nationals of each of the High Contracting Parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise,

conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose, subject to the reasonable mortuary and sanitary laws and regulations of the place of burial.

ARTICLE VI

In the event of war between either High Contracting Party and a third State, such Party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent Party within sixty days after a declaration of war.

ARTICLE VII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or conditions and no prohibition on the importation of any article, the growth, produce or manufacture, of the territories of the other than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

Any advantage of whatsoever kind which either High Contracting Party may extend to any article, the growth, produce, or manufacture of any other foreign country shall simultaneously and uncondi-

tionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

All the articles which are or may be legally imported from foreign countries into ports of the United States, in United States vessels, may likewise be imported into those ports in German vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported in United States vessels; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Germany, in German vessels, may likewise be imported into these ports in United States vessels without being liable to any other or higher duties or charges whatsoever than if such were imported from foreign countries in German vessels.⁹

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, and regardless of whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

The stipulations of this Article shall apply to the importation of goods into and the exportation of goods from all areas within the German customs lines, but shall not extend to the treatment which either Contracting Party shall accord to purely border traffic within a zone not exceeding ten miles (15 kilometers) wide on either side of its customs frontier, or to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902,¹⁰ or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws.

ARTICLE VIII

The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment

⁹ For Senate reservation concerning this paragraph, see bracketed note, p. 45.

¹⁰ William M. Malloy (ed.), *Treaties, Conventions, etc. between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. I, p. 353.

as nationals and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and bounties.

ARTICLE IX

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries respectively from whatever place they may arrive and whatever may be their place of destination.¹¹

ARTICLE X

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties, and carrying the papers required by its national laws in proof of nationality shall, both within the territorial waters of the other High Contracting Party and on the high seas, be deemed to be the vessels of the Party whose flag is flown.

ARTICLE XI

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the United States is exempt from the provisions of this Article and from the other provisions of this Treaty, and is to be regulated according to the laws of the United States in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment.¹¹

¹¹ For Senate reservation concerning this article, see bracketed note, p. 45.

ARTICLE XII

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, National, State or Provincial, of either High Contracting Party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other High Contracting Party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy free access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State, or Provincial laws.

ARTICLE XIII

The nationals of either High Contracting Party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no conditions less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, national, state or provincial, which are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business. The foregoing stipulations do not apply to the organization of and participation in political associations.

The nationals of either High Contracting Party shall, moreover, enjoy within the territories of the other, reciprocally and upon com-

pliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

ARTICLE XIV

(a) Manufacturers, merchants, and traders domiciled within the jurisdiction of one of the High Contracting Parties may operate as commercial travelers either personally or by means of agents or employees within the jurisdiction of the other High Contracting Party on obtaining from the latter, upon payment of a single fee, a license which shall be valid throughout its entire territorial jurisdiction.

In case either of the High Contracting Parties shall be engaged in war, it reserves to itself the right to prevent from operating within its jurisdiction under the provisions of this article, or otherwise, enemy nationals or other aliens whose presence it may consider prejudicial to public order and national safety.

(b) In order to secure the license above mentioned the applicant must obtain from the country of domicile of the manufacturers, merchants, and traders represented a certificate attesting his character as a commercial traveler. This certificate, which shall be issued by the authority to be designated in each country for the purpose, shall be viséed by the consul of the country in which the applicant proposes to operate, and the authorities of the latter shall, upon the presentation of such certificate, issue to the applicant the national license as provided in Section (a).

(c) A commercial traveler may sell his samples without obtaining a special license as an importer.

(d) Samples without commercial value shall be admitted to entry free of duty.

Samples marked, stamped or defaced in such manner that they cannot be put to other uses shall be considered as objects without commercial value.

(e) Samples having commercial value shall be provisionally admitted upon giving bond for the payment of lawful duties if they shall not have been withdrawn from the country within a period of six (6) months.

Duties shall be paid on such portion of the samples as shall not have been so withdrawn.

(f) All customs formalities shall be simplified as much as possible with a view to avoid delay in the despatch of samples.

(g) Peddlers and other salesmen who vend directly to the consumer, even though they have not an established place of business

in the country in which they operate, shall not be considered as commercial travelers, but shall be subject to the license fees levied on business of the kind which they carry on.

(h) No license shall be required of:

(1) Persons traveling only to study trade and its needs, even though they initiate commercial relations, provided they do not make sales of merchandise.

(2) Persons operating through local agencies which pay the license fee or other imposts to which their business is subject.

(3) Travelers who are exclusively buyers.

(i) Any concessions affecting any of the provisions of the present Article that may hereafter be granted by either High Contracting Party, either by law or by treaty or convention, shall immediately be extended to the other Party.

ARTICLE XV

(a) Regulations governing the renewal and transfer of licenses issued under the provisions of Article XIV, and the imposition of fines and other penalties for any misuse of licenses may be made by either of the High Contracting Parties whenever advisable within the terms of Article XIV and without prejudice to the rights defined therein.

If such regulations permit the renewal of licenses, the fee for renewal will not be greater than that charged for the original license.

If such regulations permit the transfer of licenses, upon satisfactory proof that transferee or assignee is in every sense the true successor of the original licensee, and that he can furnish a certificate of identification similar to that furnished by the original licensee, he will be allowed to operate as a commercial traveler pending the arrival of the new certificate of identification, but the cancellation of the bond for the samples shall not be effected before the arrival of the said certificate.

(b) It is the citizenship of the firm that the commercial traveler represents, and not his own, that governs the issuance to him of a certificate of identification.

The High Contracting Parties agree to empower the local customs officials or other competent authorities to issue the said licenses upon surrender of the certificate of identification and authenticated list of samples, acting as deputies of the central office constituted for the issuance and regulation of licenses. The said officials shall immediately transmit the appropriate documentation to the central office, to which the licensee shall thereafter give due notice of his intention to ask for the renewal or transfer of his license, if these acts be allowable, or cancellation of his bond, upon his departure

from the country. Due notice in this connection will be regarded as the time required for the exchange of correspondence in the normal mail schedules, plus five business days for purposes of official verification and registration.

(c) It is understood that the traveler will not engage in the sale of other articles than those embraced by his lines of business; he may sell his samples, thus incurring an obligation to pay the customs duties thereupon, but he may not sell other articles brought with him or sent to him, which are not reasonably and clearly representative of the kind of business he purports to represent.

(d) Advertising matter brought by commercial travelers in appropriate quantities shall be treated as samples without commercial value. Objects having a depreciative commercial value because of adaptation for purposes of advertisement, and intended for gratuitous distribution, shall, when introduced in reasonable quantities, also be treated as samples without commercial value. It is understood, however, that this prescription shall be subject to the customs laws of the respective countries. Samples accompanying the commercial traveler will be despatched as a portion of his personal baggage; and those arriving after him will be given precedence over ordinary freight.

(e) If the original license was issued for a period longer than six months, or if the license be renewed, the bond for the samples will be correspondingly extended. It is understood, however, that this prescription shall be subject to the customs laws of the respective countries.

ARTICLE XVI

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries of the United States, to persons and goods coming from or going through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, and shall be given national treatment as regards charges, facilities, and all other matters.

Goods in transit must be entered at the proper customhouse, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

ARTICLE XVII

Each of the High Contracting Parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall, after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the state which receives them.

The Government of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing state and under its great seal; and it shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this treaty.

ARTICLE XVIII

Consular officers, nationals of the state by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the state which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the state which appoints him and is engaged in no private occupation for gain, his

testimony shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

ARTICLE XIX

Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

ARTICLE XX

Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The consular offices and archives shall at all times be inviolable. They shall under no circumstances be subjected to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officer shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancel-

lors, whose official character may have previously been made known to the government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

ARTICLE XXI

Consular officers, nationals of the State by which they are appointed, may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the government of the country.

ARTICLE XXII

Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted within, the territories of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer shall be received as evidence in the territories of the contracting parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was ap-

pointed; provided, always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

ARTICLE XXIII

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed to render assistance as an interpreter or agent.

ARTICLE XXIV

In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and

until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

ARTICLE XXV

A consular officer of either High Contracting Party may in behalf of his non-resident countrymen receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him reasonable evidence of such remission.

ARTICLE XXVI

A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

ARTICLE XXVII

Each of the High Contracting Parties agrees to permit the entry free of all duty and without examination of any kind, of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post or imported at any time

during his incumbency thereof; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

ARTICLE XXVIII

All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any customhouse charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

ARTICLE XXIX

Subject to any limitation or exception hereinabove set forth, or hereafter to be agreed upon, the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land, water, and air over which the Parties respectively claim and exercise dominion as sovereign thereof, except the Panama Canal Zone; for purposes connected with customs administration the territory of Germany shall be deemed to be co-terminus with the area included within the German customs lines.

ARTICLE XXX

Nothing in the present Treaty shall be construed to limit or restrict in any way the rights, privileges and advantages accorded to the

United States or its nationals or to Germany or its nationals, by the Treaty between the United States and Germany restoring friendly relations, concluded on August 25, 1921.

ARTICLE XXXI

The present Treaty shall remain in full force for the term of ten years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid period of ten years neither High Contracting Party notifies to the other an intention of modifying, by change or omission, any of the provisions of any of the articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

ARTICLE XXXII

The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Washington as soon as possible.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the same and have affixed their seals hereto.

DONE in duplicate, in the English and German languages, at the City of Washington, this 8th day of December, 1923.

[SEAL] CHARLES EVANS HUGHES

[SEAL] DR. OTTO WIEDFELDT

[The Senate resolution of February 10, 1925, giving advice and consent to ratification of the treaty, contained the two following reservations:

First, that there shall be added to Article I of said treaty the following: "Nothing herein contained shall be construed to affect existing statutes of either country in relation to the immigration of aliens or the right of either country to enact such statutes."

Second, that the fifth paragraph of Article VII and Articles IX and XI shall remain in force for twelve months from the date of exchange of ratification, and if not then terminated on ninety days previous notice shall remain in force until Congress shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each high contracting party shall enjoy all the rights which it would have possessed had such paragraph or articles not been embraced in the treaty.

The German Ambassador in a letter to the Secretary of State dated May 21, 1925, stated that Germany agreed to the Senate reservations.]

**EFFORTS OF THE UNITED STATES TO ASSIST IN THE SOLUTION OF
THE PROBLEMS OF GERMAN REPARATIONS¹³**

700.0011 R 34/10

*Memorandum by the Secretary of State of a Conversation with the
French Ambassador (Jusserand), January 5, 1923*

The Secretary said that he had been informed at the Department press conference this morning, by one of the correspondents, that M. Poincaré in answer to an inquiry had categorically denied that he had received any suggestion from the American Government along the line of the Secretary's statement in his New Haven speech.¹⁴ The Secretary said he was very much surprised at this and could not credit such a report; that of course he had not sent a formal note on the subject, as he desired to deal with the matter in a manner most welcome to the French Government, but that he had presented the matter and it had been discussed and he had received through the Ambassador M. Poincaré's replies to his suggestion.¹⁵ The Secretary said he hoped that the statements made at Paris would not compel him to state here exactly what had taken place. The Ambassador said he could not understand such reports; that of course it had been talked over with the Secretary and the Ambassador referred to the circumstances, to the telegrams he had brought in, and to M. Poincaré's comments. He said that perhaps M. Poincaré had said that he had not officially received a suggestion. The Secretary said he did not care to enter into any discussion of mere matter of form, but the French Government certainly had the suggestion before it, and the Secretary could not be put in a position before the American people of contenting himself with making a speech at New Haven and supposing that that was a way to address the French Government; that he had taken the matter up with the Ambassador and if it were questioned he would have to make this clear.

The Ambassador asked whether the Secretary thought it necessary that there should be a correction in Paris and said he could not

¹³ Continued from *Foreign Relations*, 1922, vol. II, pp. 160-203.

¹⁴ See telegram, Dec. 29, 1922, to the Ambassador in France, *ibid.*, p. 199.

¹⁵ See memoranda of conversations held Dec. 14 and Dec. 21, 1922, *ibid.*, pp. 187 and 195.

credit the report. The Secretary said he would not ask for any correction but possibly it would be well, if the Ambassador were willing, to state the situation to the French Government, so that there would not be statements coming out of Paris which would give a wrong impression here. The Ambassador indicated that he would do this.

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862T.01/506½

*Memorandum by the Secretary of State of a Conversation with
the French Ambassador (Jusserand), January 8, 1923*

The French Ambassador called at the Secretary's request. The Secretary informed the Ambassador that he had confidential advices to the effect that the French intended to occupy the Ruhr within six days. The Secretary spoke of the Senate Resolution calling for the withdrawal of the American troops¹⁶ and said that he would be glad, if the Ambassador were free to inform him, whether the report to which he had referred was accurate. The Secretary said that if the French started to go into the Ruhr, our troops would be withdrawn at once. The Ambassador said he had no information on the subject. He expressed the hope that the American troops would not be withdrawn. The Ambassador said he would cable for information but he intimated that all the plans would be made for the occupation of the Ruhr in order to impress Germany and in the hope that some better offer would be made by Germany and that it was not likely that the Government would say they did not intend to go into the Ruhr; that all preparations would be made as if they were going in. The Ambassador did not know what had been decided upon.

The Secretary said that he had informed the press that the matter of the Secretary's suggestion for an impartial examination of the reparations question for the development of a financial plan by a body of experts, had been discussed with the French Government;¹⁷ that the two governments had exchanged their views upon the question. The Secretary said that he had discussed the matter with the Ambassador, who had reported it to his Government, and M. Poincaré had made replies, and of course it had been presented as fully as it could be except it were the subject of a diplomatic note, and that

¹⁶ S. Res. 395, Jan. 5, 1923, 67th Cong., 4th sess.; see *Congressional Record*, vol. 64, pt. 2, pp. 1276, 1349, and 1361.

¹⁷ See telegram, Jan. 6, 1923, to Ambassador in France, *Foreign Relations*, 1922, vol. II, p. 202.

if the French Government desired the Secretary to send a formal note to that effect he was ready to do so; that he did not care to be put in the position of not having presented a matter to the French Government when he had done so fully.

The Ambassador said that he thought it was better to let the matter rest and not to take it up further. The Ambassador again expressed the hope that nothing would be done at the moment with regard to the troops, for fear it would give a wrong impression abroad. The Ambassador said he would cable for information as to the plans of his government with regard to the occupation of the Ruhr, but intimated that he could hardly expect that he would be authorized to make a definite statement.

862T.01/514 : Telegram

The Ambassador in Germany (Houghton) to the Secretary of State
[Paraphrase]

BERLIN, January 10, 1923—4 p.m.

[Received 9 p.m.]

5. Cuno¹⁸ just told me that he will make no appeal for support either to the United States or any other country. He intends to let history take its course. In case France occupies the Ruhr, Germany will summon her Ambassador at Paris to Berlin. Germany will not break off diplomatic relations but will issue a statement saying that he has been called to Berlin. Afterwards Cuno will send a note to all governments protesting against the invasion and the violation of the Treaty of Versailles. He stated that during the occupation of the Ruhr he will not, because he cannot, pay reparations or even discuss them. He said that the situation was still uncertain as troops are evidently being held back. The French Ambassador has requested an appointment with Minister for Foreign Affairs for this afternoon in order to make a statement.

Cuno seems anxious that American forces should be retained for the present. He says that Allen's presence on the Rhine will make treatment of Germans much less severe and possibly avert more serious trouble.

If France should attempt to divert coal a serious situation will immediately develop. At the present time the fuel supply in Germany is quite inadequate.

HOUGHTON

¹⁸ Chancellor of the German Reich.

862T.01/512 : Telegram

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

PARIS, January 10, 1923—5 p.m.

[Received 7:45 p.m.]

16. General Buat personally informed military attaché as follows: The French divisions totalling 10,000 men move into the Ruhr tomorrow. No North African troops whatever in this force. All composed of Frenchmen. If any further troops required to be sent they will be Frenchmen. All arrangements under direction of General Degoutte who will place troops about Essen as he deems best for the protection of engineers.

General Buat added that he had originally intended to send two sections of French railway troops to assure this movement but since the German railway men are carrying out the movement with the greatest efficiency he has countermanded the order.

The two divisions withdrawn from the army of the Rhine are being drafted from the troops from the eastern frontier garrisons.

HERRICK

862T.01/15½

Memorandum by the Secretary of State of a Conversation with the Belgian Ambassador (Cartier), January 11, 1923

The Ambassador said that he had no special matter to present but wished to say that he hoped that it was understood by the American Government that the Belgian Government felt it was necessary to participate with the French in the Ruhr movement. He said that Ambassador Fletcher was entirely in the confidence of the Belgian Government and undoubtedly had been fully advised and in turn had reported to the Department the position which the Belgian Government had taken. The Ambassador intimated that they had not desired such action but did not see their way clear to disassociate themselves from it.

The conversation then turned generally to the effects of the occupation. The Secretary expressed his regret that this action should have been taken, his belief that it was not a way to obtain substantial reparations, and that serious consequences might ensue. The Belgian Ambassador did not intimate any difference in the point of view.

862T.01/524

Statement for the Press Handed by the German Ambassador (Wiedfeldt) to the Under Secretary of State (Phillips), January 11, 1923

WASHINGTON, January 10, 1923.

The French Ambassador and immediately afterwards the Belgian Chargé d'Affaires in Berlin have this afternoon informed the German Minister for Foreign Affairs in writing and orally that France and Belgium because of the defaults declared by the Reparations Commission as committed by Germany in execution of the deliveries of wood and coal, have decided immediately to send into the Ruhr control missions, composed of engineers and accompanied by the troops necessary, to control the management of the Coal Syndicate, to guarantee the strict execution of the program of the Reparations Commission and to enforce the payment of reparations. The Control Missions will be placed under General Degoutte, who will have full dictatorial powers. Any local disturbances will be punished with the most severe coercive measures and penalties.

The German Minister for Foreign Affairs has lodged a protest with the two foreign representatives against the action contemplated because this action represents a breach of the Treaties and of international law.

Owing to the declarations made by France and Belgium there is no longer any doubt that tomorrow at the latest a Franco-Belgian army will occupy Essen and parts of the Ruhr territory. This happens four years after the signing of the Peace Treaty and is directed against a defenseless and peaceful nation.

The reason given for the procedure is that Germany is in default in her deliveries of wood and coal in 1922. The default in the case of coal represents a deficit amounting to less than 4% of the deliveries of coal to the Entente Powers since the signing of the Armistice. Of the deliveries of wood to France for 1922 only 20,000 cubic metres sawnwood and 135,000 telegraph-poles are missing. France and Belgium justify their action by asserting that Germany is in voluntary default and that this voluntary default justifies onesided coercive measures directed against Germany on the part of these two powers.

The existence of such a default on the part of Germany is not only denied by Germany alone. But entirely apart from that the Franco-Belgian action represents a breach of the Treaty of Versailles in a threefold manner:

1. Germany's defaults in her deliveries of wood and coal would, according to the note of the Reparations Commission of March 21, 1922, always only justify demands for subsequent payments.

2. The Treaty of Versailles does not admit any territorial sanctions.

3. The measures allowed by the Treaty of Versailles against Germany can only be applied by the Allied Powers as a whole and not by single powers of their own accord.

The German Government herewith enters a protest against the oppression applied towards Germany in contradiction with the Treaty and International Law. The German Government does not intend to meet violence with violence nor to reply to the breach of the Treaty with a withdrawal from the Treaty. However, as long as the state of affairs contrary to the Treaty exists, Germany is not in a position to make actual reparations to those powers who have brought about this state of affairs.

862T.01/528 : Telegram

The Unofficial Observer on the Interallied Rhineland High Commission (Allen) to the Secretary of State

COBLENZ, January 13, 1923—5 p.m.

[Received January 13—3 p.m.]

My personal and unofficial representations regarding renewal of negotiation that might bring about an arrangement were sympathetically received yesterday by informal meeting of High Commissioners called on my initiative. They and I recognized that the question is not within their competence but the seriousness of the situation, the knowledge of its eventual import and the way in which the High Commission is connected with the new occupation by the French plan, would indicate usefulness of an expression from that source. Each one has made report of this event to his government.

Daily it is becoming evident that that published mild procedure of the "economic mission" to which passive resistance is made in the Ruhr and strong protest everywhere in Germany, is giving way to the customary occupation by force. Tirard's²⁰ statement that the boundary of Rhine province would not be crossed before 15th fails by the occupation to-day of Bochum.

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Kilmarnock²¹ received instructions yesterday to abstain from commission discussion bearing on French plan of action.

ALLEN

²⁰ French High Commissioner on the Interallied Rhineland High Commission and president of the Commission.

²¹ Lord Kilmarnock, British High Commissioner.

862T.01/528 : Telegram

*The Secretary of State to the Unofficial Observer on the Interallied
Rhineland High Commission (Allen)*

WASHINGTON, January 15, 1923—5 p.m.

15. Your January 13, 5 p. m. In view of the recent developments, it is desired that you should refrain from expressing any opinions or presenting any plans in relation to the existing delicate situation without explicit instructions from the Department. At present no action should be taken by you outside of the essential military duties in winding up.

French Ambassador here has received a telegram from Poincaré referring to a suggestion made by you with regard to the renewal of negotiations. French Government does not view with favor this suggestion which is considered inopportune. The American Government does not desire any suggestions by its representatives at this time without the directions of the Department.

HUGHES

462.00 R 29/2396½

*Memorandum by the Secretary of State of a Conversation with
the British Ambassador (Geddes), January 25, 1923*

The Ambassador said that he had called, on behalf of his Government, to ascertain what the Secretary thought with regard to the situation in the Ruhr. The Ambassador referred to the matter as very serious and saying that he had been asked to report as to the state of American opinion, which he thought he clearly understood, but that he would be very glad to have the Secretary state his own impressions, and, if he saw fit, the position of the United States Government.

The Secretary said that opinion in the United States was divided; that there was a considerable body of opinion to the effect that France had been devastated, that she had not been able to recover from Germany the reparations to which she was justly entitled, and that finally she felt compelled to go in and see what she could get for herself, and it was hoped that she would succeed; that those who held this view were quite influential and that this was an important body of opinion. Another view largely held was that of those who looked at the matter from the standpoint of Germany and felt that the action taken by France would make impossible the recuperation of Germany and thus defeat the ostensible object of getting reparations and would lead to economic disaster. Those that took the latter view were demanding some action to stop the French.

The Secretary said that there were other groups who did not hold either the extreme pro-French or an extreme pro-German view, but were divided with regard to certain principles of action. One group wished this Government to "go in," as the expression is, that is, to be more intimately related to the European affairs; and the other group demanding that the Government "stay out" and have nothing to do with them. The Secretary said that there were still others who did not take either a pro-French or a pro-German view and were not obsessed with any idea of either going in or staying out but were taking a view of the matter in its relation to the economic rehabilitation of Europe and to the maintenance of peace and the establishment of a basis upon which the nations concerned could have a fair degree of prosperity and stability. The Secretary said that these were much concerned not only with the direct consequences of the action of the French, but with the indirect consequences to which so many were oblivious;—for example, quite apart from the immediate and direct results of the occupation of the Ruhr was the strangulation of German credit. Thus, not only were German industries incommoded at the time for want of coal but no one throughout the world was placing any orders with Germany that it could place elsewhere. This was due to a fear of the prospects of German industry and the absence of German credit and the consequence was that there would be a speedy and extensive impairment of Germany's capacity to export, upon which the payment of reparations ultimately depends. The Secretary also referred to the fact that Italy was largely dependent upon German coal and so was Switzerland, and that the consequences therefore were very serious with respect to a large part of Europe outside of Germany. The Secretary said that the real question was what could be done which would be really helpful. It was easy to do things but not at all easy to suggest any course which promised any result. The Secretary asked what the British Government thought of the matter.

The Ambassador said that the opinion in England was divided just as it was here; that through the southern part of England there was a very pronounced feeling in favor of the French; that this was true also in the Highlands; that through the Midland counties, especially among the labor people, there was a very decided anti-French opinion; that this division of sentiment made it very difficult for the Government and that they were going to have a serious time. The Ambassador referred to what the Secretary had said about German credit and asked if we had definite corroboration of the fact that Germany was losing orders for industrial products. The Ambassador said that they had noticed the transfer of orders

to England and he wondered whether the same was true here. The Secretary said that he did not have specific instances but he had understood that this was the case to some extent. The Ambassador said that the British might have some temporary advantage but it would be very temporary, and, of course, their great interest was the re-establishment of sound economic conditions.

The Secretary asked the Ambassador what his Government thought could be done. The Ambassador said that he did not see what they could do. The Secretary asked whether they had made any protest to the French against the occupation of the Ruhr. The Ambassador said they had not. The Secretary said that he had been informed that Italy had made some effort but had not succeeded, and asked whether the Ambassador was informed as to exactly what had taken place. The Ambassador said that he understood that Italy had made some request, but that there was nothing that his Government could do about it.

The Secretary said that he had understood that the Italian Government had been assured by France that the object was merely to have a civic supervision and that the Italians were very much surprised at the extent of the military movement; that it had been understood that there would be only a few guards necessary to protect the civil representatives in establishing some sort of supervision over payments and deliveries or in taking guarantees, whatever that might mean. The Ambassador said that the British Government had felt at the time of the Paris Conference on January 2nd, and later, that the French were contemplating a military movement. The Secretary said he understood that but he was asking to what extent the French had informed the British Government as to their proposed action. The Secretary said that so far as the American Government was concerned, the inquiry just preceding the actual invasion made no suggestion of any extensive military movement. The Ambassador said that he was quite sure that the French had made the same professions to the British Government, and he agreed with the Secretary that there had been no announcement of the French plan until the French made their statement to Germany on the eve of the movement of their troops.

The Secretary said that the developments were exactly what he had anticipated; that one step required another to justify it, and that it was impossible for a retreat to be made, and that each action of German resistance would be followed by an extension of French operations.

The Secretary asked again whether the British Ambassador thought that the French were in a mood to receive any suggestion. The Ambassador said that he did not think so. The Secretary said

that he had felt that there was a growing tenseness on both sides; that the war spirit was reviving; that the French on the one hand were determined to prosecute their undertaking, and that, on the other hand, whatever disposition may have been left among the Germans to make an endeavor to pay was rapidly departing, and now the Germans themselves would be unwilling to have negotiations undertaken which would leave to the French an advantage by reason of their invasion and would insist that nothing should be done until the French had withdrawn. Thus there appeared to be a contest in which neither party was willing to yield.

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The Secretary said that of course the United States Government took the deepest interest in the situation and desired to see some final solution that would be adequate but that he did not feel that at this moment either France or Germany would lend a willing ear to any suggestion; that it was not worth while to do anything unless there was a reasonable prospect of success, and that there could not be a prospect of success unless France was willing to give assent. The Secretary said that any suggestion that might be made would have to be one that was cordially welcomed by France or else one which was of such obvious propriety and merit that it would compel approval. The Secretary said he did not know at this time of any such suggestion that could be made, and asked whether the Ambassador did. The Ambassador said that he felt the same way in the matter and he thought his Government did.

The Secretary said that the developments would be closely examined and the day might come when there would be a better prospect.

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862T.01/657½

*Memorandum by the Secretary of State of a Conversation with
the British Ambassador (Geddes), February 23, 1923*

The Ambassador said that he had received a request from Lord Curzon some days ago to speak to the Secretary about the matters mentioned below, but on account of illness he had not been able to make an earlier appointment:

1. Ruhr Situation—The Ambassador said that he had reported to Lord Curzon the Secretary's inquiry at his last interview as to what the British Government thought could be done, and Lord Curzon had expressed his appreciation. The Ambassador said that Lord Curzon did not feel that there was anything that could be done at the moment, but the Ambassador said that while Lord

Curzon's message was very brief, being not nearly as full as his ordinary communications, he gathered that Lord Curzon felt that the time was approaching when something could be done although he did not indicate what evidence he had of this. The Secretary asked whether the Ambassador had any information indicating that the French were any less determined to go through with their plan. The Ambassador said that he had not.

The Ambassador asked whether the Secretary had heard of any rumors of an intention by the French to make a further advance. The Secretary said that he had nothing beyond what had appeared in the newspapers with respect to their intention to go to whatever extent was necessary to overcome the German resistance.

The Ambassador asked what in case there should be a favorable opening the Secretary thought would be a suitable course of procedure. The Secretary said he did not care to discuss a purely hypothetical matter. The Secretary said that what might be taken up as an hypothesis might soon develop into a proposal and he would be put in a position of having made some definite suggestion whereas the situation would not permit a definite suggestion. He thought if any plan appeared in the future to be feasible it would be in the light of the events then existing which could not now be foreseen.

The Secretary said that he felt that in all probability there would have to be some preliminary process of investigation in order to determine upon a satisfactory plan. The Ambassador agreed to this, but said he supposed the Governments concerned would have to agree in advance to abide by the result. The Secretary said that there was an obvious advantage in that, but there was also a disadvantage; if Governments agreed to be bound in advance, then the inquiry would be a strictly governmental inquiry conducted by representatives of Governments and in all probability the situation would be about the same as that which existed at the time of the Premiers' Conferences. The Secretary said that he had hoped that this political difficulty could be avoided by having impartial experts examine the matter; that in that event the Governments could not agree to be bound in advance, of course, but if they were disposed to acquiesce in the constitution of such a board the moral effect of their findings would be very great, perhaps inescapable. The Secretary said that he had stated his views on this point in his New Haven speech and at the moment he did not care to go beyond that. The Ambassador said he felt that nothing could be done at this time, as the French were bound to go ahead. The Secretary said that each side would probably have to "enjoy its own bit of chaos" until a disposition to a fair settlement had been created.

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462.00 R 29/2700

The German Embassy to the Department of State

The German Government has always maintained the point of view and considers itself obliged by the international discussion at the present time to emphasize anew that questions upon which the reconstruction, also desired by Germany, of the devastated areas and besides that the restoration of the sound economic life and peace of Europe depend, can only be solved by mutual understanding.

The occupation of the Ruhr is diametrically opposed to such aspirations and it therefore provoked the passive resistance of the Ruhr population.

The German Government shares the desire of all soberminded people that the daily increasing tension be relaxed and the wanton destruction of economic values cease. The German Government therefore has decided to make another attempt to arrive at an understanding without, however, abandoning its legal standpoint or desisting from the passive resistance, which will be continued until the areas occupied in excess of the stipulations of the Treaty of Versailles have been evacuated and the conditions on the Rhine restored according to the terms of the Rhineland agreement.²²

Notwithstanding the events of the last few months Germany has adhered to her willingness to do all in her power in order to make reparations and especially to reconstruct the devastated areas. Every effort, however, to convert this willingness into the form of practical proposals is rendered more difficult by the fact that owing to the condition of Germany's financial and economic situation it is not possible to arrive at a tangible basis in fixed and definite figures for computing Germany's economic and financial capacity. Therefore every solution must be sufficiently elastic to take the present impossibility of a reliable computation into consideration.

It should furthermore be noted that Germany owing to the lack of surplus from her own production will in the near future be unable to raise any large amounts of capital from her own resources, and that consequently she needs foreign loans which, however, can only be obtained after German credit has been restored. Taking these facts into consideration and in conformity with the general idea of the plan prepared by it for the conference in Paris in last January the German Government summarizes its proposals for the

²² For text of agreement, see S. Doc. 81, 66th Cong. 1st sess.; or Great Britain, Cmd. 222, Treaty Series No. 7 (1919): *Agreement between the United States of America, Belgium, the British Empire and France and Germany with Regard to the Military Occupation of the Territories of the Rhine, Signed at Versailles, June 28th, 1919.*

reparation's problem and the political questions connected therewith, as follows:

The sum of Germany's total obligations in cash and kind under the Treaty of Versailles to be fixed at 30 billion goldmarks of which twenty billions be raised before July 1, 1927, five billions before July 1, 1929, and five billions before July 1, 1931 by a bond issue at normal rates of interest on the international money market.

1.) The first twenty billion goldmarks to be offered for subscription immediately. Interest on bonds up to July 1, 1927, to be taken out of the proceeds of the loan and for purposes of security to be paid into a special fund under control of the Reparations Commission. If twenty billion goldmarks cannot be raised by means of a loan before July 1, 1927, interest of five per cent to be paid on that sum from said date in addition to one per cent for amortization.

2.) In case the two amounts of five billion goldmarks each cannot be raised fully by issues of bonds at normal rates before the dates fixed, an impartial international commission shall decide whether, when and how the amounts not yet accounted for are to be raised. The same commission would decide in July 1931 whether, when and how after July 1, 1923, the interest not provided for in the first instance is subsequently to be raised. As impartial international commission either the syndicate which puts up the first loan of twenty billion goldmarks or a committee of international businessmen according to the suggestions of Secretary of State Hughes—a committee on which Germany is to be represented with rights equal to those of other nations, is to be chosen. As third alternative the German Government proposes a court of arbitration composed of a representative of the Reparations Commission and a representative of the German Government together with a chairman whom the President of the United States would be requested to nominate in case the two other members fail to agree as to the nomination.

3.) Germany, in account of her obligations by the provisions of the existing treaties will also make payments in kind, the extent of which to be settled by detailed agreements.

The German Government is persuaded that by this offer it goes to the extreme limit of what Germany can do in employing all her strength and after the fresh grave disturbance and weakening of the German economic system by the occupation of the Ruhr, she questions whether this proposition does not exceed Germany's capacity to pay. Moreover, the German Government is convinced that no impartial person taking into account the curtailment of the basic productive capacity of Germany and the diminution of the resources she possesses as the result of the heavy payments she has already

made, can arrive at a higher valuation if he judges objectively. If this point of view should not be shared by the other side the German Government proposes in conformity with the suggestion made by the Secretary of State Hughes to submit the entire problem of reparations to an international commission free of any political influence. The entire property of Germany and all sources of income of Germany and of the German States are already pawned by the Treaty of Versailles. Only by way of negotiations with the International Loan Syndicate and the Reparations Commission it can be established how this mortgage is to take a concrete form for the purpose of serving the issue of the loan and which detailed guarantees are to be given. Besides that the German Government is willing according to the agreements still to be made, by appropriate measures and also by way of legislation to provide that the entire economic system of Germany has to contribute so as to assure the interest on the loan. The deliveries in kind to be guaranteed by private conventions covering long periods and stipulating penalties for non-fulfilment.

The execution of the obligations devolving upon Germany depends upon the stabilization of German currency. If German currency can be stabilized at the same time that the reparations problem is settled permanently, the fears of other industrial countries regarding German competition will simultaneously disappear. After the stabilization it will also be possible to create order in the household of the Reich necessary to Germany and her creditors.

To accomplish this program and also in the interests of the creditors who subscribe to the loan it is necessary that for the future there be no seizure by force of guarantees and no application of sanctions and that Germany be freed from unproductive expenses and from the political and economic chains that still weigh upon her. To this end the unification of the administration throughout German territory should be restored as soon as possible and there should be no further application of treaty rights to interfere with Germany's rights of equality and after German currency has been stabilized, imports from Germany should be freed from the restrictions due to the fall of the Mark.

To further the peace of Europe by common economic effort and in order to re-establish the natural economic relations between producers and consumers, a basis is to be established for the unhampered exchange of vitally important commodities between the countries concerned by private economic conventions, among these above all by long-termed private contracts for the delivery of coke and coal.

The German Government with the same interest of peaceful co-operation between Germany and France in view as was her inten-

tion when she proposed the conclusion of the Rhineland pact is willing to accept any agreement calculated to secure peace and based on reciprocity. The German Government is more especially prepared to accept any agreement binding Germany and France to submit all conflicts which cannot be settled in the diplomatic way, to a peaceful international procedure, that is to say juridical conflicts to arbitration and all other conflicts to reconciliation after the example of the Bryan agreements.

The German Government proposes to enter negotiations on the preceding basis. The starting point of these negotiations must be that the *status quo ante* be re-established within the shortest possible delay. This includes that the territories occupied beyond those authorized by the provisions of the Treaty of Versailles be evacuated, the conditions in the Rhineland re-established conforming to the agreements, the arrested Germans liberated, and their homes and positions restored to those who have been expelled.

The German Government has addressed the same note to the Royal Belgian Government, the French Government, His Britannic Majesty's Government, the Royal Italian Government and the Imperial Japanese Government.

WASHINGTON, *May 2, 1923.*

462.00 R 29/2701½

*Memorandum by the Secretary of State of a Conversation with
the German Ambassador (Wiedfeldt), May 3, 1923*

Reparations.—The German Ambassador left a note, in English and German, dated May 2, 1923, containing the German offer. The Ambassador orally recapitulated the points of the note, but did not add to them, save to say that he was very glad that the German Government had been able to make a definite offer and he thought that this should be regarded as the starting point in the negotiations. He was rather skeptical about the acceptance of the French Government although there was no definite statement as yet from the Government itself as distinguished from the French press. The Secretary said that he supposed that the matter came down in the last analysis to an agreement between the Germans and the French; that the French were in possession and that it seemed to him that the question could only be solved by the most direct and intimate negotiations to find a satisfactory basis. The Secretary inquired whether contact could not be established so that the matter could be threshed out without necessarily taking the form of formal notes, as it seemed to him that the situation called for the most direct and

practical treatment. The Secretary also suggested that action seeming to be intended to bring pressure on France from the outside would have the immediate effect of causing an unpleasant French reaction and make the negotiations more difficult. In the last analysis the French agreement would have to be obtained and the question was what was the best course to secure it. The Ambassador did not express himself upon these points.

The Secretary said that there was always so much speculation with regard to a note of this sort, when it was known that it was to be delivered and the purport of it had been anticipated in the press, that he thought it advisable, if the Ambassador had no objection, that the text should be made public. The German Ambassador said there was no objection and he would make it public at once.

462.00 R 29/2704½

Memorandum by the Secretary of State of a Conversation with the Belgian Ambassador (Cartier), May 3, 1923

Reparations.—The Belgian Ambassador referred to the German note as to reparations, published in the morning papers. The Secretary said that he had just received the text of the note from the German Ambassador and the Secretary said that he would say in a personal way that it was of great importance that negotiations should be actually entered into and it seemed as though the note might be a starting point. The Secretary had noted in the proposal that it was evidently intended to initiate negotiations.

The Ambassador said that now that the Germans had actually made a direct approach he felt that it indicated an appreciation on their part that it was necessary that something should be done and he hoped that there would be some result.

The Secretary said that it seemed to him quite impossible to conduct negotiations between the two Governments in a public square, as the public on each side would find it very difficult to support their Governments in making concessions, and that he wondered if it were not possible for the French and Belgians and the Germans to find a practicable way of conducting negotiations to a point of a reasonable adjustment. The Ambassador said he felt that that was very desirable and he hoped that some such way could be found; that the Germans should pay and that there ought to be a solution found.

The Secretary said that he was informed by the American business men who had been in Europe that conditions were ripe for general prosperity, if this matter between France and Belgium and Germany

could only be adjusted. Each party to the controversy could well afford to take a reasonable view because of the great advantage that would accrue to each as soon as a settlement was reached.

462.00 R 29/2804

The German Ambassador (Wiedfeldt) to the Secretary of State

[Translation]

WASHINGTON, June 7, 1923.

MR. SECRETARY OF STATE: The German Government has received different replies from the Allied Governments to its note of May 2nd. In order to avoid everything which might render more difficult the continuation of the interchange of views the German Government considers it should in its counter-reply confine itself to those points on which the Allied Governments, as expressed in their replies, held similar views. Owing to this consideration my Government has instructed me to transmit the enclosed memorandum to the Government of the United States of America.

In doing so, I may remark that the same communication is being made to His Britannic Majesty's Government, to the French Government, to the Royal Italian Government, to the Royal Belgian Government and to the Imperial Japanese Government.

Accept [etc.]

O. WIEDFELDT

[Enclosure—Translation]

MEMORANDUM

1. The German Government after careful and conscientious examination expressed its sincere opinion as to what Germany is able to pay in reparations. The German Government would not act honestly nor bring the problem nearer to its real solution, if, merely in order temporarily to alleviate the political difficulties of the day, it were to promise more than what according to its conviction, the German nation by exerting all its powers is in a position to fulfil.

The question of Germany's capacity to pay is, however, a question of facts about which various opinions are possible. Germany does not fail to recognize that under the present circumstances it is exceedingly difficult to achieve a reliable estimate. For this reason the German Government proposed to accept the verdict of an impartial international body as regards the amount and the mode of payments to be made. A more convincing proof of Germany's will to do reparations is unthinkable. The German Government is willing to produce all material for a reliable judgment on the question of Germany's capacity to pay. The German Government will on demand grant every facility to investigate Germany's state finances

and also give all information desired as regards the economic resources of Germany.

2. The German Government had contemplated the floating of large loans in order as soon as possible to pay the creditor nations large amounts of capital. As long as the floating of loans in large amounts proves to be impracticable, the German Government is also willing to agree to a system of annuities instead of sums of capital.

3. As the Allied Governments lay stress on receiving now already more detailed information as regards the choice and nature of the guarantees contemplated by Germany, the German Government suggests the following guarantees for the accomplishment of the final reparations plan:

a. The state railways with all their constructions and assets to be severed from the other capital of state and to be converted into a separate estate independent as regards its proceeds and expenditures from the general administration of finances, and to be placed under separate administration. The state railways to issue gold bonds amounting to ten billion goldmarks which are to be entered as a first lien on the separate estate bearing 5% interest as after July 1st, 1927, thus guaranteeing an annuity of 500 million goldmarks.

b. In order to guarantee a further annuity of 500 million goldmarks as after July 1st, 1927, the German Government will immediately call upon the entire German economic system, i. e. the industries, banks, commerce, traffic, and agriculture to act as a guarantee which as a first lien amounting to ten billion goldmarks will be entered in the industrial, urban, rural, and forest real estate of Germany. The annuities of 500 million goldmarks will either be raised indirectly by universal taxation comprising also other property or directly only by the mortgaged objects.

c. Besides that the duties on table luxuries and the duties on tobacco, beer, wine and sugar, as well as the proceeds of the monopoly for the sale of spirits, are to be pawned as a guarantee for the annuities. The gross receipts of these taxes and of these duties amounting during the last years before the war to an average of approximately 800 million marks, have however since, owing to the loss of people and territory as well as owing to reduced consumption, declined to one quarter of their former value. But these receipts will, with the recuperation of German economics, rise automatically.

4. Lastly, the German Government considers itself bound to lay stress on the following:

In such a large and complicated question decisive progress cannot be made by written expositions but only by oral intercourse at a conference. Germany's capacity to pay depends on the mode of solution of the entire problem. The method of payment can only be agreed upon in direct conversation with those entitled to receive payment. The establishment of guarantees in their details makes the co-operation of those necessary for whom the guarantees are to

be established. For a solution of these questions oral discussions are necessary.

Germany acknowledges her obligation to pay reparations. The German Government reiterates its request to call a conference in order to agree upon the best mode to fulfil this obligation.

WASHINGTON, June 7, 1923.

462.00 R 29/2804½

*Memorandum by the Secretary of State of a Conversation with
the German Ambassador (Wiedfeldt), June 7, 1923*

The Ambassador called and delivered a note enclosing a memorandum (with English translation of both note and memorandum),²³ dealing with the reparation question. The Ambassador said that the memorandum was intended to be supplementary to the German note of May second; that the endeavor was to avoid anything which would make it more difficult to continue the interchange of views with the Allies. The Secretary read the memorandum and said that he noted the statement in paragraph 4, as follows:

"In such a large and complicated question decisive progress cannot be made by written expositions but only by oral intercourse at a conference. Germany's capacity to pay depends on the mode of solution of the entire problem. The method of payment can only be agreed upon in direct conversation with those entitled to receive payment. The establishment of guarantees and their details makes the cooperation of those necessary for whom the guarantees are to be established. For solution of these questions oral discussions are necessary."

The Secretary said that he had been convinced that the most desirable course was for direct conversations to take place so that the difficulties that existed in the way of settlement should be removed; that it was almost impossible to remove these by exchanging written communications. The Ambassador said that it was the intention to have direct communication with France and Belgium and with England.

462.00 R 29/2815½

*Memorandum by the Secretary of State of a Conversation with
the Belgian Ambassador (Cartier), June 7, 1923*

Occupation of the Ruhr. Reparations.—The Ambassador referred to the matter casually in saying that he understood that some prog-

²³ *Supra*.

ress was being made. The Secretary informed the Ambassador that he had just received from the German Ambassador a copy of the German memorandum which had been delivered to the Allies. The Secretary referred to the suggestion of guarantees which were contained in this memorandum and especially to the significant statement in the memorandum, as follows: "Germany's capacity to pay depends on the mode of solution of the entire problem. The method of payment can only be agreed upon in direct conversation with those entitled to receive payment."

The Secretary said that this was a clear indication that the Germans were desirous to enter into direct negotiations with the French and Belgians and they had gone so far in this memorandum that it did not seem that such negotiations would be destitute of results. The Secretary said that some hope might be entertained and he trusted that there would be direct negotiations to bring about a proper settlement. The Ambassador said he had no word from his Government upon the matter but it was evident from the tenor of the German memorandum that the Germans were "thawing." While the Ambassador did not commit himself, he did not seem inclined to oppose the suggestion that the time was ripe for direct oral negotiations.

462.00 R 296/13½

*Memorandum by the Secretary of State of a Conversation with
the Italian Ambassador (Caetani), June 23, 1923*

German Reparations. The Ambassador said he was about to go to Europe and it would be very helpful to know the attitude of the Secretary with respect to the question of reparations; that he understood what his attitude was and which some Governments took when he made his suggestion for an International Commission of Experts, and he supposed that he entertained the same view.

The Secretary said that, of course, it would be agreeable at any time to have an arrangement made for an adjustment upon a fair and reasonable basis on the outstanding questions; that, however, he was not disposed to think that France was prepared to agree to any plan of examination by an international commission. The Secretary said that he felt that an essential condition of settlement was that the Germans should recognize their obligations; that the German industrialists must feel that they could not rely upon other Governments to aid Germany in evading her just obligations. The Secretary said he had no desire to see a prostrated Germany or a dismembered Germany, but that Germany must recognize the fact that

she was defeated and must pay to the fullest extent of her ability. The Secretary said he thought that the last German note, though unsatisfactory in detail, offered a basis for negotiations. The first thing was the appreciation by the Germans of the fact that they must pay and then that the French should enter into direct negotiations with the Germans, and that demands should be formulated. Public opinion would have a very important influence, because of the state of sentiment at this time, both in Germany and in France. The Secretary said that the American Government did not desire to dictate in any way; that it did not care to make any uninvited suggestions; that it was always ready in every practicable way to use its good offices, but so far as he could see the desire abroad was more that it should become a partisan than that it should be an impartial adviser.

462.00 R 29/2984a : Telegram

The Secretary of State to the Ambassador in Belgium (Fletcher)

WASHINGTON, August 17, 1923—3 p.m.

57. The Belgian Chargé came to see me on Thursday morning, August 16, to ask whether I would be willing to express any views on the subject of the very serious situation which had developed in connection with the Ruhr occupation and the correspondence between Great Britain, Belgium and France. He said that his Government would appreciate any suggestions I might feel free to make, as the position of Belgium was extremely difficult and they were very desirous to obtain a settlement of pending questions.

I told him that I did not wish to make any official statement on behalf of the United States Government at this time, since the parties directly concerned were in correspondence and since no communication had been addressed to this Government requiring its reply. I said, however, that I might say in a personal and unofficial way that this Government viewed the situation with deep concern and earnestly hoped a solution would be found. I told him also that I would speak frankly with respect to my personal views. I said it should be understood by the European Governments that it was idle to attempt, so far as the United States was concerned, to connect the reparation settlement and debts owing to this country. I pointed out that these debts were not within the control of the Executive but of Congress and that Congress would be governed by the dominant public sentiment. I said that there was not the slightest ground for expecting that there would be any diminution whatever in the British debt, which had been funded and further that the American people were not disposed to cancel the debts owing by the continental countries; that the

people here were not disposed to forego their claims in order to facilitate the support of armies and armament in Europe, nor would this Government countenance an arrangement which would be in effect the placing upon our people of the burden of the German indemnity. I said that we regarded the reparation question as distinct from that of the debts. If France were not indebted to the United States, the question of how much Germany could pay, the terms of payment and the matter of securing payment would still be the same. I said that if the reparation question were settled and the peoples of Europe reduced their armaments and set themselves determinedly to establish conditions of peace and stability, it was my opinion that the American people would be disposed to deal generously with the question of debts in the light of the actual condition of the debtors. I said that the immediate question for Europe was the settlement of reparations and that I believed the Belgian Government was in the best position to bring about an accord upon this question. Belgium could hardly escape the injurious consequences if there were disorder and revolution in Germany. On the other hand, the Belgians were the faithful allies of France and understood conditions in England. I said further that I thought this to be a favorable moment. It might be said that until recently the Germans had not shown a willingness to pay, but in the future there might be conditions in Germany which would make impossible any arrangements for payment.

I said I did not consider the reparations question insoluble. Apparently France wanted 26 milliard gold marks, Belgium 5, Great Britain 14 and to this total of 45 there might be small amounts added for other countries. There did not seem to be any insuperable difficulty in determining the amount which Germany could pay. The opinions of experts would not differ very widely on this question. I said also that I thought it should be possible to arrange for the terms of payment and guarantees by pledging the available resources of Germany under some approved supervision, probably of an international character, to insure that the payments were made.

As to the question of frontier security, Poincaré had stated that this did not enter into the reparations settlement, but, assuming that it was a question to be dealt with, France should make a definite and reasonable proposal as to what she wanted. I said that I thought it was a mistake to insist on the termination of passive resistance as a condition precedent to direct discussion. It might well be that a German Government could not stand which would abandon resistance without any assurance of any terms of settlement. I told him that I thought it was unfortunate in a practical discussion to interpose preliminary conditions of a practically impossible char-

acter. I added that I did not think that the results would be secured by public demands for surrender of any of the parties. It ought, on the other hand, to be possible to arrange quietly a basis of agreement as to the amounts of payment and terms of payment and security. When a substantial accord had been reached privately upon these points, the German Government could announce that passive resistance was withdrawn, the French immediately could announce that, in view of this, the military occupation of the Ruhr would be ended and the underlying accord could be made public. I said the situation was too serious to neglect any practicable measures to secure an agreement.

The Chargé said that he wished to telegraph what I had said to his Government and asked permission to return in the afternoon to show me the draft of his message. I said that I should be glad to see it, understanding that what I said was said personally and informally.

In the afternoon M. de Warzée showed me a telegram to his Government, embodying a summary of my statements. It was somewhat briefer than the above but correct in substance and I consented to its transmission.

HUGHES

462.00 R 296/16

The British Chargé (Chilton) to the Secretary of State

WASHINGTON, October 13, 1923.

MY DEAR MR. SECRETARY: I enclose herein an *Aide-Mémoire* recording the communication which I made to you this morning.

I am [etc.]

H. G. CHILTON

[Enclosure]

The British Chargé (Chilton) to the Secretary of State

AIDE-MÉMOIRE

The extremely critical economic position that has arisen in Europe owing to the failure to discover any solution of the reparation problem which, as the political and financial condition of Germany grows worse, becomes daily more acute, is already known to the United States Government through information which reaches America. That unity of thought which either renders common action possible or will be successful in finding an early solution appears to be lacking among the European Powers. During the past nine months a series of proposals have been made by His Majesty's Government to their Allies for meeting these difficulties.

Unfortunately, none of them has met with a sufficient measure of acceptance to result in common action. And yet, failing such action, not only Germany but Europe seems to be drifting into economic disaster.

In the circumstances, His Majesty's Government have for long entertained the belief that the cooperation of the United States Government is an essential condition of any real advance towards settlement. By her position and history America is more disinterested than any of the European Powers. Nevertheless, the solution of the European problem is of direct and vital concern to her if for no other reason than because the question of inter-allied debt is involved therein. In last December when Mr. Hughes made his declaration both Great Britain and Germany made it clear that the proffered assistance would be warmly welcomed by them, and His Majesty's Government has always heartily approved the suggestion whenever it has been revived—a different view has hitherto been taken by the French Government. So far as His Majesty's Government are aware, the sole reason why the proposal has not been proceeded with is this lack of unanimity.

The manner in which, in the opinion of the United States Government, united action which is desired by all, could best be attained, was actually occupying the attention of His Majesty's Government when the morning press of October 11th published a declaration said to have been made by the President of the United States that the opinion of his Government rested on its proposal of last December. This declaration was warmly welcomed by His Majesty's Government who hope that they are justified in inferring from it that America will render the promised cooperation if the European Powers will join in such an enquiry.

If the statement of the President has been rightly interpreted by His Majesty's Government and if they may rely on an encouraging reception being given to such a proceeding, they will not hesitate to invite the immediate cooperation of their European Allies in addressing an invitation to the United States Government to take part in the proposed enquiry by deputing a delegation, either official or unofficial. On the other hand, if although complete unanimity had not been forthcoming in Europe it were nevertheless proposed to hold such an enquiry, could American cooperation still be hoped for by His Majesty's Government and the majority of the Allies? Alternatively, would America still be willing to participate, were it proposed that this enquiry should be entrusted to the Reparation Commission or to some other body appointed by it?

His Majesty's Government, speaking in the name of the whole British Empire as represented at the Imperial Conference now as-

sembled in London, firmly believe that the United States Government has it in its power to render a great service to the security and peace of the world, and it is in this belief that they desire to associate themselves with the renewal of the President's proposal; and any suggestion which the United States Government may be disposed to offer in reply to the questions which Lord Curzon has ventured to put will be gladly received.

[WASHINGTON,] *October 13, 1923.*

462.00 R 296/16

The Secretary of State to the British Chargé (Chilton)

WASHINGTON, *October 15, 1923.*

MY DEAR MR. CHILTON: I thank you for sending me the *Aide-Mémoire* recording the communication which you made to me on the thirteenth instant. I enclose a memorandum recording my reply thereto.

Permit me to add that while, of course, I shall treat your communication as confidential in accordance with your request, it is necessary for me to reserve the right to publish my reply in case the fact of the suggestion of your Government or of my answer should become public, or should be made known to other Powers, and it should be important that the attitude of the American Government should be made clear.²⁴

I am [etc.]

CHARLES E. HUGHES

[Enclosure]

The Secretary of State to the British Chargé (Chilton)

AIDE-MÉMOIRE

In reply to the communication of His Majesty's Chargé d'Affaires, of October thirteenth, the Secretary of State desires again to express the deep interest of the United States in the economic situation in Europe and its readiness to aid in any practicable way to promote recuperation and a re-establishment of economic stability. The Government of the United States has viewed with deep concern the lack, as His Majesty's Government expresses it, of that unity of thought on the part of the European Powers essential to common action. The views of the Government of the United States as to the importance of agreement among the Allies and the relations of the Government of the United States to the questions involved were set forth in the statement of the Secretary of State to which His Majesty's

²⁴ The Department's reply was made public on Oct. 26.

Government refers, and these views are still held. It is observed that His Majesty's Government states that Great Britain and Germany made it clear that the proffered assistance would be warmly welcomed by them, and that His Majesty's Government has always heartily approved the suggestion, then made by the Secretary of State, whenever it has been revived, and that so far as His Majesty's Government is aware the sole reason why the proposal has not been proceeded with has been lack of unanimity among the interested Powers.

It is believed that present conditions make it imperative that a suitable financial plan should be evolved to prevent economic disaster in Europe, the consequences of which would be world wide. It is hoped that existing circumstances are propitious for the consideration of such a plan inasmuch as the abandonment of resistance on the part of the German Government will present a freer opportunity and an immediate necessity for establishing an economic program. The Government of the United States is therefore entirely willing to take part in an economic conference, in which all the European Allies chiefly concerned in German reparations participate, for the purpose of considering the questions of the capacity of Germany to make reparation payments and an appropriate financial plan for securing such payments. It is deemed advisable, however, to emphasize the following points:

(1) Confirming what was said by the Secretary of State in his statement of last December to which you refer, the Government of the United States has no desire to see Germany relieved of her responsibility for the war or of her just obligations. There should be no ground for the impression that a conference, if called, should have any such aim or that resistance to the fulfillment of Germany's obligations has any support. It should be evident that in the effort to attain the ends in view, regard must be had to the capacity of Germany to pay and to the fundamental condition of Germany's recuperation without which reparation payments will be impossible.

(2) Such a conference should be advisory; not for the purpose of binding governments who would naturally be unwilling to pledge their acceptance in advance, but to assure appropriate recommendations by a thoroughly informed and impartial body intent upon the solution of the difficult pending problems upon their merits.

(3) The Secretary of State notes the observation in the communication of His Majesty's Government that the European problem is of direct and vital interest to the United States "if for no other reason because the question of interallied debt is involved therein." The Government of the United States has consistently maintained the essential difference between the questions of Germany's capacity to pay, and of the practicable methods to secure reparation payments from Germany, and the payment by the Allies of their debts to the United States which constitute distinct obligations. In the state-

ment of the Secretary of State, to which His Majesty's Government refers, it was said:

"The matter is plain enough from our standpoint. The capacity of Germany to pay is not at all affected by any indebtedness of any of the Allies to us. That indebtedness does not diminish Germany's capacity, and its removal would not increase her capacity. For example, if France had been able to finance her part in the war without borrowing at all from us, that is, by taxation and internal loans, the problem of what Germany could pay would be exactly the same. Moreover, so far as the debtors to the United States are concerned, they have unsettled credit balances, and their condition and capacity to pay cannot be properly determined until the amount that can be realized on these credits for reparations has been determined.

"The Administration must also consider the difficulty arising from the fact that the question of these obligations which we hold, and what shall be done with them, is not a question within the province of the Executive. Not only may Congress deal with public property of this sort but it has dealt with it. It has created a Commission and instead of giving that Commission broad powers such as the Administration proposed, which quite apart from cancellation might permit a sound discretion to be exercised in accordance with the facts elicited, Congress has placed definite restrictions upon the power of the Commission in providing for the refunding of these debts."

It is hardly necessary to add, as it has frequently been stated by the Government of the United States, that while the American people do not favor cancellation of the debts of the Allies to the United States or of the transfer to the people of the United States of the burden of Germany's obligations, directly or indirectly, the Government of the United States has no desire to be oppressive or to refuse to make reasonable settlements as to time and terms of payment, in full consideration of the circumstances of the Allied debtors. It may be added that the establishment of sound economic conditions in Europe, the serious reduction of military outlays and the demonstration of a disposition of European peoples to work together to achieve the aims of peace and justice will not fail to have their proper influence upon American thought and purpose in connection with such adjustments.

In further reply to the communication of His Majesty's Government it may be said that the Government of the United States is not in a position to appoint a member of the Reparation Commission inasmuch as such an appointment cannot be made without the consent of the Congress. The Secretary of State has no doubt, however, that competent American citizens would be willing to participate in an economic inquiry, for the purposes stated, through an advisory body appointed by the Reparation Commission to make recommendations, in case that course after further consideration should be deemed preferable.

As to the further question, whether American cooperation in an inquiry for the purposes described in the communication of His Majesty's Government could be hoped for in case unanimity of the European Powers could not be had, the Government of the United States must again express the view that the questions involved can-

not be finally settled without the concurrence of the European Governments directly concerned. Other governments cannot consent for them; and it would manifestly be extremely difficult to formulate financial plans of such importance and complexity without the participation of those whose assent is necessary to their fulfillment. In view of the existing exigencies it is hoped that the project of such an inquiry as is contemplated of an advisory nature, might commend itself to all these Powers and that the question suggested will not arise. But if it should arise, through lack of unanimity on the part of the European Powers, the Government of the United States must reserve decision as to its course of action in order that the developments in such a contingency may be fully considered and that course taken which will give best promise of ultimate success in securing the desired end of reestablishing the essential conditions of European peace and economic restoration. To the attainment of that end it may be repeated the Government of the United States desires to lend its assistance in any manner that may be found feasible.

WASHINGTON, *October 15, 1923.*

462.00 R 296/16 : Telegram

*The Secretary of State to the Ambassador in Great Britain
(Harvey)*²⁵

WASHINGTON, *October 16, 1923—2 p.m.*

284. On October 13th the British Chargé d'Affaires made to me the following communication:

[Here follows the text of the British *aide-mémoire* printed on page 68.]

On the 15th I replied as follows:

[Here follows the text of the Department's *aide-mémoire* printed *supra*.]

[Paraphrase.] The British *aide-mémoire* was communicated in the strictest confidence, and only the President and myself are aware of it and of my reply. I said in my reply that while I should treat the British communication as confidential, I must reserve the right to publish the reply should the fact of the British Government's suggestion or of my answer become public or should it be made known to other Powers, and that it was of importance that the attitude of the American Government should be made clear. It

²⁵ On Oct. 23 Ambassador Harvey was instructed to transmit this telegram by mail to the Embassies in Belgium and France; on Oct. 24 to the Embassy in Italy; and on Oct. 26 to the Embassy in Germany.

seems probable that my reply will be communicated to the Imperial Conference. If any developments should come to your notice you will please advise me.

Should the British Government decide to approach the French Government, it is very important that they should do so in a conciliatory manner, and without any statement which would suggest a British-American understanding in advance. My reply to the British communication was exactly the same, of course, as it would have been to any other government making a similar inquiry. [End paraphrase.]

HUGHES

462.00 R 296/21

The British Chargé (Chilton) to the Secretary of State

No. 896

WASHINGTON, October 19, 1923.

MY DEAR MR. SECRETARY: I did not fail to communicate to His Majesty's Government the contents of the *aide-memoire* enclosed in the letter which you were so good as to address to me on the 15th instant, and I now have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to convey to the United States Government an expression of the gratification experienced by His Majesty's Government in learning of their friendly disposition and willingness to help in finding a solution of the present difficult problems.

I am instructed to add that my Government are losing no time in ascertaining whether their principal Allies would be prepared to address to the United States Government an invitation to participate in one or other of the suggested forms of enquiry. I shall not fail to inform you in due course of the result of these enquiries.

Believe me [etc.]

H. G. CHILTON

462.00 R 296/18 : Telegram

The Ambassador in Belgium (Fletcher) to the Secretary of State

[Paraphrase]

BRUSSELS, October 22, 1923—noon.

[Received 7:22 p.m.]

116. This morning I was informed in strictest confidence by the Minister for Foreign Affairs that the British Chargé had given him on Saturday a memorandum to the effect that the reparation question had been closely examined by the Imperial Conference and that everybody was deeply concerned over the seeming deadlock particularly because it was hoped that the abandonment of passive resistance would remove the hitherto existing insurmountable ob-

stacles to united action and become the occasion for new and untiring efforts to find a solution to the problem which could no longer be postponed; that while the Imperial Conference was considering this phase of the case there came a declaration by the President of the United States that our country rested on its proposal of last December; that it did not seem to the Government of Great Britain or to the Imperial Government either courteous or wise to ignore this renewed evidence on the part of the United States of good will and the desire to assist; they recognized, however, that it was extremely undesirable to assume any indication other than that implied by the words of the President. Accordingly the United States had been approached, and they were pleased to note that the United States continued to feel a deep interest in the economic situation which obtained in Europe and was prepared to render any practical assistance in the way of promoting the recuperation and reestablishment of economic stability, that although the United States emphatically repudiated any desire to have Germany relieved of its war responsibilities and just obligations the United States was quite willing to join in an economic conference participated in by all European allies principally concerned with reparations and Germany's capacity to pay and for elaborating a practical financial plan for obtaining payment. From the American point of view this conference should be advisory in character and its object should be to have appropriate recommendations made by an adequately informed and impartial group intent upon finding a solution to the difficult problems set before it on their merits. As an alternative the Government of the United States set forth that if it were deemed fitting that the proposed inquiry should be made by an advisory group designated by Applications [*Reparation?*] Commission to make recommendations it would be willing to have competent Americans participate therein. The Government of Great Britain did not deem it possible to ignore such a generous and helpful offer or to refrain from making it known to their Allies with the hope that the Allies would take careful note of the advantages to be obtained from the cooperation of the United States at this critical time. The Government of Great Britain believes that direct participation is so desirable and so likely to yield excellent results that it hopes that the first alternative will be preferred.

Fearing sudden negative reaction in France the Minister for Foreign Affairs at once instructed the Belgian Ambassador to state that the Government of Belgium deemed the matter worthy of the most careful consideration. However, he was unable to predict how the idea would be received in Paris.

FLETCHER

462.00 R 29/3142 : Telegram

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

[Paraphrase]

PARIS, October 24, 1923—10 a.m.

[Received 4:22 p.m.²⁶]

420. L-19. I am confidentially advised by Meyer, the German Government's Paris reparation representative, that his Government will submit a note to the commission late today in which the commission will be asked to consider German reparation possibilities. The note will be based on a letter addressed to the German Government by the commission on January 26, last,²⁷ in which the commission declined to consider the German Government's request for an [inquiry?], on the general grounds that the action which the German Government had taken at that time in suspending payments and deliveries to Belgium and France made it impossible for the commission to take any action on the German request. The German note today will formally announce the purpose of the German Government to meet its reparation engagements up to the limit of its capacity; according to Meyer this proposal should clear the field for the resumption of consideration of the reparation plan by the commission. The note will also make favorable reference to the plan proposed by Belgium.²⁸ The Belgians filed today a long memorandum with the commission which had been received from the German Government containing the latter's conciliatory [remarks?] on the Belgian scheme.

Delacroix, the Belgian member, expressed some hope that the reparation question would be opened in the commission, an action which would tend to ease German internal position, but France occupies such a dominating position that I have serious doubts that he will be able to stand firm unless he receives strong support from the British and the Italians.

The Italian member of the commission has advised me of his Government's fears in regard to the internal situation in Germany, where bitter feeling is fast developing and a willingness to support Belgium's efforts is forcing consideration of the plan in the commission. The Italians, however, are in doubt regarding the real inten-

²⁶ Telegram in four sections.

²⁷ Not printed.

²⁸ The Belgian reparation plan, a copy of which was transmitted to the Department by Mr. James A. Logan, Jr., American unofficial representative on the Reparation Commission, in a letter of June 15, 1923 (not printed), was not a plan to determine the total amount of Germany's reparation obligations, but was devoted entirely to suggesting sources of revenue which might be utilized for the annuities payable on reparation account (file no. 462.00 R 29/2845).

tions of the French and are convinced that Poincaré is actually committed to a policy of breaking up Germany.

Sir John Bradbury is now in London consulting the British Government. I feel that his personal inclination is that the situation be allowed to develop even to the point of the break-up of Germany, in the belief that the economic consequences will force France later to pass the hat and to accept dictation as to settlement. On the other hand, I know that there is much divergence of opinion in the British Cabinet and I have certain reasons for believing that Bradbury may be instructed to support Belgians and Italians in forcing the opening of a discussion on reparations settlement plan before the commission.

Poincaré's attitude remains unchanged, and he cannot fail to realize that the only result of the present line of conduct will be the break-up of Germany. On October 16 last the German Chargé here called on Poincaré and formally but in secrecy advised him that passive resistance had been suspended, and at the same time requested conversation with the French Government regarding the commencement of work in the Ruhr. Poincaré replied that such a request from the German Government was unnecessary and that the French alone would deal with this question with the German industrials. The Chargé then informed Poincaré that the German Government was prepared to make proposals to the Reparation Commission because it believed that this was what Poincaré wanted. Poincaré replied that such a course as proposed did not interest him; that it was premature to send a note to the commission; and that if Germany did so, he would instruct the French delegate to decline to discuss such proposals until the situation should be reestablished as it was on January 11. In addition Poincaré stated that he would prevent the commission from negotiating directly with the German Government.

The foregoing is the substance of the French and German communiqués concerning the discussion between the Chargé and Poincaré and makes obvious the entirely unreasonable policy followed by Poincaré if he actually expects reparation payments from Germany in the future.

The foregoing is admittedly the situation as it exists today. I feel that the most critical situation will develop on Friday morning, October 26, when the commission will determine the disposition of the German note. French observers close to Poincaré intimate that he and Barthou have stated more or less openly that they would put the German note "in the garage" in the same manner that they had the Belgian plan. If this should happen Friday I can foresee no other result but the break-up of Germany. On the other hand, I feel that the whole situation hangs in such a fine balance that

some mild expression of opinion from Washington might sway it in favor of a constructive line of action. There are ample premises for such an expression of opinion for, apart from the human suffering and the economic and social disturbances that are bound to result from the present French course of action, our own Berlin treaty and the army cost agreement are technically in jeopardy. On premises such as these we are in a position to act constructively in such a way as to appeal to the saner elements in Europe without running the danger of any important criticism. I realize that broad issues are involved which the Department must consider and which may make my suggestion impractical. The Department may rely on my maintaining complete silence here.

Should the Department give my suggestions favorable consideration, the following method would have additionally constructive results: (a) The Department immediately to advise the Belgian, British, French, and Italian Governments through diplomatic channels that the present situation in Germany is causing the Government of the United States great anxiety; that the break-up of Germany would jeopard seriously not only American interests but those of the whole of Europe; that the action of the Reparation Commission on Friday when taking the German plan under consideration will greatly influence the future course of financial rehabilitation in Germany, and that the Government of the United States hopes therefore that the Allied Governments will neglect no [proposal?] of negotiations which would have even the slightest chance of success; or (b) the Department to [issue?] a definite authoritative statement along lines similar to those proposed in (a), which I would be authorized to communicate to the Reparation Commission when the German plan comes up for consideration on Friday. The Department could rely upon my declining to be drawn into any ensuing discussion if I did not have specific instructions.

Suggestion (a) obviates publicity, but it has the disadvantage that the four Allied Governments will not have had time to digest it and to instruct their delegates on the commission before definite action has been taken in the commission, and irreparable injury has perhaps been done to Germany.

Suggestion (b) has the disadvantage that publicity can not be prevented, but it has the advantage that such publicity will in itself focus public opinion on the existing dangerous situation with the result that a serious study of the plan set forth in the German note would be rendered possible in the commission; in my judgment, this would have an important influence in preventing the dissolution of Germany.

Repeated by mail to London and Brussels today. Logan.

WHITEHOUSE

462.00 R 296/49a : Telegram

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

[Paraphrase]

WASHINGTON, October 24, 1923—2 p.m.

393. You will hold in strict confidence the following summary of a conversation between the French Chargé and the Secretary of State on Monday, October 22:

The Chargé stated that two days previously the British had approached the French Government with the suggestion that, in view of the press statement attributed to President Coolidge, the time was opportune to have an economic conference; that the Imperial Conference had had the reparation question under consideration and that it was believed that there existed an opportunity for common action; that it was thought that the declaration of President Coolidge that the Government of the United States rested on the proposal of last December should not be ignored; that in order that the attitude of American Government be not misunderstood the British Government had requested the Government of the United States for a statement of its position and had learned that it was willing to cooperate with the Allied Governments, either in a plan for a conference which would consider the reparation question or, were it thought more advisable, in a committee or other body appointed by the Reparation Commission.

The Chargé said that the Secretary was well aware that M. Poincaré had always been very much opposed to the idea which had been suggested by the Secretary for an inquiry by a commission of experts, chiefly for the reason that he believed that France, under the Treaty of Versailles, had certain rights, and it is of great importance that the treaty be maintained. Nevertheless, in spite of this attitude which he had held consistently all these months, M. Poincaré had not definitely rejected the British proposal; he had instead directed a verbal reply to be made that the British proposal would be considered and submitted to the Council of Ministers, which would meet on October 25. The Chargé said that M. Poincaré had instructed him to ascertain the Secretary's views, and, in particular, to find out if the proposal in question was made on the initiative of the British Government or on that of the United States.

The Secretary asked the Chargé whether the text stating the American position had been given the French Government. The Chargé replied that he did not think that it had, but that the position of the United States had been interpreted by the British Government.

The Secretary said that after President Coolidge at his press conference had made certain informal observations which were published in the newspapers, the British had inquired of the Secretary to ascer-

tain if Mr. Coolidge had been correctly reported and more definitely in regard to the willingness of the United States to participate in an inquiry on reparations along the lines which the Secretary had suggested last autumn and which were stated publicly in December in his New Haven address.

The Secretary said that he had answered the British inquiry in the same manner in which he would have answered an inquiry of similar nature from France or Belgium or Italy or from any other Government entitled to be informed. To avoid any possible misunderstanding, the Secretary had made a statement of the attitude of the Government of the United States that its position was the same as that which had been stated in December last year; that the United States felt a deep interest in the economic situation in Europe and thought that the present time peculiarly opportune to deal with the question, in view of the abandonment of passive resistance in the Ruhr and of the necessity to adopt some financial plan adequate to meet existing exigencies. The Secretary said that he had taken care to lay down certain conditions regarding American participation in an inquiry of the sort suggested. First, he had pointed out that there was no desire to relieve the German Government of its just obligations and that nothing should be done the effect of which would be to stimulate German resistance to the discharge of these obligations, but that there remained the question of Germany's capacity to pay and the means by which payments could be obtained. Next, the Secretary had pointed out that he believed such an inquiry should be advisory and that the Governments should be asked neither to abrogate their functions nor to accept decisions in advance but that a sincere effort should be made to deal with the serious questions now pending on their own merits and to have the best aid possible that could be obtained in reaching a solution. The Secretary then said that he had also referred to the question of the debts which were owed the United States, as he desired that there be no misapprehensions on that point. It was quite clear that sentiment in the United States did not favor cancellation of these debts and that any attempt to compel the United States to forego its claims in advance of a settlement of the reparation problem would be quite idle. The Secretary said that that was to begin at the wrong end; it was quite obvious that if Belgium and France and Italy were not indebted to the United States the question of what Germany could pay and the way in which the payments could be obtained would still remain. The Secretary laid emphasis on the point that the matter of these debts was not in the President's control nor were they the subject of agreements by the Secretary of State acting for the President; that they were in the control of Congress and that Con-

gress alone could deal with the question of terms; that whatever action Congress would take would depend on sentiment in the country, and that at this time there was no overpowering sentiment for cancellation. The Secretary said that in his New Haven speech last December he had expressed the views held on this subject and that that statement continued to represent the views held by the American Government. If, instead of attempting the futile task of obtaining the cancellation of the debts, the European Governments were to proceed to settle their financial matters and to adjust the reparation problem and to give reason to believe that there would be European cooperation in the interest of peace and a reduction of expenses which were unnecessary, a different feeling would be likely to exist in this country; although it was unlikely that there would be any willingness to cancel debts, yet terms, conditions and time of payment could be considered in such a way that consideration would be taken of the actual conditions of the European debtors in the light of what settlements were made. For the reason he had stated, the Secretary said, he could give no definite assurance in the matter. The first thing to do, he felt, would be to settle the reparation question in Europe. He had stated to the British Government that the Government of the United States would be willing to take part in an economic conference in which the Allied Governments chiefly concerned in reparations should participate for the purpose of considering the capacity of Germany to pay and the proper financial plan for obtaining payments. The Secretary had also stated that if it seemed advisable that the inquiry be conducted through a committee invited by the Reparation Commission, competent American citizens, he felt sure, could be found to serve on an advisory committee of that sort.

The Chargé said that M. Poincaré was particularly anxious to know whether the proposal was made on the initiative of the British Government or on that of the United States. The Secretary said that it was made on the initiative of the British, but that this should not lead to a misconception, for the British had been led evidently to take up the matter by the report of the President's interview in which the statement had been made that the Government of the United States was of the same view as expressed by the Secretary last December. It was in the light of this fact, the Secretary repeated, that the British made their request of the American Government and the American Government had thereupon defined its position; and while it might be said that this had been done on the initiative of the British, yet the suggestion had had its origin in the way the Secretary had stated.

The *Chargé* asked whether he might say that the United States supported the British proposal, adding that he would like to be able to say that. The Secretary replied that he gave his earnest support to the proposal that there should be an inquiry for the purposes and in the manner he had set forth; that he was not supporting the proposal as a British measure or because it was British; that it was he, last autumn, who had, in effect, made the proposal, and that it was now being taken up; that the Secretary's answer to the British was, as he had stated, the same that he would have made to the French or the Belgians; that the Government of the United States earnestly supported the proposal on its merits and the Secretary hoped that this would be stated strongly to M. Poincaré.

The Secretary then said that he desired to make use of the opportunity that the *Chargé's* inquiry had given him to stress the importance of making some adjustment at the present time. The situation in Germany was grave; what had been taking place in Bavaria was laden with the greatest difficulties;²⁹ if Germany was to pay reparations there must be a Germany to pay them and if the matter were allowed to go much further reparations would go into the discard and there would be none at all. The French would be left with the Ruhr in their hands and from this they might obtain some political security but no reparation payments, and even the matter of political security might be impermanent, for Germany might in time reunite.

The Secretary then said that he wished to take the liberty to make a few observations on the state of opinion in the United States. It was hardly necessary for him again to express his friendship for France and his desire that she should receive that to which she was justly entitled. Even on the controversial questions which had existed during the past few months opinion had been strongly preponderant in favor of France; but the Secretary desired to observe that opinion would change very quickly if the French, after having won their victory and broken down Germany's resistance, were unwilling to aid in the working out of a financial plan. In view of the conditions existing at present, of which the Secretary hoped M. Poincaré would take immediate advantage, it seemed to him there might soon exist a situation that would prevent absolutely the success of any financial plan.

The *Chargé* said that he had noted particularly what the Secretary had said about doing nothing to stimulate German resistance. He thought that that would be gratifying to M. Poincaré. The Secretary said he wished that to be understood; but, in view of what

²⁹ The Secretary was referring to the movement for the restoration of the monarchy in Bavaria.

had taken place in the last few days, while nothing should be done to promote Germany's resistance to the payment of her just obligations, still some hope ought to be held out so that her solidarity could be maintained; it was the Secretary's view that it was quite possible for the French to go too far. The Chargé said that France needed the reparation payments and that a very serious situation would exist in France if conditions should arise under which France would be unable to obtain reparation payments. The Secretary agreed that this was so and that he thought the situation most urgent.

The Chargé said that should M. Poincaré favorably entertain the proposal, he would probably accept the second alternative, that of having the Reparation Commission institute the inquiry through a committee of experts. The Secretary said that he did not see how it was possible to regard that course of action as inconsistent with the treaty, as the commission was permitted under the treaty to be advised in any way it chose. The Chargé said it was his understanding that Germany was going to bring up the whole subject before the commission and that might render it more easy for M. Poincaré to act in the matter.

I have instructed the Embassy in Great Britain to mail you copies of the memoranda exchanged with the British Government. These memoranda are sent to you in strictest confidence.

Repeat to Embassy in Italy as Department's no. 104 and to Belgium as no. 71.

HUGHES

462.00 R 29/3142 : Telegram

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

[Paraphrase]

WASHINGTON, October 25, 1923—11 a.m.

397. Your 420 of October 24. You and Logan should lose no opportunity to make it clear that the present European situation is causing great anxiety; that it is deemed most important to adopt at once an adequate financial plan based upon the capacity of Germany to pay.

Both you and Logan may indicate informally but earnestly that now that the French Government has maintained its position and passive resistance has been abandoned, it appears that the time has come for a constructive financial policy. To overcome German resistance to payment of just obligations is one thing; to push matters to a point of disintegration where hope of adequate reparation payments will be destroyed is quite another, and in the long run will

prove a futile reliance for French security. Germany's application to the Reparation Commission which can at once undertake an appropriate survey affords an opportunity to call in an advisory body to inquire into Germany's capacity to pay and the best methods of obtaining payment.

Inasmuch as the United States is not represented on the Reparation Commission it is not the Department's intention that Logan make any statement of the foregoing which would be placed upon the commission's records.

You may show Logan Department's no. 393, October 24, 2 p.m., and the text of the Department's communication which the Embassy in Great Britain was instructed to transmit to you by mail.

HUGHES

462.00 R 296/27½

*Memorandum by the Secretary of State of a Conversation with
the French Chargé (Laboulaye), October 26, 1923*

Mr. de Laboulaye said that he had been directed by his Government to inform the Secretary of the reply which the French Government had made to the invitation of the British Government with respect to reparations. It was to the effect that the French Government desired the cooperation of the American Government and had been concerned with the appropriate procedure. The suggestion by the Secretary that American citizens might take part in such a procedure was made visible by the Secretary's recent statement. The French Government had always desired to keep within the limits of the Treaty of Versailles, but that under that Treaty, paragraph 7, Annex II, Part VIII, the Reparation Commission could designate a committee of experts to give their advice and they could ask the cooperation of American experts. The German Government had asked the Reparation Commission to make an inquiry under Article 234 of the Treaty of Versailles and the Reparation Commission was now considering the German proposals. They had also had before them a Belgian plan. It was possible for the Reparation Commission in considering the German request to ask for the advice of experts.

Mr. de Laboulaye in stating the above read from a memorandum but did not leave a memorandum with the Secretary. The Secretary said he had made his position clear in the *aide-mémoire* which had been delivered to the British Embassy and which had been published in the press.³⁰

³⁰ *Aide-mémoire* of Oct. 15, p. 70.

462.00 R 296/24 : Telegram

The Ambassador in Belgium (Fletcher) to the Secretary of State

[Paraphrase]

BRUSSELS, October 26, 1923—noon.

[Received 12:23 p.m.]

125. I have been informed by the Minister for Foreign Affairs that Belgium notified Great Britain that it will accept the second alternative British proposal. Also, that France will accept second alternative without restriction.

FLETCHER

462.00 R 296/28 : Telegram

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

[Paraphrase]

PARIS, October 26, 1923—6 p.m.

[Received 10:01 p.m.³¹]

428. Although a semi-official communiqué was issued here this noon advising that France had already informed the Department that it accepted the formation of a committee of experts containing an American representative I deemed it advisable to give Peretti³² this afternoon the gist of Department's cable 397 dated October 25, 11 a. m. As a reply he read to me the instructions which were sent to the French Ambassador in Great Britain yesterday. These were similar to the ones sent to the French Chargé in the United States to be conveyed to you. He made no allusion to the interview which Laboulaye had with you. Of course, I said nothing. However, he stressed the fact that they had accepted Department's alternative suggestion for a commission of experts to work under the auspices of the Reparation Commission. He added that this was not what Great Britain wanted as they desired a broad commission of inquiry which would practically supersede the Reparation Commission. In order to show the powers of the Reparation Commission he quoted from the Treaty of Versailles. From the manner in which he spoke I have my fears that there may be some difficulty regarding the terms of reference to the commission of experts and that they may not be given the unlimited scope needed for satisfactory results to come from their labors.

WHITEHOUSE

³¹ Telegram in two sections.

³² E. M. J. de Peretti della Rocca, Director of Political and Commercial Affairs. French Ministry of Foreign Affairs.

462.00 R 296/39

The French Chargé (Laboulaye) to the Secretary of State

[Translation]

AIDE-MÉMOIRE

In the answer returned by the French Government to the British Government as to the appointment of committees of experts, reference is made to paragraph 7 of annex II to part VIII of the Treaty of Versailles, which makes it possible to appoint such committees.

Paragraph 9 of that Annex also enables the Commission to hear any evidence and arguments offered by Germany on any question connected with her capacity to pay. That paragraph is an interpretation of that part of Article 234 which says that the Reparations Commission shall from time to time consider the resources and capacity of Germany, *and after giving her representatives a just opportunity to be heard, shall have etc. . . .*

It appears from the foregoing that Germany is not to be represented on the committees of experts but that she may be heard by them and offer every argument in writing which need not be of German origin as it may be neutral or even allied. The experts or groups of experts cannot in any case encroach upon the powers of the Reparation Commission, which are determined by Article 234: it alone may: "extend the date and modify the form of payments such as are to be provided for in accordance with Article 233".

Article 233 provides that in case Germany should fail to discharge her obligations in accordance with the schedule of payments drawn up by the Commission, any balance remaining unpaid may, within the discretion of the Commission, be postponed for settlement in subsequent years.

But the powers of the Commission go no further. It may not cancel any part (Article 234) except with the specific authority of the several governments represented upon the Commission; in addition, as provided by the last part of Article 233 the settlement of any unpaid balance may form the subject of different treatment under such conditions as may be fixed by the Allied Governments; that is to say again that although the Reparations Commission has the right to carry those balances over, it may not cancel any part thereof, as that action is determined by the Allied and Associated Governments.

It appears from those texts that while the Reparations Commission may decide as to the form of payments of the German debt, extend the date of such payments, or modify the form thereof, it cannot cancel any part whatsoever as remissions can only be granted by the unanimous action of the creditor powers.

France will not agree to a reconsideration of the amount of the debt as fixed on May 1, 1921, and will not acquiesce in any remission in the amount of Germany's obligations as fixed by the Reparations Commission on May 1, 1921.

WASHINGTON, *October 29, 1923.*

462.00 R 296/38½

Memorandum by the Secretary of State of a Conversation with the Counselor of the Italian Embassy (Rosso), October 29, 1923

Mr. Rosso said that he had been instructed by Mr. Mussolini to say that the Italian Government had answered the British to the effect that they were willing to have an expert inquiry, as suggested by the Secretary. Mr. Rosso did not leave a memorandum, but stated in general terms the acceptance of the Italian Government without indicating any particular reservations. He also expressed his Government's appreciation of the Secretary's willingness to cooperate.

462.00 R 296/28½

Memorandum by the Secretary of State of a Conversation with the French Chargé (Laboulaye), October 31, 1923

Reparations.—M. de Laboulaye said that he had informed M. Poincaré of his last interview with the Secretary and M. Poincaré seemed to feel that there might be some misunderstanding and that the Secretary might have changed his position to some extent. When M. de Laboulaye first came in (October 26) he had said that M. Poincaré desired to act under the provisions of the Treaty of Versailles, and that the Secretary had acquiesced in that position, but M. Poincaré had some misgivings as a result of what the Secretary had said in his last interview.

The Secretary said that he did not see that there was any basis for misunderstanding. He reminded M. de Laboulaye that he did not yet have the text of the French reply to the communication of the British Government; that M. de Laboulaye had given orally to the Secretary what was understood to be the substance of that reply; that the Secretary understood that M. Poincaré desired to have the committee of experts constituted through the Reparation Commission under paragraph 7 of Annex II, of Part VIII, of the Treaty of Versailles. The Secretary had not objected to this as this would give opportunity for a full inquiry. The Secretary said that it had been well understood from the start that the rights of France under

the Treaty could not be changed without her consent; that this was an obvious fact which it seemed hardly necessary to emphasize. On October 29 M. de Laboulaye had given the Secretary an *aide-mémoire* in which there were references to Article 234 and Article 233 of the Treaty. The Secretary understood perfectly that the Reparation Commission under Article 234 could not cancel any part of the obligations of the German Government except with the specific authority of the Governments represented on the Commission, that is, without the consent of France. It was hardly necessary to go into this as it was apparent that any financial plan that might be recommended by the committee of experts could not affect any rights of France without her consent, but the last sentence of the French *aide-mémoire* of October 29 had given rise to a question because it was stated that France would not accept a revision of the amount of the German obligations. If M. Poincaré meant by this that the inquiry of the experts should be limited so that they could not consider comprehensively Germany's capacity to make reparation payments, the inquiry would be abortive. If, for example, when the experts met together and took up the question of the total amount that Germany could pay and the manner in which the payments of that amount could be secured, the French expert were to take the position that the committee of experts had no power to consider what was the total capacity of Germany to pay the inquiry would be ended and we should all be made a laughing stock. It was one thing for France to have the right to accept or reject recommendations that might be made by the experts; it would be a far different matter, however, if France restricted the inquiry so that it could not have the scope which the Secretary had proposed. This was what the Secretary meant when he said in his last interview with M. de Laboulaye that he hoped that M. Poincaré would put no unnecessary obstacle in the way of obtaining reparation payments; that no reparation payments were now being made and if matters went on as at present there would not be any reparations; and that while France, of course, had her treaty rights and even if they took a position which involved the ruin of all Europe they would still have their treaty rights; it would be a different thing to block an inquiry by which a proper financial plan could be developed.

M. de Laboulaye said that he did not think that M. Poincaré intended to limit the inquiry, but he had desired to proceed under the Treaty and he feared that the Secretary might have changed his mind upon that matter. The Secretary said that he had not changed his mind; that the Reparation Commission had full author-

ity to deal with the question of the total amount of Germany's obligations and to recommend a reduction if they thought it advisable; that this appeared clear from paragraph 13, of Annex II, of Chapter [*Part*] VIII, which provided the rules as to voting in the Commission. It was stated that unanimity in voting was necessary on "the cancellation of the whole or any part of the debt or obligations of Germany." Of course, this inquiry as to unanimous vote would be unnecessary if the Reparation Commission could not vote at all; this clearly showed that the matter could be brought to a vote in the Commission, although no cancellation of the whole or part of the obligations of Germany could be made without a unanimous vote. As the question could be brought to vote, of course the Reparation Commission could consider recommendations; there would be nothing to vote on if there was not a proposal; and if the matter could be brought up in the Reparation Commission by a proposal, of course the Reparation Commission could inform itself fully through a committee of experts, so that a financial plan which could be properly passed upon by the Commission could be formulated.

M. de Laboulaye said that he thought M. Poincaré had the same idea, and that he did not intend to restrict the inquiry of the experts. M. de Laboulaye said that he had understood that what the Secretary desired was to have the experts consider the capacity of Germany to make reparation payments and a financial plan for the purpose of securing such payments as the Secretary had said in his communication, and that he did not understand that M. Poincaré intended to limit the inquiry.

The Secretary said he was glad to be assured of this, as a limitation upon the inquiry would be disastrous and it should be understood that when the French expert took part in the inquiry he would not block the consideration of all the questions that were involved in determining Germany's capacity to make reparation payments. The Secretary said that he supposed if a financial plan were developed by the experts and presented for consideration it would be considered on its merits; that M. Poincaré, as a reasonable man, would consider what was brought up fairly and, while the French Government had the right to give or withhold its consent, it would act in a reasonable manner upon the proposition that might be submitted. The Secretary had understood, of course, that the French Government would not bind itself in advance, but if we were ever to get out of the present serious situation some financial plan must be developed.

462.00 R 296/47 : Telegram

The Ambassador in Belgium (Fletcher) to the Secretary of State

[Paraphrase]

BRUSSELS, November 2, 1923—2 p.m.

[Received 6:45 p.m.]

130. I am informed by the Minister for Foreign Affairs that Belgium on October 31 informed Great Britain that it accepts the text of the joint invitation proposed by Great Britain to be sent to the United States regarding expert commission. He said that this action was taken without consultation with France. Poincaré, he said, was not satisfied with the text, and wished to limit the inquiry to Germany's present capacity to pay, etc. . . . Jaspar says he intends to stand firm because he thinks the limited inquiry which Poincaré desires is useless.

FLETCHER

462.00 R 296/59b : Telegram

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

WASHINGTON, November 6, 1923—3 p.m.

409. Jusserand's conversation yesterday afternoon stated following limitations on inquiry proposed by Poincaré:

First. That inquiry should be limited to present capacity to pay or capacity "within a brief period." I asked what was meant by "brief period". Jusserand did not know. Subsequently Jusserand suggested, in emphasizing important range permitted for inquiry, that experts could take up the entire schedule of payments. I asked whether that was qualified by a limitation of inquiry to capacity to pay within a brief period. To this Jusserand could make no satisfactory reply. I finally told him on this point that I was unable to define what M. Poincaré meant by his limitation; that it was understood of course that treaty rights could not be changed without the consent of the parties and that the inquiry should be wholly advisory and within the scheme of the Treaty, and that if M. Poincaré intended to suggest a limitation upon such an inquiry it should be clearly defined.

Second. Jusserand said that the total amount of Germany's obligations was fixed and could not be changed without the consent of France and that there could be no consent to the experts recommending a reduction of the total. I answered, repeating that treaty rights could not be changed without the consent of France and that I saw no harm in permitting recommendations but that this question was not as serious as the limitation of the inquiry by reference to the capacity to pay within a brief period.

Third. Jusserand said that the inquiry could not deal with the occupation of the Ruhr. I said that it was not that the experts should deal with the question of the legality of the occupation or

with the mere political questions involved but that if it was intended to restrict an inquiry with respect to production in the Ruhr, such restriction would be very serious. The question of the capacity to pay was in substance a question of Germany's productivity and it was quite impossible to consider the capacity of Germany to produce without taking into account production in the Ruhr.

Jusserand is to ask Poincaré for an explication of his attitude. I explained that the United States Government was merely desirous of cooperating in a practicable manner; that it was not the intention to deprive France of payments which she would otherwise be able to get; that apparently there were no reparation payments in sight and there would be none if Germany disintegrated; that even security would not be assured in that event as there might be German unity in the future and France would lose both reparations and security. I pressed Jusserand to know whether M. Poincaré had any economic program and he was unable to state. He continuously stressed the injuries which France had sustained and I dwelt upon the present situation and the importance of some constructive effort. I emphasized the importance in the interest of France herself that this inquiry which seemed the only avenue of hope should not be thwarted.

Repeat to London 330 and Brussels 77.

HUGHES

462.00 R 296/60½

*Memorandum by the Secretary of State of a Conversation with
the French Ambassador (Jusserand), November 7, 1923*

Reparations Inquiry.—The Ambassador called to give M. Poincaré's response to the Secretary's request that he should clarify the limitations that he desired to impose upon the expert inquiry. The Ambassador stated in the first place that M. Poincaré thought the Secretary had given too dark a picture of conditions in Germany; that the Germans were disposed to exaggerate their difficulties in order to escape the payment of reparations; that it was not thought that the situation was so critical with regard to the means at their command as, for example, with respect to their supplies of food. It was, however, admitted that there was a serious condition in Germany.

Replying specifically, the Ambassador said that M. Poincaré meant by his limitation as to the Ruhr that the experts might make inquiry in this region the same as on the left bank of the Rhine provided they observed the clauses of the Treaty. The Secretary said he did not understand this. Were the experts to be allowed to consider the economic questions relating to productivity in the Ruhr? The ques-

tion of production was the essential one. What did M. Poincaré propose with respect to inquiry into conditions of productivity? The Ambassador said that he could not answer that question specifically, but that he would inquire. M. Poincaré had taken a definite position and the Ambassador did not feel that he could go beyond the terms of his instructions. The Ambassador then referred to the paper from which he was reading, (he left no copy or memorandum of this) and said that the experts "could not consider the legality of the occupation nor the system of collection of taxes established by the French nor the guaranties which had been seized nor the agreement with the industrialists." The Secretary asked what agreement had been made with the industrialists. The Ambassador said that he did not know but that it could not be touched. The Secretary asked what was meant by "guaranties seized." The Ambassador said that it was difficult to translate into English; that the French was "gage"; for example, it might refer to a mine that had been taken. The Secretary suggested that the equivalent in English might be "properties seized as security." The Ambassador said he thought that was a correct translation.

With respect to German capacity to pay and the intent of M. Poincaré's limitation as to examination of "present capacity" or "for a brief period", the Ambassador said that the examination of the experts was not to go beyond the year 1930 and that in M. Poincaré's opinion it would probably be necessary before the expiration of that period to have another inquiry. The Secretary said that he understood from that statement that M. Poincaré proposed that any question as to capacity of Germany to pay after 1930 was barred. The Ambassador replied that the experts could examine the balance sheet of German resources, internal and external, including capital in foreign banks, how these resources could be utilized and how Germany could reestablish her financial situation, but repeated that the examination by experts of Germany's capacity to pay was not to go beyond the year 1930.

The Secretary said that he would lay M. Poincaré's reply before the President, but that the Secretary had no hesitation in expressing his personal opinion that the limitation proposed by M. Poincaré would render the inquiry futile for the purpose for which it was designed. The Ambassador said that the period allowed by M. Poincaré was longer than the Ambassador had supposed he would allow. The Secretary said that, on the other hand, he was disappointed. The Ambassador said that M. Poincaré had mentioned this period because it was the period to which reference was made in sub-division (c) of paragraph 13 of Annex II of Part VIII of the Treaty. The Secretary said that whatever M. Poincaré's reason may

have been he imposed a limitation which would defeat the proposal of the inquiry to establish an appropriate financial plan. The Ambassador said that if Germany came back to normal conditions another inquiry would be needed. The Secretary said the point was to restore normal conditions and this required an adequate plan and it would not seem to be appropriate merely to take the periods of great difficulty and make no arrangements for a period that could be considered normal; that this would defeat the very proposal of creating conditions now which would permit recuperation. The Secretary said that while, of course, France must judge of her own interests, he could not refrain from venturing the personal opinion that M. Poincaré was taking a very serious responsibility. This Government was not standing in the way of France securing reparations but there were none in sight; that Germany must be able to resume production; that for this purpose there must be such a settlement as would permit credits, importation of necessary foodstuffs, raw materials, and the element of hope which would permit industry to go forward.

The Ambassador asked what period the Secretary would suggest that the inquiry should cover. The Secretary said that he did not desire any limitation imposed other than those which he himself had suggested, to wit: that the inquiry should be an advisory one; that no Government should be required to surrender in advance any of its rights under the Treaty and could retain fully its rights and accept or reject such plan as might be proposed. The idea of the Secretary was that the French expert could sit with the other experts and they would try to develop a plan which was adequate to meet the exigency. If the plan was a good one, it would go on its merits; if it were not, objection could be taken to it. So long as the inquiry was advisory and the governments were not required to make any commitment in advance which would relinquish their rights under the Treaty there was no reason, so far as the Secretary could see, to hamper the inquiry of the experts, but if M. Poincaré desired to limit the inquiry, it was important that he should point out exactly what limitation he desired. This was the object of the Secretary's inquiry which M. Poincaré had answered and, in view of his answer, the Secretary was bound to say that he thought the restrictions would make the inquiry futile.

The Ambassador said he would communicate again with M. Poincaré. The Secretary said that there would be most insistent demands from the press to know the nature of M. Poincaré's reply and he asked whether he was at liberty to give the substance of it. (The Secretary had taken down the chief points in the presence of the Ambassador.) The Ambassador said he would prefer that

no statements should be made until a definite result had been reached. The Secretary said he would immediately consult the President and he felt that a definite result could be stated, on the basis of what M. Poincaré had said, in a very few minutes. The Ambassador said he would like to communicate with M. Poincaré again and asked that the Secretary postpone making any statement until he had received further word. He said he would communicate with M. Poincaré immediately.

Later. The Secretary then consulted the President, who took the same view of the matter as the Secretary had taken, and, thereupon, the same afternoon, the Secretary called up the French Ambassador and told him of the President's views, confirming what the Secretary had already said.

462.00 R 296/62½

Memorandum by the Secretary of State of a Conversation with the British Chargé (Chilton), November 9, 1923

Mr. Chilton called as the French Ambassador was leaving. The Secretary informed Mr. Chilton of what had taken place in the interview with the French Ambassador. (See memorandum this date).³³

Mr. Chilton asked whether that meant there would be an end to the whole matter. The Secretary said he made no observations except to inform Mr. Chilton of exactly what had taken place. He had nothing to add to it.

462.00 R 296/72a : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*³⁴

WASHINGTON, November 9, 1923—6 p.m.

414. Jusserand today made further statement with respect to limitations which Poincaré desired in proposed reparation inquiry, as follows:

Jusserand said that he understood that France was not isolated and that Belgium was standing with her.

That Poincaré felt that the period of seven years was as far as the inquiry should go.

That with respect to the Ruhr, the experts would be free to calculate resources, the value of establishments and industrial plants and productive power; and that such an inquiry would be quite useful.

³³ Not printed; Department's telegram no. 414, Nov. 9, to France, printed *infra*, summarizes the memorandum.

³⁴ The same telegram was sent, with omission of last sentence, to the Ambassador in Great Britain as no. 332 and to the Ambassador in Belgium as no. 78.

I said that I understood that Poincaré insisted that the examination of the experts should not go beyond the year 1930. Jusserand said that this was correct. I asked whether with respect to the Ruhr Poincaré still held as stated by Jusserand at last interview, that the experts could not consider legality of occupation, nor system of collection of taxes established by the French, nor the guaranties seized, nor the agreement with industrials. The Ambassador said that this was correct. I then said that in communication to the British of October 15th, in which the attitude of the United States Government was fully set forth, it was stated that present conditions made it imperative that a suitable financial plan should be evolved to prevent economic disaster in Europe, that it was with this object that an expert inquiry had been suggested with respect to the crucial question of reparations; that the purpose was to consider the questions of the capacity of Germany to make reparation payments and an appropriate financial plan for securing such payments; that the inquiry was to be wholly advisory and none of the governments was to be required to commit itself in advance, the object being to secure appropriate recommendations. I said that the question was not whether an inquiry with the limitations upon which Poincaré insisted would be useful for any purpose, but whether it would serve the purpose in view, that is, to aid in the development of a suitable plan which would permit economic recuperation in Europe.

I told Jusserand that in the opinion of this Government the limitations insisted upon by Poincaré would frustrate the purpose of the inquiry suggested in my communication of October 15th.

Have stated the substance of above to the press.

Repeat to Rome as Department's 112.

HUGHES

462.00 R 296/66 : Telegram

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

PARIS, November 10, 1923—7 p.m.

[Received November 11—2:10 p.m.⁸⁵]

460. Following is translation of a letter just received from Poincaré.

"I was about to request you to come once more to speak with me concerning the question of convening a committee of experts to study the German situation when I read in this morning's newspapers that your Government had taken a decision in the matter declaring that an inquiry by a committee of experts which took into consideration Germany's capacity to pay only during a period terminating at the end of 1930 would be a vain endeavor and without any use whatever.

⁸⁵ Telegram in two sections.

I wish to emphasize at once how much I regret that in spite of the very complete and in my opinion very precise explanations which I gave to our Ambassador at Washington and which were exposed to you by me and my collaborators the United States Government should not have been disposed to take part in the investigations of a committee of experts whose duty it would be to study Germany's capacity to pay for a limited period. You have well understood that it was impossible for me to go beyond limits fixed by the treaty of peace and you have read the communiqué which I had published in the press yesterday to make our position clear. In specifying a period of six years I had gone to the farthest limit permitted by the treaty but in my opinion the experts could not even see as far ahead as that. I consider in fact that the present situation of Germany does not permit anything but the evaluation of her present capacity, that is to say the evaluation of capital, riches, resources as stated in the treaty which she possesses abroad as well as within her frontiers, resources which we all know are dissimulated and hidden, and then the study of the manner in which a part of these resources can be transferred to the account of reparations without preventing Germany from emerging from the situation in which she has voluntarily placed herself.

There again the experts would have had to give to Germany absolutely precise instructions upon the reforms necessary in order to reestablish her financial situation and stabilize her exchange. That task alone appears formidable to me. The Reparations Commission has in vain attempted to accomplish this during the past five years. She [*It?*] has constantly run up against the ill will of the German Government which has never shown it any but falsified statistics. To eradicate [*sic*] a plan of payment even for six years when it concerns a country which possesses neither credit nor money is in my opinion absolutely vain; on the contrary if Germany made the effort which we all expect of her and if the experts had a task to dictate to her, if her currency found once more a purchasing power abroad, and if Germany could once more find credit after having brought about at home the necessary reforms, it would be easy to prepare a plan of payment covering a relatively extended period for one would have a basis upon which to work; it is that basis which is absolutely missing at the present moment.

But the American Government does not even accept this period of six years which I myself consider impossible to attain; what does it wish then? To evaluate the total capacity of Germany to pay for an indefinite period is equivalent to diminishing the total sum due by Germany for reparations in [*by?*] indulging in calculations which rest upon absolutely no basis and contrary to the wishes so squarely and so friendly affirmed to M. Jusserand by Mr. Hughes himself.

You know that I share your desirè to see established between the United States and Europe and particularly France close cooperation. We are profoundly touched by the sincere friendship of which you have given us so many proofs; we know your acute sense of political necessity as much American as French. I have done all I can to respond to those sentiments. I wish that you could be convinced thereof and I hope that you may convince President Coolidge and the Secretary of State. I know that they are animated towards

France with the same sentiments of affection as you [yourself.] And I have not lost hope of seeing the day arrive when they will realize that we have no other object in maintaining peace in Europe but to lead it to this economic development which the United States themselves desire."

My 459, November 10, noon.³⁶ The Foreign Office informs me that it has just received a telegram from Jusserand stating that negotiations with you regarding commission of experts were at an end.

HERRICK

462.00 R 296/66 : Telegram

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

WASHINGTON, November 12, 1923—6 p.m.

415. Your 459, November 10, noon,³⁶ and 460, November 10, 7 p.m.

I stated in Departments 414, November 9, 6 p.m., the exact results of negotiations. Nothing has been done since. Negotiations have ended only in the sense that I told Jusserand that in the opinion of this Government the limitations insisted upon by Poincaré would frustrate the purpose of the inquiry suggested in my communication of October 15th.

It should be borne in mind that question arose over scope of invitation proposed to be extended for American participation in inquiry of experts. While the terms of this invitation were under consideration by Allies, Jusserand was instructed to advise me of limitations imposed by Poincaré. When these were defined I stated our position as above.

It is not desired that you should go into any diffuse discussion orally or in writing which would obscure situation now well understood by public. In this view I think it best to make a brief answer to Poincaré's letter and avoid any invitation to controversial correspondence.

Accordingly you may answer Poincaré's letter, as follows:

"I have not failed to inform my Government of your letter of blank date and I am directed to reply that the position of my Government, as stated in the *Aide-Memoire* handed to the British Embassy at Washington on October 15th in reply to their communication, and since published and made available to your Government, remains unchanged. This position has been re-stated in the conversations which have taken place between the Secretary of State and Ambassador Jusserand.

It was made clear that the proposed inquiry was to be wholly advisory and that no government was to be asked to make commitments in advance but would be free to accept or reject the recommen-

³⁶ Not printed.

dations which might follow the inquiry. With this understanding, my Government has hoped that the experts would be left free to develop for the consideration of the respective governments a comprehensive financial plan with respect to reparations which might aid in averting economic disaster and in re-establishing the essential conditions of European peace and economic restoration. The experts themselves would be in a position to judge of the practicable extent of such a plan and any recommendation they might make could be considered on its merits.

My Government has regretfully been compelled to reach the conclusion that the limitations which you have proposed with respect to the inquiry would frustrate this purpose, and this was the opinion expressed to Ambassador Jusserand. I can assure you that your friendly sentiments are most cordially reciprocated.

Accept, Sir, etc. etc."

HUGHES

462.00 R 296/87 : Telegram

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

[Paraphrase]

PARIS, November 28, 1923—4 p.m.

[Received November 29—12:26 a.m.³⁸]

481. L-40. 1. The following draft resolution has just been handed to me by Barthou³⁹ who proposes to present it to the commission on Friday.⁴⁰

"In accordance with the provisions of article 234 of the Treaty of Versailles, with a view to studying the resources and capacity of Germany, and after having given their countries' replies a just opportunity to be heard, the Reparation Commission decides to create two committees of experts chosen exclusively among the Allied and Associated Powers.

One of these committees would be charged with seeking means of balancing Germany's budget and measures to be taken in order to stabilize its currency.

The duty of the other would be to try to find means of estimating the capital which has escaped from Germany and forcing this capital to return."

2. Barthou approached me informally in regard to the representation of the United States on the proposed committees. I told him I had no authority to discuss the matter. Also that it seemed to have been covered by the recent negotiations in Washington. I did, however, express my willingness to cable the Department informally and unofficially such views as the Reparation Commission cared to offer. I asked, in order to prevent the possibility of a misunder-

³⁸ Telegram in five sections.

³⁹ Louis Barthou, French representative on the Reparation Commission.

⁴⁰ Text of resolution not paraphrased.

standing, that the views be put in writing. I have just received the following letter from the Reparation Commission.⁴¹

"I wish to tell you again how much the presence of American experts on the proposed committees would be valued by French opinion—it desires and it awaits it. The Government with the unanimous approval of the Chamber gave a significant manifestation on Friday last in favor of the union of the Allies. The sacrifices consented to by France to realize this union deserve the most serious attention of the American Government. The formula which I communicated to you is only the exact application of the treaty itself. Whatever may be the opinions of the experts these will be expressed in a consultative capacity only and they will not bind the Reparation Commission where your position will remain entirely untrammelled. But the designation which you might consent to make of one or of several American experts for the task which I spoke to you about would have the happiest effects on the solution of the reparation problem. We are in an hour of relaxation and the atmosphere is favorable. You know how earnest are my hopes of seeing Bradbury accept this formula which he and I have already discussed. With the designation of one or more American experts the chances of success will be decisive. Excuse me for insisting. Am writing you as French delegate but I assure you that the peace of the world enters to the highest degree into my preoccupation. Signed, Louis Barthou."

3. Bradbury who is now in England has telephoned that his Government is impressed with the possibility of reaching a practical result under the Barthou formula. He is ready to support it provided (1) American members participate therein and (2) if Americans participate it will be understood that the Reparation Commission is acting solely on its own responsibility, Great Britain reserving the right to take any action deemed necessary independently of Reparation Commission if events so warrant. Bradbury says that Great Britain is about to request through diplomatic channels the sympathetic support of the United States.

4. Terms of reference to the first committee under Barthou formula are exceptionally broad. Barthou [*Bradbury?*] is prepared to support Barthou formula provided he has some definite assurance from Barthou as to the scope of the inquiry. Bradbury and I were advised by Delacroix that he would not attempt to limit the scope of the inquiry of the committee. He did not believe that the French representative could join in a proposition to reduce the capital reparation charge. Barthou said that he had given this to Delacroix and Bradbury as his confidential and definite assurance. It was his hope that this would prevent any debate on this feature when the

⁴¹Text of letter not paraphrased.

commission meets next Sunday. Any debate on this feature would so far as French internal politics are concerned make the position of Barthou and Poincaré impossible. This informal assurance is satisfactory to Bradbury who is acting accordingly.

5. Delacroix has just written me as follows: ⁴²

"I wish to insist in the interest of peace and of a definitive agreement that an authorized American agree to sit on the committee of experts. I am strongly convinced that, in view of the tendency to secret methods and the present dispositions of the various governments, the committee of experts will prosecute its work to a successful conclusion and that its opinion will have an enormous influence in the *rapprochement* of the various points of view, but it is well understood that the Reparation Commission will not be bound by this opinion and the governments even less; it will only be an opinion the responsibility for which will devolve solely upon its signatories."

6. I have been advised informally by the Italian delegate that he will support the Barthou formula under the following conditions, namely, that Belgium, France, and Great Britain are in agreement, and that American representation is highly necessary if committee is actually set up.

7. I fully appreciate the difficulties of the United States, considering the failure of the Washington negotiations in the matter of expert committee. Conditions here are tense. . . .

8. Four courses it seems to me are open to the Department.

(1) To let commission know that Department will not send any representatives on general grounds that terms for proposed committees do not meet conditions announced by the United States at the time of the failure of the recent Washington negotiations (while the formula proposed by the representative of France together with his confidential assurances—see paragraph above—largely cover the difficulties heretofore experienced in the Washington negotiations, the confidential assurances of the representative of France cannot be given to the public).

(2) To accept the invitation and name representatives. This course would probably have to be abandoned on premises set forth in (1) above.

(3) To pick out certain qualified Americans and allow me confidentially and informally to suggest their names to the delegates. Then the commission could formally invite them to become a part of the committees. In this way the American representatives would have no official connection with the Government of the United States.

(4) To permit me informally to notify the commission that although our Government can take neither official cognizance of the

⁴² Text of letter not paraphrased.

proposal nor suggest the names of Americans to be designated by the Reparation Commission, it would not object were the commission in its discretion to obtain the attendance of any Americans which it might choose on its invitation.

9. Please instruct me as soon as possible regarding any action I am to take. The question will be raised very shortly in the commission, and I believe it desirable that I make clear informally our Government's attitude before the commission acts on the committee question. Logan.

HERRICK

462.00 R 296/87 : Telegram

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

[Paraphrase]

WASHINGTON, November 30, 1923—8 p.m.

436. This is for you and Logan and is in reply to your 481, November 28, 4 p. m., L-40, and your 482, November 29, 4 p. m.⁴⁸

Department must have clear understanding of the precise situation. This Government cannot commit itself on indefinite proposals.

1. Department has received nothing from Poincaré since time of Secretary's last conversation with Jusserand. Refer to Department's 414 dated November 9. We cannot regard Barthou's statements as changing attitude of Poincaré since they appear to be vague, personal, and informal. If the French Government wishes in a confidential way to inform us of the proposed enlarged scope of inquiry, it could do so in the same way it informed us of the limitations which Poincaré intended to propose.

2. Department has heard nothing from the British Government. The last information we had from Harvey indicated that consideration of French proposal would be postponed until the British elections were over.

3. This Government has no invitation of any kind before it.

4. Two questions seem obvious. First, what precisely is the proposal? Second, what can be done in view of it? The Department cannot answer question two until question one is answered.

5. From the practical standpoint it would be difficult to proceed under an undefined secret authority. Naturally, experts want to know the extent of their authority, and if important American men were to take part in such an inquiry, obviously they must know what the inquiry was about before giving their consent.

⁴⁸ Latter not printed.

6. Refer to Logan's suggestions in his L-40, paragraphs 7 and 8. It would be impracticable to have American experts confidentially named without the support of the Government of the United States. They would not lend their services without the approval of this Government. Knowledge of that fact could not be concealed from the public. In any case this Government did not intend to designate technical experts to make the inquiry. It merely intended that if invitations were issued to American experts it would indicate its acquiescence in the acceptance of these invitations. Before any plan could be put into effect the matter of the invitations would necessarily have to be considered by the Department.

7. The question that must be met is whether Americans are to participate in the inquiry or not. This must be decided from the point of view of Poincaré's last statements to the Department. These were oral but definite and have not been modified or withdrawn.

8. Apparently Department has nothing upon which it can act. Obviously other Governments or their members on the Reparation Commission cannot expect this Government to give its acquiescence, when all it has before it is some vague whispered suggestion. We are unable to state our position until the respective Governments or the Reparation Commission have defined their position and have developed some plan which we can intelligently appreciate.

PHILLIPS

462.00 R 296/95

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

[Paraphrase]

PARIS, December 6, 1923—3 p.m.

[Received 3:30 p.m.⁴⁴]

496. L-44. In reply to your 436⁴⁵ I desire to invite your attention to the following considerations. Refer to paragraphs 1, 2, and 7. The reason why you received no information from the French Foreign Office was that the present committee proposal was intended to be a new and independent proposal coming from the commission itself acting in accordance with sovereign powers delegated by article 234, hence the conversations were conducted between the commission and the several governments directly and not between any two or more governments. This is the reason why France has not communicated with you. Nor has France communicated with Great Britain.

⁴⁴ Telegram in four sections.

⁴⁵ *Supra*.

Refer to your third paragraph. Formal invitations have not been transmitted. Only the cordial but preliminary invitations have been transmitted through Department, since the Reparation Commission desires to arrive at a plan which will be suitable to the Department before it sends the formal invitation. It does not desire to send a formal invitation which would not be acceptable. If proposal below appears to be adequate, Department will receive an official invitation immediately.

Refer to your fourth paragraph. I received today the following note from Barthou which defines the scope and objectives of the work of the committee. Latter without doubt will be unanimously approved by the delegates. If you so desire it can be incorporated in the formal invitation.⁴⁶

"Paris, December 5th, 1923. My dear Mr. Logan: I have just had a conversation with our colleague, Monsieur Delacroix, upon the observations which you have exchanged. In order to give you more definite information and to clear up points which might leave doubts in your mind, we desire to furnish you with more precise details.

The first committee of experts will endeavor to find (a) the means of balancing the budget, (b) the measures to be taken to stabilize the currency. Concerning the stabilization of the currency the experts would be invited first of all to determine the conditions to be realized in order that a currency could be stabilized and then the measures to be progressively taken so as to realize all of these conditions.

As the stabilization of the currency necessitates budget equilibrium the experts would similarly be invited to study in detail the receipts and the expenditures of the Reich as well as of the different states.

The Reparation Commission would ask the experts to give it in all sincerity their professional opinion on the questions submitted to them.

Monsieur Delacroix and I hope that it may lead your Government to acquiesce in the acceptance of invitations by American experts to participate in the labors of the committees. Furthermore, if you accept this suggestion, I am quite prepared to submit it to the Reparation Commission. (Signed) Louis Barthou."

Refer to your fifth paragraph. This note eliminates all elements of secrecy. Its terms are broad and it permits unrestricted expert advice with regard to every detail of German receipts and expenditures. It permits the necessary steps to stabilize the German mark. It certainly permits the discussion of any relevant subject. Among these is the volume of German indebtedness which inevitably must be important. It eliminates absolutely the past controversy over the word "actuelle". It also omits every restriction to any set period of years to which the inquiry shall be limited.

⁴⁶ Quoted note not paraphrased.

The French realize the breadth of this plan. This is shown by the fact that Barthou informally has advised that the representatives of France might disassociate themselves from a plan to reduce Germany's debt although they will make no attempt to bar the discussion of the same. It is my understanding that Bradbury communicated this to the British Foreign Office. If the question of reducing the capital debt comes up, this might result unless during the discussion the French delegates were convinced in a minority and majority checked committee.

Reference to your paragraph 6. Department's statement that it was not intended to have United States designate technical representatives on the inquiry commission but instead should merely indicate its acquiescence in the acceptance of invitations by the American experts decided upon by the commission accords with my understanding of your views. The Reparation Commission understands your statement in the same way and it represents the action that they would like to see you take.

Reference to your paragraph 8. The position of the Reparation Commission is now developed, and if the foregoing formula is agreeable formal action will be taken including commission's official invitation.

The drafting of the formula has been very difficult because of conflicting points of view between the British and French. For this reason the formula is necessarily somewhat general in its terms. In connection with this the first note which Barthou sent was so indefinite that I told Delacroix that I personally thought it to be so vague as not even to justify the expense of cabling. The result was that the note quoted above was immediately substituted. The general atmosphere is such that an additional modification of the formula, not to involve any specific reference to the reduction of the capital debt, could be obtained if the Department were to indicate its desire. Logan.

HERRICK

462.00 R 296/99

The German Ambassador (Wiedfeldt) to the Secretary of State

WASHINGTON, December 7, 1923.

MR. SECRETARY OF STATE: Under instructions received from my Government I have the honor to inform Your Excellency as follows:

The Reparations Commission having decided to appoint two Commissions of which one to examine German capital abroad and the other the financial situation and currency conditions of Germany, the German Government is of the opinion that through the proceed-

ings in the latter commission important progress could be made towards the solution of the problems underlying economic recovery. My Government holds the view that this aim can only be achieved if the United States cooperates in said Commission.

It would therefore be much appreciated by my Government, if the Government of the United States were to agree to the participation of an American expert in said Commission.

Accept [etc.]

DR. OTTO WIEDFELDT

462.00 R 296/95 : Telegram

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

WASHINGTON, December 11, 1923—4 p.m.

455. For Logan. L-19. Your 496, December 6, 3 p.m. L-44.

You may reply at once to Barthou as follows:

"I have not failed to inform my Government of your letter of December 5th. My Government is deeply interested in the economic recuperation of Europe and is gratified to learn of the proposal for the establishment by the Reparation Commission of two committees of experts for the purposes stated. My Government notes the statement in your letter that the first committee of experts will endeavor to find (a) the means of balancing the budget of Germany, and (b) the measures to be taken to stabilize its currency; and that to this end the experts will be invited to determine the conditions to be realized in order that a currency can be stabilized and the measures to be progressively taken so as to realize all of these conditions, and also that they will be invited to study in detail the receipts and expenditures of the Reich as well as of the different States.

It has been made clear in our interviews that the Government of the United States is not in a position to be represented on these committees, but my Government believes that the proposed inquiries will be of great value and it views with favor the acceptance by American experts of invitations to participate in the work of the committees.

It is hoped that through these committees practicable and just solutions of the pending problems may be found." Signature, et cetera.

You may ask Barthou to incorporate the statement of his letter as to first committee of experts in invitation, and at the proper time you may suggest that the invitation for participation of American expert should be extended to General Charles G. Dawes. Suggestion as to second committee will be made later.

Obtain, if possible, Barthou's consent to the publication of his letter December 5th and your reply as above. Should be published simultaneously in France and United States at earliest possible moment because of deep general interest. Suggest publication Thurs-

day morning 13th, if no objection is made. This however does not include mention of Dawes for the present unless discussion here makes publication necessary. This Government hopes that proceedings of Reparation Commission may be expedited so that invitation to Dawes can be made at an early day.

HUGHES

462.00 R 296/100 : Telegram

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

PARIS, December 12, 1923—7 p.m.

[Received 7:37 p.m.⁴⁷]

505. L-49. Reference our L-48.⁴⁸

First. As indicated fifth paragraph our L-42 November 30,⁴⁸ each power will have three representatives, two on first committee, one on second; therefore in addition to Dawes two other Americans must be invited by commission. Commission will extend no invitation to Americans without your acquiescence. As a matter of fact none of others will be designated by their Governments but will act as participating on invitation of Reparation Commission. In this connection venture suggestion that name Owen Young be seriously considered. Reference to his possible designation has appeared in European press and all commission delegates have informally expressed the hope he be designated. . . .

Second. On account of French internal political situation, delicacy of both Poincaré's and Barthou's position vis-à-vis terms reference proposed committees must be appreciated.

As emphasizing this, Barthou's conduct throughout the negotiations has been on broad plane that commission acting independently under sovereign powers conferred by treaty and he advises delegates that while Poincaré kept informed all his actions not necessarily consulted in advance. While I presume cautionary advice on foregoing account unnecessary to American committee, appointees nevertheless feel that these gentlemen should be warned that it is absolutely essential for successful outcome of inquiry that they be very guarded in any public utterances they may make as to work of committees before reaching Paris and sensing position for themselves.

Third. View British political situation Bradbury advises me that he will perhaps be forced to make some change in his provisional

⁴⁷ Telegram in two sections.

⁴⁸ Not printed.

list nominees reported our L-42. However will be of the same caliber and Bradbury himself going to London shortly to make definite arrangements. No information as yet regarding French, Italian and Belgian nominees except Francqui, Belgian. Hope by tomorrow to cable definite indications names [of] probable nominees.

Fourth. Reference my L-48. Have arranged with Barthou to release his letter December 5th⁴⁹ and my reply as per your L-19⁵⁰ on December 13 at 11 o'clock a.m. to European press under caption quoted my L-48. Other delegates have been furnished copies and have arranged release same their own press same hour. Logan.

HERRICK

462.00 R 296/117: Telegram

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

PARIS, December 20, 1923—4 p.m.

[Received December 20—2:57 p.m.]

528. L-60. First. All the individual delegates of powers represented on Reparation Commission have just informed me that it is their intention to extend a unanimous invitation to Harry M. Robinson, President of First National Bank, Los Angeles, to sit on second committee experts provided Robinson willing to accept. Delegates request me to ascertain whether Robinson will accept. They ask me to inform Robinson confidentially that his associates on this committee would be: Great Britain, McKenna; France, Atthalin; Italy, Alberti; and Belgium, Janssen; and that first meeting this committee would be held in Paris on or about January 10th, 1924. Delegates request no publicity be attached to invitation because if Robinson accepts, as all hope he will, commission will make immediate public announcement in same form as in case of Dawes and Young pending plenary meeting commission when formal invitation would be extended. Request earliest possible reply.

Second. Ambassador and I feel that, inasmuch as Robinson's name has been unanimously proposed by all the delegates like those of Dawes and Young without initiative or knowledge their part and constitute such a signal honor, that under no circumstances should Robinson decline.⁵¹ Logan.

HERRICK

⁴⁹ See telegram no. 496, Dec. 6, from the Ambassador in France, p. 102.

⁵⁰ *Supra.*

⁵¹ On Dec. 22 the Department informed Mr. Logan that Mr. Robinson had accepted (file no. 462.00 R 296/117).

462.00 R 296/122 : Telegram

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

[Extract]

PARIS, December 21, 1923—6 p.m.

[Received 11:50 p.m.]

535. L-62. First. At plenary meeting commission this morning, December 21st, on motion president commission formal invitations were extended to Dawes and Young to become members of first committee. In addition, on motion of president of commission, Dawes was invited to accept chairmanship first committee. Invitations to Dawes and Young couched in following language modified as herein-after indicated in case of Dawes to cover commission's offer chairmanship first committee:

"Reparation Commission, December 21, 1923. The Reparation Commission at a meeting held on the 30th ultimo unanimously adopted the following decision:

'In order to consider in accordance with the provisions of article 234 of the Treaty of Versailles the resources and capacity of Germany and after giving her representatives again opportunity to be heard, the Reparation Commission decides to create two committees of experts belonging to the Allied and Associated countries. One of these committees would be entrusted with considering the means of balancing the budget and the measures to be taken to stabilize the currency, the other would consider the means of estimating the amount of exported capital and of bringing it back into Germany.'

The commission has the honor to invite you to participate in the work of the first committee above mentioned."

In Dawes' letter following words add to above: "and accept the chairmanship of it." In Young's letter following words add to above: "and will be happy to learn of your acceptance."

In view of the fact that Barthou's letter December 5th ^{51a} and my reply December 12th ⁵² as to scope of inquiry had been formally recorded on the minutes of the 411th meeting of commission, dated December 14, and also published in the press deemed unnecessary to recite its terms in text invitations extended to individual Americans.

HERRICK

462.00 R 296/129

The Secretary of State to General Charles G. Dawes

WASHINGTON, December 27, 1923.

MY DEAR GENERAL DAWES: Colonel Logan telegraphs that the first committee, of which you are a member, will meet at the Hotel

^{51a} See telegram no. 496, Dec. 6, from the Ambassador in France, p. 102.

⁵² See Department's telegram no. 455, Dec. 11, p. 105.

Astoria, Paris, on Monday, January fourteenth, and that the second committee will meet at the same place on Monday, January twenty-first. Colonel Logan also suggests that you cable formal acceptance direct to Reparation Commission upon receipt of Reparation Commission's cable.

Very sincerely yours,

CHARLES E. HUGHES

462.00 R 296/129

The Secretary of State to Mr. Owen D. Young

WASHINGTON, December 27, 1923.

MY DEAR MR. YOUNG: Colonel Logan telegraphs that the first committee, of which you are a member, will meet at the Hotel Astoria, Paris, on Monday, January fourteenth, and that the second committee will meet at the same place on Monday, January twenty-first. Colonel Logan also suggests that you cable formal acceptance direct to Reparation Commission upon receipt of Reparation Commission's cable.

Very sincerely yours,

CHARLES E. HUGHES

462.00 R 296/139 : Telegram

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

PARIS, January 8, 1924—4 p.m.

[Received 7:47 p.m.]

7. L-73. Dawes and Young releasing following statement to press, 5 p.m. today, European time:

"The American experts have up to this time made no statement of any kind to the press. Whatever they have to say now and hereafter will be by formal statement.

They have been invited by the Reparation Commission to sit as members of an expert committee which is asked to develop facts and make certain suggestions. The American experts come as private citizens without instructions and without the obligation of making reports except to Reparation Commission. They have no preconceived plans, simply hoping that in the plans developed by others they may be of assistance.

There is one statement, however, which they have no hesitancy in making at this time and without consultation, they assume that it represents the sentiment of all members of the committee as well as public sentiment everywhere, to wit: that time is an essence of this situation, that the committee is a business committee concerned with facts and constructive inferences to be drawn from them, that their

work should be conducted with all possible expedition and that there should be daily and continuous sessions. Signed Charles G. Dawes and Owen D. Young”.

Logan
HERRICK

AGREEMENT BETWEEN THE UNITED STATES AND THE GOVERNMENTS OF GREAT BRITAIN, FRANCE, ITALY, AND BELGIUM IN REGARD TO THE REIMBURSEMENT OF THE COSTS OF THE AMERICAN ARMY OF OCCUPATION, SIGNED MAY 25, 1923⁵³

462.00 R 294/119a

*The Secretary of State to the Assistant Secretary of the Treasury (Wadsworth)*⁵⁴

WASHINGTON, February 19, 1923.

[SIR:] In connection with your Mission to Paris to meet with representatives of the Allied Governments in order to discuss questions relating to the reimbursement of the costs of the American Army of Occupation in Europe, I desire to set forth the following points for your information and guidance.

GENERAL POSITION OF THE UNITED STATES

The general position of the Government of the United States in the matter, as set forth in notes dated March 22 and 23, 1922,⁵⁵ (exhibits 1 and 2 respectively) which were addressed to the Governments of Great Britain, France, Belgium, Italy and Japan, is indicated by the following extract from the note of March 22:

“The Government of the United States believes that its right to be paid the actual cost of its army of occupation *pari passu* with the cost of the armies of the Allied Powers is not only a clearly equitable right but is free from any technical objection.”

The French Government replied on March 28, 1922,⁵⁶ in part as follows (exhibit 3):

“I hasten to inform Your Excellency that the Government of the Republic has never had any intention of contesting the right of the United States to be as fully reimbursed for their costs of occupation as the other Governments with troops on the Rhine.”

⁵³ For previous correspondence, see *Foreign Relations*, 1922, vol. II, pp. 218 ff.

⁵⁴ Exhibits mentioned in this document are not printed; as far as possible, reference has been made to previous volumes of *Foreign Relations*. Also the minutes of the meetings of the Reparation Commission, of which typewritten copies had been transmitted to the Department, are not printed.

⁵⁵ See telegrams no. 90, Mar. 20, and no. 92, Mar. 22, 1922, to the Ambassador in France, *Foreign Relations*, 1922, vol. II, pp. 220 and 224.

⁵⁶ Not printed; see telegram no. 139, Mar. 29, from the Ambassador in France, *ibid.*, p. 225.

The British Government replied on April 7, 1922,⁵⁷ in part as follows (exhibit 4) :

"I am anxious to lose no time in assuring Your Excellency that the claim put forward by the United States Government that these expenses should be reimbursed to them is one which His Majesty's Government would not in any circumstances desire to question. It would be impossible to do so without an indifference to manifest considerations of justice and without a failure to recognize the part played by the United States in the war and in the subsequent occupation such as I am confident that your government would not think of imputing to His Majesty's Government. It is the earnest desire of His Majesty's Government that means should be found with as little delay as possible to give practical effect to the desires of the United States Government."

The Department of State was advised in a telegram dated April 8, 1922,⁵⁸ of the Belgian Government's reply in part as follows (exhibit 5) :

"I hasten to inform you that the Belgian Government has never entertained the idea of questioning the right of the United States to reimbursement for its expenses of occupation."

The reply of the Italian Government under date of May 15, 1922,⁵⁹ contained the following passage (exhibit 6) :

"I have the honor to inform you that the Royal Italian Government, not having participated with its own forces in the occupation of the Rhine territory, has never contested the right of the United States to such a reimbursement."

On May 18, 1922, (exhibit 7) the French Minister of Foreign Affairs addressed a note to the American Embassy at Paris⁶⁰ suggesting that a meeting of the representatives of the Allied Governments should be held to examine the question of reimbursement of the costs of the American Army of Occupation, and to "endeavor to find the measures susceptible of giving satisfaction to the request made by the Embassy of the United States".

On June 4, 1922,⁶¹ the Department instructed the Embassy at Paris to reply in part as follows (exhibit 8) :

"The Government of the United States notes with gratification the action taken by the French Government with a view to arriving at a prompt settlement of the question of the reimbursement of the costs of the American Army of Occupation."

⁵⁷ See telegram no. 174, Apr. 10, from the Ambassador in Great Britain, *ibid.*, p. 228.

⁵⁸ *Ibid.*, p. 228.

⁵⁹ *Ibid.*, p. 230.

⁶⁰ *Ibid.*, p. 229.

⁶¹ *Ibid.*, p. 231.

On November 8, 1922, the diplomatic representatives at Washington of Great Britain, France and Italy handed to the Secretary of State a memorandum ⁶² stating in part as follows (exhibit 9) :

"These Governments have already indicated their willingness to find a practical means of meeting the desires of the United States Government in this matter, so that it does not seem necessary at present to subject the reasoning contained in the United States notes to a detailed examination."

The reply to this memorandum under date of November 22, 1922,⁶³ (exhibit 10) stated that the Government of the United States welcomed the suggestion that it nominate a representative to confer in the matter, and advised them of your designation to meet with their delegates in Paris.

In a further communication under date of November 29, 1922, (exhibit 11) the United States Government inquired concerning the date upon which it was proposed that the meeting should take place. In response to this inquiry the American Ambassador at Paris was informed on January 24, 1923, that March 1 had been suggested as the date for the conference (exhibit 12). A telegram from the Ambassador under date of February 10, 1923,⁶⁴ stated that he would notify the Conference of Ambassadors on February 14 that the date of March 1 was agreeable to this Government.

It thus appears from the record that, although the Allied Governments have not necessarily accepted all the considerations on the strength of which this Government has justified its right to receive payment of these costs, they have nevertheless accepted the general contention of this Government. The note from the French Foreign Office, (exhibit 3) which is cited above, admits specifically the right of the United States "to be as fully reimbursed for their costs of occupation as the other governments with troops on the Rhine". Although the replies from the other governments are less specific than the reply of the French Minister of Foreign Affairs, this Government nevertheless feels warranted in assuming that none of these governments disputes the right of the United States to treatment on an equal footing with them.

In view of the foregoing it does not appear necessary or desirable that you should discuss in any way the question whether the actual costs of the American Army of Occupation shall be met, or should enter into any consideration of any so-called technical questions that may be alleged to exist as to the right of this Government to be paid the actual costs of its Army of Occupation *pari passu* with the

⁶² *Foreign Relations*, 1922, vol. II, p. 232.

⁶³ *Ibid.*, p. 233.

⁶⁴ Not printed.

other Governments concerned. If, however, it should be necessary for you to decline to discuss these questions, you should make it clear that your attitude is due to the fact that the Government of the United States is unwilling to enter into any argument as to the legality or equity of a claim which it regards as established and recognized, and not to any fear that its position is weak, or possibly untenable. The object of the forthcoming conference as understood by this Government, is to consider practical means by which the just and admitted claim of the United States may be satisfied.

AMOUNT OF CLAIM

So far as the Department of State is informed, there is no disposition on the part of anyone to question the figure of the claim of the United States. As a matter of fact, as you will observe from the figures contained in the letter of this Department to the Secretary of War dated November 17, 1922, (exhibit 13) and in his reply of November 22, 1922, (exhibit 14) the amount of the claim of the United States as of April 30, 1922, to wit, \$254,122,738.98, converted into gold marks at the rate of 23.821 cents per gold mark, gives a total of 1,066,801,305 gold marks, or only 27,305 gold marks in excess of the figure appearing in the records of the Reparation Commission as of the same date. You will also note that the Secretary of War perceives no objection to adopting as a basis of discussion the figure reported by the Reparation Commission.

According to the statement of the War Department, a copy of which is enclosed (exhibit 15), it appears that the net balance due to the United States on this account as of October 31, 1922, is \$255,235,825.75. It is understood that you have received informally from the War Department a detailed analysis of the items entering into this figure.

The Department has no information of the amount due to the United States as reported by the Reparation Commission as of October 31, 1922. You are instructed, however, to accept the figures of the Reparation Commission, if the difference between them and those of the War Department is no greater proportionately than the discrepancy above mentioned, as of April 30, 1922.

You should endeavor to obtain from the respective governments formal recognition of the amount of the claim of the United States as of October 31, 1922, or any later date for which definitive figures may be available, and in addition obtain their approval of a procedure for determining upon the balance due to the United States subsequent to October 31, 1922, or such later date as may be agreed upon.

The Department has telegraphed to Mr. Boyden⁶⁵ requesting the latest figures available from the Reparation Commission, and asking for an explanation of the discrepancy between the War Department's figures and the figures of the Reparation Commission as of April 30, 1922. Mr. Boyden's report will be communicated to you separately if it is received prior to your departure.

THE QUESTION OF ALLOWING INTEREST ON THE CLAIM OF THE UNITED STATES

On December 5, 1921, the British delegate on the Reparation Commission submitted a memorandum to the Commission stating that, in connection with the repayment of unpaid balances due to the British Government on account of its Army of Occupation in Germany for the period to May 1, 1921, "His Majesty's Government is of opinion that it is entitled to be credited with interest for the period from 1 May 1921, until payment, on the amount of the claim outstanding, and that the rate of such interest should be five per cent per annum."

The memorandum from which the above passage is quoted, together with comments by the members of the Finance Service of the Reparation Commission, is given in Annex 1224ab of the Reparation Commission (exhibit 16). A memorandum by the Finance Service sent to the General Secretary of the Reparation Commission, which is quoted in the above mentioned Annex, points out that:

"In so far . . .⁶⁶ as the costs of the Armies of Occupation have been met by Germany, no interest can be claimed from her and the question of interest to be credited to Great Britain for the deficit of her Army costs at May 1, becomes an arrangement between all the Powers entitled to reparation since Germany has no debt towards the Allies as a whole for these costs. The deficit with regard to Great Britain is balanced by the surplus of deliveries over Army costs received by other Powers; further, payments and deliveries allotted to countries who have no armies of occupation could, if the Reparation Commission so decided, be employed to meet the deficit."

So far as the Department is informed, the Reparation Commission has taken no action on the memorandum submitted by the British Government.

In the communication which Mr. Boyden addressed to the Finance Ministers on March 10, 1922,⁶⁷ (exhibit 17) he stated, under instructions, that "the Government of the United States expects to obtain

⁶⁵ Roland W. Boyden, American unofficial representative on the Reparation Commission.

⁶⁶ Omission indicated in the Secretary's letter.

⁶⁷ See telegram no. 71, Mar. 9, to the Ambassador in France, *Foreign Relations*, 1922, vol. II, p. 218.

full payment of the costs of its Army of Occupation with interest from May 1, 1921."

Mr. Boyden was instructed to present this claim for interest, in view of the fact that the British Government had presented a similar claim. However, in case the other Governments should not insist upon their claims for interest, and provided that the United States should receive assurances of a prompt and satisfactory settlement of its claim, this Government would not be disposed to insist upon the payment of interest. In case the right to the receipt of interest should be recognized in favor of any Government, the United States obviously would similarly be entitled to receive interest, and, in such event, the United States could not waive its right to receive interest without specific authorization by the Congress. Suitable reservation on this point, should it arise, should therefore be made.

GERMAN WAR MATERIAL COMING INTO THE HANDS OF THE AMERICAN ARMY EAST OF THE ARMISTICE LINE

As the American Army advanced into Germany following the armistice some material having non-military value came into its possession. This material has not yet been definitely evaluated, and Mr. Boyden has been instructed to study the matter and to submit to this Department his recommendations as to what in his judgment appears to be the fair value of the material in question received by the American Army.

The October Accounting Annex of the Reparation Commission (exhibit 18, form J-1) charges the United States Government with a provisional amount of 59,491,000 gold marks under this head. However, as indicated in the preceding paragraph, no definite valuation has yet been placed upon this material. Besides, this Government has not accepted in principle that the fair value of this material be charged to it on army costs account.

Article 250 of the Treaty of Versailles (exhibit 19, page 112) provides that, "There shall be credited to the German Government, against the sums due from it to the Allied and Associated Powers for reparation, the value, as assessed by the Reparation Commission, . . . ⁶⁸ of the material handed over in accordance with" the armistice agreements, "for which, as having non-military value, credit should in the judgment of the Reparation Commission be allowed to the German Government."

Inasmuch as this Government has taken the position that receipts from Germany should be applied on the Army cost accounts of the respective powers, with priority over any other application, it appears

⁶⁸ Omission indicated in the Secretary's letter.

equitable that the Government of the United States should admit the fair value of the material in question as a charge on its Army cost account on an equal footing with the other powers concerned. Accordingly, you should inform your colleagues at the appropriate time that the Government of the United States is disposed to accept in principle a charge on its Army cost account of the fair value of the material in question as this value may subsequently be determined, such determination to be made in accordance with principles to be agreed upon by and equally applicable to the governments concerned.

POSITION OF THE UNITED STATES WITH RESPECT TO PAYMENTS MADE
TO DATE BY GERMANY

The note of March 22, 1922, (exhibit 1) contains the following passage:

"In the Treaty of Versailles, in undertaking to place 'a first charge upon all the assets and revenues of the German Empire and its constituent States,' (Article 248) priority was given to the total cost of all Armies of the Allied and Associated Governments in occupied German territory from the date of the signature of the Armistice Agreement."

As explained fully in this note, the Government of the United States considers that it has a sound legal and equitable claim, on an equal footing with the other Governments concerned, to payment of its actual army costs with priority over other payments by Germany. This Government feels warranted in assuming, as indicated above, that none of these Governments is disposed to question the right of the United States to be as fully reimbursed as they with respect to its army costs.

It appears from Forms K and N of Part 2 of the Monthly Accounting Annex, October, 1922, (exhibit 18) that the Reparation Commission had received up to October 31, 1922, 1,776,474,755.89 gold marks in cash (including 143,445,153 gold marks in Treasury Bills), and 3,352,846,317.47 gold marks in kind, a total of 5,129,321,073.36 gold marks.* The foregoing figures refer to liquid deliveries and do not include the value of state properties in ceded territories, whose total value as indicated on page 3 of the above mentioned accounting annex is 2,553,905,000.00 gold marks. According to figures given in Form H of the same accounting Annex, the total gross cost of armies of occupation from the armistice until October 31, 1922, amounted to 4,098,264,513.02 gold marks; the net cost in this period, deducting receipts in paper marks, amounted to 3,493,100,052.16 gold marks

* The figures given above do not correspond with those appearing on page 3 of the accounting annex, which relate only to sums placed to the credit of Germany. [Footnote in the original.]

(these figures include costs of the American army only up to July 31, 1922).

It is clear from the foregoing, therefore, that the Government of the United States has a right to look for repayment of American army costs to the countries that have received from Germany total payments in excess of their respective Army costs.

Leaving out of account deliveries in kind received from Germany, and considering receipts in cash, it appears that of the total of approximately 1,776,474,755.89 gold marks, only a portion, namely, 780,655,955.32 gold marks, has been allocated on army cost account as follows: 637,924,570.63 gold marks to the British Empire; 142,562,767.80 gold marks to France; 5,038.70 gold marks to Italy; and 163,618.19 gold marks to Belgium.

It should be added in this connection that the so-called Spa coal advances to facilitate the rehabilitation of Germany whose total amount is understood to be 392,216,256.13 gold marks, have been ranked ahead of army costs by virtue of the Spa Protocol of July 16, 1920⁹⁹ (Exhibit 20). The Government of the United States has not recognized the validity of this arrangement, and in this connection your attention is invited to the reservation made by Mr. Boyden on August 5, 1920, which is quoted below.

With respect to cash payments, however, it is the view of this Government that the United States should have received practically the entire amount of its claim out of the cash payments already made by Germany and strictly applicable to Army costs. It appears from Form J-1 in the above mentioned Accounting Annex that, of the cash receipts aggregating as stated above, 1,776,474,755.89 gold marks, there has been allocated to the payment of army costs only 780,655,995.32 gold marks, leaving 995,818,760.57 gold marks which have been diverted to purposes other than the payment of army costs.

According to Form J-1 the total balances due on Army cost account as of October 31, 1922, (July 31, 1922 in the case of the United States), amounted to 1,237,484,127.08 gold marks, of which amount 1,010,258,960.98 gold marks was due to the United States; 68,061,267.33 to the British Empire; and 159,163,892.77 gold marks to France. This would seem to show that the army costs of the British and French Governments are not fully paid, but in this connection it should be pointed out that the British Government has been charged with cash receipts in respect of the Spa coal advances in the amount of 93,871,074.72 gold marks, and the French Government with 238,771,510.81 gold marks. If the amounts charged to the British Empire and to France on account of the Spa coal ad-

⁹⁹ See telegram no. 1465, July 29, 1920, from the Chargé in France, *Foreign Relations*, 1920, vol. II, p. 403.

vances had not been included, these Governments would clearly have been overpaid on army cost account, instead of having credit balances.

I may say for your further information that the Government of the United States has fully protected its position with respect to the repayment of its army costs by repeated statements and reservations as appropriate occasion arose. Without undertaking to recite these statements and reservations completely, I may outline briefly some of the more important statements made in this connection.

On November 24, 1919, Mr. Henry White made the following statement at a meeting of the Supreme Council:

"The United States, therefore, has always understood that it is entitled to be reimbursed the exact cost of maintaining all its military forces in German territory or in the several plebiscite districts since November 11th, 1918, until finally withdrawn.

"While there have been many conferences on this subject and while the matter has been previously discussed in the Supreme Council, no representative of the United States Government has ever agreed to nor has had any authority whatever to agree to any other position or view.

"If it be considered that the cost of the United States forces in any of the occupied territory or plebiscite districts 3,000 miles from their base, is greater or will be greater than is desirable, nevertheless, it will be recalled that the Associated Powers have repeatedly requested the United States Government to consent to their use for this purpose. If the Associated Powers deem it to their interest to reduce the cost of the Armies of Occupation, it would appear to be preferable to request the United States Government to decrease its military representation rather than to resort to financial expedients the legality of which might well be questioned."

On August 5, 1920, Mr. Boyden, in connection with the proposal that certain advances to Germany in connection with the Spa Protocol of July 16, 1920, should be conceded priority over other obligations due from Germany, made the following declaration⁷⁰ which was placed in the Minutes of the Reparation Commission (Minutes No. 73, page 5):

"In view of the arrangements between the Powers concerned as to the priority to be afforded to their advances under the terms of the Spa Protocol, the United States Unofficial Delegate makes no protest or reserve, merely pointing out that these decisions, to which the United States is not a party, do not affect the position of the United States. With respect to the costs of the United States Army of Occupation, he adds that the United States obviously understands and expects that it will be reimbursed in cash for the actual cost, and that it will be notified at once if its Army is not wanted on these

⁷⁰ See telegram no. 1507, Aug. 5, 1920, from the Chargé in France, *Foreign Relations*, 1920, vol. II, p. 417.

terms. In this connection, he refers to the letter of the American Delegation to the O. C. R. C. dated November 28th 1919 and its accompanying Memorandum."

In connection with the distribution of cash payments received by the Reparation Commission, further reservations with respect to the position of this Government were made, in part as follows.

On June 28, 1921, in connection with a discussion before the Reparation Commission of the proposed payment of about 130,000,000 gold marks on account of British Army costs, Mr. Boyden made a statement which is quoted as follows from the Minutes of the Reparation Commission of that date (Minutes No. 202, page 11):

"3. Mr. Boyden had hoped before this to be able to make a definite statement as to the position of his Government, but had not received instructions. Every one understood, however, that the United States expected to receive the full cost of its Army of Occupation, and it was obvious that it would at least expect to share concurrently with other countries in any distribution of cash available."

On July 8, 1921, the British delegate, Sir John Bradbury, stated (Minutes No. 205, page 9) that he was "quite prepared, on behalf of his Government, to accept payment upon the understanding that the sum paid should be subject to any claim which the United States Government might subsequently establish against it, as fully as if it had remained in the hands of the Commission." On July 15, the French representative, M. Mauclère, in connection with a discussion as to whether France as well as Great Britain was still entitled to payment on account of her army costs up to May 1, 1921, stated (Minutes No. 208, page 6):

"It was besides quite understood that if these accounts showed France had a right to a certain part of the sum actually available, she gave the same undertaking with regard to the position of United States Government, when the situation of the latter became clear, as that given by Great Britain at the last Meeting."

On July 30, 1921, in connection with a discussion before the Reparation Commission of the allocation of the billion gold marks received from Germany during the summer of 1921 under the Schedule of Payments, the greater part of which it was proposed to pay to Belgium, Mr. Boyden (Minutes No. 210, page 29) "wished to refer to a reserve he had already made in connection with any possible rights which the United States Government might have in any of the resources to be distributed by the Reparation Commission, and he understood that the Belgian Delegation would be prepared in that connection to accept the same stipulations as those previously accepted by the British and French Delegations." The Minutes of this meeting state that "M. Delacroix repeated in exactly the same terms and with

exactly the same scope the assurance given by Great Britain and France."

At this same meeting, in connection with a discussion between the British and French representatives, the British representative made a reserve to the effect that the priority of army costs lay against payments from Germany under the Schedule of Payments. The Belgian Delegate stated as follows:

"The Belgian Government formally declared itself responsible for such sums as might be due by it in respect of the cost of the armies of occupation which had been borne by one of its Allies before May 1st, 1921."

Mr. Boyden also stated that any arrangement for provisional transfer of these funds to Belgium "would have to be subject to the reserve which had already been made by Sir John Bradbury." Sir John Bradbury stated that he understood that "Belgium would make herself responsible for any payments due to any other powers arising out of the priority in respect of the costs of the armies of occupation".

The following was the decision of the Reparation Commission:

"1. That the sums received up to and including July 31st, 1921 by the Reparation Commission in virtue of the Schedule of Payments with the exception of those in pounds sterling, francs and lire:

"2. That the sums to be paid over by Germany up to and including August 31st, 1921 in virtue of the same Schedule of Payments, would provisionally be allocated and handed over to Belgium; that was to say, that Belgium undertook to hand over any sums which might be in excess of its final allocation to any of the other Allied and Associated Powers which might be entitled thereto either on account of repayment of the costs of the Armies of Occupation before May 1st, 1921 or on any other account."

Commenting on the foregoing Mr. Boyden wrote to the Department of State as follows on August 1, 1921:⁷¹

"This decision is subject to all possible reserves. Belgium will get the money but if later accounting or decisions show that she is not entitled to keep any part of it, she will have to adjust the account. It is, of course, subject to all rights of the United States as in the case of the payment made to England."

During August, 1921, the Finance Ministers of Great Britain, France, Belgium, Italy, together with the Japanese representative on the Reparation Commission, met⁷² to consider various questions including the distribution of payments received from Germany. Article I of the chief of the three agreements signed at this meeting contained the following provision:

⁷¹ Letter not printed.

⁷² At Paris, Aug. 8-13.

"The governments signatory to this agreement agree to share as set out below the sums received or to be received from Germany on Reparation account by way of giving effect to priority of payment in respect of the Armies of Occupation and to the Belgian priority.

"(1) Out of the sum of 1 milliard gold marks to be paid by Germany before the 31st August, 1921 under the Schedule of Payments the British Empire will receive the sum necessary to cover the costs of her Army of Occupation up to the 1st May 1921.

"Belgium will receive on account of the priority which has been accorded to her the sum remaining out of the 1 milliard in question after the above allocation in favour of the British Empire."

"(3) Pending the definite determination by the Reparation Commission of the amount due to the British Empire in respect of the costs of its Army of Occupation incurred prior to 1st May, 1921, a sum of 450 million gold marks will be paid on account to the British Empire in virtue of the present decision."

This agreement, however, never went into formal effect, because of failure of ratification by the French Government, but it is understood that the distribution contemplated was provisionally made, subject to the rights of the United States.

Meanwhile, pursuant to a decision of the Supreme Council of August 13, 1921, a Commission on which Mr. Roland W. Boyden and Major General Henry T. Allen sat unofficially on behalf of the United States, met, and as a result of its deliberations presented a report with regard to the reimbursement of army costs since May 1, 1921. In this report calculations were included with respect to reimbursement of the actual costs of maintaining the American Army of Occupation, *pari passu* with those of the other Powers concerned. The report of this Commission to the Supreme Council, it had been supposed, would be referred to the Conference of Ambassadors (the Supreme Council not being likely to meet for some time), and it was thought that this report might pave the way for suitable action with respect to reimbursement of American army costs, both current and accumulated. However, the Government of the United States learned with surprise in February, 1922, that it had been proposed, in connection with discussions at and following the meeting at Cannes in January of that year,⁷³ that new arrangements apparently were to be substituted for the recommendations of the above mentioned Commission, which arrangements entirely ignored the army costs of the United States, notwithstanding the fact that at that time calculations were being made, both with respect to army costs and Reparation payments, that would absorb the entire paying capacity of Germany. Therefore, in view of this situation,

⁷³ See *Foreign Relations*, 1922, vol. I, pp. 384 ff.

when the Government of the United States learned that it was proposed at the meeting of the Allied Finance Ministers in March, 1922, to make further arrangements with respect to payments received from Germany without taking account of the rights of this Government, it was deemed advisable that action should be taken, and Mr. Boyden was instructed to inform the Finance Ministers of the claim of the United States. On March 10, 1922, under instructions from the Department, he presented the following memorandum to the Finance Ministers (exhibit 17):

"I have this morning received a cable from Washington instructing me to point out to you that the United States Army costs up to May 1, 1921, amount to approximately \$241,000,000. The Allied Governments, with the possible exception of Great Britain, have received army costs in full up to May 1, 1921, and the English army costs are apparently to be met in full in connection with the present arrangements. In view of the foregoing, the Government of the United States expects to obtain full payment of the costs of its Army of Occupation, with interest from May 1, 1921, before any part of German payments is distributed for reparations or other purposes.

"With reference to current costs I am requested to state that the Government of the United States will insist upon full payment, but that, if assurance of payment is received, it anticipates no difficulty in arranging the practical details of making the payment."

To this communication the Finance Ministers replied ⁷⁴ in part as follows (exhibit 22):

"We have given this communication our most careful consideration, and enclose herewith the text of the arrangement signed today ⁷⁵ at Paris. A special article has been inserted in this document to meet the considerations set forth in the Memorandum you have sent us.

"While thus safeguarding the rights of the United States of America, however they may be defined later, we consider that, since our decisions are adopted by virtue of the Treaty of Versailles, to which the Government of the United States is not signatory, the question which you refer to us concerns our respective Governments and must be the object of communications directly addressed to the Allied Governments by the Government of the United States of America, through diplomatic channels."

The Agreement signed by the Finance Ministers in March 1922 ⁷⁶ (Exhibit 21), which the Department understands has been ratified by the respective Governments, provided (Article 8) for the allo-

⁷⁴ See telegram no. 119, Mar. 14, 1922, from the Ambassador in France, *Foreign Relations*, 1922, vol. II, p. 219.

⁷⁵ Mar. 11, 1922.

⁷⁶ For text of agreement, see Great Britain, Cmd. 1616, *Reparation (1922): Financial Agreement between Belgium, France, Great Britain, Italy, and Japan, Signed at Paris, March 11th, 1922.*

cation of 500,000,000 gold marks to Great Britain and 140,000,000 gold marks to France on account of the army costs of those countries prior to May 1, 1921. Article 13 of this Agreement is as follows:

"The present Agreement is made subject to any rights of the United States of America."

On April 6, 1922, an instruction was telegraphed to the American Ambassador at London, of which the following is a paraphrase:

"The discussion of arrangements for the payment of accumulated army costs should proceed only on the basis of an unequivocal recognition of the right of the United States Government to be paid both accumulated and current army costs on an equal footing with Allied Governments. It should not be difficult to arrange reasonable terms if this right is admitted. This Government desires that suggestions as to settlement should come from the Allied Governments, but in order to aid you in conversation which may lead to such proposals from them, the following points may be noted:

"Germany has made cash payments, since May 1, 1921, of more than 1,400,000,000 gold marks, or almost enough to pay the balances due on that date for army costs, which according to Reparation Commission accounts amounted to about 1,660,000,000 gold marks. Not taking account of the large deliveries in kind made to the Allied Governments, the entire claim of the United States as of May 1, 1921, should have been met out of the cash payments strictly applicable to army costs. While this Government does not desire to be over-exacting, and wishes to take account of all circumstances and especially the payment of interest by Great Britain on her debt, it feels that it should participate to a substantial extent in cash payments already made by Germany. In view of what the other Powers have already received, it would not seem too severe to ask that the United States should have, out of the payments made heretofore, not less than 300,000,000 gold marks; 100,000,000 gold marks of this amount should be paid immediately and the rest during the next two years, as the Allies might arrange. It should then be understood that in whatever cash payments may be made hereafter by Germany, the United States should proportionately share until the army costs of the United States are paid in full. Until army costs are fully liquidated, the Government of the United States feels that not less than one-half of such cash payments should be applied to army costs, preference being given to the Powers whose costs have not been paid in full and in proportion to their unpaid claims. These suggestions are made merely to facilitate discussion, and are tentative and informal."

This instruction was also communicated subsequently to the American Ambassador at Paris and to Mr. Boyden, who were authorized to discuss the question informally with the representatives of the Allied Governments. The Department has been advised that no definite indication of the attitude of those Governments has been

given on the strength of the informal discussions that have taken place.

With reference to the position to be taken by you at the forthcoming conference in respect of the cash payments thus far made by Germany, it is my opinion, as indicated above, that the United States should share in these payments, but in view of the agreement recently reached by the World War Foreign Debt Commission with the British Government with respect to the refunding of the indebtedness of Great Britain to the United States,⁷⁷ and furthermore, in view of the present critical economic and financial conditions in Europe, I am inclined to feel that a modification of the above quoted proposal in a sense somewhat more favorable to the European Governments concerned may be made. For example, an agreement could be reached to the effect that with reference to payments heretofore received by the other Powers (to which I referred in my telegram of April 6, 1922, indicating that it would be fair for the Government of the United States to receive 300,000,000 gold marks out of these payments), the United States should receive not less than 50,000,000 gold marks in the near future, say on June 1, 1923, and further sums to make up the balance of the 300,000,000 gold marks in question in successive annual installments of 50,000,000 gold marks yearly.

It should be clearly understood, however, that in consenting to such an arrangement, the United States does not, in any way, release the other Governments concerned from the obligation to reimburse it for the full cost of its army of occupation out of the payments received from Germany strictly applicable to army cost account that, subject to the reservation of the rights of the United States, have been diverted to other purposes, and that any such arrangement is contingent upon satisfactory settlement of the claim of the United States as a whole.

POSITION OF THE UNITED STATES WITH RESPECT TO THE DISCHARGE OF THE BALANCE OF ITS CLAIM

As stated above, in view of the rights of the United States and of the over-payment by Germany of [to] other Governments in respect of their army costs, the Government of the United States looks to them to arrange suitably the payment of its claim, and considers that it would be appropriate at the forthcoming conference if the representatives of the other Governments concerned should make suitable

⁷⁷ See *Combined Annual Reports of the World War Foreign Debt Commission* (Washington, Government Printing Office, 1927), p. 106.

provision for the receipt by this Government of further payments on account according to a definite plan to be agreed upon. Under the circumstances, I am not inclined to lay down, in this connection, any hard and fast schedule, but feel that you should invite the representatives of the Governments concerned to make proposals as to means by which in this manner the claim of this Government may suitably be discharged within a reasonable time, perhaps by means of definitely established annuities.

With respect to future cash payments from Germany under the terms of the Treaty, this Government would be willing to participate therein under an agreement to be reached with the other Governments concerned and to accept on account of its claim for army costs such sums as an offset against the amounts due from the Allied Governments. You should make it clear, however, that by consenting to such an arrangement, the United States does not agree to release the other Governments from their obligation, but only to facilitate their payment of that obligation.

In the above quoted telegram of April 6, 1922, it was informally suggested that not less than half of future cash receipts should be applied to army costs, with preference to those Powers whose army costs had not been fully paid and in proportion to the amount of their unpaid claims, until these were fully discharged. Inasmuch as (leaving out of account the alleged priority of the Spa coal advances) the Government of the United States alone has an unpaid balance on army cost account, this suggestion would, in effect, apply only to the army costs of the United States. You will realize from the foregoing that the informal suggestion referred to was merely advanced to facilitate discussion and as a method that might possibly be mutually agreeable for bringing about the allocation of certain payments to the Government of the United States, with the effect of reducing thereby the amount of their own liability. Obviously, as the suggestion in question was very general and informal, and was not accepted at the time by those Governments, it is in no way binding upon the United States.

DYES

In the fall of 1919, before the Treaty of Versailles came into effect, the Allied Governments made arrangements to avail [themselves] of dyes and dyestuffs obtainable from Germany, in anticipation of the treaty provisions. Under the circumstances and particularly in view of the urgent need in the United States of a share of the dyes in question, it was deemed advisable to make arrangements by virtue of which the Textile Alliance, Incorporated, was enabled to purchase

and distribute these dyes in the United States. Under arrangements between the Department of State and the Textile Alliance made in September, 1919, April, 1920, and July, 1920⁷⁸ (the July arrangement is Exhibit 23), the Textile Alliance has procured from the Reparation Commission substantial quantities of dyes. On December 14, 1921, the treaty establishing friendly relations with Germany having been proclaimed on November 14, 1921,⁷⁹ the Department terminated the arrangement with the Textile Alliance, but that organization continued to purchase dyes from the Reparation Commission until recently. By letter dated November 29, 1922, (Exhibit 24), the President of the Textile Alliance advised the Reparation Commission that the Textile Alliance had determined that it could no longer undertake to deal in reparation dyes.

The Textile Alliance paid the Reparation Commission in cash for such dyes as it purchased. However, in June, 1922, the Department determined that it would be advisable if suitable arrangements could be made to receive reparation dyes without payment, the proceeds to be applied to payment of American army costs. On June 24, 1922, (Exhibit 25), the Department instructed the American Ambassador at Paris, in cooperation with Mr. Boyden, to make inquiry on this point of the members of the Reparation Commission. Informal replies from these governments, copies of which are attached, (Exhibit 26), indicate that these governments are willing that the United States should receive these dyes in the manner suggested.

Although the Governments concerned have indicated their readiness that the United States shall receive these dyes, this Government, while it can receive them, is not in a position suitably to dispose of them without specific legislative authorization. In June, 1922, Senator Shortridge introduced in the Senate a resolution authorizing the President to take such measures as might be required to secure for the United States or its nationals the dyes in question (Exhibit 27). This resolution, however, has not been acted upon in the Senate.

In view of the informal inquiries which this Government has made with respect to the possibility of obtaining these dyes on Army cost account, it seems probable that the question of the attitude of this Government in the matter will be raised at the forthcoming conference. In case this question is raised by your colleagues, you may discuss an arrangement by which the Allied Governments should assent in principle to the receipt by the United States without payment of the dyes in question, if and when the United States should so elect, the value of any dyes thus received to be applied

⁷⁸ *Foreign Relations*, 1920, vol. II, pp. 454, 495, and 501.

⁷⁹ *Ibid.*, 1921, vol. II, p. 29.

in reduction of the claim of this Government on the other Governments concerned in respect of its army costs.

It is difficult to estimate the possible yield to the United States Government through the receipt of such dyes. Mr. F. S. Dickson, who has been engaged by this Department as an expert to study the question, is of the opinion that under present conditions the total annual value of the dyes likely to be utilized by the United States could be estimated roughly at \$500,000 (taking the prices at which the dyes are credited to Germany under the treaty).

If there were added to the above mentioned amount the possible profit on the sale in the United States, which would represent the difference between the gross selling price in the United States and the amount credited to Germany minus the expenses of carrying out the operations, the total credit obtainable would be perhaps \$1,000,000 annually. However, so far as this Department is informed none of the Allied Governments have credited to Germany any profits that they may have made on the sale of dyes, and since the suggestion that this be done in the case of the United States might perhaps not be viewed with favor by the American interests concerned, which might allege that they were being charged relatively high prices for dyes to discharge an obligation of the German Government, it is my opinion that the possibility of crediting to Germany any possible profits on the sale of the dyes in question in the United States need not be considered at the present time. I may add that a suggestion that the accumulated surplus money of the Textile Alliance be applied in reduction of this Government's claim for army costs, which suggestion was very informally submitted to the Textile Alliance, and was rejected by that organization.

OTHER PAYMENTS IN KIND

It appears possible that it may be advisable in the future that arrangements be made by which the Government of the United States should receive from Germany payments in kind other than dyes, on army cost account. The Department does not desire you to initiate any specific suggestions on this point. If this question should be raised by your colleagues, however, you should consult the Department at once by telegraph.

SUGGESTIONS THAT MAY BE ADVANCED BY THE ALLIED REPRESENTATIVES THAT WOULD NOT BE ACCEPTABLE TO THIS GOVERNMENT

The memorandum presented to the Secretary on November 8, 1922, by the Diplomatic representatives of Great Britain, France and Italy, (Exhibit 9), stated that the presence of a representative of this Government at the forthcoming conference at Paris "would enable

the Allied Governments to obtain full information on certain aspects of the question in regard to which they are at present in some doubt." The Department of State is not aware of the questions with respect to which the Governments concerned may desire to be informed, or of the suggestions which they may advance in the matter. In case however the suggestion should be advanced that the United States should be reimbursed for its army costs (1) out of ex-German property held in the United States, or (2) by applying on the claim of the United States the value of ex-German ships acquired by this Government under the terms of the Joint Resolution of Congress dated May 12, 1917,⁸⁰ or (3) by acceptance of bonds of the German Government, you should state definitely that you have been instructed by your Government to say that none of these suggestions would be acceptable.

For your further guidance in this connection I believe it desirable to set forth the following considerations:

EX-GERMAN PROPERTY IN THE UNITED STATES

I may say, for your confidential information, that it appears, in view of the terms of the Treaty Establishing Friendly Relations between Germany and the United States, proclaimed November 14, 1921, that the Government of the United States has a technical right to look to Germany for payment of the costs of its army of occupation, and accordingly this Government could, if necessary, apply the value of the ex-German property held by the United States in satisfaction of this as any other claim. However, such a course would clearly be inequitable, in view of the fact, as pointed out above, that the German Government has already paid over sufficient amounts to discharge its entire obligation in respect of costs of the armies of occupation. Therefore, while not disposed to waive the technical right of this Government, which at some time it may conceivably be necessary to assert, I feel that it is inappropriate that the matter of the ex-German property in question should enter into the forthcoming discussions. If, therefore, the suggestion is made to use this property in payment of costs of the American Army of Occupation, you should state definitely that such a solution could not be considered in any way by this Government.

As you know, the Government of the United States has not demanded participation in general reparations being received from Germany. The fact that the United States has refrained from presenting such a demand is obviously of great importance to the Allies, inasmuch as thereby they are enabled to distribute, for themselves, pay-

⁸⁰ *Foreign Relations*, 1917, supp. 2, vol. II, p. 1257.

ments received from Germany on reparation account. Specifically, the ex-German property in question is a pledge of the payment of unsettled American claims against the German Government, the claim for army costs being of an entirely different character.

Furthermore, it is repugnant to principles for which this Government has repeatedly contended to consider the confiscation of such private property for the purpose of discharging any obligation whatsoever of the German Government. The matter, as you realize, is specifically reserved to the Congress under existing legislation, and it appears certain that the Congress would not be disposed to resort to confiscation unless it should appear absolutely necessary. In view of the fact that Germany has already paid to the Powers concerned an amount more than sufficient to cover the total amount of costs of armies of occupation, and, further, in view of the fact that this Government has not sought to participate in the distribution of reparations, it is most improbable that the Congress would give favorable consideration to the suggestion in question.

For your further information in this connection, however, I may set forth the position heretofore taken in the matter by this Government.

The Reparation Commission from time to time has requested information concerning the amount of ex-German property taken over by the United States. While the Department on several occasions has authorized Mr. Boyden to inform the Reparation Commission orally of the amount of such property estimated to be held at the time, it instructed him in a telegram of January 11, 1921, (B-192)⁸¹ also to state "that this Government does not recognize any obligation to furnish this statement at this time but does so merely for the Commission's informal information." (For your own information it may be stated that according to the Department's information the amount of ex-German property held by the Custodian as of about December 15, 1922, was estimated by him to be approximately \$274,000,000).

Mr. Boyden telegraphed to the Department under date of August 2, 1920, (B-182)⁸² that in his opinion an effort would be made to get the United States to apply on its army costs the value of ex-enemy property and ships. The Department instructed Mr. Boyden under date of September 1, 1920, (B-107)⁸³ as follows:

"Idea should be discarded that balance due on ex-German ships and balances in hands of Alien Property Custodian will be available for army costs. All of this property is subject to control by Congress and no action can be taken until Congress provides legislation."

⁸¹ Not printed.

⁸² *Foreign Relations*, 1920, vol. II, p. 415.

⁸³ *Ibid.*, p. 430.

In this connection it may be stated that under the Trading with the Enemy Act, the final disposition of enemy property taken over by the Alien Property Custodian is a matter to be determined by Congress. The Treaty of August 25, 1921, between the United States and Germany, restoring the friendly relations existing between the two nations prior to the outbreak of war, accords to the United States and its nationals rights and advantages stipulated for their benefit in the Joint Peace Resolution of Congress of July 2, 1921,⁸⁴ and in the Treaty of Versailles. Under the terms of Section IV of Part X of the latter treaty, the United States would be warranted, if it saw fit, in using the proceeds of German property taken over to pay debts of German nationals to American citizens, and to pay certain classes of claims against Germany, but there is nothing in this treaty, the Joint Resolution of July 2, or the treaty of August 25, 1921, which removes from Congress the final determination of the disposition to be made of enemy property. In fact the Joint Resolution of July 2, provides, among other things, that the property of the German Government or its successor or successors and of all German nationals held by the United States is to be retained until Germany shall have made suitable provisions for the satisfaction of American claims against that Government, it being specifically stated that no disposition of this property shall be made without specific authority of Congress.

EX-GERMAN SHIPS SEIZED BY THE UNITED STATES

With regard to ex-German vessels, it may be stated that title to these vessels was taken by the United States in pursuance of the Joint Resolution of May 12, 1917, (exhibit 29). This Joint Resolution provided for the appointment by the Secretary of the Navy of a commission to ascertain the actual value of each vessel, its equipment, appurtenances and all property contained therein at the time of its taking, and to make a written report of their findings to the Secretary of the Navy. The resolution further provided that "these findings shall be considered as competent evidence in all proceedings on any claim for compensation."

This Department is not informed of the valuation placed by the Navy Department on these vessels. While they were not taken over under the Trading with the Enemy legislation and have not come within the jurisdiction of the Alien Property Custodian, it is understood that, nevertheless, that officer carries them on his books at an arbitrary valuation of approximately \$34,000,000. No provision has

⁸⁴ See telegram no. 1231, July 5, 1921, to the Commissioner in Berlin, *Foreign Relations*, 1921, vol. II, p. 3.

been made by Congress for the payment of claims against these vessels, whether made by Americans or nationals of other states. Although, as already indicated, these vessels were not taken over under the Trading with the Enemy Act, their status so far as the treaty with Germany is concerned is not dissimilar to other German property taken over and the remarks made above, with regard to the payment of costs of armies of occupation from German property taken over in the United States, are therefore applicable.

In this connection attention may be called to a decision adopted by the Reparation Commission on July 12, 1921, to the effect that German ships seized by Peru were not on January 10, 1920 [when the Treaty of Versailles came into force]⁸⁵ German ships, and therefore, were not deliverable to the Allied and Associated Powers under Annex 3, Part VIII, Treaty of Versailles. This decision of the Reparation Commission which was followed in the case of vessels seized by Brazil, is of interest to this Government in that it indicated what the action of the Reparation Commission might be should the question of the title of the United States to enemy vessels seized in this country ever come before it.

The position of the United States in the matter is, in brief, that the title to these vessels was acquired by the United States prior to the negotiation of the Treaty of Versailles by virtue of the action taken pursuant to the Joint Resolution of Congress of May 12, 1917, and, therefore, that Germany had no title to the vessels at date of the signature of the Treaty, and was consequently unable to dispose of them. Therefore, they are not within the classes covered by Annex 3, Part VIII, which sets forth the classes of vessels to be delivered by Germany to the Reparation Commission.

In view of the foregoing, if the subject of applying the value of ex-German ships seized by the United States to army cost account should be raised, you should state definitely that this subject is one which the Government of the United States cannot consider in this connection. If, however, this question should be presented as a mere question of equity apart from legal or technical questions, you should refer again to the considerations set forth above under the head of ex-German property, such as that the Government of the United States is not seeking general reparations from Germany, and that the German Government has already paid to the Powers concerned sums more than sufficient to discharge the entire costs of armies of occupation, and mention the fact that there are still outstanding a large amount of American claims against the German Government.

⁸⁵ Brackets appear on the original.

SUGGESTION OF POSSIBLE DELIVERY TO THE UNITED STATES OF GERMAN BONDS IN SETTLEMENT OF ARMY COSTS CLAIM

It further appears possible that the suggestion that German bonds of some sort be delivered to the United States in settlement of the Army cost claim may be put forward. In this event, you should state definitely that such a solution of the matter would not be acceptable to this Government.

In addition, it appears possible that other suggestions may be advanced in the course of the Conference that would not be feasible from the point of view of the United States under existing conditions, such, for example, as the suggestion that the United States should adopt legislation along the lines of the so-called British Reparation Recovery Act of March 24, 1921, (Exhibit 28), which provides that persons importing German goods into Great Britain shall pay over to the British Government a portion of the purchase price thereof, this sum being applied toward the discharge of obligations of Germany under the Treaty of Versailles, the equivalent of sums paid over to the British Government being paid to the German exporter by the German Government.

SUMMARY AND CONCLUSIONS

I may now summarize the foregoing in the following manner:

(1) The Government of the United States considers that the other Governments concerned have no disposition to question its right to receive payment of its army costs on an equal footing with those Governments. Therefore, you should concern yourself primarily with consideration of practicable means for the payment of the claim.

(2) In view of the foregoing, you should, at the opening of the Conference, express to your colleagues, on behalf of this Government, suitable appreciation of their desire, as evidenced by the calling of the Conference, to arrange for the reimbursement of the army costs for the United States. You should, also, state that you have noted with pleasure the statements in the memorandum of November 8, 1922, (exhibit 9) and in the replies of the Allied Governments to the communications of the United States Government on this matter, to the effect that it is not the intention or desire to raise any question with respect to the right of the Government of the United States to be reimbursed on an equal footing with the other Governments concerned, which have already gotten from Germany receipts substantially in excess of the total army costs of all the Powers concerned

in the occupation, and add that you will be happy to receive and discuss any suggestions that they may care to make as to practical means by which the claim of the United States should be met.

In the event, however, that the representatives of the Allied Powers should have no suggestions or plan to submit, you may, as a basis for discussion, propose the suggestions previously advanced, in an informal way, by the American Ambassadors at London and Paris and through Mr. Boyden, to which reference has been made above.

(3) So far as the Department of State is informed, there is no disposition on the part of anyone to question the figure of the claim of the United States. You should therefore endeavor to obtain formal recognition by the respective Governments of the amount of this claim as of October 31, 1922, or if practicable as of a later date, and also procure their acceptance of a definite procedure for agreeing upon a definite and final figure at the earliest practicable date.

With respect to the allowance of interest on the claim of the Government of the United States, it is felt that, provided the respective Governments similarly concerned do not insist upon claims for interest, and provided further that the United States receive assurances of a prompt and satisfactory settlement of its claim, this Government would not be disposed to insist upon the payment of interest, subject always, of course, to the considerations set forth in the latter part of the section above dealing with the question of interest charges.

(4) You may state that the Government of the United States is prepared to admit a charge, on army cost account, with respect to the German war material that came into the hands of the American army east of the armistice line, making it clear that this Government reserves for further consideration and discussion the question of the fair value with which it should be charged and making it clear also that any charge to the United States must be on an equal footing with the other Powers concerned.

(5) With reference to payments thus far received from Germany, it is felt that the sum of 300,000,000 gold marks should be paid over to the Government of the United States. It may be arranged that such payments be made in installments, along the lines indicated in a general way above. With respect to the discharge of the balance of the claim of this Government, you will, of course, make clear that the Government of the United States looks to the other Governments concerned that have received from Germany payments in excess of the total amount of their army costs to arrange suitable means of payment, in accordance with a plan to be agreed upon. Without laying down any hard and fast rule, it is believed to be advisable

that you should invite the representatives of the other Governments to make proposals as to a practical means by which the claim of this Government may suitably be discharged in a reasonable time.

With respect to dyes, in case this question should be raised by your colleagues, you may discuss an arrangement by which the respective Government would assent in principle to the receipt by the United States of the dyes in question without payment, if and when the United States should so elect, the value of any dyes thus received to be applied in reduction of the claim of the United States against the other Governments in respect of its army costs. You may similarly discuss the possible receipt, should this Government so elect, of other payments in kind.

(6) In the event that the representatives of the Allied Governments should advance the suggestion that the United States should be reimbursed on army cost account out of ex-German property held in the United States, or by applying the value of ex-German ships acquired by this Government, or by acceptance of German bonds, you should state definitely that you have been instructed not to enter into any discussion of these matters, since suggestions of the character indicated would not be acceptable to this Government. The same would apply in the event that it should be suggested that the United States adopt legislation along the lines of the British Reparation Recovery Act.⁸⁸

(7) You are not authorized to make any engagements on behalf of the Government of the United States, but only to discuss matters relating to the payment of the costs of the American army of occupation with the representatives of the Governments concerned. When you have reached with them informal understandings along the lines of the present instruction, or in case differences of opinion should develop on the respective points, you should promptly report the situation by telegraph to the Department of State, which will thereupon instruct you in the premises.

(8) You should keep the Department promptly and fully advised by telegraph of developments, as the conference proceeds, and consult the Department fully before taking any definite position with respect to any matters that may arise not dealt with in the present instruction.

(9) The Department has instructed Mr. Herrick and Mr. Boyden to assist you as fully as possible in the course of the conference.

I am [etc.]

CHARLES E. HUGHES

⁸⁸ Of Mar. 24, 1921; tax levied on German imports which was reimbursable by the German Government to the German exporter.

462.00 R 294/125 : Telegram

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

[Paraphrase]

PARIS, March 1, 1923—9 p.m.

[Received March 2—3:39 a.m.]

108. W-2. Three-hour meeting at Quai d'Orsay today. Chairman Jean Tannery,⁸⁷ Sir John Bradbury,⁸⁸ Marquis Salvago Raggi,⁸⁹ M. Bemelmans,⁹⁰ and Mr. Whitehouse⁹¹ with me. General attitude showed desire to cooperate and find solution. I stated that the United States did not understand Allied Governments desired to question validity of claim. Each representative substantially concurred with some reservations as to technical rights but no question of equity. Various methods of payment discussed at length. The general attitude was friendly but the amount of cash in sight at the present moment is not encouraging. I shall cable at length tomorrow. Wadsworth.

HERRICK

462.00 R 294/132 : Telegram

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

[Paraphrase]

PARIS, March 10, 1923—7 p.m.

[Received 10:45 p.m.⁹²]

122. W-6. The following proposition for settlement was unanimously made by the Allies.

1. The amount of the United States claim should be reduced: (a) by value of paper marks requisitioned, (b) by value of armistice material which is estimated at a maximum of 59,000,000 gold marks, (c) by part of the value of German ships seized under the Act of the United States Congress, such amount to be arrived at in the following manner.

The tonnage of German ships shall first be used to rebuild American tonnage losses in the war up to the recent ratio of the replacement of tonnage lost in the war by Great Britain and France, which was accomplished from tonnage of German ships seized by Great Britain and France. Suppose for example that German seized tonnage had

⁸⁷ Of the French Ministry of Finance.

⁸⁸ British representative on the Reparation Commission.

⁸⁹ Italian representative on the Reparation Commission; this seat at the Conference was later taken by the assistant representative, Signor d'Amelio, who signed the agreement of May 25.

⁹⁰ Belgian assistant representative on the Reparation Commission.

⁹¹ Counselor of the American Embassy at Paris.

⁹² Telegram in five sections.

replaced British and French tonnage loss to an average of 50 percent; then enough German seized tonnage should be applied by the United States to replace 50 percent of tonnage lost by the United States. The balance of tonnage remaining in the hands of the United States to be valued on the basis which was applied at Spa. Note I: Bradbury without further knowledge of the situation estimated the mean ratio at 50-60 percent and the deduction under 1[c?] at maximum of 90,000,000 gold marks. Note II: Details under 1(c), are very complicated, and involve question of ships that were seized by an act of war and put through the prize courts. Also various classes of tonnage subject to replacement and valuation. This is the first time German ships have been mentioned in the Conference.

2. Amount claim arrived at to be paid in twelve equal annual installments beginning 1923. Installments due first four years shall have priority on all cash paid by Germany in each year up to 25 percent. (a) If no cash paid by Germany no payments to be made to us. (b) If 25 percent of amount paid by Germany not sufficient to meet annual installment in any of first four years deficit not to be payable following year, but (c) at the end of four years total deficits shall be added to installments due last [eight years?] one-eighth of total deficits to each installment. (d) After four years annual installments shall have priority on payments cash by Germany up to 100 percent thereof. Deficits to accumulate and be immediately payable from future cash payments by Germany. (e) No interest allowed on installments.

3. Allies made reservation as to ownership of cash collected in occupied area. I gather they were not in accord as to final application cash accruing present Franco-Belgian operations.

4. British state that receipts under Recovery Act, although debited on books Reparation Commission, are treated as delivery in kind and not cash.

5. In short United States priority only as to cash received by Reparation Commission from German Government for distribution.

6. England claims that amount still due her account cost army of occupation 69,000,000 gold marks. France claims due her 145,000,000 gold marks. They give up priority on such claims until Belgian priority liquidated.

7. Allies ask United States to endeavor accept dyes in some way so as to reduce amount claim.

8. Exact legal procedure not determined. Bradbury suggested agreement between Allies one side, United States other side, covering proposed transactions. Allies would then turn over such agreement to Reparation Commission with instructions to carry out.

Comment 1. Presume deductions 1 (a) and (b) feasible.

Comment 2. Your instructions seem to prohibit deduction 1 (c). Allies pressed hard on this deduction claiming tonnage seized by United States to replace 50 percent of tonnage lost by the United States would have been deliverable to Reparation Commission except for special action Congress of United States. Status of some of ships taken over through prize courts still unsettled but understand in general such ships were not credited to account of Reparation Commission but do figure in replacement ratio. Am not familiar enough with this ship question to make recommendation.

Comment 3. United States receives no share in past payments by Germany. Allies very stiff on this point. Bradbury stated that money paid by Reparation Commission to the British Government now in Treasury could not be paid out without Act of Parliament. In view of recent settlement debt of the British Government to the United States⁹³ with burden imposed upon tax payers did not think Parliament would pass legislation. Other representatives quite definite that they could make no repayments. Convinced they are sincere and that demand on our part will indefinitely postpone any settlement. This point might be yielded as last resort in negotiating other points if you determine that a settlement without an immediate payment is feasible.

Comment 4. I have investigated the cash position of the Reparation Commission, find available practically no cash.

Comment 5. If we suppose United States claim to be 960,000,000 gold marks, the annual installment would be 80,000,000. The United States would receive installments due if Germany paid 320,000,000 annually the first four years. Inside the eight years if Germany paid 80,000,000 gold marks United States would receive installment due.

Comment 6. Made inquiry as to effect of a moratorium. This, Allies understand, would postpone payment the annual installment as provided paragraph 2.

Comment 7. Made inquiry as to the situation which would develop in case that Germany made no payments in cash for twelve years. In reply Allies stated that nothing would be received by United States.

Comment 8. Made inquiry as to what would happen if, through a loan or in some other manner, Germany should make any large payment in [cash.] Allies thought might arrange to clean up all installments due up to date of such payment.

⁹³ See *Combined Annual Reports of the World War Foreign Debt Commission*, p. 106.

First query. Is United States willing to accept the principle of payment from receipts in the future alone?

Second query. With regard to installments, will United States insist on less than twelve? If so, how many installments?

Third query. Will more than 25 percent priority be asked by United States? For the sake of appearances I am inclined to suggest not and because 25 percent share sufficient if Germany makes a small substantial payment.

Fourth query. Should not deficit be payable immediately when funds available on any basis of installments: (a) Under terms of priority; (b) under priority for larger percentage which when deficit incurred would automatically accrue to the United States?

Fifth query. Could any assets now in Reparation Commission be taken by United States, such as securities of various corporations, the Bagdad Railway and the like, hold them as security with right of liquidating them? I shall investigate available assets, but doubtful whether such plan would be effective and what effect on public opinion it would have.

Sixth query. Would the Allies be likely to resort to various plans for payment in kind and reparation recovery, hoping thereby to divert cash from the Reparation Commission, or is the satisfaction of the claim of United States too small to be of important influence, the difficulty of agreement among the Allies too great for procedure of this nature?

The terms offered can be bettered, in my opinion. Representatives of Allies have shown sincere desire that settlement be reached. The next meeting will take place March 14. Wadsworth.

HERRICK

462.00 R 204/133 : Telegram

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

[Paraphrase]

WASHINGTON, March 15, 1923—7 p.m.

105. For Wadsworth. W-10.

With reference to paragraph 1 of your W-6, March 10, the United States Government is willing that the value of armistice material and requisitioned paper marks be credited. Your previous instructions fully cover these points. The crediting of the value of German ships would not be acceptable for the reasons given in your instruction of February 19. The equity of the position of this Government should be made clear by you.

With reference to your paragraph 2, it is noted that the proposed plan would give no assurance of the final discharge of the claim of the United States even within twelve years. In view of the fact that

the other Governments have actually been fully paid, and in view of the obvious justice of its claim, the United States should not be asked to accept a plan under which actual payment is not assured. The United States should certainly not be expected to waive its claim against the Allies by virtue of the receipts they have already obtained at our expense on the basis of any plan providing for payment of our claim from future receipts from Germany. This Government should retain its full claim without prejudice as at present, except to the degree that its claim is discharged by actual payments received, so that if Germany does not make the payments in which the proposed plan provides we shall share, this Government shall at least be none the worse off except as to time of payment. Otherwise the Allies should guarantee future payments on proportionate basis agreeable to them. Question of priorities and means for liquidating deficits in expected receipts from Germany would not be presented if such a guaranty were obtainable, and should an agreement be reached the United States will not demand interest provided the other governments receive no interest.

In connection with your paragraphs 3, 4 and 5, refer to Department's comment its telegram W-7.⁹⁴ This Government cannot accept the suggestion that receipts under the Reparation Recovery Act be regarded as deliveries in kind. The receipts are cash and are not kind, which results in the British Government obtaining cash for its Treasury and not property which must be disposed of. The suggestion originates in the second article of the Finance Ministers' Agreement of March 1922, but the fact that credits there mentioned include receipts does not alter the fact that the receipts are actually in cash. This Government sees no valid reason why the cash realized under legislation of this character, or by means of taxes levied in the occupied region, or otherwise, should be treated separately from other cash receipts. Furthermore, the United States was not a party to this Agreement. It is understood that under the Recovery Act Great Britain realized in November and December last about 12,000,000 gold marks a month.

With reference to your 6th paragraph, the balances alleged to be due on British and French account result from adjustments in accounting procedure, which modified the army cost priorities, and to which we were not a party. Apparently these adjustments were largely effected to show balance due to Great Britain and France. You should note in this connection that, as pointed out before, Great Britain is debited with the cash proceeds of the Reparation

⁹⁴ Not printed; the sentence referred to reads (in paraphrase): "The proceeds of reparation recovery acts, customs collections in the occupied zones and similar items should be included in future cash receipts."

Recovery Act as payments in kind in 1922 applicable to British army costs in 1922, but it is not clear whether the surplus proceeds are applicable to the reduction of British army costs as of May 1, 1921. The Finance Ministers' Agreement of March 1922 postponed the debit of the value of the Saar mines to France until 1922 in view of the fact that an earlier charge to France of this value would mean that French army costs had been fully extinguished as of the 1st of May 1921, and that France would then have been in no position to claim the 140,000,000 gold marks paid over under the arrangement mentioned. The Department adds that the Spa priority on coal advances, which priority the United States Government has never recognized, has resulted in modifications of reparation accounts which, distinct from the foregoing considerations, have resulted in showing credit balances due Great Britain and France that would not otherwise have existed. Boyden can inform you on these points more fully, and it is suggested that you consult him. In the light of the foregoing you may point out to your colleagues that the United States is not a party to any arrangements modifying the original plan of army cost priority, and does not consider that its claim is on the same footing with the British and French claims for unpaid balances. You may also point out that the other governments have all received from Germany more than enough in cash and kind to meet their claims for army costs.

The Department's comments in its W-4 of March 3, on paragraph 4 of your W-3⁹⁵ cover your paragraph 7.

With reference to your paragraph 8, inasmuch as this Government looks to the Allies for settlement of its claim, it would continue to look to them even though they should instruct the Reparation Commission to carry out the terms of the agreement in whole or in part. If the final settlement should involve the payment of cash immediately, or a guaranty by the Allies, the Reparation Commission would presumably not be involved except perhaps as the agent of the Allies. The questions raised by your comments no. 1 and no. 2 are answered by the foregoing.

With reference to your 3d comment, the Department does not understand that the British Government could not pay out money received by it except by Act of Parliament. This money was received and distributed subject to an express reservation of the United States rights in the matter. The thirteenth article of the March 1922 Finance Ministers' Agreement provides "the present agreement is made subject to any rights of the United States." The distribution has, therefore, only been made provisionally.

⁹⁵ Neither printed.

Your difficulties in negotiating on this point are fully realized, and if, despite your efforts, you are satisfied that the procurement of an immediate payment on account is impossible, and that further insistence would result in the breaking up of the conference, you may yield on this point, advancing as your reason the financial and economic difficulties of the other governments and, so far as Great Britain is concerned, the recent debt settlement, provided, however, it be understood clearly that a plan be devised affording reasonable probability for definite repayment of the claim of the United States within ten or twelve years, and providing that unless a suitable guaranty is given it be understood expressly that this Government does not in any way release its claim against the Allies on account of payments already received by them from Germany, but merely suspends its claim for the time being in view of the conclusion of an alternative arrangement by means of which the realization of full payment is expected.

The United States is anxious to have it clearly understood in any discussion of these points that it has no desire, in view of all the circumstances, to be harsh or unreasonable, but that it is seeking merely for an equitable adjustment of the question. The dwelling upon technical questions should not be necessary. Inasmuch as the Allies recognized our right to be paid they cannot properly insist that we waive our claim in the event that Germany should not in the future pay enough to discharge it, and in the event that it developed that all the money available was held by the Allies.

It is indicated from press reports from Paris that it has been pointed out in certain quarters that this Government is not assisting in the collecting of money from Germany. This is not relevant to the question under discussion since the question involved is what the Allies have already received, and not what they are trying to collect.

The Department has noted your comments 4, 5, 6 and 7, and has set forth its suggestions on these points above.

With reference to your 8th comment, if a German loan is floated and a large payment results from it, or from other sources, it should at least cover any arrears as may exist.

With reference to your first query the answer is "yes", if absolutely necessary and without waiver, thus preserving this Government's claim as stated above. The guaranty should be obtained if possible. The amounts involved would not be large and the respective governments could recoup this through setting off the value of deliveries in kind and receipts in cash classified as such against any payments made by them on this account.

With reference to your second query, the answer is "no", but you should note the suggestions made above. Certainly there should not be more than twelve installments.

With reference to your third query, it is believed that the percentage should be bettered, but the matter is left to your judgment. The United States will accept 25 percent for the first four years if in your opinion this is the best obtainable. It is believed that the Allies should provide that any deficiency in cash payments should be compensated by paying us an agreed proportion of the value of receipts in kind obtained by them or should give a guaranty. If, however, you find neither of these courses possible, the claim of this Government should be retained unaffected except as actual payments are received by it. It is presumed by the Department that the 25-percent suggestion grows out of a desire to permit the realization by Belgium on its priority arrangement. Should this question be presented you should note that the priority agreement of June 24, 1919, and its annex make it clear that the Belgians have no priority over "the priority accorded by Article 235, in respect of the expenses of the armies of occupation." It is possible that British and French Governments may be influenced in willingness to recognize Belgian priority by the foregoing accounting adjustment referred to.

With respect to your fourth query, the answer is "yes", and the working out of the priority problems referred to under this head is entrusted to your recommendation.

With reference to your fifth query, the answer is "no."

With reference to your sixth query, the Department believes there is little or no danger from the suggested dependence on payments in cash, but a clause by which, under certain conditions a portion of the value of deliveries in kind should be applied to our army cost claim (provided no guaranty is obtainable) in case deliveries in kind exceed a certain figure or ratio to payments in cash might possibly afford a desirable protection against the eventuality suggested by you.

It is noted that in your opinion there can be an improvement in the suggested terms. You will understand that the working out of details is left to your discretion subject to the foregoing points.

HUGHES

462.00 R 294/144 : Telegram

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

PARIS, March 23, 1923—5 p.m.

[Received 11:48 p.m.]

141. W-9. Following is translation of plan presented by Allies. My comments follow in another telegram.⁹⁶

⁹⁶ Not printed.

"Costs of the American armies of occupation. Draft. The present agreement is concluded between the Government of the United States of the one part and the Governments of Great Britain, France, Italy and Belgium of the other part subject to the approval of the Governments of the other Allied Powers entitled to participate in the payments affected by the present agreement.

The Governments of Great Britain, France, Italy and Belgium agree to make every effort to obtain this approval.

1. The American Government declares that the fact of its accepting a method of settlement for the amount of the costs of the American armies of occupation in Germany by means of future annuities must not be considered as a renunciation on its part of the right which it considers it possesses to claim an immediate payment from the Allied Governments from the sums already received by the latter from Germany.

The American Government on the contrary desires to state that it reserves the right at any moment in the course of the execution of the present agreement and in case it would deem that this agreement is not working in a satisfactory manner to claim from the Allied powers an immediate payment from the payments already received from Germany by the other countries.

The Allied Governments take note of the reservation of the American Government but state that in case the American Government should deem it advisable to annul the present agreement they reserve the right to discuss the juridical bases of the debt itself.

2. The net amount due to United States for the costs of their armies of occupation will be for the purposes of the present agreement reckoned as follows:

Expenses up to date such as they figure in the accounts of the Reparation Commission after deduction of the amount received in the form of the requisition of paper marks, et cetera, and of the value of the armistice material ceded to the Government of the United States.

The value of this material to be fixed by the Reparation Commission in agreement with a representative of the American Government.

The renunciation by the Allied Governments, valid solely in respect of the present agreement, of their request to see certain receipts realized by the American Government as a result of the war deducted from the sum total of the cost of the American armies of occupation, is made without prejudice to the question of principle and with a view to settling by mutual agreement the payment of the cost of the said armies.

The Allied Governments reserve the right to raise this question again in case the American Government should deem it advisable to use the right which it has reserved by virtue of paragraph 1.

3. The net amount due to the Government of the United States will be paid in 12 equal yearly installments, the first yearly installments to be paid in 1923. No interest shall be charged.

These payments constitute a first charge on the payments of every kind carried to the credit of the Reparation Commission account and

made every year by Germany or for the account of Germany to the Reparation Commission or to any other body which might be appointed in order to receive the moneys paid by the German Government with the exception of

(a) Deliveries in kind effected under the terms of the various annexes of part eighth of the peace treaty or any other procedure approved to date by the Reparation Commission to the Allied countries possessing credit on account of reparations.

(b) Proceeds from the British Reparation Recovery Act or any similar measures taken or to be taken by the other Allied Governments in pursuance of the decision of the Allied Governments of March 3, 1921.

(c) Transfers and cessions of property rights and interests made in execution of the peace treaty.

If in the course of one year between 1923 and 1926 inclusive the amount of the sum due to the American Government exceeds 25 percent of the total payments as they are defined above the amount of the payment to be made to the United States will be reduced to a sum equivalent to 25 percent of these payments and one eighth of the sum deducted will be added to each of the future payments to be made in the course of the years 1927 to 1934 inclusive.

If in the course of any year after 1926 the said payments in the course of any determined year should be insufficient to satisfy the amount due in the course of that same year the arrears will be carried over and added to the sum due in the course of the following year.

If at the end of the year 1928 or of any year following the arrears have reached such an amount as might in the opinion of the American Government endanger the complete execution of the payments within the period of 12 years the Allied Governments upon the request of the American Government will consider such modifications of the present agreement as might seem necessary in order to insure the complete execution of the payments within the period of 12 years.

The Allied Governments however reserve all their rights in respect of the payments in kind and in cash which might be collected through the intervention of any Allied authority in occupied territories.

4. If during the period of the operation of the present agreement Germany obtains a loan for the purpose of hastening the discharge of her reparation obligations the Allied Governments undertake to hand over to the American Government on account of the expenses of the American army of occupation 20 percent of the amount of the said loan affected to reparations this levy of 20 percent will however only be taken out of the amount of the loan floated in the United States or out of the share of an international loan subscribed in the United States.

The sums thus given over to the American Government will be considered as anticipatory payments of the annuities fixed according to paragraph 3 of the present agreement due account being taken of the clause affecting the payments due for the years 1923 to 1926 inclusive.

No discount shall be charged for such anticipatory payments.

5. The charge upon the payments in cash to be received from Germany and set up by the last part of article 8 of the inter-Allied agreement of March 11, 1922, on behalf of the unpaid balance of the costs of the British and French armies of occupation up to May 1, 1921 shall only apply to the balance if such there be of the German payments after payment of the monies due to the United States in execution of the present agreement.

6. The American Government will take the necessary steps in order to agree that such quantities of German dye stuffs which may be fixed from time to time in agreement with the Reparation Commission shall be paid by way of deduction from the yearly payments to be made to it."

Wadsworth
HERRICK

462.00 R 294/144 : Telegram

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

[Paraphrase]

WASHINGTON, March 25, 1923—9 p.m.

118. For Wadsworth. W-12. Your W-9, March 23.

Paragraph 1. The agreement should not be entered into subject to the approval of those governments who do not participate in the conference, but of course it cannot affect their rights unless they assent thereto. Under this procedure the agreement would be effective only as to the portions of German payments attributable to the governments participating in the agreement, namely about ninety-four percent. It should not fail to become effective because other powers refuse their assent. Nevertheless, an effort should be made to obtain their assent; and the Allies participating in the agreement should agree to endeavor to obtain that assent as set forth in the second sentence of the paragraph under consideration.

Section 1. The reservation of our rights seems adequate but it is suggested that the following words be eliminated "an immediate" in both first and second paragraphs so that the text would read "claim payment".

Section 1, paragraph 3. The phrase "they reserve the right to discuss the juridical bases of the debt itself" is not entirely satisfactory, the following seeming preferable: "they reserve all their rights without prejudice by reason of this agreement".

Section 2, paragraph 2. Following words should be omitted "et cetera". If other deductions are contemplated proper descriptions thereof should be made.

Section 2, paragraph 3. Instead of the words "to be fixed by the Reparation Commission in agreement with a representative of the American Government" the following phraseology is preferred "to be fixed by agreement between the Reparation Commission and the American Government".

Section 2, paragraphs 4 and 5. The statement and reservation seemingly relating to sequestered property and ships is objected to. The United States will not consent to the application of these items to army costs while the Allies obtain in addition to reparations the costs of their armies. The special Allied reservation raises a question which should not be pressed in the light of the American Government's generous terms. Furthermore, the general reservation proposed above for the third paragraph of section 1 fully protects the Allies in case of a failure of the present agreement.

Section 3, paragraph 1. The second sentence should read "no interest shall be charged except on same basis as interest may be allowed on army costs to any Allied Governments and also except as hereinafter provided".

Section 3, paragraph 2. This paragraph should read: "These payments constitute a first charge on the payments of every kind carried to the credit of the Reparation Commission account and made every year by Germany or made for the account of Germany to the Reparation Commission or to any other body which might be appointed in order to receive the moneys paid by the German Government or payments made directly by Germany or on Germany's behalf to any Allied Government party to this agreement with the exception of."

Subparagraph (a) of the third section. It is our understanding that the only deliveries in kind in question are those to be made under the annexes of part VIII of the Treaty of Versailles and special agreements made heretofore and that this clause will not permit the negotiation of future agreements for additional deliveries in kind which would be effective at the expense of the payments which we should receive. In order to avoid misunderstanding, however, it would be better if such special agreements should be listed or described in some appropriate schedule and since under these agreements the amounts of deliveries in kind may be increased at the will of the parties thereto there should be an agreement that if deliveries in kind exceed a certain minimum value this Government should share in any excess of that minimum. The percentage of our participation in such cases might be arranged on a sliding scale proportioned on increasing value of such deliveries.

Subparagraph (b) of the third section. We think it most inequitable to except the proceeds of the British Recovery Act with

regard to future payments. A provision for our protection would do no harm if this act were repealed but would be important if not repealed. At the present rate the British receipts amount in cash to about seven times their net current army costs and we should have a proper share in these payments. You may point out that under the proposed agreement the United States is not insisting upon payments to which it is equitably entitled at the present time on account of the large cash payments which the British Government has already received. If it is fair that the payment of our claim be postponed because of the financial situation of Great Britain it is no less fair that the British should not continue in the future to take these heavy cash payments through the Recovery Act without permitting the participation of this Government in the benefit thereof.

After subparagraph (c) of the third section another subparagraph (d) could, in view of the proposed amplification of the second paragraph of section 3 as above, be inserted covering the exception of payments under the clearing house system in the following words: "(d) Payments under part 10, section 3, of Peace Treaty".

Section 3. In the paragraph which begins "if in the course of one year between 1923 and 1926" the word "calendar" should be inserted so that the clause will read "one calendar year between 1923 and 1926" and in the paragraph following the above paragraph in the place of "in the course of any determined year" should be inserted the words "in the course of any calendar year".

The next to the last paragraph of section three. The suggestion in your W-10⁹⁷ for maintaining 12 year basis for deficits and interest at 4½ percent is approved.

Final paragraph of section 3. Apart from the fact that the words "through the intervention of" might be taken to include payments obtained in cash and in kind from sources outside of the occupied territory but through the pressure of the occupation this reservation is unsatisfactory as this Government sees no reason why Belgium and France should be permitted to retain reparation payments obtained by means of their intervention or from within the occupied territory without proper provision for American army costs being made any more than that other reparation payments should be so retained by them for the other Allies.

Section 4. The fact that difficult questions may be raised by a German loan is appreciated but we fear it would be impossible to draft at the present time a satisfactory clause which would cover all contingencies. The best solution it is believed would probably be

⁹⁷ Not printed.

to have a broad reservation as you suggest in the case of a German loan or a bond issue intended to cover reparation payments which reservation should be so phrased as to show clearly that equitable provision is to be made in such case to cover the payment of American army costs. The probable need for floating such bonds in our home market would give the necessary opportunity to secure a satisfactory adjustment in such event.

Section 5. It is not thought that there is great value to us in this. On the contrary it appears to sanction accounting arrangements not yet approved and should therefore be subject to our objections until the complete discharge of our claim. It is suggested that this section be omitted.

Section 6. The draft of this section seems to be mandatory. It should be clearly optional so far as the receipt of dyes is concerned. The following is therefore suggested in place thereof: "6. In case the American Government shall exercise its option to take its appropriate share of German dye stuffs under the provisions of the Peace Treaty or arrangements supplementary thereto, such quantities of dye stuffs as it shall receive at its option from time to time through the Reparation Commission shall be credited, at the value agreed between it and the Commission, upon the annual payment to be made to the American Government hereunder in the calendar year in which such dye stuffs shall be received."

In reply to your comment number five in your W-10 it is suggested that you cable at once the complete text of the agreement when it is put in satisfactory form. You can then receive final authority to sign. The signing should be done by you and not by the Ambassador. For your confidential information, there may be a delay of two or three days in order that the text of the agreement may be submitted to the President who is now in Florida.

In reply to your W-11,⁹⁸ the agreement should not be submitted formally or informally to the German Government.

HUGHES

462.00 R 294/148 : Telegram

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

[Paraphrase]

PARIS, March 26, 1923—11 a.m.

[Received March 26—9:22 a.m.]

147. W-12. How low a rate of interest would you accept if you approve in principle of the plan for limiting loss by having the deficits carry interest to establish the basis of 12 annual install-

⁹⁸ Not printed.

ments? It is my suggestion that 4% would not appear to be too low and that we might even make it somewhat less. Wadsworth.

HERRICK

462.00 R 294/148 : Telegram

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

[Paraphrase]

WASHINGTON, March 26, 1923—7 p.m.

121. For Wadsworth. W-13. Your W-12, March 26.

The fixation of interest on deficits of the 12 annual installments at $4\frac{1}{4}\%$ is suggested. This is the average rate here and is also the rate payable on the three years' arrears of interest on the debt of Great Britain. If you should find it desirable, however, you may agree to a 4% interest rate.

In reply to your W-14⁹⁹ you should send any further suggestions that in your opinion should be considered by this Government.

HUGHES

462.00 R 294/155 : Telegram

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

PARIS, March 29, 1923—noon.

[Received 5:25 p.m.]

156. W-15. Allies submitted modifications to their proposed agreement which I report as follows to give you complete text under consideration.

Section 3, next to last paragraph, after words "such modifications" insert "of the present article which may seem necessary to insure the complete execution of the payments within the prescribed period of 12 years, and in such a way that the loss suffered by the American Government on account of the fact that no interest is credited to its account does not exceed what it would have been if the payment of the balance remaining due at the end of 1926 was effected in 8 equal yearly installments beginning in 1927."

Section 4, paragraph 1, "the Allied Governments will deliver to the American Government on account of the payments for the expenses of the American army of occupation, and in the amount of the sums still due under this heading, 20 percent of the amount affected to reparations from the total of the loans floated in the United States or from the share of an international loan subscribed in the United States."

⁹⁹ Not printed.

Section 4, after last paragraph, insert "if as a consequence of a loan floated either in America or elsewhere a moratorium was granted to Germany, the Allied Governments would put themselves into communication with the American Government for the purpose of reaching an agreement which would not cause any prejudice to the American Government."

Section 6 should read as follows:

"In case the American Government should arrange in agreement with the Reparation Commission for the furnishing of certain deliveries in kind to be made by Germany, the American Government would take the necessary measures so that the value of these deliveries should be deducted from the payment to be made to the Government of the United States in the course of the year, when the deliveries have been effected.

In case the Government of the United States should establish a reparation recovery act or any similar measures, the proceeds resulting therefrom would likewise be deducted from the payment to be made to the Government of the United States in the course of the year in which these proceeds were collected.

If in the course of a determined year the value of the deliveries in kind furnished to America by virtue of the present paragraph or the proceeds of the American reparation recovery act, or both together, exceeds the yearly installment due to the American Government, the excess shall be considered as an anticipatory payment of the yearly installments fixed as stated in paragraph 3 of the present agreement, account being taken of the clause affecting the payments due for the years 1923 to 1926 inclusive.

No discount shall be charged for such anticipatory payments."

Wadsworth
[HERRICK]

462.00 R 294/156 : Telegram

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

[Paraphrase]

PARIS, March 29, 1923—1 p.m.

[Received 7:28 p.m.¹]

157. W-16. Department's telegram W-12, March 25.

At the conference yesterday it was felt essential by the Allies that the approval of other nations interested, namely Japan, Portugal, Greece, Rumania and Serbia, be obtained. The Allies were confident that such approval was obtainable and will place a two months' time limit on the obtaining of consent, the agreement to be reconsidered or to fall if such approval refused. Although this not satisfactory I could get nothing better.

¹ Telegram in two sections.

The words "an immediate" were eliminated in accordance with your instructions.

With reference to section 1, paragraph 3, there was a long technical discussion on the general question of the reservation of rights. The matter was left with the understanding that the Allies will attempt to draft a single clause covering all the reservations on both sides, which clause shall go at the end of the agreement. The same provision applies also to the second, fourth and fifth sections.

With reference to section 2, paragraph 2, the word "et cetera" has been eliminated.

With reference to section 2, paragraph 3, there was also a hair-splitting discussion because technically the Reparation Commission has the authority to determine the amount but I think this can be arranged.

With reference to section 3, paragraph 1, the wording you requested was discussed at length. According to the French this would prevent them from ever charging interest on future army costs. The Allies are willing that the clause read that if interest is hereafter charged during any period the United States shall also receive interest on the balance still due from the same date.

With reference to section 3, paragraph 2, your wording was accepted. I asked for the insertion of the following words after the word "account", namely "for army costs or reparations". As under the treaty the Allies consider the costs payable in cash and the special agreement which expired December 31 provided for payment by deliveries in kind, this insertion is important. In previous conferences it was clearly understood that our priority applied to all receipts of cash. There was objection to this by the Allies, but they admitted that if only payments on reparation account were considered available our priority would be nullified. The Allies will try to draft a new formula by which they will agree to accept payments in kind for all army costs taking cash only, if payments in kind are insufficient. I would like full instructions on this point as this is an important matter.

With reference to section 3, subparagraph (a) I will endeavor to have existing approved agreements listed and others barred. Your suggestion for agreement as to excess deliveries in kind met the same objection as before, namely that deliveries in kind are not cash and are not convertible into dollars. My point was seen by the Allies but they argued that as this agreement must be made public it would be for political reasons impossible to mention either a percentage as between deliveries in cash and in kind or a certain limit for deliveries in kind. While some suggestion as to the formula covering this point may be obtained, I doubt if a satisfactory one will be found.

With reference to section 3, subparagraph (b) there was an absolute refusal by Bradbury to consider any change. Our position is understood by him but he says the British cannot agree to put any cash collection under any priority. If the British ultimately collect more than their percentage of reparations and should pay the balance to the Reparation Commission the priority would apply. But this is a most doubtful contingency.

Section 3. The covering of clearing house payments was not discussed. The word "calendar" was inserted in section 3 next to the last paragraph. Your W-13, March 26, also noted. The suggestion of the Allies contained in my W-15, March 29, noon. They objected to the 12-year basis and to agreement that deficits should carry interest at a fixed rate, but recognized our right to interest on the 8-year basis which is something. Please let me have your views on this point.

With reference to section 3, last paragraph, I could obtain no satisfaction on this point. The clause seems to be first that France and Belgium reserve their rights, etc. England then insisted on the reservation of her rights and Italy followed. The Allies agreed that the clause might mean a different thing for each of them. At first Bradbury suggested we might join in the reservation as England would like our cooperation and as our interests would certainly be the same as England's. There is little chance of altering or eliminating this clause.

With respect to section 4 you are referred to my W-15 for suggestion of ample guarantee; there was not time to discuss this matter.

The meeting lasted for four and a half hours and there was a most frank discussion but when it comes to putting in writing our verbal understandings, the Allies are united and very wary. The next meeting is to be held on Wednesday the 4th of April. Wadsworth.

HERRICK

462.00 R 294/156 : Telegram

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

[Paraphrase]

WASHINGTON, March 31, 1923—3 p.m.

129. For Wadsworth. W-14. This telegram is in reply to your W-16, March 29, 1 p.m.

It cannot be admitted by this Government that the present agreement which is made between powers which have already received large amounts for army costs in which amounts we were equitably and admittedly entitled to share and which represent 92% of reparation payments, should be affected by possible objection by the other

powers mentioned. In no way has this Government ever assented to the modification of the original agreement providing for priority of army costs and it sees no reason why a veto power should be given to Japan, Portugal, Greece, Rumania or Serbia in any arrangement made with the governments which have been paid at its expense. There should be a clear understanding that in entering into the present negotiations this Government did so with the understanding that the other parties to the negotiations were disposed to make an equitable settlement. It had no idea that any such settlement should be subject to delay or final disapproval and nullification by the attitude of any one of the powers mentioned. No such position will be admitted by this Government nor will it be agreed to.

The other powers mentioned should have been invited to take part in the negotiations if there had been any intention to make the settlement depend upon their action. They are placed in a position of superior advantage to which their interest in no way entitles them if they are given a veto power after a settlement has been reached. You should strongly impress upon the delegates the fact that this Government has not entered into negotiations for the purpose of reaching an arrangement which other powers might destroy but rather to effect a settlement.

It should be particularly noted that in the March 11, 1922 agreement of the Finance Ministers, the signatory powers merely made provision in article 14 for seeking the early adherence of other Allied and Associated Powers. The arrangement was not made subject to the approval of such powers. Whether all these powers have adhered to that agreement the Department is not informed, but that agreement is regarded by the parties to these negotiations as inviolable quite apart from such adherence. Subject to the clear understanding that the agreement is to be effective at least in respect of payments attributable to the governments participating in the present conference, I am prepared to accept a wording similar to that of article 14 in the Finance Ministers' agreement.

I have noted your comments on section 1, paragraph 3, and will await the receipt of the text of the clause proposed.

In the matter of your comment on section 2, paragraph 3, great difficulty should not be presented thereby.

With reference to section 3, paragraph 1, on the subject of interest I would be prepared, provided suitable provision is made as to deficits, to accept the suggested reading (but see the comments below on the proposed amendment to section 3 next to the last paragraph).

With reference to section 3, paragraph 2, now that the question has been raised, your suggested amendment is desirable but it is essential that there be a clear understanding that the proposed priority of the

United States shall apply in respect of all payments by Germany with the single exception of those enumerated specifically in the agreement.

The suggested new formula regarding the acceptance by the Allies of payments in kind for their army costs is approved by the Department. You may call attention to the fact that the accumulated costs of the American Army are not paid, that the accumulated Allied costs have been paid substantially even on the basis of their own accounting adjustments and that their current costs should be amply covered by deliveries in kind.

With reference to your section 3, subparagraph (a). The difficulty of converting deliveries in kind into dollars is appreciated as is that of the practicability of reaching an agreement for sharing in deliveries in kind when such deliveries exceed a certain percentage. The point remains, however, that this Government should not be limited for the first four years to 25% of the cash payments if the amount of such cash payments proves to be small in proportion to payments in kind. On the assumption that the United States does not share in the deliveries in kind received by the Allies there should be an increase in our percentage of cash payments if the greater part of the entire reparation payments consists of deliveries in kind. It is suggested that the provision for 25% for the first four years be limited to the case where reparation payments in kind in any year do not exceed 50% of the total. If they do exceed 50%, then our percentage of cash payments should be proportionately increased as total cash payments are diminished. No fixed schedule is proposed by the Department as this is left to you to negotiate on the best obtainable basis. The force of the argument against our sharing in deliveries in kind seems clearly to apply most during the first four years when we would have only 25% of priority and when, as compared with payments in kind, the cash payments may be very small. The situation is different when our priority on cash payments after four years amounts to 100% and probably there is reason to expect that the amount of our annual installments will be at least equalled by the cash payments.

With reference to your comment on section 3, subparagraph (b). The British position still seems most inequitable in view of their cash receipts under the Reparation Recovery Act, but if they insist upon this position it would seem that they were clearly obligated to support our suggestion as to increasing the United States share in cash receipts outlined above. You should also make it clearly understood that this point is yielded only because of the British debt settlement.

With reference to your comments on section 3 on the subject of interest on the deficits. It is noted that the right to interest is

recognized on the eight-year basis. I am not clear that the amendment suggested to the next to the last paragraph of section 3 quoted in your W-15 March 29, noon, recognizes our right to interest under the contingency specified. It is important that the meaning of the proposed amendment be clarified. In the event of deficits interest should be allowed.

With respect to your comment on the last paragraph of section 3. The elimination of this clause is not regarded as essential if you find it impossible to do so. But it should be made perfectly clear that the reservation applies only to actual collections in the occupied area and not to any general reparation settlement that might be reached.

With respect to your comment on section 4. It is still felt that the suggestion indicated in Department's W-12, March 26, on this point is the best solution. While it is most probable that in order to be successful any general loan must be largely subscribed in the United States, nevertheless the formal connection of this matter with efforts to meet American army costs is not deemed advisable, as this would give the appearance that there was an expectation that the citizens of the United States would indirectly provide funds for the payment of the army costs claim. Such a provision would produce an unfavorable impression if contained in the agreement, but it is quite fair to arrange as proposed by us, that the equities of the case should be taken into consideration in the event of a large loan.

With reference to your W-15 and the proposed section 6. The Department stands by its suggestion as to section 6 in its W-12 and does not agree to this proposal. The deduction of proceeds of a Reparation Recovery Act cannot be consented to while the British insist on retaining, not simply for their army costs but for reparations ahead of our army costs, the proceeds of their Recovery Act. In considering our position what they insist to be fair for themselves should not be disregarded. It should also be remembered that for the purpose of meeting the claims of our nationals against Germany, which may far exceed the value of the property in hand, this Government may find it advisable to adopt some such measures. We should not be limited in this respect as we are not seeking general reparations.

The suggested insert after the last paragraph of section 4 is not clear to me. I do not, however, perceive any objection. The following words, however, should be omitted: "floated either in America or elsewhere".

With respect to your letters of March 12 and March 19² on the subject of seized ships. It should be made clear in any discussion

²Neither printed.

that title to these ships was taken by the United States through Act of Congress prior to the signature of the treaty, that in no way do they come within the jurisdiction of the Allied Governments or the Reparation Commission, that the Reparation Commission decisions regarding ships taken by Brazil and Peru may be cited as admission of the principle underlying this Government's position and that it would be most inequitable, quite apart from legal and technical considerations, for the United States to be asked to make any reduction of its claim in the manner suggested, in view of the fact that it is not seeking general reparations to which it is as fully entitled as any of the Allied Governments. From the notes on the meetings I do not find that the equity of our position has been sufficiently made clear and if a further statement on this point has not already been made by you, I suggest that you do so.

HUGHES

462.00 R 294/158 : Telegram

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

[Paraphrase]

PARIS, April 3, 1923—10 a.m.

[Received April 3—9:22 a.m.]

163. W-17. Department's W-14, March 31, 3 p.m. At the last meeting the Allies suggested as an alternative to signing the agreement subject to the approval of the other powers that the agreement be presented to the other powers for approval before its signature. I should like to have your opinion on this procedure tonight, but I shall take position as directed in the strongest possible way. The last sentence of your W-14 has been noted and I shall act accordingly. Wadsworth.

HERRICK

462.00 R 294/158 : Telegram

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

[Paraphrase]

WASHINGTON, April 3, 1923—1 p.m.

133. For Wadsworth. W-15.

This Government does not concur in the proposal suggested. It is felt that in any contingency the agreement should be effective at least in respect of that portion of future payments attributable to the Governments who are participating in the present negotiations and that it should not be in any way dependent upon the attitude of the other powers mentioned. I am unable to see any reason why

the substantial settlement of our claim should be dependent on the attitude of these other powers. At all events the Allies who have been paid at our expense have the responsibility to arrange this matter suitably.

HUGHES

462.00 R 294/173a : Telegram

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

[Paraphrase]

WASHINGTON, April 7, 1923—6 p.m.

140. For Wadsworth. W-17.

Inasmuch as this is the final date for giving notice of claims against the German Government to be presented to the Mixed Claims Commission, United States and Germany,³ the Department has deemed it advisable to give notice of the claim for army costs. This is done in order to preserve all our rights, although the Government believes that it will actually be paid as a result of arrangements which you are now making. The Department did not think it advisable to allow any chance for a contention that the claim had not been presented to the Mixed Claims Commission. To this end I am this day sending the following letter to the American Agent of the Mixed Claims Commission.⁴

"You are hereby informed that the Government of the United States wishes to present to the Mixed Claims Commission, United States and Germany, the claim of this Government against Germany for the cost of the American army in occupied German territory. The said cost dates from the time of the signing of the armistice on November 11, 1918, and is based on rights accruing to the Government of the United States by virtue of the armistice agreement, the Treaty of Versailles, and the treaty of peace with Germany of August 25, 1921.

According to a report of the War Department this claim as of January 31, 1923, amounts to \$255,544,810.53. It is understood, however, that this amount will be subject to adjustment in case a different basis is adopted for converting certain items into dollars. It is also understood that the claim will include other items of cost which are properly allowable under the treaty with Germany, the exact amount of which has not yet been determined.

The above claim may be reduced to the extent of the amounts which this Government shall receive, on account of this claim, by reason of any agreement with the Allied Powers, or any one of them, from payments by Germany.

"Please file due notice of aforesaid claim."

³ For correspondence concerning the creation of the Commission, see *Foreign Relations*, 1922, vol. II, pp. 240 ff.

⁴ Mr. Robert C. Morris.

The presenting of this claim against Germany does not affect the basis of the claim of the United States against the Allied Governments which have received payments at the expense of our claim. The situation in this respect remains as was stated in Department's instruction to you dated February 19. Your attention is invited to the last clause in the letter to Morris where it is indicated that the claim may be reduced to the extent of the amounts which this Government will receive under arrangements which you are now making. The filing of this claim will not likely be made public. However, if it is, and the facts should receive attention abroad, you can state that this was simply a technical procedure for the purpose of preserving our rights and that it does not alter the situation.

HUGHES

462.00 R 294/174 : Telegram

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

[Extract]

PARIS, April 10, 1923—noon.

[Received 3:58 p.m.⁵]

185. W-25.

• • • • •
Bemelmans asks that the basis of division be changed largely I judge because of home politics. He presents new clause as follows:

"However if in the course one of the first four years it should prove necessary to utilize all or part of the cash payments made by Germany to cover the costs of the European allied armies of occupation in the course of that year the American priority of 25 percent shall be calculated on the total of the cash payments made by Germany in the course of that year and not merely on the total remaining after the costs of the European allied armies of occupation shall have been covered. The amount to be paid to the American Government in the course of one of the first four years may not however exceed 50 percent of the total remaining from the cash payments made by Germany in the course of the said year after the costs of the European allied armies of occupation shall have been covered. If the American priority calculated in the aforesaid manner for a determined year could not be covered by the 50 percent of the remainder the balance of this priority will be chargeable to the cash payments made by Germany in the course of the following years until and including 1926 instead of being divided among the payments of the last 8 years. At the beginning of 1927 the total

⁵ Telegram in four sections; this extract is the third section.

deficit which might be recorded will be divided among the payments of the last 8 years".

[Wadsworth]
HERRICK

462.00 R 294/174 : Telegram

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

WASHINGTON, April 10, 1923—12 p.m.

145. For Wadsworth. W-21. Your W-25.⁶

Heretofore Department had understood that it was contemplated to make payments to the United States a first charge on future payments credited to Germany with the specific exceptions enumerated in Article II subparagraphs *a*, *b*, and *c*, and Department had suggested that certain phraseology under consideration which had seemed to place in question the priority which was to be given the United States should be changed.

It appears from your statement, however, that it is now proposed that if costs of European Armies of Occupation in any determined year exceed the value of the deliveries in kind in that year received by the Powers respectively, the balance will be chargeable against the cash paid by Germany ahead of American Army costs. Further, that while American 25 percent is calculated on the total cash paid by Germany, it is proposed that there shall be a limitation of the actual payment to an amount equal to 50 percent of the balance of cash remaining after the current European army costs have been fully paid. For example, if the total cash paid by Germany was 80,000,000 gold marks, America's share would be 20,000,000. If, however, the cost of the European armies of occupation over and above value of deliveries in kind for the current year amounted to 50,000,000 gold marks, this would be deducted from the total of 80,000,000, leaving 30,000,000, and then the American share would be limited to one-half of this remainder, or to 15,000,000. We would then have the benefit of the calculation on the whole but be limited to payment of one-half of what remained after the Allies were paid in full. We fail to see where the priority comes in so far as army costs are concerned.

You say that there is no provision for carrying forward any deficit of the European army costs. But if there is a deficit in the European army costs, all this results from an apparent assumption that these costs are to be paid in any event so far as there are deliveries in kind to pay them and cash to pay them and that, no matter how the

⁶ *Supra*.

American share is calculated, we actually get nothing until these costs have been paid. Are we right as to this?

It is impossible for me to understand from the paragraphs you have formulated what the actual agreement is intended to be with respect to the points above mentioned. When I know exactly what is proposed in the light of these points I could readily advise you as to what is acceptable or not acceptable and what language is preferred. Meanwhile it would seem desirable that you withhold submission of suggestions or formulae.

HUGHES

462.00 R 294/176 : Telegram

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

[Extract—Paraphrase]

PARIS, April 11, 1923—2 p.m.

[Received 4:03 p.m.]

190. W-26. . . . The Department is correct in its assumption that current European army costs have priority in each year under the proposed paragraph 8, section 2.⁷ From the beginning it has been the position of the Allies that before the United States priority should be applied their current army costs must be met. . . .

[Wadsworth]

HERRICK

462.00 R 294/176 : Telegram

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

WASHINGTON, April 13, 1923—7 p.m.

151. For Wadsworth. W-23.

1. Proposal to subordinate American share of cash payments to payment of European current army costs is not acceptable.

2. . . . It is not sufficient to say that the United States will get its annuities when military expenses decrease and Germany makes payments adequate to meet both European army costs and these annuities, for in that case there will be no question of priority, as there will be enough for both. The question is important now because of the military outlays which may remain the same for an indefinite time.

⁷ Art. 2, par. VIII, of agreement signed on May 25, p. 180.

Under the proposed arrangement we would take the chance of whatever military expenses the European Powers see fit to incur and get nothing until they are paid.

3. It is important that this Government, in agreeing to postpone its claim by distributing it over twelve years, without interest, in further agreeing that the Allies should retain their deliveries in kind and the British the proceeds of their Recovery Act and thus limiting the share of this Government to payments in cash, should be assured some definite and reasonable proportion of such cash payments and not consent to a prior lien which might for an indefinite time exhaust them.

This position is believed to be entirely fair. No one can question that this Government, under the Armistice Agreement and in view of the circumstances in which it retained its troops in Europe, was justly entitled to be paid for the upkeep of its army *pari passu* with the other armies of occupation. Putting all legal questions aside, our equity is clear and has been admitted by the Allies. But they disregarded it and took payments for their own army costs without giving us a share. In justice they should now give us a share of what they have already received. This Government, however, desirous of being not only fair but generous, indeed most indulgent, in view of the economic conditions abroad, is willing to postpone payment of its claim and to receive payment out of what will be paid by Germany hereafter. Here it was manifestly fair that we should have recourse to payments in kind no less than payments in cash, but in deference to the situation in the Allied countries this point also has been yielded, and we have been willing to be content with a share of the cash payments. Now, to assert that the Allies intend to take not only all the payments in kind, but whatever may be necessary of future cash payments to pay for their current army costs, whatever these may be, and to allow our claim for the past upkeep of our army, which should have been paid equally with theirs to remain undischarged, is as it seems to this Government going entirely beyond the bounds of reasonable and just treatment. If this position results in no agreement that will be regretted but it will none the less be adhered to.

It would be entirely equitable that as the Allies are to take all the deliveries in kind we should have a first charge on all the payments in cash for our annual installment, but we have been willing to go beyond this and take only 25 percent of the cash payments for the first four years. Certainly we should have that 25 percent without its being burdened by any other charge.

The point is that there should be no provision in the agreement subordinating the American annual installment to the payment of

the European army costs. This Government should have a definite percentage of the cash payments which it should receive up to the amount of its annuity regardless of what the European army costs may be. The amount of that percentage should be fixed equitably, but it should be fixed so that if Germany makes cash payments this Government will know exactly what it is to receive.

4. What has been said with respect to army costs applies also to Belgian priority. It may also be noted that this Government has never agreed to the giving of a Belgian priority over American army costs. Moreover the Belgian Government has refrained from complying with its clear agreement⁸ that advances made by the United States for relief and reconstruction should constitute a first charge on reparation receipts from Germany, and has received more or less one billion gold marks in cash without allocating any portion thereof to the United States, although at the time the cash was being distributed this Government made successive inquiries⁹ as to what steps were being taken by Belgium to comply with the terms of the agreement. This Government could not be expected to admit that Belgium's priority be extended so as to take precedence over any part of these proposed annuities to pay the American claim for army costs while Belgium disregards its undertakings as set forth in the obligations held by the United States Treasury.

The question of Belgian priority may be disposed of and all embarrassment avoided by the simple arrangement of a definite share to the United States of the cash payments, the rest of the cash payments not included in this share being divided among the Allies as they choose.

[Paraphrase.] 5. It may be a matter of negotiation to determine the amount of the fixed percentage which the United States is to have, but for the first four years I assume it would not be less than 25 percent. In the subsequent eight years it has been assumed that it should be 100 percent of the cash received or as much as was necessary in each year to meet the amount payable to the United States. In order to reach a definite percentage which the United States would receive free from any prior liens, some concession might possibly be made with respect to these years.

6. I am most desirous to reach an agreement as you will understand, but there are limits to the concessions we can make and in view of the justice of our claims the American public would not be impressed with the reasonableness of a settlement by which we agreed to permit the Allies not only to keep all they have received

⁸ Agreement between the Belgian Government and the Treasury Department in 1919, effected by exchanges of notes.

⁹ Notes not printed; no replies were received from the Belgian Government.

previously at our expense, but also future deliveries in kind and the entire amount of their future military expenditures.

Far better would it be not to settle the claim at all than to settle it in a manner which promises nothing.

The Department has spoken of a fixed percentage. However we do not desire to exclude an arrangement in the way of a guaranty of installments if the Powers should desire to give it.

Leaving aside the equities of the case the United States cannot assent to a priority of European army costs from the point of view that the present armies were engaged as a collection agency for their benefit. Our Government's claim is for past army costs. These were incurred at a time when they could easily have been defrayed if it had not been for the reparation demands of the Allies. The present military operations of the Allies are not for our benefit. This Government has no desire to enter into any arrangement whereby it shall sponsor such operations or approve or disapprove of them. Still less does this Government desire any arrangement which might be interpreted as implying a commitment with regard to future military operations of the payment of costs to which our claim would be subordinated. [End paraphrase.]

7. If it should be found possible to reach a settlement on the basis outlined above, there remain, in addition to the modifications that would thereby be rendered necessary, three points for discussion:

(1) Adherence of other Powers. On this point you have my views.

(2) Wording for interest clause, on which you have yet to report.

(3) Question of reservation. I cannot accept suggestion for Paragraph 2, Section 6 proposing to give Allies right to abrogate in case United States adopts Reparation Recovery Act or receives payment in kind.¹⁰ With this exception I am prepared to accept wording proposed. . . .

HUGHES

462.00 R 294/187 : Telegram

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

[Paraphrase]

PARIS, April 19, 1923—11 a.m.

[Received April 19—10:43 a.m.]

205. W-32. Yesterday afternoon the Allies met and I am informally advised that they have declined to alter their position

¹⁰ See telegram no. 156, W-15, Mar. 29, from the Ambassador in France, p. 149.

with respect to American priority on army cost reimbursement. I was notified that this morning at nine thirty there would be a full meeting but last night about nine o'clock Tannery telephoned that the meeting could not be held. Bemelmans with whom I have just talked has no information as to the reason for the postponement as yesterday the Allies were unanimous. As the Allies cannot meet again until Friday or Saturday I am going to London as planned and shall return to Paris for a meeting on the afternoon of Monday, April 23.

I suppose, from the insistence of American correspondents here, it would be necessary for the Department to issue a full statement regarding the conference particularly if conference does not give any explanation as to the reason for a rupture. It is felt by the Ambassador and others with whom I have talked the matter over that a break would not be well received at home after the very liberal terms which the United States has offered. The point on which there was disagreement would seem rather unreasonable and technical.

Herrick expressed this opinion confidentially to an intimate friend of Poincaré and in our talk last Friday I intimated the same to the Belgian representative. When in London I expect to see the Chancellor of the Exchequer and suppose you will not object to my informally going over the situation with him. If you think it advisable I suppose you will bring some pressure on the Allies through their diplomatic representatives in Washington.

It is my plan to be in London from Thursday to Saturday inclusive.

I have talked with Tannery since writing the above and learn that he conferred last night with Poincaré after the meeting of the Allies and that in view of that conversation he desires to confer again with the Allied representatives. Wadsworth.

HERRICK

462.00 R 294/187a : Telegram

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

[Paraphrase]

WASHINGTON, April 19, 1923—6 p.m.

93. For Wadsworth due today in London from Paris. W-27.

The Department has received your W-32, April 19, 11 a.m., from Paris and does not object to your discussing the matter with the Chancellor of the Exchequer as you suggest.¹¹

¹¹ Mr. Wadsworth informed the Department on Apr. 24 by letter (not printed) that he had presented the American view to the Chancellor, who stated that he had no knowledge of the matter (file no. 462.00 R 294/202).

No occasion is seen to take matter up with Allied diplomatic representatives here who are not conversant with the course of your negotiations, who have not mentioned the matter and whose Governments must have been fully informed by their delegates of the justice and reasonableness of our position.

If the Allied delegates decline to alter their position at the meeting next Monday, it would seem to be desirable for you to explain to the American correspondents the justice and reasonableness of our position along the lines set forth in the 3rd and 4th paragraphs of my telegram of April 13, W-23, and if and when I hear definitely from you that our liberal terms are not acceptable to the Allies I will do the same here.

HUGHES

462.00 R 294/193 : Telegram

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

[Extract—Paraphrase]

PARIS, April 24, 1923—noon.

[Received April 24—9:35 a.m.]

211. W-34. There was a meeting yesterday and in my W-33¹² the full draft of the agreement was sent. You will note in paragraph 3 of article 2 the proposed compromise intended to give priority over current army costs during the last eight years, if such priority is needed, to the annual installments of the United States.¹³ I will consult Hess¹⁴ as to whether the wording is properly applicable, and if you will consider this compromise, please instruct as to whether wording is satisfactory.

Wadsworth
HERRICK

462.00 R 294/193 : Telegram

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

[Paraphrase]

WASHINGTON, April 25, 1923—2 p.m.

170. For Wadsworth. W-29.

From your W-34 of April 24 it cannot be ascertained whether the suggestions for possible compromise set forth in paragraph 5 of my

¹² Not printed.

¹³ Par. 3 of art. 2 of the draft is identical with that of the agreement signed May 25, 1923, p. 180.

¹⁴ Mr. R. A. Hess, unofficial American member of the finance service managing board, Reparation Commission.

W-23 of April 13, have been pressed and if so what was the disposition of the Allied representatives thereon. I am anxious to have your direct candid judgment as to whether Allied offer can be improved before instructing you further.

It appears from the last part of your W-28 that Allies might yield on paragraph 2 of the 6th article.¹⁵ As proposed this paragraph would be most embarrassing to the United States. It may be important to make arrangements for the payment by Germany to the United States of the equivalent of the private property now held belonging to Germans which property is held under the treaty until suitable provision for payment of claims is made by Germany. The United States should be completely free to make such arrangements without affecting the annuities under the agreement proposed. We cannot accept an arrangement placing us in less advantageous position than we now enjoy and paragraph proposed including broadly all possible forms of payment by Germany could not for these reasons be allowed, as well as for reasons already indicated in preceding correspondence. It is most important that this Government reserve liberty of action to deal hereafter with this matter and the equity of this position should be recognised by the Allies. This statement is not for use before further instructions are sent you but in order that before the instructions are sent we may have the immediate advantage of your views.

HUGHES

462.00 R 294/196 : Telegram

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

[Paraphrase]

PARIS, April 26, 1923—3 p.m.

[Received 4:03 p.m.¹⁶]

220. W-38. This is in reply to your W-29, April 25.

I did not press the proposition set forth in paragraph 5 of your telegram W-23, April 13, but I arranged that Logan should suggest

¹⁵ Telegram W-28 not printed. Par. 2 of art. 6 of the original draft as transmitted in telegram W-33, Apr. 24, reads as follows:

"In case that in the course of the execution of the present agreement the Government of the United States should take measures to receive payments in cash direct from Germany or deliveries in kind from Germany without payment or with partial payments or should pass a reparation recovery act or any similar legislation and should not charge against the total of these payments in cash or the value of deliveries in kind not paid to Germany or the produce of this reparation recovery act or of any similar legislation during any particular year the total of the costs of the American Army of Occupation up to the amount of the annual installments due to America during that year, the European Governments reserve to themselves the right of abrogating the present agreement."

(File no. 462.00 R 294/192.)

¹⁶ Telegram in two sections.

as a compromise plan to the Belgian representative that the priority you desired be granted, but that for the last eight years the 100 per cent priority be reduced to, say, 80 per cent. This suggestion was made by Logan in a telephone conversation about other matters in order that at the conference of the Allies last Wednesday, at which they discussed their reply, this thought might be before them. The Allies have not mentioned this proposition and the foregoing is the only mention made of the possibility along this line.

As for your request for candid and direct judgment, after my reviewing the situation with Logan and with the Ambassador, I can say that my information (see my W-32, April 19) and the Ambassador's information, from word received from the Foreign Office, is that your request for priority over current army costs was about to be denied by the Allies. The pressure which the Ambassador brought was not as to any detail of the proposition, but came from the personal expression of his opinion that a break at this time would be politically serious and produce in the United States a bad impression. The Allies held formal and informal meetings between last Wednesday and Monday, and I understand they finally agreed on Monday afternoon to make counter proposition as now outlined in the third paragraph of article 2. It is our understanding here that the Allies were ready to break on the subject of priority, and that only by reason of political aspects in America were they persuaded to change their minds. I express the opinion, therefore, under these conditions, that the proposition as to priority should be accepted.

As to the second paragraph of article 6, I am not so clear and am ready to insist that in return for our giving up priority desired in the first four years, it be eliminated, but I would prefer the introduction of some innocuous clause to recognize that the Allies at least had a right to a hearing should a recovery act be adopted by the United States.

Would you authorize me to state that public opinion as to this particular agreement will doubtless have a bearing on the consideration of debt settlements between the Continental Allies and the United States when in the future they come before Congress, and perhaps even further that the public opinion or the opinion of Congress at least will in a way treat this as a part of the general financial settlement which must take place, and if United States public opinion impressed favorably by terms now made, the consideration of debt settlement terms will be beneficially affected.

In view of the attitude taken by the Allies as to the legality of our claim, the importance of getting a settlement and the problems

involved, I should on the whole be willing to accept personally the present status as to priority:

- (a) With the elimination of paragraph 2, article 6;
- (b) With paragraph 2, article 6, reworded so as simply to call for a conference but giving no right of abrogation to the Allies;
- (c) Accept 80 percent priority for the last eight years in place of 100 percent if that made the Allies feel any better, in order to eliminate paragraph 2 of article 6.

Generally speaking, if Germany begins to pay, and army costs are reduced to normal figures, this percentage will not be a factor. If paragraph 2 of article 6 is to be impossible in any form, I would make straight out proposition to accept the terms as to priority and eliminate this paragraph with the possibility in view of a compromise and getting acceptance by reducing part of our 100 percent priority, but at the first meeting I would not intimate this.

Wadsworth
HERRICK

462.00 R 294/188½

*Memorandum by the Secretary of State of a Conversation with
the French Ambassador (Jusserand), April 27, 1923*

The French Ambassador called by appointment.

Army costs.—He stated that he had been instructed by his Government to take up the question of army costs. He had been informed that through the efforts of the French Government a compromise proposal had been made¹⁸ and that there were two points especially presented for consideration. The first was with regard to the American priority and this he understood was likely to be acceptable. He believed that Mr. Wadsworth had said that he would recommend it for acceptance. The other related to the provision that in case the American Government received direct payments from Germany or passed a Recovery Act or similar legislation and did not apply the monies obtained in this way to be discharged for army costs that the Allies should have the right to abrogate the agreement. The Ambassador said that he did not gather from his Government's instructions that the French Government was urging this, but they were very much concerned because of the attitude of the British and

¹⁸ On Apr. 24 Mr. Wadsworth wrote the Department that the compromise proposal (on priority) mentioned in his telegram W-34 (*ante*, p. 165) was understood to have been brought about finally by the Italian representative (file no. 462.00 R 294/202).

Belgians who were very insistent that this should be incorporated in the agreement. The French Government feared that if this were not assented to by the American Government that it would be impossible to make an agreement.

The Secretary reviewed the entire course of the negotiations. He pointed out the clear equity of the United States in being entitled to be paid for its army costs on a parity with the other Governments. The Ambassador at once assented to this. The Secretary said that instead of being paid in this way the Allied Governments had taken pay for themselves for their army costs and the American Government had not been paid. The Ambassador suggested that they thought that very likely the American Government did not intend to press its claim. The Secretary said that this, he believed, was not accurate, because at the time of the large payments our position had been distinctly reserved. It had been expected that we would receive proper treatment and when for the first time we were advised that it was intended to ignore us the Secretary had at once sent an explicit demand.

The Secretary said that in view of the circumstances it would have been entirely just if the American Government had asked to be paid out of what the Allies had already received; that the American Government stood on the same footing as the Allies with respect to the payment of the army costs; but in deference to the economic situation abroad the American Government had been willing to accept the proposal that it should postpone its claim and accept installments running over a period of twelve years without interest. The Secretary said that this, he believed, was most generous treatment. Then on top of this the Allies had asked that in the future payments by Germany of deliveries in kind should be excepted. Further than this the British desired to retain the proceeds of the British Recovery Act. The Secretary said that he thought this was a demand that went beyond what was entirely appropriate and fair, but in view of the difficulty in payment in dollars, when the Allies received payments in kind, and the general situation, the American Government had yielded this point and it was thus reduced to sharing in the cash payments that might be made by Germany. Then, on top of this, the Allies had insisted that we should only have 25 per cent of these cash payments for the first four years. Again appreciating the situation the point had been allowed, but when there came in addition a proposal by the Allies that during this entire period of twelve years the American Government should be postponed even as to the cash payments by Germany to the payment by the Allies of their current army costs, and that of the balance of

the cash payments they should be limited to sharing, for four years, to 50 per cent, that is by dividing with Belgium to meet the Belgian priorities, he thought it was time to stop. The Secretary accordingly had told Mr. Wadsworth that much as he desired a settlement of this matter if the Allies were disposed to take this position he could inform them that it would be unacceptable and return home. The Secretary said he thought this treatment was most unfair and that he felt that he would rather have the claim of the Government than an agreement made under such conditions and that he would have no difficulty in showing to the American public that we had been treated in a most inconsiderate fashion. The Secretary then said that he understood that Mr. Wadsworth had made this position clear and then the compromise suggestion had been made that the postponement to the current army costs of the European Governments should only continue for four years and that the United States should have a clear priority in the cash payments by Germany for the remaining eight years. The Secretary said that he had this proposal under consideration. He felt, however, that to join with this the proposal that the American Government could not pass any legislation of the sort of the British Recovery Act or obtain any direct payments for [from?] Germany on account of its claims or the claims of its nationals without giving the Allies an option to rescind the agreement was indefensible. The Secretary pointed out that we had not advanced general reparation claims; that our claims were for actual injuries to property and that it was fair they should be discharged, but saw no reason why we should be put in a position where we could not obtain payment of these claims without losing our claims for our army costs. We were entitled to both. The Secretary pointed out the demand of the British to retain the proceeds of their Recovery Act. He also pointed out that the claims as filed with the Mixed Claims Commission would doubtless be found to be largely in excess of the amounts allowed, but whatever they were we were entitled to have them paid. The Ambassador spoke of the property in the hands of the Alien Property Custodian. The Secretary said that this was the property of private persons many of whom were no more responsible for the war than the Ambassador or the Secretary, that they were simply enemy nationals, many of them living in this country. The Secretary said that he did not wish to make a further statement as an official communication or for communication to the French Government, but he would say to the Ambassador that it was hoped that this Government would not be put to the necessity of confiscating the property of private persons,

although it might have the right to take it under its treaty with Germany. The Secretary said that under the proposal made by the Allies, if the American Government was able to make an arrangement with the German Government by which the German Government obtained a release of the private property of its nationals, imposed a tax and paid the equivalent to the American Government, because we would receive this direct payment from Germany we might have our army costs agreement rescinded, although no harm then would be done to the Allies. The Secretary said that he could not agree to such a limitation. He thought this Government had been generous enough and he had entered into the negotiations with the supposition that the Allies desired to be equitable in making an adjustment.

The Ambassador indicated that he felt the force of these points and again stated that he did not know that his Government was particularly urgent in the matter; that the British and Belgians seemed to be quite stiff about it.

The Secretary said that he was willing to go to this extent. Apparently, the Allies were fearful of some new situation arising out of dealings with Germany of the sort that the Secretary did not think probable. The Secretary said he would be perfectly willing to say that in the event described in the paragraph of the proposed agreement under consideration,¹⁹ that is, in case of direct payments by Germany or the passage of legislation similar to the British Recovery Act, the United States would be willing to discuss the matter with the Allies in order that all equities could be considered in the light of the new situation. The point that the Secretary distinctly objected to was making an agreement and giving the right to the Allies to abrogate it in case an entirely reasonable arrangement was made by this Government to secure the payment of its claims and the claims of its nationals. The Secretary asked why this Government should not be able to have payment of its claims as well as payment of its army costs when the Allies had already obtained the payment of their army costs and were insisting upon protection for a considerable number of years for their current army costs.

The Ambassador said that he could not speak for his Government; that he was inclined to think that the Secretary's position would be entirely acceptable to the French Government. He would communicate with them at once.

¹⁹ Art. 6, par. 2.

462.00 R 294/196 : Telegram

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

[Paraphrase]

WASHINGTON, April 27, 1923—6 p.m.

172. For Wadsworth. W-30.

You are authorized to state that this Government will accept the Allied proposals on priority if you are satisfied they cannot be bettered.

It is not deemed equitable that the United States should yield further in view of the foregoing concession which clearly indicates willingness of this Government to take into consideration the difficulties faced by the other Governments concerned and to be most generous in making concessions with a view to reaching an agreement. You should, for reasons already stated, inform your colleagues that paragraph 2, article 6, is not acceptable to this Government, but if it appears that insistence on elimination of this paragraph would definitely disrupt negotiations you may state that this Government would accept the following substitute: The paragraph be followed up to and including the words "up to the amount of the annual installments due" and from there reading as follows:

"due to the United States during that year, the Government of the United States will discuss the effect of such measures or payments with the other parties for the purpose of reaching an agreement which will preserve in the light of such measures or payments the equities of the parties to this agreement."

The French Ambassador under instructions from his Government has just seen me and stated that it was understood you would recommend the acceptance of the priority as now proposed but would merely submit without recommendation paragraph 2, article 6. He informed me that the Belgians and the British were very insistent on this latter provision. I explained the extent of our concessions at length and stated that we could not agree to restrict our liberty of action, indicating to him the proposal set forth in the 2d paragraph of his telegram as a final concession.

HUGHES

462.00 R 294/199 : Telegram

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

[Paraphrase]

PARIS, April 30, 1923—10 p.m.

[Received May 1—9:25 a.m.]

227. W-41. I presented the new wording at once in view of your conversation with the French Ambassador and your intimation to

him that you would make the concession as outlined in your new wording of paragraph 2, article 6, as I felt sure that it would be understood by Tannery and probably others that there was such an available concession.

The paragraph was discussed for two hours, both the British and Belgian representatives stating that they had instructions to insist upon the right of abrogation. I took the position that the paragraph as written was the last word, the Allies suggesting that we give up our right of abrogation.

The question whether your wording would mean that the whole agreement was in abeyance unless in the discussion of equities an agreement was reached or drawn up by the Allies and to cover this point the following changes were made in paragraph 2 of article 6: Substitute for "reaching" "endeavor to reach" and add at the end of the paragraph "the inauguration of such discussion or failure to reach an accord shall neither suspend nor terminate the operation of the present agreement". Will you inform me whether this is satisfactory. I stated that the United States considered the agreement satisfactory except for this paragraph. The representatives of the Allies will consult their Government and from Bradbury's remarks the suggestion that the paragraph be eliminated may be brought back by them.

Bradbury seems to be leading the opposition [which?] is full of juridical points. I have informed the newspapers that the Allied representatives have referred to their respective Governments an important legal point bearing on the future operation of the agreement. Wadsworth.

HERRICK

462.00 R 294/199 : Telegram

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

[Paraphrase]

WASHINGTON, May 1, 1923—5 p.m.

178. For Wadsworth. W-34.

The Department has received your W-41, April 30, and commends your action. The modification of and addition to paragraph 2 of article 6 as reported in paragraph 3 of your W-41 are approved.

It would be entirely agreeable to the Department if the Allies should propose the elimination of paragraph 2, article 6.

Department approves your refusal to give up our right of abrogation, which right should be maintained by you even if the entire elimination of paragraph 2 is suggested by the Allies.

If and when agreement is signed, please notify me promptly.

HUGHES

462.00 R 294/201½

*Memorandum by the Secretary of State of a Conversation with
the French Ambassador (Jusserand), May 5, 1923*

Army Costs.—The Ambassador said that he had endeavored to convey to his Government the Secretary's views and there was not any great difficulty, so far as the French Government was concerned, but that it [*there?*] seemed to him considerable difficulty with the British and Belgians. The Ambassador said that he had been instructed to ascertain if the Secretary could not suggest some formula which would prove a way out of the difficulty.

The Secretary said that he had no formula to suggest; that the United States Government had been asked to make one concession after another and had made them in the interest of reaching an agreement. But now it came to the point that the agreement was not to continue binding, or, at least, the Allies were to have the option to abrogate it, if the United States obtained payments directly from Germany which were not applicable to the army costs. The Secretary said that this meant the Allies undertook to say that if the United States desired to retain this army costs agreement it must do so at the price of not being able to collect its claims from Germany. This would mean that if any effort was made by the United States to have its claims paid by Germany it would be necessary to add to these claims the amount of the army costs, for the Allies apparently were insisting that the United States should not have the benefit of the agreement with the Allies and the payments for American claims at the same time. The Secretary reiterated his opinion that this was not a just position.

The Secretary pointed out that the United States was not claiming several classes of reparations and was merely seeking to secure the payment of the just claims of its nationals and for damages actually sustained. The Secretary noted that with respect to debts the Allies had the benefit of the clearing house system. This system could not be utilized in the United States, but the nationals of the Allies were receiving payment of their debts in addition to the reparation and army cost payments. Certainly the United States should be able to obtain from Germany, in accordance with its treaty, the payment of the debts due to its nationals. Then, with respect to the damages sustained by submarine attacks, et cetera, there was no reason why the claims of the United States and its nationals should be foregone.

Why, asked the Secretary, should the Allies seek to make this a condition for the payment of the army costs when the Allies had already received their army costs substantially and it was a clear equity that the United States should have been paid at the same time and upon the same footing?

The Ambassador repeated that his Government did not find the situation was very difficult, but that the others seemed to and hoped that some formula could be found. It was said that the United States held in the hands of the Alien Property Custodian a large amount of property which was applicable to the claims of which the Secretary had spoken.

The Secretary replied that this was true, but that the property in question was the property of private persons and that while the United States had the right under its treaty to apply it to the payment of claims, yet it was held for this purpose in the event that Germany made no suitable provision for such payment. The Secretary pointed out that perhaps in most cases the property was private property of those who had nothing to do with the instigation or conduct of the war, but simply were private citizens who had investments in this country and happened to be enemy nationals. The Secretary said that it might well be that we should seek an opportunity to have Germany make a payment which would enable us to avoid the confiscation of this private property and there was no reason why we should not do so, but under the proposed provision, if the United States undertook to get merely the equivalent of the property that it held in hand the Allies would have the liberty to abrogate the army costs agreement. The Secretary saw no justification for this. The Secretary also pointed out that so far as a Reparation Recovery Act was concerned, it was extremely unlikely that such an act would be passed by Congress, but there was no reason why the Congress should not have the liberty of passing it if it saw fit without the risk of losing the army costs agreement.

The main question from a practical standpoint was, however, whether the United States would have the liberty to collect from Germany the amount of its claims without being compelled to lose the benefit of the army costs agreement which was intended to pay the United States what it should have received long ago.

The Ambassador said that he understood the Secretary to mean that if the United States only got the equivalent of the property in the hands of the Alien Property Custodian, it would still have to give up the army costs agreement. The Secretary pointed out that it might be possible to make an arrangement by which the

private property could be released and a capital tax might be imposed by Germany with the result that there would be a fair arrangement all around, and yet, although the United States would be in no better position and might merely receive from Germany the equivalent of the property in hand, still the Allies, under the proposal, would be privileged to abrogate the army costs agreement.

The Ambassador said he would communicate again with his Government and see if some formula could be devised on the other side which would meet the situation.

Reparations.—The Ambassador referred to the German offer and said it was very vague and indefinite; that the German offers were continuously being reduced in amount; and that his Government would undoubtedly reject it at once. The Secretary pointed out that a settlement could hardly be reached by fulminations in the public square, and that the best thing about the German note was that it indicated a desire to begin negotiations. The Secretary hoped that there would be some opportunity found by which the representatives of the Governments could get together and thresh the matter out and reach a fair solution. The Ambassador agreed.

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462.00 R 294/217 : Telegram

The Chargé in Belgium (Thaw) to the Secretary of State

BRUSSELS, May 22, 1923—3 p.m.

[Received 6:05 p.m.]

49. Note today from Foreign Office states that after having examined the draft of the agreement prepared by the experts of the Belgian, French, British and Italian Governments, to settle the expense of the American army of occupation, the Belgian Government has decided to consent to the suppression of paragraph 2 of article 6 of that draft. The Belgian Government declares however that if it consents to sign the draft thus modified it is because it interprets article 248 of the Treaty of Versailles, the scope of which it has no intention of limiting in signing the said agreement, as permitting the Reparations Commission, should the case arise, to protect in their entirety the rights of the Belgian Government.

Repeated to Paris and London.

THAW

462.00 R 294/216 : Telegram

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

[Paraphrase]

PARIS, May 22, 1923—4 p.m.

[Received May 22—2:17 p.m.]

253. W-49. Tannery has just informed me that he hopes a meeting will be held tomorrow (Wednesday) to sign the agreement. He states that in any event the signatures by France and Belgium, and possibly by others, must be subject to the approval of the several Parliaments in accordance with constitutional requirements and that the matter can be dealt with in no other way. This development is entirely new. I presume that if reservation required by constitutions I should sign with that understanding. No definite word has been received from Bradbury by Tannery as to the extent of his insistence that agreement be submitted to Germany and I have communicated your position on this point to Tannery. If possible please reply today. Wadsworth.

HERRICK

462.00 R 294/216 : Telegram

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

[Paraphrase]

WASHINGTON, May 22, 1923—5 p.m.

203. For Wadsworth. W-41. This is in reply to your W-49, May 22, 4 p.m.

I am much surprised at the belated suggestion regarding parliamentary approval. According to my understanding the Finance Ministers Agreement of March, 1922,²⁰ was not submitted to the respective Parliaments; but if you find it necessary there is no objection to your signing agreement with the understanding that it is subject to the constitutional requirements of the signatories.

You are requested to report immediately whether the Department is correct in understanding that the Allies have decided to omit the second paragraph of article 6. You are authorized to sign on this assumption.

HUGHES

²⁰ For text of agreement, see Great Britain, Cmd. 1616, Reparation (1922).

462.00 R 294/220: Telegram

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

[Paraphrase]

PARIS, May 23, 1923—1 p.m.

[Received 3:10 p.m.]

255. W-50. This is in reply to your W-41, May 22, 5 p.m.

A meeting has been called for 3:30 tomorrow (Thursday) afternoon for signing the agreement. According to my information the following provision has been added: "The present agreement will come into force after ratification; ratifications will be exchanged at Paris as soon as possible." It is my understanding that the meaning of these words is intended to be such ratification as under the constitutional provisions of each signatory power may be necessary. According to Tannery this means parliamentary approval by Belgium and France. The view that ratification by British Parliament is not necessary is informally expressed by Bradbury. I do not know what the situation is regarding Italy but Tannery is inclined to believe that ratification by Italy will be necessary. Please cable instructions. The agreement of March 11, 1922, Tannery claims was subject to the same form of ratification (see page 14 of the notes of the March 10th meeting²¹).

According to Bradbury, identical note was to be handed simultaneously to Embassies at Brussels, Rome, London, Paris. No note has yet been received here but assume it will be identical with the Belgian note referred to in Brussels telegram no. 49, May 22, 3 p.m.

With reference to your W-41, your understanding is correct as to the omission of the second paragraph of article 6.

I understand from later information that signature will not be possible before Monday. Wadsworth.

HERRICK

462.00 R 294/219: Telegram

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

[Paraphrase]

PARIS, May 23, 1923—5 p.m.

[Received May 23—2:30 p.m.]

256. W-51. Apparently the delay mentioned in the last paragraph of my W-50, May 23, 1 p.m., is due to the Italians who, according to my information, desire to present note to the American Ambassador here as well as to the American Ambassador at Rome.

²¹ Not printed.

Subject to any further instructions I shall try to push the matter to a conclusion on Saturday rather than Monday.

I have had a friendly talk with Bradbury since my W-50; neither by him nor by Tannery has there been further mention of submitting agreement to the German Government. Wadsworth.

HERRICK

462.00 R 294/221 : Telegram

The Chargé in Belgium (Thaw) to the Secretary of State

BRUSSELS, May 24, 1923—11 a.m.

[Received 3 p.m.]

Referring to the Embassy's number 49, May 22, 3 p.m.

The Foreign Office has today recalled the note upon which my telegram was based because of a "serious error" made in the preparation of the note at the Foreign Office, and has substituted the following:

"I beg to inform you that, after having examined the draft of the agreement prepared by the experts of the Belgian, French, British and Italian Governments, to settle the expenses of the American army of occupation, the Belgian Government has decided to consent to the suppression of paragraph 2 of article 6 of that draft. The Belgian Government declares, however, that, if it consents to sign the draft thus modified, it is because it interprets article 248 of the Treaty of Versailles, the scope of which it has no intention of limiting in signing the said agreement, as permitting in favor of the Allied and Associated Powers that ratified the Treaty of Versailles, protection of the priority of reparations and other charges proceeding from this treaty on the engagements and obligations of Germany."

THAW

462.00 R 294/225 : Telegram

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

PARIS, May 25, 1923—3 p.m.

[Received May 25—1:16 p.m.]

259. My 256 [255], May 23, 1 p. m., W-50, ante-penultimate paragraph, Italian member Reparation Commission has handed me copy of note which his Government has addressed to Child in Rome, and which is identical with Belgian note.

I have just received French note from Foreign Office. After preamble similar to that of Belgian and Italian notes second paragraph reads as follows:

"The Government of the Republic, however, desires to declare that, if it has consented to sign the draft agreement thus modified, it is because it interprets article 248 of the Treaty of Versailles, the

scope of which it has no intention of limiting in signing said agreement, as permitting 'the protection, in favor of the Allied and Associated Powers which have ratified the Treaty of Versailles, of the priority reparations and other charges resulting from the said treaty over other engagements and obligations of Germany.'"

Thus the French note in the part subquoted above differs from the Belgian and Italian notes.

HERRICK

462.00 R 294/238, 256

The Assistant Secretary of the Treasury (Wadsworth) to the Secretary of State

[PARIS,] May 26, 1923.

[Received June 11.]

SIR: In accordance with your instructions of February 19, 1923, in connection with the negotiations as to the payment of the cost of the American Army of Occupation, I beg to state that an agreement was signed yesterday covering this matter. This agreement is, I trust, in accordance with your original instructions supplemented by various cables which we have exchanged since that time.

One copy of the agreement was signed both in French and English. This copy is to be filed with the records of the Government of France. I understand that a certified copy of both the French and English agreement will be, in due course, sent to you through the American Embassy.

I enclose herewith a copy of the French and English drafts with small pencil changes made at the last meeting of the Conference when the official copy was being verified.²² The changes on the French text were made by Mr. Sheldon Whitehouse, Counsellor of the American Embassy. Both of these drafts should absolutely agree with the original draft as signed.

Respectfully,

ELIOT WADSWORTH

[Enclosure]

Agreement between the United States of America and Great Britain, France, Italy, and Belgium, Signed at Paris, May 25, 1923

THE PRESENT AGREEMENT is concluded between the Government of the United States of America, of the one part,

And the Governments of Great Britain, France, Italy, and Belgium of the other part.

²² A copy of the authenticated text, transmitted by the Embassy in France on July 20, 1923, has been substituted for the copy submitted by Mr. Wadsworth.

The Governments of Great Britain, France, Italy and Belgium undertake to use every effort to secure the adherence to this Agreement of the other Allied Powers who have a right to participate in the payments affected by the said Agreement.

ARTICLE 1

For the purpose of the present Agreement the net amount due to the Government of the United States for the costs of its Army of Occupation will be reckoned as follows:

The total net costs as they are certified by the United States Government and as they will figure in the accounts of the Reparation Commission after deducting the following sums, if they have not already been deducted:

(a) Any amount already collected by the United States Government in the form of the requisition of paper marks;

(b) The value of the Armistice material and material abandoned by Germany not possessing a military character.

The value in gold of the paper marks, of the Armistice material and of the abandoned material not possessing a military character, shall be fixed by the Reparation Commission and the Reparation Commission will agree with the Government of the United States as to the amount thereof to be deducted from the total net costs of the American Army of Occupation.

ARTICLE 2

I. The net amount due to the United States will be paid in twelve equal yearly instalments, the first instalment to be paid on or before the 31st December 1923.

II. No interest will be charged; however, if the Allied Governments should decide at any time to charge interest from a fixed date for the unpaid costs of their Armies of Occupation, the same rate of interest commencing from the same date shall be allowed the Government of the United States for the unpaid balance of its claim.

III. Each of the yearly instalments referred to in paragraph I of the present Article constitutes up to the 31st December 1926 a first charge on the payments of all kinds to be credited to Germany's "Reparation" account* excluding those specially excepted by para-

* The "Reparation" account of Germany includes all payments in cash or kind which are devoted to making good the damages for which the Allies have claimed compensation from Germany in accordance with the terms of the Treaty of Versailles. Accordingly, there are excluded from the "Reparation" account such items as the costs of the Reparation Commission, the payments made through the Clearing Offices, and the cost of the Armies of Occupation. [Footnote on the original.]

graph IV below, and, from the 1st January 1927, if the payments of all kinds to be placed to the credit of the Reparation account are insufficient, a first charge in addition on all the payments to be placed to the credit of Armies of Occupation account, exclusive of paper marks requisitioned to meet the needs of the Armies of Occupation for local currency during the year in the course of which the said yearly instalment should be paid to the Government of the United States. The charges established by the present paragraph are applicable whether these payments are made by Germany or for her account or by or for the account of another country from whom a similar payment may be exacted, to any organization which has been or may be designated to receive such payments and including the payments made directly to the interested Governments.

IV. For the purpose of the execution of the present Agreement, the payments by the German Government subjected to the charges referred to in paragraph III above shall not include:

a) Deliveries in kind intended to be used in the interior of the receiving countries, their colonies and their dominions made by virtue of the various annexes to Part VIII of the Treaty of Versailles or of any other procedure approved to date by the Reparation Commission* to the Allied countries having a credit on account of reparations;

b) The proceeds of the British Reparation Recovery Act or of any other similar legislation enacted or to be enacted by the other Allied Governments in pursuance of paragraph 2 of the decision of the Allied Governments of 3rd March 1921;²⁵

c) The value of transfers and cessions of property, rights and interests made in execution of the Treaty of Versailles, unless such transfers (e. g., under Articles 254 and 256 of the Treaty of Versailles) result in a payment to the credit of Germany's reparation account made by Powers not having a right to reparation, or unless such cessions of property, rights and interests (e. g., under Article 260 of the Treaty of Versailles) are liquidated or sold for cash by the Reparation Commission for the credit of Germany.

V. If, in the course of one calendar year between 1st January 1923 and 31st December 1926, the amount of the sum due to the Government of the United States exceeds 25% of the total of the payments made by or for the account of Germany for the credit of her reparation account as defined above (excluding the sums carried to the

* The other procedures approved to date by the Reparation Commission are those of:

a) The Wiesbaden Agreements signed on the 6th and 7th October 1921;

b) The Bemelmans-Cuntze Agreement of 2nd June, 1922;

c) The Gillet-Ruppel Agreement of 2nd June, 1922.

[Footnote on the original.]

²⁵ Not printed.

account of the Armies of Occupation), the amount of the instalment payable to the Government of the United States shall be reduced to a sum equivalent to 25% of such payments, and $\frac{1}{8}$ of the sum deducted shall be added to each of the instalments to be paid in the course of the years 1927 to 1934 inclusive.

VI. Nevertheless, for the purpose of the present Agreement, the European Allied Governments, creditors on account of their Armies of Occupation, undertake to apply during each of the years 1923 to 1926 inclusive by priority to the payment of the current expenses for their respective Armies of Occupation, in so far as these have not been met by the requisition of paper marks, the value of the deliveries in kind referred to in paragraph (a) above, the proceeds of any Reparation Recovery Act for the time being in force and referred to in paragraph (b) above, and the value of the transfers and cessions of property rights and interests referred to in paragraph (c) above, in such a way as to be able to place as far as possible the value of the other payments which Germany will make to her credit on account of reparations.

VII. If, after 1926, the payments to the Government of the United States in the course of any particular year are insufficient to satisfy the amount due to that Government in the course of that year, the arrears shall be carried over to a special account bearing simple interest at $4\frac{1}{2}\%$.

This account of arrears shall be liquidated as soon as the payments received from Germany in the course of any year admit.

These arrears shall have the same priority as that given under paragraph III of Article 2 of the present Agreement to the equal annual instalments.

VIII. However, if in the course of one of the first four years it should prove necessary to utilise all or a part of the payments in cash made by Germany to cover the costs of the Armies of Occupation of the European Allies in the course of that year, the American priority of 25% shall be calculated on the total of the payments in cash made by Germany in the course of that year on reparation account and on the account of the Armies of Occupation of the European Allied Powers, exclusive of paper marks requisitioned to meet the needs of the Armies of Occupation for local currency. The sum to be remitted to the Government of the United States in the course of any one of the first four years shall not, however, exceed 50% of the total balance of the payments in cash made by Germany in the course of the year in question, which remains for credit to reparation account. If the American priority calculated as above for any particular year cannot be met by the 50% payments calculated as above, the balance of this priority shall be charge-

able against the payments in cash made by Germany in the course of the following years up to and including 1926 instead of being spread over the payments of the last eight years. At the beginning of 1927 the total deficit which has accrued shall be spread over the payments of the last eight years.

IX. If at the end of the year 1927 or of any year following, the arrears have reached such an amount as might, in the opinion of the Government of the United States, endanger the complete execution of the payments within the period of twelve years, the Allied Governments will, upon the request of the Government of the United States and in agreement with it, use their best endeavours to make such modifications of the present Agreement as may seem necessary to ensure the complete execution of the payments within the prescribed period of twelve years.

X. The Allied Governments, however, reserve all their rights in respect of the payments in kind and in cash which might be collected in occupied territory through the intervention of any Allied authority.

ARTICLE 3

The present Agreement has been drawn up in contemplation of annual payments to be made by Germany and with the recognition of the impossibility of foreseeing and determining at this moment the distribution of any extraordinary payment which may be made by Germany in any particular year.

If, however, a loan is floated or an anticipatory payment effected by Germany in any manner, the Allied Governments will put themselves in communication with the Government of the United States for the purpose of discussing the participation of the United States in such extraordinary payments.

If, as a consequence of a loan floated either in America or elsewhere, or of any anticipatory payment made by Germany by any means whatever, a moratorium were granted to Germany, the Allied Governments will put themselves into communication with the Government of the United States for the purpose of reaching an agreement which would not cause any prejudice to the Government of United States.

No discount shall be allowed for any anticipatory payments.

ARTICLE 4

The Allied Governments which have approved the agreement of 11th March 1922, declare that the charge upon the payments in cash to be received from Germany and set up by the last part of Article 8 of the Interallied Agreement of March 11th 1922, in favour of the unpaid balance of the costs of the British and French Armies

of Occupation up to 1st May 1921, shall only apply to the balance, if such there be, of the German payments after payment of the sums due to the United States in execution of the present Agreement. The fact that the Government of the United States has taken note of this declaration cannot, however, be interpreted as an expression of opinion of the Government of the United States with regard to the Agreement of 11th March 1922.

ARTICLE 5

If the Government of the United States should come to an agreement with the Reparation Commission to receive, in accordance with the provisions of the Treaty of Versailles or any supplementary Agreement, German dye-stuffs, the value of these dye-stuffs determined by agreement between the Government of the United States and the Reparation Commission, shall be deducted from the annual payment due to the Government of the United States under the present Agreement in the course of the calendar year in which these dye-stuffs shall have been received.

If, in the course of any calendar year, the value of the dye-stuffs thus supplied to the United States exceeds the annual sum due to the Government of the United States, the excess shall be utilised:

(a) During the years from 1923 to 1926 to supplement, as far as necessary, the payments already made, so as to bring them, for each year, up to 1/12 of the American claim;

(b) During 1927 and the years following, to liquidate the account of arrears.

If, when these operations have been completed, there still remains a balance, this shall be regarded as an anticipatory payment of the annual instalments fixed in accordance with Article 2 of the present Agreement.

No discount shall be allowed on these anticipatory payments.

ARTICLE 6

If at any time the arrears due to the United States reach a total such that the Government of the United States considers that there is a risk of its not being paid within the prescribed period of 12 years, the Government of the United States shall have the right to abrogate the present Agreement, if within a period of three months from the date of a notification to that effect, the Agreement has not been modified to its satisfaction.

In negotiating the present Agreement, the respective Governments, with a view to arriving at an arrangement for the payment of the costs of the American Army of Occupation, have voluntarily avoided raising any question of right or interpretation.

The respective Governments desire, nevertheless, to state that, in case the present Agreement should be abrogated for any reason whatsoever, each of them reserves the right to maintain all its rights whatsoever may be their extent, such as each deems them to exist at this date.

THE PRESENT AGREEMENT shall take effect after such ratifications as may be required in accordance with the constitutional methods of the High Contracting Parties.²⁶

Ratifications shall be exchanged at Paris as soon as possible.

IN FAITH WHEREOF the undersigned, duly authorized, have signed the present Agreement.

DONE at Paris, the twenty-fifth day of May one thousand nine hundred and twenty-three, in a single copy which will remain deposited in the archives of the French Republic, and of which authenticated copies will be transmitted to each of the Signatory Powers.

<i>For the United States of America:</i>	ELIOT WADSWORTH
<i>For Great Britain:</i>	JOHN BRADBURY
<i>For France:</i>	JEAN TANNERY
<i>For Italy:</i>	M. D'AMELIO
<i>For Belgium:</i>	A. BEMELMANS

462.00 R 294/236 : Telegram

The Chargé in Great Britain (Wheeler) to the Secretary of State

LONDON, June 5, 1923—4 p.m.

[Received June 6—10 a.m.]

207. Your 131, June 2, 5 p.m.²⁷ The Embassy on May 26 received a note which was sent by pouch May 29th, which stated as follows:

"His Majesty's Government have decided to consent to the suppression of paragraph 2 of article 6 of that draft agreement.

"His Majesty's Government are however anxious to place on record that they have only consented to sign the draft agreement thus modified because they interpret article 248 of the Treaty of Versailles, the scope of which they in nowise intend to restrict by signing the said agreement, as a safeguard in favor of the Allied and Associated Powers who have ratified the Treaty of Versailles, of the priority reparations and other charges arising out of the said treaty over the other engagements and obligations of Germany."

WHEELER

²⁶ On Aug. 24 the Department informed the Chargé in France as follows: "Inasmuch as the agreement is not a treaty but rather an executive agreement . . . it is deemed by the Government that the formal approval by the President will suffice. . . . the President's approval is sent you . . ." (File no. 462.00 R 294/286.)

²⁷ Not printed.

462.00 R 294/242 : Telegram

*The Secretary of State to the Ambassador in France (Herrick)*²⁸

WASHINGTON, July 14, 1923—2 p.m.

284. Your despatch 3178 June 4.²⁹

You may inform the French Foreign Office as follows:

"I did not fail to transmit to my Government the note which Your Excellency addressed to me under date of May 24, 1923 concerning the assent of Your Excellency's Government to the suppression of paragraph 2 which it had been proposed to include in Article 6 of the agreement for the reimbursement of the cost of the American army of occupation in the Rhineland.

"My Government has noted the statement contained in Your Excellency's note that (here quote second paragraph of the Foreign Office's note).

"In reply I am directed and have the honor to inform Your Excellency that my Government does not understand by this statement that it is intended to deny to the United States the enjoyment of the rights and advantages to which the United States is justly and equally entitled as a participant in the common victory, including the rights and advantages stipulated for its benefit in the Treaty of Versailles and accorded to the United States by the treaty signed on August 25, 1921 between the United States and Germany. It may be observed that this would in no way derogate from any of the benefits which the other Allied and Associated Powers are also justly and equally entitled to enjoy. My Government is confident that it is no more the purpose of the other Allied and Associated Powers to attempt to discriminate against it with respect to these privileges and benefits, which would not have been secured except through the success of the common effort, than it is the purpose of the Government of the United States to seek to exercise its rights under the treaties above mentioned in any spirit other than that of equity towards its associates in the war."

HUGHES

462.00 R 294/279 : Telegram

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

[Extract—Paraphrase]

PARIS, October 16, 1923—7 p.m.

[Received October 17—5:11 a.m.³⁰]

409. I was informed this morning by a member of the British Embassy that he had received new instructions and that it was his present understanding that the whole matter had been complicated

²⁸ The same, *mutatis mutandis*, to the missions in Belgium, Great Britain, and Italy.

²⁹ Not printed; see the Ambassador's telegram no. 259, May 25, p. 179.

³⁰ Telegram in two sections.

anew by our having presented a claim for a share in the Bulgarian reparation payment made recently.³¹ I said that I was unaware that any such action had been taken, but if it had I did not see that the situation had been made more difficult. My informant replied that the whole question of the interpretation of the agreement was necessarily involved in such a claim on our part; it was his contention that a decision of the Conference of Ambassadors notifying the agreement to the Reparation Commission was a decision approving the agreement; he is not willing to concur in such a decision until the question of interpretation has been settled so he is able to know precisely the scope of the agreement that he is to approve.

I inquired what for him would constitute a satisfactory settlement of the matter at issue, and he made it clear that his criterion was Sir John Bradbury's satisfaction.

He was under the impression that our position on the Bulgarian payment had been taken by Logan either at meetings of the Reparation Commission or of the commission's subcommittees. He is evidently in error, for Logan is still without instructions.

Logan advises me that it is possible Bulgarian payments came to the commission's attention through draft reports of the Finance Service, but that he had neither discussed nor referred to the position of the Government of the United States on interpretation of the agreement with anyone. . . .

WHITEHOUSE

462.00 R 294/279 : Telegram

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

[Paraphrase]

WASHINGTON, *October 19, 1923—6 p.m.*

289. The American Chargé in France has telegraphed the Department that he has been informed by a member of the British Embassy at Paris that he had received new instructions, but that now a complication had arisen by reason of claim put forward by the United States for a share in Bulgarian reparation payments. It was the opinion of the Chargé's informant that any such claim involved interpretation of the agreement of May 25, and he intimated that

³¹ The Bulgarian Government made its first semiannual reparation payment on Oct. 1, 1923.

his instructions were that this matter had to be settled satisfactorily before he would be able to concur in notifying the agreement to the Reparation Commission by the Conference of Ambassadors. He indicated as his view that such notification would in effect be approval, and that before according approval the scope of the agreement should be settled. He indicated confidentially that on this point the British member of the Reparation Commission had to be satisfied.

You will please take the first opportunity to give the substance of the foregoing to Lord Curzon and to say to him that the Government of the United States has not presented a claim to share in the Bulgarian payments although, now that the question has arisen, this Government must of course fully reserve its position in the event that a share should not be accorded it. You will state that this Government is at this time merely requesting that the agreement be notified to the commission as soon as this can be done, and indicate that under the circumstances it would clearly be unreasonable if notification were to be held up. The Government of the United States is loath to believe that the Governments by whom the United States was invited to confer on the reimbursement of its admittedly just claim for army costs are now disposed, by raising technical points, to stop the proposed notification. The Government of the United States hopes that the position which has been reported to it does not represent correctly the views of the British Government, and that the British representative at Paris will be appropriately instructed to give his support to prompt notification of the agreement to the commission and the opening of a separate account.

Repeat to Embassy, Paris, as Department's no. 387, and keep it and Department advised.

HUGHES

462.00 R 294/285 : Telegram

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

PARIS, November 8, 1923—5 p.m.

[Received November 8—4:45 p.m.]

451. The Conference of Ambassadors this morning without any discussion decided to communicate to the Reparations Commission the text of the agreement relative to the costs of the American army of occupation. The formula adopted was the one proposed by this Embassy.

HERRICK

462.00 R 294/291a : Telegram

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

[Extract—Paraphrase]

WASHINGTON, *December 13, 1923—3 p.m.*

461. L-23. The Department has given careful consideration to the question of possible American participation in the reparation payments made by Bulgaria and views the situation as follows:

(1) An examination of the notes of the conference on army costs indicates that the intent of the parties to the agreement was that, subject to its terms, the United States should share in the cash payments made by Germany or in those made for her account by such neutrals as Denmark or Luxemburg or by Allies receiving excess deliveries in kind, and that no reference was made directly to the question of participation by the United States in Bulgarian reparations as such; Wadsworth confirms this view.

(2) The wording of paragraph 3 of article 2 of the army costs agreement appears to the Department to be conclusive that the United States is entitled to share in payments made by Germany or for her account or by or for the account of another country from whom similar payment may be exacted, should the Bulgarian payments in fact be credited to Germany; but it is not certain that the Government of the United States could contend that as a matter of legal right such payments must necessarily be credited to Germany's reparation account.

(3) The Department has noted the statement in your letter of October 5⁸² that the liability of Germany's allies is included in Germany's liability of 132 billion gold marks. The Department is not aware of treaty provisions or of agreements which expressly cover this point and it would be glad to have you express your views, particularly with Bulgaria in mind. You will note that the Trianon Treaty and the Treaty of St. Germain are, in their reparation provisions, quite distinct from the provisions of the Treaty of Neuilly; for example, according to article 179 of the Treaty of St. Germain, reference is made to the effect of reparation payments by Germany whereas under article 121 of the Treaty of Neuilly provision is made for direct payment by Bulgaria of a definite sum for the benefit of the interested Powers.

(4) Please telegraph comment on the foregoing.

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HUGHES

⁸² Not printed.

462.00 R 294/293 : Telegram

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

[Extract—Paraphrase]

PARIS, December 19, 1923—11 a.m.

[Received 3:50 p.m.³⁸]

519. L-57. Your L-23, December 13. Department's instructions have been noted in regard to claim on Bulgarian reparation payments for army costs only if these payments are credited to Germany's reparation account. I concur wholly in Department's view that the United States can not demand that these payments be so credited.

With reference to paragraph (3) the Department's attention is directed to article 231 of the Treaty of Versailles, by which Germany is made responsible for all the damage caused either by her or by her allies and to the schedule of payments of May 3, 1921, which fixes the global sum of all damage at 132 billion gold marks with the express proviso that Germany should receive credit on this grand total with any sums received from other enemy or ex-enemy powers the credit for which the Commission may decide should be given to Germany. As Bulgaria was an ally, Germany is liable under article 231 for damage done by Bulgaria, and this damage is deemed to be included in the total sum of 132 billions; the commission may, in consequence, credit Bulgarian payments to Germany if it choose to do so. Bulgaria receives credit anyway on her separate account. Your reference to article 121 of the Treaty of Neuilly has been noted, but I suggest that the controlling provisions for present purposes are articles 231 and 233 of the Treaty of Versailles and schedule of payments of May 3, 1921.

It is entirely feasible both practically and legally to make Germany liable for damages done by Bulgaria without making Bulgaria liable for damages done by Germany, and likewise it is entirely feasible to credit Germany as well as Bulgaria with the amount of Bulgarian payments. No injury could be done to Bulgaria thereby.

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Logan
HERRICK

³⁸ Telegram in two sections.

462.00 R 294/293 : Telegram

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

[Paraphrase]

WASHINGTON, *January 10, 1924—5 p.m.*

11. L-37. Your L-57, December 19, 1923.

Should the Allies conclude a separate agreement with Bulgaria to provide for the liquidation of the costs of the armies of occupation and commissions of control from sources besides the payments under the reparation protocol and should questions arise regarding the distribution of the funds placed in special account created under paragraph 2 of the commission's decision of September 5 (No. 2629)³⁴ as amended, you may at your own discretion appropriately support the view that reparation payments by Bulgaria be credited by the Reparation Commission to Germany's reparation account by authority of article 1, schedule of payments.

HUGHES

WITHDRAWAL OF THE AMERICAN ARMY OF OCCUPATION* AND OF THE UNOFFICIAL OBSERVER ON THE INTERALLIED RHINELAND HIGH COMMISSION

862T.01/526a : Circular telegram

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

WASHINGTON, *January 10, 1923—1 p.m.*

For your information. The Secretary has today announced that, in the judgment of the President, the time has come to carry out the complete withdrawal of American troops on the Rhine. Appropriate instructions are being sent to General Allen. The British, French, German, Belgian and Italian Ambassadors have been so advised.

Repeat to London, Berlin, Brussels, Rome, Lausanne.

HUGHES

862T.01/561½

Memorandum by the Secretary of State of a Conversation with the German Ambassador (Wiedfeldt), January 23, 1923

[Extract]

The German Ambassador said that in view of the departure of the American forces from Germany today his Government had

* Not printed.

³⁴ For previous correspondence concerning American Army of Occupation, see *Foreign Relations*, 1922, vol. II, pp. 211 ff.

instructed him to express to the Secretary the sincere thanks of the German Government for the correct conduct of the American troops during the time of occupation.

862T.01/562 : Telegram

The Unofficial Observer on the Interallied Rhineland High Commission (Allen) to the Secretary of State

COBLENZ, January 27, 1923—7 p.m.

[Received January 29—9:58 a.m.]

American zone turned over at noon to French authorities. Five minutes later all train service tributary to Coblenz ceased. French now hold Coblenz station with troops. Customs barrier around Ruhr basin backed by infantry, tanks and artillery, will be completed by [garbled group]. This should stop or control all coal going into unoccupied Germany. Kilmarnock³⁶ does not yet know whether the British troops will be withdrawn. If withdrawn, and British representative at commission also withdrawn, it is considered that legal existence of commission would end. That would bring a purely military occupation to which present measures are tending. Our personal relations with all French military and civil officials continue excellent. Exceptionally friendly attitude shown by all nationalities to few remaining Americans. Understood that passive resistance including strikes in mines and on railways at stated intervals at vital points, here and there is directed from Münster.

ALLEN

862T.01/577a : Telegram

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

WASHINGTON, January 31, 1923—7 p.m.

47. For General Allen.

(1) Now that American forces have been withdrawn from the Rhineland, Department has decided to withdraw its observer with the Rhineland High Commission. Accordingly, you should take the earliest available occasion to present the following statement to the Commission:

"I am instructed by my Government to announce to you my retirement as unofficial observer with the Interallied Rhineland High Commission. My Government has maintained an unofficial observer with the Commission in order that it might be properly advised when promulgating regulations in the American zone of occupation, of the actions and general purposes of the Commission. In view of the with-

³⁶ Lord Kilmarnock, British High Commissioner.

drawal of the American forces of occupation, my Government feels therefore that the circumstances which warranted it in maintaining its unofficial observer with the Commission no longer exist.

"My Government further instructs me to express its sincere appreciation of the many courtesies which the Commission and its members have shown to the Government of the United States and to its unofficial observer."³⁷

(2) You should transmit to the Department the records of your office in so far as these concern your work as American Observer with the High Commission.

HUGHES

OBJECTIONS BY THE UNITED STATES TO DISCRIMINATORY REGULATIONS ON EXPORTS FROM THE OCCUPIED REGION OF THE RUHR

611.629Ruhr/1 : Telegram

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

[Paraphrase]

WASHINGTON, March 5, 1923—4 p.m.

85. The Department states its opinion on the principles governing the situation in the Ruhr, particularly in regard to American commercial interests, as follows, solely for your confidential information:³⁸

The entrance by France into the Ruhr regions is believed to be a matter that should be dealt with purely as a question of fact irrespective of any consideration as to the legality or the propriety of the action taken by France, and without manifesting any criticism or approval of such action. The position taken by neutral powers towards the belligerent occupation of foreign territory furnishes a counterpart to the conduct suggested. Sovereignty over foreign territory is not transferred by such occupation, which is necessarily provisional, notwithstanding the fact that during the time of such occupation the lawful sovereign is deprived of the power to exercise its rights as such sovereign. The relinquishment of power to the occupant and the act of depriving the lawful sovereign of power result directly from the action of the occupying power in obtaining actual control of the occupied territory. Neutral States are permitted by international law to accept this result and irrespective of the merits of the occupant's cause to deal with it accordingly. Neu-

³⁷ This statement was communicated by General Allen to the president of the Interallied Rhineland High Commission, on Feb. 3, 1923.

³⁸ The remainder of the paraphrase except for the last paragraph was made by the Office of the Solicitor for the Department of State in May, 1923 (file no. 611.629 Ruhr/60).

tral States are not to be considered as taking sides in the conflict if they act in accordance with this principle of international law.

There is seldom in times of peace as distinguished from periods of war, any occasion for occupying a friendly foreign State. There may arise, however, an occasion for such occupation during times of peace. Vera Cruz was occupied by the United States in 1914, first by naval forces and later by military forces. The United States remained in possession of Vera Cruz for a period lasting several months. The Government of the United States during this period made collection of duties and exercised otherwise a broad control with respect to the area in the possession of this Government.

The United States should, in dealing with the occupation of the Ruhr by the French as an actual fact, to be dealt with as such, disclaim any disposition of assuming towards Germany an attitude of unfriendliness or any disposition of yielding to influences of the French, and any intention of taking sides in the contest should also be disclaimed. This Government should accentuate the fact that its sole desire is to protect its own interests and it should be scrupulous to emphasize its neutrality. There should, in the process of accepting the fact of control by the French, be no action taken that would justify an inference that approval is given to the occupant's cause with respect to entering the Ruhr regions, or in regard to the action of the occupying power in maintaining the present regime in these regions.

France must, as the power occupying the Ruhr, be considered to be able to exercise, without objection by foreign neutral States, the fullest administrative powers, and must as an incident of such occupation, be deemed to be able to fix the conditions under which foreign trade may be conducted. If neutral States and their citizens are not discriminated against and there is no abuse of power, it is difficult to find any basis upon which objection could be made to the right of the occupying power to make collection of duties or to license exports or to establish embargoes.

The actual conflict which is at present in the process of development between American commercial interests and French authority relates to cases where abuse is alleged. For example, these cases raise questions as to whether all exports to Germany can be placed under embargo; whether there can be requisitioned or seized all products of any particular class (such as metallurgical products); whether nationals of Germany can as such nationals, be prohibited from applying for export licenses, and whether a failure on the part of a shipper to present an export license which was issued in October

1922 (but which is at the present time in Berlin in the possession of the German Clearing House at that place), would justify confiscation. There is also the broader question, whether there can be imposed upon the same transaction by any lawful means two export taxes (one German and the other French).

Notwithstanding the broad powers exercised by the occupying power there are two forms of conduct that should be guarded against and protested against in a special manner. (a) Where any discrimination is applied against American traders in favor of traders who are French nationals, making it possible for these nationals to take advantage, for their own benefit, of existing conditions. (b) Any action that would have the result of duplicate export taxes being exacted. Only one authority can, in contemplation of law, exercise control over a particular place at any one time. The sole authority to exact an export license is the government, whether of France or of Germany, which actually asserts and exercises control over localities in the Ruhr from which exports are made. In the case of *MacLeod v. United States*, 229 U. S. 416, 432, the Supreme Court of the United States in 1912 [1913?] declared in substance as follows: A Government is without right to impose the collection of duties a second time where an attempt is made to impose such second collection upon a cargo which has been consigned from a foreign port to a port which is under the occupation of a *de facto* government in cases where the *de facto* government has "compulsorily required" the making of a payment of like duties; and the Court interpreted an Act of Congress as not having such a violation of international law in contemplation. Thus where exports are actually controlled by the French Government that Government should be required to adopt the following course: Either to prevent levying by foreign authority of any other like taxes or if payments have been exacted by a foreign authority within the Ruhr to respect such payments. If it is to be considered that France in fact controls the region of the Ruhr any German administrative agencies that may be allowed to operate within this region must be considered, from an international standpoint, to be agencies of the French. The Government of the United States is justified in taking this position and in demanding in cases where second payments have been exacted in territory which has been declared to be under the control of the French a refunding of the second payments. The Government of the United States should, in the course of its efforts to obtain protection for American commercial interests, be careful to avoid being drawn into a controversy of any kind on the question of whether the French occupation is justified by the Treaty of Versailles. (notably by Article

number 18 of Annex number II following Article number 244, or by Articles Numbers 428, 429 and 430). This Government should also refrain from giving any expression of opinion as to whether, aside from the Treaty of Versailles, the Government of France is justified in its conduct; also as to whether the treatment accorded nationals of Germany by the French in the Ruhr is abusive or illegal in nature. Any effort that may be made by the Government of the United States should be limited to an attempt to check any conduct of the occupying state that may be directed in an unjust manner against American commercial interests either in the way of discrimination against them or otherwise.

Any method which may be adopted for the protection of American interests is complicated somewhat by the considerations which follow: (a) The broad scope of the power or authority of the occupying State; (b) The meager facts to which the attention of the Department of State is called at the time when complaints are made; (c) The effect of the many complaints in individual cases on the influence of the Government of the United States to obtain the recognition by the Government of France of the exact principle upon which the Government of the United States acts. Every one of these points is deserving of brief attention.

Notwithstanding the fact that the region of the Ruhr is not French territory, but German, the rights of the occupying power in this region are vast. The rights of the occupying State as tested by the powers of a belligerent occupant of hostile territory enable the occupying power to be the judge in the last analysis of the existence of its own emergency and the extent to which such emergency may exist. The quasi-neutral State is not to be considered as occupying the position of spokesman of the inhabitants (inhabitants of German nationality in this case) of the region concerned; and the quasi-neutral power is not in a position to make complaint of ruthless treatment of such inhabitants except to the extent that it may generally in cases of barbarities which shock the sensibilities of civilization, raise its voice in protest against such barbarities. Thus with a view to seeing whether the exact conduct complained of is a violation of the solid rights of its own, the quasi-neutral State must ever be on the alert.

Any action that may be taken by the Department of State based on a meager set of facts, to the extent that such action embraces the making of a complaint, is likely to have a result of an unfortunate nature. This objection is, however, obviously not applicable in cases where consular investigations of particular cases are made, particularly where information furnished by telegraph points to treatment

of a severe nature on the part of the occupying power or to an emergency existing at the time.

If, in individual cases, complaints are to be made, such complaints should be based on the most solid legal grounds and should rest on facts not to be refuted. Individual interposition may be justified in cases of double taxation or in cases of special discrimination directed against an American firm, or possibly also in cases of flagrant injustice, (which the facts in a particular case may develop). However that may be, the Department should, it is believed, seek primarily to point out clearly to the Government of France the broad and exact grounds upon which the Government of the United States as a quasi-neutral asserts its rights.

It is believed, in a word, that the Government of the United States should make a demand for the recognition of the principle that occupation by the Government of France carries with it responsibility of the French for any occurrences within the region of the Ruhr which the Government of the United States may fairly regard as being contrary to international law; and that the occupying power will be held to strict accountability for any abuses of power, such as above indicated, and in particular for the levying of double taxes on exports and for any discriminatory acts that are distinctly adverse to American citizens.

Repeat the foregoing to the Embassies in Great Britain as Department's no. 45, in Germany as no. 17, in Belgium as no. 23, and in Italy as no. 17. Send a summary by courier to the American consul at Cologne for his confidential information.

HUGHES

662.009 Ruhr/47

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

No. 2973

PARIS, March 22, 1923.

[Received April 5.]

SIR: I have the honor to transmit herewith enclosed copy and translation of a circular dated March 15th, 1923, received from the Foreign Office, setting forth the resolution adopted by the Interallied Rhineland High Commission, at its meeting of March 15th, which grants certain temporary facilities to foreign purchasers in regard to orders placed before February 1st, 1923, with German firms in German territory at present occupied by French troops.

I have [etc.]

MYRON T. HERRICK

[Enclosure—Translation]

*Resolution of the Interallied Rhineland High Commission,
March 15, 1923*

The Interallied Rhineland High Commission, at its meeting of March 15th, has adopted the following resolution, which grants certain temporary facilities to foreign purchasers, in regard to orders prior to February 1, 1923:

"I. When an order of general interest is involved, the competent Interallied Authorities may authorize the foreign purchaser to substitute himself for the defaulting exporter, as regards the request for export licence, provided the latter has given his authorization and assumed in respect to the German Authorities the responsibility of the ensuing derogation to the German laws in force.

These provisions will be specially applied to orders for which total or partial payment may have been made before February 1st. In case any of the aforementioned conditions cannot be carried out, the Interallied Authorities may exceptionally authorize special exports.

In both the cases mentioned, the export taxes to be charged will be those in force on the date when the orders were passed; an exemption from the obligation to deposit foreign currency may eventually be granted.

II. To obtain the benefit of the provisions indicated above, the foreign purchaser shall make application to the interested Interallied Service, namely:

To the Directing Committee of Licences of the High Commission for goods emanating from suppliers located or established in the Occupied Territory, with the exception of those located within the Dusseldorf and Duisburg bridgeheads and the occupied Ruhr valley;

To the Licence Service of the Mission of Control of the Factories and Mines at Essen, for goods emanating from suppliers located within the Dusseldorf and Duisburg bridgeheads, as well as in the occupied Ruhr valley.

This application must be accompanied by a certificate guaranteeing the date of the order, the total or partial payment before February 1st, as the case may be, and also showing that the supplies present a character of general interest.

This certificate must emanate from:

a) The Representative of the Nation to which the purchaser belongs in the High Commission or in the Interallied Licence Services, if that Nation has such a Representative;

b) The Diplomatic Representative of the purchaser's Government accredited to one of the Governments represented in the Interallied Services, if the purchaser does not belong to one of the Nations represented in the High Commission or in the Interallied Licence Services.

Requests will be received until May 1, 1923."

Pursuant to General Degoutte's³⁹ decision, these provisions are also applicable in the occupied territory of the Ruhr.

611.629Ruhr/7 : Telegram

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

[Paraphrase]

WASHINGTON, April 11, 1923—5 p.m.

146. Department refers to your despatch no. 2973, of March 22, 1923, regarding the new regulations for the licensing of shipments from the Rhineland and the Ruhr.

Point out to the Foreign Office that the feature in the regulations which requires that American diplomatic representatives certify each application for a license would tend toward placing the Government of the United States in the position of guaranteeing the statements made in the certificates; the Government is, of course, unable to do this, not only because of impossibility to ascertain the facts in each instance without a long delay, but also because a practice of this sort does not come within the purview of the functions of our diplomatic representatives. This regulation will, moreover, work real hardship on those of our nationals who are placed, under its terms, in a position less favorable than are the nationals of the countries which participate in the Interallied High Commission or in the customs service.

After you have explained to the Foreign Office why this feature of the regulations is regarded as impracticable of operation and as being discriminatory in fact, you should next express this Government's interest and the hope that the French Government will be disposed to modify the licensing regulation so that American buyers, who in good faith entered into contracts for goods from the Rhineland and the Ruhr at a date prior to February 10, 1923 (the date given the Department by the French Embassy here), may be permitted to obtain an export license through an application made directly by the buyer's business representative, assisted by the local American consular authorities, without requiring in each instance the certification by a diplomatic representative of this Government of the application.

Inform Department promptly by cable.

Repeat to Embassy in Belgium as Department's no. 28, making appropriate changes.

HUGHES

³⁹ Commander of the French occupational forces in the Ruhr.

611.629Ruhr/13 : Telegram

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

[Paraphrase]

PARIS, April 16, 1923—6 p.m.

[Received April 16—4:30 p.m.]

201. As instructed I have submitted the subject of your no. 146, April 11, to the Foreign Office. I have just received a formula from the Foreign Office of the statements I am to sign in accordance with the requirements of the Interallied Rhineland High Commission's resolution of March 15. The formula states that I certify, in conformity with instructions of my Government, that the merchandise for which a license is requested from the High Commission for the (insert name of firm) answers to following conditions (insert specifications of weight and value of the merchandise) purchased by (insert name of purchaser), made under contract of (insert date); that payment has been made in whole or in part or not at all; that merchandise was deliverable on (insert date); that the German manufacturer refuses to take out a license and that he has or has not authorized the buyer to substitute himself for the exporter in making this request; and that I declare that the execution of this order has "general interest" for the United States.

I lost no time in informing the Foreign Office that the Department would not authorize me to sign such a statement. I was told in reply that the Foreign Office would be satisfied if I made only the statement in regard to the "general interest" of the merchandise in question; this, the Foreign Office maintains could without difficulty be ascertained through the local Chamber of Commerce or similar institution in the United States. The formula, it was explained, represents the maximum required, and I was informed that remaining statements may be made in occupied Germany by the American purchaser concerned.

It is my opinion that it is the object of the French Government to maintain a strict control over exports to all countries but, as in the case of the United States, to facilitate exports as much as possible in certain instances. The point made is that in the case of the United States the diplomatic representative of that Government is merely taking the place of the representative on the Interallied High Commission who in the case of his own nationals certifies in a similar manner, and that there is, therefore, no discrimination against the United States.

The French Government has assured me that it desires to accommodate all foreign commercial interests, but that it is anxious to avoid fraud in regard to export licenses.

The date to which you refer should be February 1 and not February 10.

I should appreciate the Department's instructions as I am daily receiving requests from American commercial interests.

HERRICK

611.629Ruhr/13 : Telegram

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

[Paraphrase]

WASHINGTON, April 19, 1923—5 p.m.

161. Your no. 201, April 16, 6 p.m. The proposal made by the Foreign Office does not meet the objections which have been raised by the Department in its previous telegrams for in each instance active intervention by American diplomatic representatives is still required. In addition the fact remains that if American buyers must attend to a part of the necessary formalities at an appreciable distance from the licensing offices, the additional expense entailed, the delay and confusion involved would be prejudicial to their interests in comparison with the nationals of more favored nations who may complete all formalities in the occupied territory.

For this reason the Department requests you to bring these considerations before the Foreign Office again and to urge the modification of the regulations so as to permit American buyers to make direct application for export licenses, with the assistance of the local American consular representatives.

With reference to the correction of dates stated in your telegram, the French Embassy informed the Department, presumably under instructions from the Foreign Office, that the dates in question for American buyers are February 10 and May 10. Obtain confirmation from the Foreign Office.

HUGHES

611.629 Ruhr/15 : Telegram

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

[Paraphrase]

PARIS, April 24, 1923—4 p.m.

[Received 4:45 p.m.]

215. Your no. 161, April 19, 5 p.m. I have twice taken up the subject of your instruction with the Foreign Office. I was informed, as the explanation of its attitude, that according to the German laws which the French Government continued to apply in the Ruhr, the export licenses ordered must be requested by the manufacturer, but that the French Government, as a favor to foreign commerce, is will-

ing to set this provision of German law aside and permit the purchaser to request licenses with his Government's support. This is what is requested of the United States Government for merchandise supplied to the United States. Foreign Office referred to its request as moderate and invited attention to the broad interpretation of the phrase "general interest". Foreign Office also stated that this plan has been adopted by all countries and mentioned the smooth manner in which it is working. The principle involved in the Department's attitude is recognized, and the Foreign Office would welcome any suggestions which would tend to a mutually satisfactory formula. I have consulted my colleagues in regard to the matter and I learn that they have accepted the requirements laid down by the French and are conforming to them, although before accepting them the Dutch, Swiss, and Swedish representatives had made numerous protests separately.

It was intimated by the Foreign Office that the time limit in which applications for export permits will be received will probably be extended beyond May 1.

The dates referred to in your last paragraph are confirmed by the Foreign Office as February 1 and May 1.

HERRICK

611.629Ruhr/15 : Telegram

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

WASHINGTON, April 28, 1923—5 p.m.

173. Your 215, April 24, 4 p. m.

If the points enumerated in Department's 161, April 16, 6 P. M. [April 19, 5 p. m.], have been made quite clear, the Department fails to understand the attitude of the Foreign Office in the matter. Since informal representation seems to be ineffectual, you should address a note in the following sense:

"I am instructed by my Government once more to bring urgently to your attention the clear discrimination against American nationals in the recent regulations whereby American traders desiring to export goods from the Ruhr are compelled to secure from the Embassy in Paris a certification of their request for an export license, whereas nationals of countries represented on the Rhineland High Commission may obtain such certification from their representatives in Coblenz.

My Government has not complained of the French demand for official certification and is, indeed, appreciative of the expressed desire of the French Government to facilitate trade in the occupied territories, but protests solely against what appears to it as the obviously unfair discrimination enforcing American purchasers, at additional expense and delay, to attend to a part of the necessary

formalities at such considerable distance from the licensing office. Not only does this put American traders at a disadvantage financially, but it causes confusion and criticism and will inevitably have an unfortunate effect on American public opinion.

My Government, therefore, earnestly requests the French Government to extend to American traders facilities equal to those enjoyed by traders whose Governments are represented on the Rhineland High Commission by accepting, in lieu of diplomatic certification on applications for licenses, the certification of the American consul in Coblenz.

As soon as the French Government shall have accepted this clearly equitable arrangement, my Government will instruct the consul at Coblenz as to means of procedure in accord with French regulations."

You should deliver this note in person, making clear the very great interest of the Department in a prompt and equitable settlement of the matter.

HUGHES

611.629 Ruhr/24 : Telegram

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

PARIS, May 4, 1923—5 p.m.

[Received May 4—3:52 p.m.]

232. Your 173, April 28, 5 p.m.

Commercial attaché suggests that he be authorized to issue informal letter forwarded to American buyers in the occupied regions for presentation to the Rhineland Interallied High Commission expressing his appreciation of any courtesies in issuing exportation permits. Such letters would not give guarantee of any kind by commercial attaché. We are agreed that the letters may relieve the severe losses being suffered by American houses pending the settlement of the question with the Foreign Office.

HERRICK

611.629 Ruhr/29 : Telegram

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

PARIS, May 7, 1923—6 p.m.

[Received May 8—9:42 a.m.]

237. Your 173, April 28, 5 p. m. In reply to my note of April 30 addressed to the Minister of Foreign Affairs in accordance with the Department's instruction I have received the following which I quote in full:

"By a letter dated April 30th last you were good enough to call my attention to the discrimination which appeared to exist in the

eyes of the American Government to the detriment of American trade in the commercial regime set up by the Allied Governments in occupied Germany.

The anxiety manifested in this respect by the Washington Cabinet appears to rest on a misunderstanding both concerning the commercial regime in question as well as the measures taken by the Allied Governments to amend it in favor of the interests concerned. The commercial regime existing in the occupied territory is one which arises from the laws and regulations established by the German Government itself for the whole extent of German territory. Obligated on account of the continued defaults of the German Government to take its place in the exercise of certain rights particularly concerning the collection of customs dues the Allied Governments did not deem fit to use all of the rights given to them by the Treaty of Versailles other than those inscribed in article 270. They have therefore respected as far as circumstances enabled them to do so the commercial regime established before their intervention.

But the German Government having adopted a series of measures in order to thwart the action of the Allies as [*and?*] to disorganize the economic life of the occupied regions, the Allies have endeavored to attenuate the effects on the foreign interests concerned by special measures.

Thus among other measures the Interallied Rhineland High Commission in its ordinance of March 15 authorized foreign buyers to substitute themselves for the defaulting German sellers when it is a question of orders placed prior to February 1st, that is to say, until a date when not a single merchant or manufacturer in the occupied territory could ignore the seizure of the customs by the Allies and its consequence, this seizure having taken place on the preceding January 20. The applicants' Government had only to certify through diplomatic channels the character of general interest of the order giving rise to the request for an export license. Digest of modalities [*sic*] of applications were however to be taken according to whether it was a question of nationals of powers represented or not on the Interallied High Commission.

Indeed the Interallied High Commissioners could not be otherwise than competent to [*re*]present with all the necessary official undertakings the requests for exceptions coming from their Governments and which they were to examine while the powers not represented on the Interallied High Commission were to instruct one of their representatives near one of the Allied Governments to deliver the necessary attestation in order to bring about the exceptional procedure established by this formula, an inevitable consequence of the different situation, because [*but?*] it is no discrimination of which American trade can legitimately complain.

The certificate made out by the duly authorized diplomatic authority is transmitted directly to the High Commission at Coblenz where all the necessary measures are taken for the rapid delivery of the necessary authorizations for the issuance of export licenses. The applications submitted by nationals of third powers are examined at the same time and in the same spirit as those which are made in favor of nationals of the powers represented on the

Interallied High Commission. The authorizations are delivered on the spot to the persons authorized by the interested parties or to the interested parties themselves; no delay can exist on this count and no complaint has been made on this point by the interested Governments.

The American consul in the Rhineland can therefore intervene on these bases with good results in favor of his compatriots. He will find in all the service the High Commission and particularly in the French services all desirable facilities. But the Allied Governments cannot in any way allow his intervention in the procedure [followed] in making applications for licenses on the same footing as the High Commissioners. Of its own free will the American Government withdrew from all the Interallied organizations and it cannot claim the advantages therefore even theoretically as is the case in the premises without assuming the obligations thereof.

The Allies have endeavored—in this respect they have practically succeeded—to insure to the commerce of third powers all the advantages of which they have recognized the granting as compatible with their policy without discrimination of any kind. They cannot, however, under present circumstances concede to the American consul at Coblenz a position that could not be granted to all consular representatives of neutral countries: any concession in this respect would end in the complete disorganization of the regime established in favor of neutral trade and in view of the formal decision of the Allied Governments to continue their action as long as may be necessary, the maintenance of the American request could have no other consequence than the complete suppression of the favored regime which the Allies have been happy to grant in the interest of foreign trade and the economic life of the occupied regions.

Please accept, Mr. Ambassador, etc. Signed, R. Poincaré."

HERRICK

611.629Ruhr/24 : Telegram

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

[Paraphrase]

WASHINGTON, May 8, 1923—6 p.m.

189. Department's no. 173, April 28, 5 p.m. Your no. 232, May 4, 5 p.m. Department desires you to make another urgent personal effort to obtain a favorable response from the Foreign Office to your recent representations. Should this endeavor prove unsuccessful and if you have on the other hand been able to obtain an extension of the time limit which expired May 1, you are authorized, if you have reason to believe that American interests are in jeopardy, to state to the Foreign Office that, although the Government of the United States reserves its position and continues to believe that the present regulations discriminate against American interests, your Embassy

will, nevertheless, issue temporarily some general statement like the following:

"The exportation from the occupied regions of Germany of the merchandise referred to in the accompanying application and other documents desired by (insert name of firm) would be for the benefit of American interests."

Make it very clear that this is a temporary measure and does not indicate any change in the position taken by this Government, which will issue these certificates only in order to prevent serious losses; and that you are instructed to continue your representations for the removal of the discriminatory regulations.

Inform Department briefly by cable of all details which would be of use to it in notifying American firms interested what necessary formalities are to be followed.

HUGHES

611.629Ruhr/33 : Telegram

The Chargé in Belgium (Thaw) to the Secretary of State

[Paraphrase]

BRUSSELS, May 9, 1923—7 p.m.

[Received May 9—6:15 p.m.]

45. Department's telegram no. 28, transmitted by Paris Embassy.⁴⁰ The Foreign Office in a note of May 8 mentions the provisional character of the regulations but states that it would be impossible to change them. The objections to the issuance of certificates, however, are not specifically considered. It is stated that foreigners are not thought to be in a less favorable position than are the nationals of the occupying countries or of those represented on the services, for the reason that the latter must have complete documentation whereas for foreigners certificates obtained from their diplomatic missions are sufficient. Belgian note will be sent by mail tomorrow.⁴¹

THAW

611.629Ruhr/37 : Telegram

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

[Paraphrase]

PARIS, May 11, 1923—6 p.m.

[Received 7:25 p.m.]

239. Your no. 189 of May 8, 6 p.m. I have complied with your instructions and in reply am able only to refer you to the note from

⁴⁰ See telegram no. 146, Apr. 11, to the Ambassador in France, p. 200.

⁴¹ Note not printed.

the Foreign Office which was communicated to you in the Embassy's telegram no. 237, May 7. The time has been extended for receiving applications from American buyers for contracts which have been made prior to February 1 for an indefinite period. The Department's formula set forth in telegram no. 180 in regard to American interests is satisfactory to the French Government.

It will be necessary for the American buyer to make application to the Interallied Rhineland High Commission at Coblenz for an export license, stating the character and the quantity of goods, the value of the order, name of German manufacturer, date of contract, and submit evidence as well that the contract was made prior to February 1; also a statement whether full or partial payment has been made. A copy of the contract should accompany the application. Application may be submitted with the Embassy's statement which will be transmitted to Coblenz by the Ministry for Foreign Affairs. If preferable, it may be transmitted with appropriate instructions to the American consulate at Coblenz. Foreign Office states that it is willing that American consul at Coblenz handle all export license applications.

All Embassy has to do is in each case to make the statement contained in your no. 189.

HERRICK

611.629Ruhr/37 : Telegram

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

WASHINGTON, May 14, 1923—6 p.m.

193. Your 239, May 11, 6 p.m.

Department proposes to issue following statement outlining procedure in making application for export licenses:

"American buyers intending to apply for export licenses for goods in occupied Germany must address their applications to the Rhineland High Commission at Coblenz, stating the date of contract, quantity and character of goods, the value of order, name of German supplier and submit evidence showing that contract was made prior to February 1st and that payment has been made either in whole or in part. Copy of contract should accompany application.

However, the authorities in occupation stipulate that applications must be accompanied by a statement covering the American interest in the shipment. Accordingly, until further notice American buyers should first submit the application direct to the American Embassy in Paris or Brussels, which will issue the statement required and forward it with the application to the American Consul at Coblenz, who in turn will present the application to the High Commission for approval. When application is returned, the Consul will, upon re-

quest, turn it over to the American buyer's agent or representative, who should then make all arrangements with appropriate licensing office for delivery of the license and payment of export tax to the authorities in occupation.

Department is informed that time for receiving applications from American buyers for contracts made previously to February 1st has been extended for an indefinite period; that authorities in occupation on May 1st restored the German export tariff schedule as of 1921 instead of the uniform 10% tax which has temporarily been collected; that German firms are now authorized by their Government to deliver goods involved in commercial transactions made prior to February 20th, provided they have first obtained a German export license."⁴²

If you perceive any objection to this statement cable Department immediately; otherwise it will be released to the press on Tuesday afternoon.⁴³

Inform embassies at Brussels and Berlin and Consul at Coblenz of details of plan, asking latter to cable Department if he will require extra assistance temporarily. Department will endeavor to have Department of Commerce instruct its Attachés at Paris and Brussels to render such assistance as may be required.

HUGHES

**CONSIDERATION OF THE DISPOSAL TO BE MADE OF THE TANK SHIPS
OF THE DEUTSCH-AMERIKANISCHE PETROLEUM GESELLSCHAFT
UNDER THE ARRANGEMENT OF JUNE 7, 1920⁴⁴**

362.115St21/331

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

PARIS, June 21, 1923.

[Received July 5.]

MY DEAR MR. SECRETARY: I beg to hand you copy of the brief filed in behalf of the Reparation Commission before the independent

⁴² Information telegraphed by the Embassy in Germany on April 27.

⁴³ In accordance with suggestions made by Ambassador Herrick the final paragraph of the statement was reworded as follows: "The Department is informed that the authorities in occupation on May 1st put into force an export tariff based on the German export tariff of 1921 instead of the 10% ad valorem tax which has been temporarily collected and, furthermore, that the time for receiving applications from American buyers for contracts made previously to February 1st has been extended for an indefinite period. However, American buyers are urged to expedite their applications as much as possible. The Department also understands that German firms are now authorized by their Government to deliver goods involved in commercial transactions made prior to February 20th, provided they have first obtained a German export license." The statement was issued to the press on May 16.

⁴⁴ For the text of the agreement, see *Foreign Relations*, 1920, vol. II, p. 598.

tribunal appointed under the agreement between the United States and the Reparation Commission, dated June 7, 1920.⁴⁶

This brief, which of course is already in the hands of Standard Oil Counsel, was prepared by Mr. H. L. Gwyer, formerly legal advisor to our Maritime Service, to whom the Commission entrusted the duty. It is a strong presentation of the view unfavorable to the claim of the Standard Oil Company.

The reply to this brief will be prepared and presented by the Standard Oil attorneys, and one need not fear that there will be any inadequacy in their argument, but inasmuch as the argument is nominally made in behalf of the United States and in form presented by the United States, it is probably desirable that counsel for the Department should familiarize themselves with this brief before the reply of the Standard Oil is submitted to the Department. It is also true that the Department, under the previous Administration, committed itself to a certain view regarding this case; that the question was debated very hotly and was prominently before the public. For these reasons, the Department may be more interested than in the ordinary case where it would be concerned merely to give American interests proper standing and reasonable support before an international tribunal, without itself taking any position regarding the claims.

Without intimating any doubt as to the case itself, it occurs to me also to suggest that the Department may wish to consider its position in the contingency of a decision unfavorable to the Standard Oil. Under these circumstances, two obligations will be incumbent upon the United States under the terms of the tanker agreement. First, for the return of the tankers; second, for the accounting contemplated by the agreement. If the obligation to return arises, it is desirable that the Department should be in position to accomplish the return with the promptness which ought to be the characteristic of compliance with such an international arbitration. In the same sense the Department ought to be in position to furnish the accounting promptly and in such shape as to carry conviction of its accuracy and completeness, accompanied by whatever payments it might call for.

⁴⁶ Brief not printed. The plan for the formation of this tribunal was approved in the following telegram of June 16, 1921, from the Secretary of State to the Ambassador in France:

"Department agrees to plan proposed for formation of tanker tribunal. This contemplates designation of Colonel Bayne by United States and designation of second member by Reparation Commission and the designation of a third member if it should become necessary, by the first two. It is preferable that an English speaking Dane, Norwegian or Swiss be selected. Standard Oil has also indicated its approval of plan. The company expresses hope however that in view of recent decision of Reparation Commission in the case of Danzig vessels adjudged to belong to Standard Trust Company of Zoppot, it will now be possible to reach a direct settlement without trouble, expense and delays of an arbitration." (File no. 362.115 St 21/280.)

The brief takes strongly the position, in substance, that there is no such legal principle as beneficial ownership by a security holder of property of a corporation. I should be inclined to say that this point was foreclosed by the agreement itself, which has always struck me as a recognition of such a principle. Such a term in such an agreement must mean something, though the agreement does not explain what it does mean.

On the question of ownership I understand the facts to be, in substance, as follows:

The Standard Oil now owns all but about one-half of one per cent of the securities of the D. A. P. G. Company. Prior to our entry into the war the Standard Oil owned all the stock (30,000,000 marks) and all the bonds (30,000,000 marks) except 31,500 marks. Its pre-war ownership with respect to all the bonds of the Company and with respect to about seventy per cent of the total stock of the Company has never changed, but just prior to the entry of the United States into the war, the Standard Oil undertook to transfer about thirty per cent of the stock (9,000,000 marks) to a German national, and this thirty per cent of the stock was actually transferred on the books of the Company. It may be important also that this percentage of the stock comprised all the voting shares, although it represented only $\frac{3}{20}$ of the capital investment, the Standard retaining the remaining $\frac{17}{20}$.

Payment by the German national was to be made six months after the end of the war, and as security for payment the German national delivered to the Standard Oil certain of his own American securities. In February 1919 the United States Alien Property Custodian, after considering the transaction, decided that the transaction constituted an illegal attempt at evasion, and that the American securities of the German national still belonged to him, and must be dealt with by the Alien Property Custodian. Such a decision would obviously involve the conclusion, so far as the Alien Property Custodian is concerned, that the sale of the shares in the D. A. P. G. was invalid.

Since the Treaty went into effect the shares transferred to the German national have been re-transferred to the Standard Oil with the exception of 563,000 marks owned by the Hamburg American Line, and secured by it from the German national to whom the Standard made the supposed sale. How the Standard secured the retransfer and whether it involved compensation by the Standard Oil to German nationals, or vice versa, we do not know. The brief of the Standard Oil mentions the re-acquisition of the shares but does not state the details.

Assuming the principle of beneficial ownership, and assuming also that beneficial ownership results from any holding of obligations or shares which is not total, the proportion of the Standard Oil's interest in the company would seem to be sufficient, particularly considering the continuous ownership of all the bonds, regardless of the validity of the transfer of thirty per cent of the stock to the German national, but, if, as claimed in Mr. Gwyer's brief, voting control is an important factor, then the validity of the transfer is a serious element in the case.

Yours very truly,

R. W. BOYDEN

362.115St21/337

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

PARIS, November 13, 1923.

[Received November 26(?).]

MY DEAR MR. SECRETARY: Reference is made to the letter of Mr. Boyden, dated June 21, 1923, relative to the Standard Oil tanker arbitration and relative to the duties which would fall upon the United States with respect to the return of the vessels if the arbitration was not concluded in favor of the claimants.

I am just in receipt of confidential information from an unofficial but dependable source that the independent tribunal, which has been for some months considering the arguments of the Standard Oil Company and of the Reparation Commission, is about to decide that the transfer of these vessels by the German Government to the Reparation Commission was perfectly valid and that the Standard Oil has not made out its case for restitution of the vessels pursuant to the terms of the arbitral agreement of June 7, 1920.

That agreement provided that if the Standard Oil made good its claim to beneficial ownership of the tankers, then they would be returned. Apparently the tribunal takes the view that a stockholder in a corporation does not own legally, equitably, or beneficially, the actual property of the corporation. The Standard Oil contended that since it owned the stock of the D. A. P. G., a German corporation which in turn owned the tankers, that consequently the Standard Oil was beneficial owner of the vessels. Probably one of the decisive points in the tribunal's decision in this respect was the circumstance that the Standard Oil sold 30% of its stock to a German just before the United States entered the war, which stock it did not re-acquire until two or three years after the Armistice; hence the question was

whether the holder of 70% of the stock of the corporation beneficially owned the corporation's assets.

Alternatively the arbitration agreement provided that if the Standard Oil did not have beneficial ownership but was shown to be entitled to financial reimbursement, then such reimbursement would be paid in tankers instead of cash. This provision had regard to paragraph 20 of Annex II, Part VIII of the Treaty of Versailles which stipulates that the Reparation Commission, in accepting payments from Germany, shall have due regard to the legal or equitable interests of Allied nationals. The tribunal seems to consider that a stockholder has neither a legal nor an equitable interest in the assets of the corporation. It is the corporation which possesses both the legal and the equitable estates in the corporation's property. Furthermore, it is doubtful what is meant by the expression "the Reparation Commission shall have due regard". In no other case has any allowance been made to stockholders in steamship corporations which lost their vessels. Furthermore, Germany adopted a law, uniform in its application, compensating its nationals, as far as possible, for the loss of their vessels. Under this law, at a time when the mark had substantial value, the D. A. P. G., the Standard Oil's subsidiary, received over 75 million marks for the property for which financial reimbursement is now claimed.

I suggest that it is not prudent or desirable to communicate the foregoing to the Standard Oil Company until the tribunal has reached a formal decision. It is always possible, of course, that some new fact or legal theory might alter the conclusion which, I confidentially understand, has been arrived at. However, there may be some preliminary steps you wish to take in the direction of carrying out the suggestions made in Mr. Boyden's letter of June 21, 1923 in the event that the final decision from the tribunal conforms to the advance information outlined above.

Faithfully yours,

JAMES A. LOGAN

362.115St21/337 : Telegram

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

WASHINGTON, December 12 [?], 1923—5 p.m.

457. L-20. For Logan.

Department astonished at proposed decision of Tanker Tribunal indicated in your letter of November 13, which seemingly not only disregards principles underlying tanker agreement but terms of agreement itself.

While Department recognizes that the agreement is not couched in the clearest terms possible, this is due to the circumstances surrounding its negotiation. In its inception the tanker dispute related to the temporary allocation of tankers during armistice. Dispute not having been settled when treaty came into force the question of their permanent disposition was incorporated into the negotiations which were carried on with the other governments concerned, first through their representatives on the Supreme Council, then through Kemball-Cook⁴⁷ and finally through Bradbury.⁴⁸ In view of necessity of obtaining approval of a number of states to each provision it was not practicable, upon the change in situation, to reopen provisions of the agreement on which concurrence had been reached. It should be borne in mind that the Reparation Commission in finally signing the agreement acted not only for itself but for the other interested states. These states therefore can be considered to have acquiesced in any decision by the tribunal regarding the disposition of the tankers in pursuance of the agreement.

The views of the United States in the case were set forth at length in the Department's 3532 of October 22, 1919, to American Mission, Paris,⁴⁹ and were communicated to the Supreme Council. This Government has consistently maintained these views. It stated therein that "the provisions of Annex III, paragraphs 1 and 3 (Reparations) are to be applied only with regard to the principle established by paragraph 20, Annex II (Reparations) which requires in the broadest sense recognition of 'legal or equitable interests' . . ." The telegram also pointed out that the United States was entitled to the "pre-execution of paragraph 20 of Annex II (Reparations) and of the latter part of the Lloyd George agreement⁵⁰ which were both adopted in contemplation of the tanker situation."

Examination of the files indicates clearly that the views of the United States embodied in these quotations were acquiesced in by those representing the other governments in the negotiations and showed clearly that the agreement was based on the principles embodied in paragraph 20 of Annex II, Part VIII and in paragraph 5 of the Wilson-Lloyd George agreement which in part provides "that if any Allied or Associated or Neutral Government, person or corporation, a national of such Government and acting through such Government, notifies the Commission that they have an equitable claim against any vessel which has not been, or is not being satisfied

⁴⁷ Mr. Basil A. Kemball-Cook, assistant British representative on the Reparation Commission; in 1920 Mr. Kemball-Cook was director of naval sea transport, British Ministry of Shipping.

⁴⁸ Sir John S. Bradbury, British representative on the Reparation Commission.

⁴⁹ *Foreign Relations*, 1920, vol. II, p. 554.

⁵⁰ *Ibid.*, p. 512.

by the enemy governments, that claim will be considered on its merits by the Commission which may adopt any procedure it thinks fit, provided it is expeditious and is calculated to do substantial justice as between the Allied and Associated Governments on the one hand and the claimant on the other."

While Wilson-Lloyd George agreement has not been ratified its provisions must nevertheless be considered in interpreting the meaning of the tanker agreement since it was contemplated by the parties that the principles embodied in paragraph 5 were applicable in respect to the disposition of the tankers. The decision of the Reparation Commission referred to in paragraphs 23 and 24 of the brief filed on behalf of the Commission with Tanker Tribunal in answer to the claim of the Standard Oil Company is binding neither on the Tribunal nor the United States. Moreover the Reparation Commission expressly stated this decision to be without prejudice to the tanker claim.

In consonance with above principles this Department, throughout the negotiations, has, as Mr. Wallace was instructed to inform the Conference of Ambassadors in telegram 529 of March 13, 1920,⁵¹ taken the position that "this Government cannot consent that legal or equitable interests of its citizens can be used to indemnify another power or its citizens for losses inflicted by Germany."

The indicated view of the Tribunal that a stockholder has neither legal nor equitable interest in the assets of the corporation, not only violates the terms of the tanker agreement but is contrary to the position taken by the Allied Governments. The beneficial ownership of the D. A. P. G. tankers by the Standard Oil was recognized by the Allies in 1914, and in view of this beneficial interest these governments permitted transfer of a number of tankers to American flag. In case of the *Leda* a bond required and taken by Great Britain in consideration of the release recited that application had been made on the ground of "beneficial ownership" and that on said application the King had agreed to release the ship to the Standard Oil Company. There has since been no change in status of ownership of German company save possibly with respect to the 9,000,000 marks of voting shares representing approximately one sixth of total financial interest of Standard Oil in that company. The right to vote has no direct bearing on beneficial interest. However, even assuming the validity of such sale the Standard Oil concededly still owned, in addition to 30,000,000 marks of debentures, 21,000,000 marks of non-voting shares, and thus retained a vastly preponderant financial interest in the German company with respect to which, in accordance

⁵¹ *Ibid.*, p. 588.

with principles embodied in the agreement, it should not suffer a loss through the action of states associated with the United States in the war.

In evidence of the broad meaning given the term beneficial ownership as used in the negotiations and agreement, attention is called to Department's statement in its 273 of February 3, 1920, to Embassy at Paris⁵² that it understood the claim to mean "that on proof by the Standard of its preponderant financial interest in the D. A. P. G. by whatever name such interest may be called, whether described as beneficial ownership or as value, and whether based on ownership of shares, of share warrants, or of debentures, the tankers shall remain with the Standard Company finally and under the American flag."

In considering phraseology of agreement it should be remembered that during the negotiations it was not feasible to pass upon proof of Standard Oil's claim of interest in German company nor upon validity of attempted stock sale, but these were deemed matters for determination by the Tribunal: Also that everyone understood that Standard Oil did not claim any lien, mortgage or other direct proprietary interest in tankers: Furthermore, while there was never any dispute of principle that Standard Oil should be compensated for any financial loss suffered were tankers taken under treaty, however, tankers being vital to company's business, some negotiation was necessary in order to reach an agreement that such compensation should be in tankers rather than money.

Department considers that the meaning of paragraph G is that should Standard Oil fail to establish beneficial ownership, nevertheless it should be compensated for any loss suffered, such compensation being in tankers. It was recognized that such payment might involve adjustments with Reparation Commission or Germany and this paragraph contains express provisions on this point. It even provides for adjustment of any payment for tankers made by Germany to German company, so the payment by Germany to which you refer, of 75,000,000 marks in the greatly depreciated paper currency in no way prejudices the case. The Tribunal has authority to adjust this amount which in no way represented the actual value of the vessels.

It is possible that the Tribunal may not have had before it the background of the agreement. You may therefore submit the substance of the foregoing to Mr. Bayne and if the Tribunal still holds the views indicated in your letter he may in turn bring these views to the attention of the other members of that body.

HUGHES

⁵² *Foreign Relations*, 1920, vol. II, p. 584.

362.115St21/340 : Telegram

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

PARIS, December 29, 1923—11 a.m.

[Received December 29—9:37 a.m.]

548. From Logan. L-69.

First. Supplementing my L-51.⁵³ Understand tanker tribunal is giving due consideration to contents of your L-20.⁵⁴ They have asked Standard's attorneys for certain additional facts.

Second. Personally inclined to think that previous forecast of probable decision still continues correct. Much impressed quotation you made from Department's 273 of February 3, 1920, to Paris Embassy as to scope of claim. However, unfortunately language paragraphs (f) and (g) several times changed between February 3 and June 7, 1920, date of final tanker agreement. It is naturally the language finally adopted which tribunal is legally interpreting. Presume you have taken note of Boyden's B-92 of May 11 [19], 1920,⁵⁵ particularly to viewpoints and purposes of Bradbury as expressed therein and his emphasis upon each pre-defining meaning of term beneficial ownership. This despatch seems to indicate a narrower construction at least on the part of Great Britain than that mentioned in Department's 273 above.

Will advise promptly of any developments. Logan.

HERRICK

⁵³ Not printed.

⁵⁴ *Supra*.

⁵⁵ *Foreign Relations*, 1920, vol. II, p. 592.