BRAZIL

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND BRAZIL

711.322/2a

The Acting Secretary of State to the Ambassador in Brazil (Morgan)

No. 1162 WASHINGTON, *August 21, 1926.*

SIR: Reference is made to the Department's telegram No. 172, December 16, 1922, 6 p. m.,[1] and to subsequent correspondence dealing with the policy adopted by the United States pursuant to Section 317 of the Tariff Act of 1922[2] and involving the decision of the United States no longer to seek from Brazil special tariff preferences but instead to ask for unconditional most-favored-nation treatment in respect of its commerce.

On May 23, 1923, the Brazilian Ambassador handed to Mr. Hughes a memorandum[3] in which the following statement was made: "Brazil is ready to accept in its commercial relations with the United States the new policy of reciprocal most-favored-nation treatment proposed by this country." The Ambassador also referred to the suggestion by the United States that the two countries enter into "a *modus vivendi*, preparatory to a Treaty on this subject" (See Department's telegram No. 45, June 8, 1923, 3 p. m.[4]).

On October 18, 1923, accordingly, an arrangement was entered into through an exchange of notes[5] by means of which the United States, promising reciprocally with Brazil to accord unconditional most-favored-nation treatment in customs and other commercial matters, for the first time put into effect an international instrument based upon its new policy. This Government now desires to conclude with Brazil a treaty of friendship, commerce and consular rights such as those which it is entering into with other countries. The central principle in respect of commerce is, of course, an unconditional most-favored-nation clause governing customs and related matters. The object sought is assurance of equality of treatment for the commerce of the United States in all countries. The treaties

[1] *Foreign Relations*, 1923, vol. I, p. 453.
[2] 42 Stat. 858, 944.
[3] *Foreign Relations*, 1923, vol. I, p. 456.
[4] Not printed.
[5] *Foreign Relations*, 1923, vol. I, p. 461.

referred to include also provisions relating to rights of nationals of each party in the other country, to protection of property and to rights and immunities of consuls.

The first treaty to become operative expressing the present policy of this Government was the Treaty of Friendship, Commerce and Consular Rights with Germany, signed December 8, 1923,[6] ratifications of which were exchanged October 14, 1925. Similar treaties have been signed by the United States with Hungary,[7] Esthonia [8] and Salvador,[9] of which the one with Esthonia has been brought into force by exchange of ratifications.

Treaties containing the unconditional most-favored-nation clause were signed with Turkey on August 6, 1923,[10] and with Panama on July 28, 1926.[11] Several others are in process of negotiation. *Modi vivendi*, similar to the exchange of notes with Brazil, likewise based upon the principal of unconditional most-favored-nation treatment, are in force with Czechoslovakia,[12] Dominican Republic,[13] Finland,[14] Greece,[15] Guatemala,[16] Latvia,[17] Lithuania,[18] Nicaragua,[19] Poland (including Danzig),[20] Rumania [21] and Turkey.[22] A similar agreement entered into with Haiti on July 8, 1926,[23] becomes by its terms operative October 1, 1926.

Two copies of the treaty of December 8, 1923, with Germany are enclosed. You are requested, unless you perceive objection, to

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[6] *Foreign Relations*, 1923, vol. II, p. 29.
[7] Signed June 24, 1925, *ibid.*, 1925, vol. II, p. 341.
[8] Signed Dec. 23, 1925, *ibid.*, p. 70.
[9] Signed Feb. 22, 1926, *ibid.*, 1926, vol. II, p. 912.
[10] *Ibid.*, 1923, vol. II, p. 1153.
[11] Marginal notation by the economic adviser: "Error: the treaty signed with Panama is not one to be classified as commercial and does not contain a most-favored-nation clause governing general commercial exchanges. W[allace] M[c]C[lure]." See vol. II, p. 828.
[12] By an exchange of notes, Oct. 29, 1923, *Foreign Relations*, 1923, vol. I, pp. 873–874.
[13] By an exchange of notes, Sept. 25, 1924, *ibid.*, 1924, vol. I, pp. 666–670.
[14] By an exchange of notes, May 2, 1925, *ibid.*, 1925, vol. II, pp. 94–98.
[15] By an exchange of notes, Dec. 9, 1924, *ibid.*, 1924, vol. II, pp. 273–282.
[16] By an exchange of notes, Aug. 14, 1924, *ibid.*, pp. 290–292.
[17] By a provisional commercial agreement, Feb. 1, 1926, *ibid.*, 1926, vol. II, p. 488.
[18] By an exchange of notes, Dec. 23, 1925, *ibid.*, 1925, vol. II, pp. 500–503.
[19] By an exchange of notes, June 11 and July 11, 1924, *ibid.*, 1924, vol. II, pp. 510–518.
[20] By an exchange of notes, Feb. 10, 1925, *ibid.*, 1925, vol. II, pp. 692–696.
[21] By an exchange of notes, Feb. 26, 1926, *ibid.*, 1926, vol. II, pp. 898–901.
[22] By an exchange of notes, Feb. 18 and July 20, 1926, *ibid.*, pp. 992–1000.
[23] By an exchange of notes, July 8, 1926, *ibid.*, pp. 401–406.

inquire whether it would be agreeable to the Government of Brazil to proceed to the negotiation of a similar treaty with the United States. A special draft will, of course, be prepared for presentation to Brazil if this proposal is acceptable to the Brazilian Government. It is probable that certain departures from the text of the German treaty should be made either in the special text to be submitted to the Government of Brazil or, on behalf of either party, during the course of negotiations.

It may be useful for you to bear in mind that in adopting the unconditional in place of the conditional most-favored-nation clause the United States has brought its commercial policy into accord with that prevailing among commercial countries. It would be gratifying if, among its early treaties as well as *modi vivendi* embodying this principle, the United States could celebrate a general commercial treaty with Brazil. The lack of a general commercial treaty with Brazil since the articles relating to commerce and navigation of the Treaty of Amity, Commerce and Navigation concluded December 12, 1828,[24] were terminated on December 12, 1841, is a matter of regret to this Government, which hopes that a comprehensive modern agreement may now be entered into.

Though the Department, in proposing a treaty with Brazil, is influenced chiefly by its policy of concluding with other countries generally treaties containing the unconditional most-favored-nation clause, you are nevertheless desired to use especial diligence in seeking a favorable response from the Brazilian Government in order to forestall any efforts that other countries may be planning to make for the purpose of interposing in South America arrangements based upon special privilege—a policy wholly antagonistic to the policy of equality of treatment which the United States is undertaking to promote.

. . . . . .

The Department either has transmitted or expects at an early date to transmit instructions, similar to the present instruction, to the American missions in the other South American capitals except Panama, with which as stated a treaty has been signed, and Ecuador, the political régime now functioning in which is not recognized by the United States.

I am [etc.] LELAND HARRISON

[24] Miller, *Treaties*, vol. 3, p. 451.

711.322/4

The Chargé in Brazil (Daniels) to the Secretary of State

No. 2652 RIO DE JANEIRO, *September 18, 1926.*

[Received October 8.]

SIR: In compliance with the Department's Instruction No. 1162, of August 21, 1926, I have the honor to report that on September 17 I called upon Dr. Felix Pacheco, Minister for Foreign Affairs, to inquire whether it would be agreeable to the Government of Brazil to proceed to the negotiation of a treaty of "Friendship, Commerce and Consular Rights" similar to the treaty of December 8, 1923, between the United States and Germany. I pointed out that the exchange of notes dated October 18, 1923, by means of which the United States promised reciprocally with Brazil to accord unconditional most-favored-nation treatment in customs and other commercial matters was merely a *modus vivendi* and reminded him that in the memorandum which the Brazilian Ambassador had handed to Mr. Hughes on May 23, 1923, he had referred to the suggestion by the United States that the two countries enter into "a *modus vivendi*, preparatory to a treaty on this subject". Following the lines of the Department's Instruction, I stated to the Minister that the central principle of the treaty which the American Government now desires to negotiate with Brazil would be, of course, an unconditional most-favored-nation clause covering commerce and related matters, but that it should likewise include provisions relating to rights of nationals of each party in the other country, to protection of property and to rights and immunities of consuls.

Dr. Pacheco appeared to be pleased with the idea, but stated that unfortunately he would only be in office until November 15, and that, as less than 60 days now remained, the time seemed very short for the negotiation of such a treaty. I stated that I realized this, but that since the exchange of notes of October 18, 1923, referred to above, had been effected during the Bernardes' administration and while Dr. Pacheco was Minister for Foreign Affairs, I felt that it would be peculiarly fitting that negotiations for a treaty to contain the unconditional most-favored-nation clause should be begun while Dr. Pacheco was in office. I also stated that it would be gratifying if among the early treaties embodying this principle the United States could celebrate a general commercial treaty with Brazil, and that it would be a matter of personal satisfaction to myself and also, I felt sure, to Mr. Morgan if Brazil should be the first South American country to express the intention of negotiating such a treaty. I then offered to telegraph immediately to Washington for a special

draft for presentation to the Brazilian Government if the proposal proved acceptable. Dr. Pacheco replied that he would take up this question with his colleague in the Department of Agriculture, Industry and Commerce, Dr. Miguel Calmon, and would advise me later of the decision reached.

I took this occasion to ask the Minister for Foreign Affairs whether the results brought about by the exchange of notes of October 18, 1923, had proved satisfactory to Brazil. He said that they had, and referred to recent articles in the *Jornal do Commercio* which indicated the ever-increasing volume of trade between the United States and Brazil. I reminded him that in one of the articles to which he referred it was stated that the value of coffee shipments from Brazil to the United States alone in the 12 months ending June 30 was close to 204 million dollars, and that the value of goods exchanged between the two countries had increased enormously in the last few years. I left with Dr. Pacheco an *aide mémoire* embodying the ideas contained in the first three pages of the Department's Instruction together with a copy of the Treaty of Friendship, Commerce and Consular Rights of December 8, 1923, between the United States and Germany.

Prior to my conversation with the Minister for Foreign Affairs on the subject of a treaty I talked with Dr. Sebastião Sampaio, who is Dr. Pacheco's chief assistant. His personal opinion was that there would be too little time for the present Administration to undertake the negotiation of the treaty with the United States. He said that the Ministry of Agriculture, Industry and Commerce were particularly procrastinating in such matters and that it usually required two or three years for the negotiation of a treaty. As in my subsequent talk with the Minister for Foreign Affairs, I took pains to explain that since Brazil had been the first country to enter into an agreement with the United States based on the unconditional most-favored-nation clause it would now be consistent with the friendly relations existing between the two countries if Brazil, first of all the South American countries, should express its desire to negotiate a treaty of Friendship, Commerce and Consular Rights. It was for this reason, I said, that I felt that a decision should be reached by the present Administration in Brazil.[26]

I have [etc.] THOMAS L. DANIELS

[26] In instruction No. 1173, Oct. 1, 1926 (not printed), the Department transmitted to the Chargé in Brazil a draft of the proposed treaty for submission to and negotiation with the Government of Brazil. These negotiations did not result in the signing of any treaty (file No. 711.322/3).

RENEWAL OF CONTRACT FOR AMERICAN NAVAL MISSION TO BRAZIL, SIGNED NOVEMBER 6, 1922[27]

832.30/139

The Acting Secretary of State to the Brazilian Ambassador (Do Amaral)

WASHINGTON, *June 30, 1926.*

EXCELLENCY: With reference to your note of May 21,[28] conveying the request of your Government that the contract for the American Naval Mission to Brazil be renewed for a period of four years under the same conditions, I have the honor to inform you that this Department transmitted a copy of your communication to the Secretary of the Navy for such comment as might appear appropriate to him in the premises. Mr. Wilbur has replied that the renewal of the present contract without modification would be agreeable to his Department.

In view of this fact I take pleasure in informing you that this Government gives its consent to this renewal without modification for a period of four years from the date of the expiration of the present contract on November 6, 1926. This Government considers, furthermore, that this can be validly accomplished by an exchange of notes between this Department and your Embassy. I therefore have the honor to request that you signify in this manner your Government's acceptance of this renewal as set forth herein.

Accept [etc.] JOSEPH C. GREW

832.30/141

The Brazilian Ambassador (Do Amaral) to the Secretary of State

[Translation]

No. 26 WASHINGTON, *July 6, 1926.*

EXCELLENCY: The undersigned, Ambassador Extraordinary and Plenipotentiary of the United States of Brazil, has the honor to answer the note which Your Excellency sent him on June 30 last, with reference to his own of May 21 of this year,[28] by which, in the name and by direction of the Federal Government of Brazil, he asked the Government of the United States of America to renew the contract of the American Naval Mission now in Rio de Janeiro.

In compliance with the suggestions made in Your Excellency's note, the undersigned, in the name and by order of his Government, hereby says and declares that he effects an exchange of diplomatic

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[27] See *Foreign Relations*, 1922, vol. I, pp. 651 ff.

[28] Not printed.

instruments of that nature, that the Federal Government of Brazil accepts the renewal of the contract of the American Naval Mission now in force, for a term of four years counted from November 6 of this year, when it expires without any change in its terms.

Like the Government of the United States of America, the Federal Government of Brazil considers this exchange of notes to be perfectly valid or to give perfect validity to the renewal of the contract, which is thus established.

The undersigned avails himself [etc.] S. GURGÉL DO AMARAL

832.30/141

The Secretary of State to the Brazilian Ambassador (Do Amaral)

WASHINGTON, *July 6, 1926.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 26 dated July 6, 1926, in which Your Excellency states, in the name and by order of your government, that in compliance with the suggestion made in the note dated June 30, 1926, of the Acting Secretary of State, the Federal Government of Brazil accepts the renewal without modification of the contract of the American Naval Mission to Brazil for a period of four years from the date of the expiration of the present contract on November 6, 1926, and that your government considers, as does this government, that this exchange of notes validly accomplishes the renewal of the contract in question.

On this occasion I wish to express to Your Excellency the appreciation of the Government of the United States for this additional manifestation of the sympathy and friendly spirit of co-operation that has so long existed between Brazil and the United States. It is indeed a source of gratification to know that the services of American Naval officers on duty in Brazil have been found satisfactory and helpful to the Brazilian Government.

Accept [etc.] FRANK B. KELLOGG

PROPOSALS TO STIMULATE THE PRODUCTION OF RUBBER IN THE AMAZON VALLEY

832.6176/37 : Telegram

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

[Paraphrase]

WASHINGTON, *December 19, 1925—8 p. m.*

72. Rubber manufacturers in the United States are actively interested in establishing and financing collectively some organization to stimulate the production of wild rubber in the Amazon Valley, pro-

viding capital, guaranteeing future prices, establishing new and broader purchasing and collecting agencies, and other effective methods so that full potential production will reach world markets.[80]

Please make appropriate inquiries of the Brazilian Government as follows:

(1) Would such action by American companies in Brazil or in connection with residents of Brazil be welcomed?
(2) Would the Government give assurances that export duties on rubber would not be advanced?
(3) Would Brazil give assurances that it would not restrict the free production and exportation of rubber?

Please expedite and reply by cable. Also, state which of the above methods is believed to be most effective. Give your opinion on soundness.

Manufacturers believe that with proper encouragement a 60-thousand-ton crop could be produced for the year ending June 1927. Such an organization would ultimately be expected to extend its rubber plantation interests on large scale into new regions.

KELLOGG

832.6176/38 : Telegram

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

[Paraphrase]

RIO DE JANEIRO, *December 22, 1925—3 p. m.*

[Received 5 p. m.]

82. Embassy and commercial attaché are working with Brazilian Secretary of Agriculture on subject of Department's telegram No. 72 dated December 21 [*19*].

The answer to the first question is an emphatic "yes."

The answer to the second question is also "yes," but assurances must be secured from interested State Governments. The Governor of Para declares that Para will reduce its export duty to a level equal to the duties in force in the Middle East.

The answer to the third question is also "yes." Since a combination of the character referred to would be wholly injurious to Brazilian interests, such a contingency is not likely to arise.

The increase of production to the figure mentioned for the year designated depends on the mobilization of capital to meet the cost of a largely increased labor supply to be imported from adjacent States.

MORGAN

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[80] In this connection, see sections entitled "Efforts by the United States to obtain for American rubber manufacturers relief from British restrictions on the export of raw rubber," *Foreign Relations*, 1925, vol. II, p. 245, and *ibid.*, 1926, vol. II, p. 358.

832.6176/41 : Telegram

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

RIO DE JANEIRO, *January 18, 1926—3 p. m.*

[Received 3:45 p. m.]

3. Referring to the Embassy's number 2, January 6, 2 p. m.[31] Minister of Agriculture communicated in writing on January 16th that on behalf of the Federal Government he welcomed the cooperation of American capital in promoting the immediate increase of rubber production in the Amazon Valley; that no increase will be made in export duties in Federal territory nor will the Federal Government enter into any agreement restricting production. The communication further states that the Minister is awaiting answers to the inquiries which he addressed to the Governors of Amazonas and Para in regard to the assurance that there will be no increase in present State export duties.

MORGAN

832.6176/43 : Telegram

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

RIO DE JANEIRO, *January 25, 1926—3 p. m.*

[Received 3:04 p. m.]

6. Embassy's telegram 4, January 20, 1 p. m. [*3, January 18, 3 p. m.*] Brazilian Minister of Agriculture has communicated the Portuguese text of telegrams from Governors of Para and Amazonas stating that the Governor of Para will welcome any reputable economic organization which may come to the State for agriculture purposes especially for planting rubber. Exportation taxes in Para have already been reduced to minimum and the fixed purpose of the Government is not to increase them. The Federal Government has alone authority to enter into an agreement with foreign countries to restrict production and the State authorities have nothing to do therewith.

The Governor of Amazonas who has recently taken office states that not only will his Government guarantee no increase in the present export tax on rubber but that this tax will be reduced in accordance with the increase in production. When the State Legislature next meets the Governor undertakes that the necessary laws in the above sense shall be enacted.

MORGAN

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[31] Not printed.