SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY [1]

352.1153 St 2/20

The Chargé in Spain (Blair) to the Secretary of State

[Extract]

No. 719 MADRID, *January 4, 1928.*

[Received January 19.]

SIR: I have the honor to refer to the Embassy's despatch No. 713 of December 26th, 1927,[2] and to submit a further report on the Petroleum Monopoly. At the beginning of the week, a reply was received to the Embassy's *Note Verbale* of December 23rd, 1927,[3] a copy of which was transmitted with the above mentioned despatch, and I am transmitting herewith copies of the Spanish text of this note together with the Embassy's translation. . . .

I have [etc.] PERCY BLAIR

[Enclosure—Translation]

The Spanish Ministry of State to the American Embassy

No. 304 NOTE VERBALE

With reference to the *Note Verbale* No. 407 of December 23rd, from the Embassy of the United States of America, the Ministry of State has the honor to inform the Embassy, as a first impression and without prejudice to a more detailed answer, reiterating what was stated in its note of the 21st of December,[3] in regard to the seizure by the Petroleum Monopoly of a part of the installations of the Babel and Nervion Company in Alicante, that the seizures of properties belonging to American citizens, and, in general, to citizens of other countries who have interests in the business of petroleum importation into Spain, are being carried out in accordance with the Royal Decree-Law of October 17th last [4] and with the reserve, as

[1] Continued from *Foreign Relations*, 1927, vol. III, pp. 655–729.
[2] *Ibid.*, p. 717.
[3] *Ibid.*, p. 723.
[4] *Ibid.*, p. 677.

provided for in Article 2 of this Decree, of making pertinent indemnification.

It has not been possible previously to determine the amount of the indemnification both with respect to the seizures already made as well as to those which have not yet taken place, because it is necessary to make the proper valuation in accordance with Article 10 of the Royal Decree-Law of June 28th last,[5] which fixes an as yet unexpired period for these valuations which are being made by a jury designated for this purpose. This appraisal cannot therefore be completed before the first of January, 1928, upon which date the Monopoly must become effective.

Under these circumstances, the Ministry of State does not, therefore, consider justified either the alarm or the unfavorable impression, which, as it has been informed by the United States Embassy, the abovementioned seizures have occasioned in the United States, the more so as His Majesty's Government has decided that expropriated companies will receive legal interest on the finally determined valuation from the date of seizure to the time when final payment is made, and the Spanish Government will not in any way depart from legal rules and equitable methods either in this matter or in any other, as it is safeguarding its right to organize within legal limits the services of the country.

The Ministry of State is, however, forwarding to the Ministry of Finance the above referred to note of the United States Embassy in order that the latter Ministry may take account thereof and may recommend that the valuations in question may be carried forward with the greatest activity possible.

MADRID, *December 28, 1927.*

352.1153 St 2/14 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *January 5, 1928—11 a. m.*
[Received 6 : 53 p. m.]

1. The Embassy's telegram 144, December 27, 11 a. m.[6] *Note verbale*, dated December 28th received from Spanish Government contains no satisfactory assurances that promises made by Ministers reported in above-mentioned telegram will be made effective, copies of the note forwarded to the Department yesterday's pouch. The note pretends that seizures of property are being carried out legally in accordance with Royal Decree of June 28th and October 17th and

[5] *Ibid.*, p. 659.
[6] Not printed.

that delay in payment of compensation is not illegal as interest is to be paid on the amount of valuation not yet determined. The note further states that alarm in the United States in regard to the protection of property rights in Spain is unjustified in view of "that legal procedure followed by the Spanish Government." As neither decree above mentioned states that previously existing law contrary thereto is thereby revoked and as seizures have been carried out in direct violation of previously existing law, the alleged legal position of the Spanish Government is clearly untenable.

[Paraphrase.] Our representations have, I believe, greatly worried the Spanish Government regarding alarm felt in the United States, and accordingly it would be worthwhile to press on by refuting the Spanish note's arguments as suggested below, stating also that the Department desires, not generosity, but strict justice in conformity with previously existing law [end paraphrase]:

(1) Because this procedure has been in direct opposition to article 349 of the civil code, article 3 of the law of enforced expropriation, and article 10 of the constitution.

(2) Because these precepts were not expressly derogated by the Royal Decree law of June 28 last nor by that of October 17, thereby tacitly admitting the binding force thereof, nevertheless these legal provisions have not been applied and the monopoly has infringed on them.

(3) In spite of the Spanish Government's explanations it recognizes the arbitrary procedure followed by the monopoly company since it forces the company in a recent Royal Decree to grant the expropriated company the legal interest on the eventual indemnification for the period of delay. Such interest payments can only be justified in the case of failure to meet a legal obligation.

I respectfully request authority to reply to the Spanish note along these lines.

BLAIR

352.1153 St 2/14 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, *January 6, 1928—6 p. m.*

3. Your 1, January 5, 11 a. m. The Department is giving consideration to your suggestions regarding a further protest but prefers awaiting receipt of the January 4 pouch before definitely instructing you.

There is, however, no objection if you intimate to the Spanish Government that its course as to the oil monopoly is being observed by the United States with growing concern and that this Government will be obliged to conclude from failure to give prompt and fair

compensation that the Government of Spain does not intend, under recognized principles of international law, to extend the customary measure of protection to American property and property rights in Spain.

KELLOGG

352.1153 St 2/16 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

[Paraphrase]

MADRID, *January 10, 1928—3 p. m.*
[Received 4:13 p. m.]

4. Reference Department's 3, January 6, 6 p. m. Yesterday I interviewed Primo de Rivera and informed him of the substance of the above-mentioned instruction. He was obviously disturbed and more conciliatory than at any previous time. Avoiding the chief issue, constitutional protection of property rights, he stated that the Spanish oil monopoly was an exceptional measure and reiterated his former view that property is not in danger in Spain. Again promising to hasten valuations and hoping they would be finished in a week, Primo assured me that his Government intends paying fair and generous compensation. Although general assurances appear satisfactory, Primo's verbal undertakings often do not materialize into acts. Nevertheless, the Department's representations have, I believe, made an improvement, and there is a prospect of fair compensation ultimately as a result of the past few weeks.

BLAIR

352.1153 St 2/25

The Chargé in Spain (Blair) to the Secretary of State

No. 737 MADRID, *January 11, 1928.*
[Received January 30.]

SIR: I have the honor to refer to the Embassy's despatch No. 719 of January 4th, 1928, and to submit a further report on recent developments in connection with the establishment of the Petroleum Monopoly in Spain.

As mentioned in this despatch, I telegraphed to the Department in the Embassy's No. 1 of January 5th, 11 a. m., the summary of the Note from the Spanish Foreign Office of December 28th 1927, and in this telegram, I requested authority to answer the Spanish Note along the lines indicated in the telegram, as I feared that failing a refutation of the statements contained in the Note, the Spanish Government might believe that the Department considered its explanations of the present abnormal situation as satisfactory.

On January 7th, I received the Department's confidential telegraphic instruction No. 3 of January 6th, 6 p. m., and as I well realise the importance of the principles at stake in regard to the protection of property, I heartily concur in the Department's decision to await the receipt of the definite text of the Spanish Note before making a definite reply. In the meantime, however, in view of the fact that the Spanish Government had up to this time taken no action to give effect to its promises in regard to valuation and compensation of seized properties, I was very appreciative of the Department's authorization to let the Spanish Government know that the Department was following the situation very closely, and that notwithstanding the Spanish Note above mentioned, the Department's point of view in regard to the procedure followed by the Petroleum Monopoly was unchanged.

Fortunately, an occasion presented itself to convey this information to General Primo without having to make a formal request, as he asked me to see him in regard to another matter which is referred to in the Embassy's telegram No. 3 of January 10th, 10 a. m.[8] The interview took place on Monday afternoon, January 9th, and after discussing the matter above referred to, I communicated to General Primo de Rivera the substance of the second part of the Department's telegram above referred to (No. 3, January 6th, 6 p. m.). General Primo de Rivera seemed to be in a conciliatory frame of mind, and a long discussion of the whole question of the procedure of the Petroleum Monopoly followed. As a rule, it is very difficult to discuss technical subjects with the President, because as often reported before, he is never familiar with the technical points involved. But on this occasion, I was able to bring to his attention informally a number of points which I do not believe had been brought to his attention before. As I informed the Department telegraphically on January 10th, I believe that the interview has been extremely useful from the point of view of obtaining fair compensation for the interests involved, and also from the point of view of making him realize more accurately the viewpoint of the American Government in regard to seizures of property without due process of law.

I believe it will be of interest to the Department to have a brief summary of the conversation which took place, which is as follows:

After referring to the Spanish Note of December 28th, 1927, which I said was being considered by the Department, I stated that the Note made no specific reference to the principal point at issue, namely, when and how compensation was to be paid. I said that the Spanish Civil Code, which was in force when the Companies entered Spain, provided for valuation and compensation before seizure, and that for this reason, as I had pointed out before, the American Government

[8] Not printed.

was increasingly concerned in regard to the arbitrary seizures which had recently taken place. Primo avoided the issue as to whether the Royal Decrees of June 28th and October 17th, 1927 annul previously existing constitutional and Civil Code dispositions, but seemed to be uneasy, realizing that he was on rather dangerous ground. He made the general statement, which he never fails to use in any conversation, that the State had the right of Eminent Domain over private property, and that all states exercised this. I said that there was no question of disputing this latter point, but that, in the particular case under discussion, property rights had been over-ridden and that American interests which had established themselves in Spain under previously existing law were now being driven out of business suddenly and without previous valuation or compensation, which, according to the recognized principles of law, they had every right to expect.

Primo then made the somewhat irrelevant and disingenuous statement that in this case the valuations could not have been made before the seizures, as it was necessary, in the interest of the State, to make the Monopoly effective as soon as possible. I said that I could not understand why this was true, and that it seemed to me that the normal way to proceed would have been for the State to acquire the properties, either by purchase or by condemnation proceedings, in accordance with the law, and that the properties expropriated could have then been turned over to the Monopoly. At this time, he was obviously worried, and being either unwilling or unable to make a definite reply, he made several notes, and said that he would take this phase of the matter up with the Finance Minister.

When I referred to the increasing concern with which my Government viewed the disregard of property rights by the Spanish Government, Primo denied that this was the case, and stated categorically that property rights in Spain would be protected, but that in this particular instance the matter was of supreme importance to protect the national interests, and that exceptional measures were justified. Almost in the same sentence, he observed that the Prohibition Law in the United States had forcibly driven many foreigners out of business, but I at once countered this argument by saying that I could not see the connection between the two cases. I said that the Prohibition Law had used the police power of the State on a moral issue, that there had been no question of the United States taking over and running the liquor business for profit, in the way that the Spanish Government was now taking over and expected to run the petroleum business, and, moreover, that the interests involved had had very long warning that the Prohibition Law might be enacted, and that this had certainly not been the case with the Spanish petroleum regulations. I pointed out that, in the present

case, the companies engaged in the petroleum business were being driven out of Spain with hardly any warning, that they had come to Spain in good faith, and that it certainly did not seem fair to ruin their business without adequate compensation.

Primo then said that certain foreign companies, notably Babel and Nervion, had always maintained that they had made very small profits in Spain, and that, apart from their actual installations, the value of these businesses as going concerns would be small. I then pointed out that Babel and Nervion was bought out after the war by the Standard Oil Company of New Jersey, the latter acquiring the majority of the shares which had formerly been held by French and Spanish citizens. The Standard Oil Company bought into this business, knowing that it had a ninety-nine year charter granted in 1918, and when the Standard Oil Company paid for it, it paid not only the book value of the company's property, but a very substantial amount for the value of the business as a going concern. I said that the fact that the industry had not made money for the first few years had no bearing, because no industry invested money without the hope of profit and that they had every reason to believe that sooner or later fair profit would be obtained on their investment. I said that the Company had spent an enormous amount of money in advertising and building up the business in Spain and that it seemed unfair not to recognize this. Primo replied and said that assets of the latter kind would be paid for by the Monopoly.

It seemed inadvisable to press him on this point, but I had the distinct impression that he has retreated from his original stand in regard to only making payment for tangible property. All through the interview he made notes in pencil on the various points raised, and I have a distinct impression that the conversation briefly summarized above has been the most useful which has taken place in regard to making Primo realize the necessity and indeed the advisability from the Spanish point of view of granting fair compensation. He said that he would give instructions to have the valuations speeded up, that he would see that great generosity in regard to interpretation of value would be given, and that it was his desire to bring the whole matter to a satisfactory conclusion as soon as possible. I said that his assurances were gratifying and that I would immediately report them to my Government.

As we got up to go, Primo reiterated a former statement to the effect that he feared that the companies would never be satisfied, no matter what treatment was given to them, as they were opposed to the Spanish Government's Monopoly policy. I said that I thought it would be very unfortunate from every point of view if industries were expelled from Spain feeling that they had been unjustly dealt with, and that, as far as American interests were concerned, the companies were perfectly

willing to accept reasonable compensation. He said that injustice was very far from his desire, and once again promised that when the final question of valuation came before the Council of Ministers, he would insist on generous treatment. I thanked him and said that, as I understood it, the companies involved asked for strict justice and the fair application of Spanish law as it existed and was interpreted when they came to Spain, and they did not ask for generosity as an act of grace.

The above conversation was conducted in a very friendly spirit, and indeed, the surprising feature of it was the fact that the President seemed quite willing to discuss very controversial matters which formerly he had always avoided. The points regarding the good faith of the companies in coming into Spain under pre-existing law and the desirability of giving them fair treatment seemed to have made a decided impression on the President, and I believe, moreover, that the interview has been successful in regard to the probability of the recognition by the Spanish Government of the value of the expropriated enterprises taken as going concerns.

Since the definite expropriation of all the property of the companies on January 1st, there has been no change in the general situation. In Madrid, supplies of petroleum products seem to be normal. Reports from the provinces would seem to indicate that there is an acute shortage in certain parts of Spain. Government communiqués continue to make light of all technical difficulties of organization and supplies, but current report is to the effect that things are not running smoothly in the Monopoly, and that acute difference[s] of opinion in regard to the policy have already arisen.

General Primo de Rivera stated recently that several American Companies had already taken contracts from the Monopoly. As far as I have been able to find out here, he refers to the fact that the Vacuum Oil Company and the Atlantic Refining Company have already expressed their willingness to supply lubricating oil in Spain under the Monopoly regulations. A rumor is afloat to the effect that the Atlantic Refining Company has already made an offer to the Monopoly to supply it with gasoline and crude oil, but so far it is impossible to obtain confirmation of this information.

I have [etc.] PERCY BLAIR

352.1153 St 2/21 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *January 19, 1928—noon.*

[Received 3:40 p. m.]

7. Embassy's telegram 1, January 5, 11 a. m. French Embassy has finally received note from Spanish Government replying to its protests. Text forwarded yesterday's pouch.[9] Note avoids issue of viola-

[9] Not printed.

tion of constitutional law, pretends that there was no time to make valuations at the time of seizure as monopoly had to be effective by January 1st, and finally promises generous and equitable treatment as a kind of an act of grace. According to decree of October 17, adjudicating the monopoly valuation and compensation should have taken place before January 17.

[Paraphrase.] The Spanish Government, despite its fair promises, has violated its own royal decree; no immediate prospect of valuation or compensation is apparent. I beg respectfully to suggest that, in view of this violation of both constitutional law and royal decrees, the Department of State consider whether to place the issue squarely before the Government of Spain, as suggested in the telegram mentioned above. Continued protest is, I believe, the one method to avoid an endless delay and to obtain for the interests with arbitrarily and evasively expropriated property what is fair treatment.

Information has just reached me . . . that the Soviet Government demands in return for oil supplies by a long-term contract to the Spanish monopoly that Spain grant *de jure* recognition. A tentative arrangement with the Soviet has so far supplied the monopoly with a majority of its oil. A report was current a month ago that Primo de Rivera was flirting with the plan to recognize the Soviet, but the certain opposition of King Alfonso and the Roman Catholic Church did not allow serious notice being taken. The present régime, I am reliably informed, will not grant recognition. See Berlin's No. 3050 of January 3 in this general connection.[9a] [End paraphrase.]

BLAIR

352.1153 St 2/22 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *January 26, 1928—11 a. m.*

[Received 5:40 p. m.]

10. Embassy's 7, January 19, 12 noon. In the first valuation proceeding, certain installations at Santander with book value of three million pesetas owned by Deutsch, French citizen, have been valued by Government and monopoly representatives at nine hundred thousand pesetas. Method employed by Government representatives is intentionally to undervalue specific properties and will effectually preclude consideration of the value of the business as a going concern. When the French representative objected to this method he was informed that the monopoly company would only take the property at a low and even nominal value because much of the property was not necessary for the monopoly's operation and that the lower the valuation the higher would be the monopoly profits. The Treasury delegate stated that his function was to defend the interest of the treasury and

[9a] Not printed.

not to administer justice. In the second meeting when the valuations were objected to he said that he was only obeying formal instructions of the Finance Minister. Above-referred-to valuations are tentative as the Spanish cabinet can review them on company's appeal but they show the spirit guiding the monopoly and substantially deny Primo's promises of fair and generous treatment. [Paraphrase.] As the French Ambassador is greatly concerned, he has today requested immediate authorization from the French Foreign Office to present a further note which would threaten reprisals against Spanish interests in France if French petroleum interests in Spain do not receive immediate and fair compensation.

The most opportune moment has now arrived, I believe, to refute categorically the arguments in the Spanish note dated December 28 and to place squarely before the Spanish Government a definite query of the United States Government that it desires to know whether the constitution and the civil code in fact no longer protect property in Spain, so that it is at the mercy of the Spanish Government's latest decree. I refer to this Embassy's telegram No. 1, January 5, 11 a. m. Further, the Embassy might opportunely state that it is informed as to the evaluation commission's methods which are entirely contrary to assurances by Primo de Rivera and Finance Minister Sotelo. Without further energetic protest, I fear the Spanish Government will regard the American attitude as acquiescing in the present procedure, and this will prove to be a dangerous precedent in the future for American interests in Spain. I refer to this Embassy's telegram No. 9, January 26, 10 a. m.[10] [End paraphrase.]

BLAIR

352.1153 St 2/23 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, *January 27, 1928—7 p. m.*

10. Reference your 10, January 26, 11 a. m.

(1) Before further instructing you as to a protest, the Department deems it essential to ascertain the British Government's position toward the Spanish oil monopoly and the form of action contemplated by the British. As the Department is expecting to talk over this matter on January 30 with the British Embassy, it wishes you meanwhile to cable a report concerning the British Embassy's attitude in Madrid and any cooperation by it with the American and French Embassies there.

(2) Any further action which the French Embassy in Madrid

[10] Not printed.

may take in regard to the valuation proceedings at Santander should, of course, also be reported.

(3) This Government's desire to cooperate as closely as possible with the French and British Governments, both here and in Madrid, may be stressed by you to your two colleagues. If you see fit, you may emphasize to them the importance of having the three Governments show themselves in accord, fundamentally, concerning the Spanish monopoly's expropriation and valuation proceedings.

KELLOGG

352.1153 St 2/24 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

[Paraphrase]

MADRID, *January 28, 1928—2 p. m.*

[Received 3:55 p. m.]

11. Reference to Department's 10, January 27, 7 p. m. The attitude of the British is ambiguous and negative. . . . The British Government is inclined to wait for the final valuations without more protesting and, moreover, is guided by the fact of Spanish companies representing British interests. As I pointed out to the British Ambassador, the Government of Spain has never denied and has accepted implicitly the right of intervention by the American and French Governments for the protection of their interests, which are majority stockholders in Spanish oil companies, because Spanish companies which are owned by foreigners are considered by the Spanish Government to be virtually foreign in the sense of their not enjoying privileges with Spanish-owned companies of equality of treatment in Spain (thus the French Government is maintaining that this violates their treaty of 1862[11] and in fact our treaty providing for most-favored-nation treatment[12]). This point of view is taken by the French Government which deems the British Foreign Office's attitude to be ill-advised and unfortunate under the circumstances.

As to protests after the Spanish oil monopoly became effective from the British, French and United States Embassies, the right of protecting interests of foreign-owned companies in Spain has never been denied by the Spanish Government. In the whole matter the British Embassy has given practically no assistance to the American and French Embassies. Pending further instructions, the British Ambassador says he can at present do nothing, despite the fact that damaging precedents are being established, a fact he admits. With-

[11] Consular convention, signed Jan. 7, 1862, *British and Foreign State Papers*, vol. LII, p. 139.

[12] Treaty of friendship and general relations, signed July 3, 1902, *Foreign Relations*, 1903, p. 721. Cf. art. II of the treaty, *ibid.*, p. 722; also notes exchanged October 26 and November 7, 1927, *ibid.*, 1927, vol. III, pp. 731–732.

out any apparent connection, he vaguely remarked that British-Spanish relations now are very friendly; he hopes, I believe, to obtain future commercial treaty concessions. In all important matters, principally as to a bank taxation treaty and commercial treaties, I am told by . . . the British have been consistently surrendering. . . .

Full cooperation with the American Embassy is desired by the French Ambassador. The only way to get fair treatment without British support, I believe, is united action by the French and Americans.

As to the valuation proceedings at Santander, the French Ambassador proposes to wait until the French company's last objections have been over-ruled definitely and until an official award. Then he intends to lodge a strong protest. He is now waiting for telegraphic instructions from his Government and hopes reprisals against Spanish interests in France may be threatened. The only chance of fair treatment, he believes, lies in the foreign governments concerned assuming a very firm attitude. The Spanish Finance Minister has recently announced in the National Assembly that, following the successful putting into effect of the petroleum monopoly, the Spanish Government contemplated the nationalizing, which presumably means monopolizing, of insurance, copper and lead industries and further stated that plans were afoot to establish Spanish banks in Latin America under authority of the Bank of Spain.

BLAIR

352.1153 St 2/29 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase—Extracts]

WASHINGTON, *February 1, 1928—2 p. m.*

14. Reference your 12, January 31, 3 p. m.[13] Instructions are hereby given you to leave for Paris and London to confer on the oil question and to remain absent from Madrid, where Grummon[14] will take charge, not more than a week. . . .

Your French colleague may be confidentially informed of this mission. If the American Embassy in Paris so desires, you may, at your discretion and in conjunction with it, informally discuss the situation with the Foreign Office there. In view of the British attitude, however, the Department entertains doubts as to the wisdom of reporting the reason of your London visit either to your British colleague or to the British Foreign Office. You may cable from Paris or London for any further desired instructions.

KELLOGG

---

[13] Not printed.

[14] Stuart E. Grummon, third secretary of Embassy.

352.1153 St 2/30 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *February 2, 1928—10 a. m.*

[Received 3:35 p. m.]

16. Embassy's telegram 15, February 1, noon.[15] In accordance with instructions from Paris Foreign Office, French Embassy sent to Spanish Government strong note, dated January 30, reiterating demand for protection and fair treatment of French property seized by the petroleum monopoly. Note states that Valuation Commissions have flagrantly violated Primo's promises in regard to fair and equitable compensation for seized property and demands that immediate orders be given to the Finance Ministry authorities on the Evaluation Commission in accordance with written undertakings given by Primo in the last note to the French Embassy.

The Note observes that the Spanish Government has never replied satisfactorily to the French request for explanations regarding measures of protection which property should enjoy in Spain, and further states that it does not wish to conclude that the silence of the Spanish Government means that the latter's intention is to acquiesce in a systematic despoliation of French interests, although the present procedure of the Treasury gives every ground to suppose this. Babel and Nervion appeared before the Valuation Commission on January 30th which considered physical valuation of certain plants carried on company's books at 3,700,000 pesetas. Government engineer in preliminary survey had placed valuation of 3,200,000 pesetas on these installations. Valuation Commission representing Treasury offered only 2,000,000 for the property and refused to explain arbitrary method of reaching this figure.

[Paraphrase.] The French Ambassador feels that the new company created to run the monopoly in the Spanish Government's interest is obviously profiting by these proceedings which are simply a systematic despoilment and that at this time another American protest in line with the French note already mentioned (a copy is being sent by pouch)[15] would be most useful. I agree.

The French Cabinet, I am told, yesterday examined reprisal methods and as a first step contemplated most strictly interpreting French regulations in regard to imports of Spanish fruit. Shipments of Spanish products would be automatically held up for two weeks by such an interpretation and would likely be spoiled thereby. Unless the Spanish Government alters its attitude, other French reprisals also are under consideration. [End paraphrase.]

BLAIR

[15] Not printed.

352.1153 St 2/36 : Telegram

The Secretary of State to the Ambassador in Great Britain (Houghton)

[Paraphrase]

WASHINGTON, *February 4, 1928—8 p. m.*

26. In connection with possible representations by the Department to the Spanish Government regarding valuation of American property now in the hands of the Spanish petroleum monopoly, ascertaining the British Government's attitude thereto is important.

The Department is informed by Sir John Broderick of the British Embassy, which has no specific instructions, that he believes the seriousness of the situation which may develop is realized by the British Government, but that the latter will proceed as usual without protest unless specific cases affect adversely British interests which are clearly defined. Broderick points out that, since these British interests are chiefly connected with the Royal Dutch Shell, it is more difficult for the British to protest insufficient valuation which amounts to partial confiscation than were purely British interests involved. From outside sources the Department also learns that disapproval of Sir Henry Deterding's behavior on his recent Madrid visit to the Spanish Government partly explains the British Embassy's hesitation to protest concerning expropriation and valuation.

Mr. Blair is proceeding to London during the coming week to talk over with the Embassy this oil situation. Without further instructions you are not desired to make any inquiries at the British Foreign Office, but any suggestions which you care to make when you have discussed matters with Mr. Blair will be appreciated by the Department.

KELLOGG

352.1153 St 2/38 : Telegram

The Ambassador in Great Britain (Houghton) to the Secretary of State

[Paraphrase]

LONDON, *February 8, 1928—1 p. m.*

[Received February 8—11 : 50 a. m.]

28. Reference your 26, February 4, 8 p. m. Mr. Blair and I have discussed the Spanish oil situation. No matter what the legal rights under the Spanish Constitution prove to be ultimately, clearly there have occured the annulment of a charter of a company with substan-

tial American ownership, the taking over of its property without adequate compensation, and the handing over to a Spanish company, bodily, of its business.

The only remedy immediately available would seem to be a protest by the American, British, and French Governments. Such representations have already been made by the French Government whose Ambassador assures me informally that this pressure will go on. He believes, however, that the British Government will refuse to act because British subjects are interested in a company which is a Spanish corporation in fact. This attitude, we now feel from certain private information, possibly may be altered. The most effective means of speeding such a result, I suggest, would be for the Secretary and the British Ambassador to discuss the matter. If the American press were given the facts, this also would probably help.

HOUGHTON

352.1153 St 2/39 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *February 13, 1928—3 p. m.*
[Received February 13—2:50 p. m.]

25. Embassy's telegram 16, February 2, 10 a. m. American, British, and French owned petroleum companies have filed protest with Minister of Finance against methods of central Valuation Commission and have refused to attend further valuation meetings because the Government officials on Commission refuse to act in judicial capacity provided for in decree of June 28th and simply assess an arbitrary valuation without taking account of figures submitted by local Valuation Commissions and refusing to allow the companies to justify their claims. Finance Minister's reply to companies cites them to appear before each session of the Commission stating that final recourse to the Council of Ministers always remains. He states that failing companies' participation Government representatives will decide on valuation without further reference to companies, which procedure in fact now obtains as Government representatives refuse to discuss companies' claims. [Paraphrase.] The French Ambassador approves of the companies' decision to withdraw their representatives from the central Valuation Commission and has the intention of protesting further. He has despatched the commercial attaché to Paris to urge the French Government to take reprisals.

It is my belief that the position of the companies is justified and that it would be opportune to enter a vigorous protest against the treatment accorded to American interests. [End paraphrase.]

BLAIR

352.1153 St 2/50

The Chargé in Spain (Blair) to the Secretary of State

No. 790 MADRID, *February 14, 1928.*
[Received February 29.]

SIR: I have the honor to refer to the Department's telegram No. 14, of February first, 2 p. m., in which I was instructed to proceed to Paris and London for consultation with the respective Embassies in regard to the expropriation of American owned property by the Spanish Oil Monopoly.

In accordance with this instruction, I left Madrid Friday morning February 3rd, reaching Paris on Saturday, and took the matter up immediately with the Ambassador. Mr. Herrick, after familiarizing himself with the general lines of the controversy, placed the matter in the hands of Mr. George Gordon,[17] and I then went over with him very carefully the Department's instructions and the Embassy's despatches.

As reported in the Embassy's telegraphic despatch No. 20 of February 3rd last, 2 p. m.,[18] I took with me the complete files of the correspondence relating to the Petroleum Monopoly, and I also left with the Paris and London Embassies a complete file of the Department's and Embassy's telegrams in regard to the Petroleum Monopoly, and a copy of the French Embassy's Note of January 30th, 1928 to the Spanish Minister of State, copies of which were forwarded to the Department with the Embassy's despatch No. 770 of February 3rd last.[18]

On Sunday, February 5th, I went to London and on Monday discussed the whole matter at considerable length with the Ambassador. Mr. Houghton considered it advisable for me to postpone my departure for Paris until Tuesday in order to endeavor to obtain unofficially if possible, certain information in regard to the attitude of the British Foreign Office. In view of the Department's instructions, no reference to my mission was made either to the British Embassy in Madrid or to the Foreign Office in London. The Ambassador, however, was able to discuss the matter informally with the French Ambassador in London before my departure and during the course of Monday and Tuesday, I was able to obtain confidential information to the effect that the Shell Petroleum interests were bringing strong pressure to bear on the Foreign Office in order to obtain a firmer attitude in regard to the protection of British interests in Spain.

Before leaving London on Tuesday, February 7th, the Ambassador showed me the draft of a telegram which he was sending to the

[17] First secretary of the Embassy at Paris.
[18] Not printed.

Department in which he requested instructions in regard to any representations which the Department might desire to make to the British Foreign Office.[19]

In Paris, I again discussed the matter with Mr. Gordon and later we both went over the various points involved with Mr. Henry Bedford, the European representative, and Mr. Chester Swayne, the General Counsel of the Standard Oil Company of New Jersey. Mr. Swayne is returning to the United States on February 15th, and told me that he would discuss the matter with the Department when he goes to Washington towards the end of this month.

Apart from the general question of principle involved by the expropriation of property in Spain on behalf of the Petroleum Monopoly, we discussed at considerable length the latest developments in the situation which are reported briefly in the Embassy's telegram No. 25 of February 13th, 3 p. m. Before I left Madrid on February 3rd, the various interests involved, representing American, British and French capital, had about decided to withdraw their representatives from the Central Valuation Board, which has been constituted in Madrid in accordance with the Royal Decree of June 28th, 1927 because this Board (referred to currently here as a Jury or *Jurado*) had arbitrarily assumed the functions of both judge and jury and had definitely refused to act in the arbitral capacity provided for in the above mentioned Royal Decree.

As the Department will doubtless recall, this Central Valuation Board or Commission is composed of three Government representatives, one representative of the expropriating Monopoly and one of the interests to be expropriated.

The Local Valuation Boards, seven in number, had already turned in their recommendation of valuation for their respective districts, and these awards in many cases placed a valuation on the property which to a certain extent approximated the Companies book values, although all question of the business taken as a going concern, trade marks, and other intangible values were ignored. As previously reported, when these awards were placed before the Central Commission, the Government representatives refused to discuss any technical details, and simply stated in substance that they were there to protect the interests of the Treasury and not to administer justice. Under the circumstances, the interests involved considered that they could only compromise their position by taking part in such arbitrary procedures, and the Babel and Nervion Company (the Standard Oil Company of New Jersey subsidiary) made a formal communication to the Minister of Finance dated February 4th, 1928 (copies and translation of which were forwarded with the Embassy's despatch No. 770 of

[19] See telegram No. 28, Feb. 8, 1 p. m., p. 845.

February 3rd last)[20] setting forth the reasons which guided the Company in its decision to withdraw its representative from the Central Board.

As stated in the Embassy's telegram No. 25 of February 13th, 3 p. m., the Minister of Finance has replied to the Company's letter of protest above referred to under date of February 10th, 1928, informing the Companies that should they fail to be represented in the Central Commission in accordance with the Royal Decree-Laws establishing the Monopoly, that [*sic*] the valuation would simply be determined without their presence. I am enclosing herewith copies of the Spanish original together with an English translation of the letter of the Minister of Finance[20] and this letter well illustrates the arbitrary and high-handed procedure which is being followed by the Spanish Government. As a further illustration of the procedure, I am enclosing herewith the Spanish text and English translation thereof of the Procès-Verbal[20] affecting the interests of the Shell subsidiary, the Petrolifera Española, which appeared before the Valuation Commission on February 10th. As above stated the Shell interests have decided to withdraw from further participation in the proceedings.

I discussed the position yesterday with the French Ambassador before telegraphing the Department, and he entirely concurs in the decision of the companies to withdraw their representatives under the circumstances. He has, however, sent Mr. Juge, his Commercial Attaché, to Paris to review the whole position and particularly the latest developments above referred to, with the Foreign Office there. I shall promptly advise the Department by telegram of any further action that the French Government may take.

The British Embassy here has not communicated with this Embassy during my absence, but I hope that in view of the latest attack which has now been made on British interests, the British Government may at last decide to move in the matter, and I shall promptly advise the Department of any developments.

I have been informed by Mr. Westcott, the managing director of the Shell interests (the Petrolifera Española), that he now has reason to believe that the British Foreign Office, urged on by the representations of the Shell directors in London, is likely to take a stronger attitude as it is now confronted with a definite case which deprives British interests of obtaining justice. In the course of a conversation yesterday, Mr. Westcott remarked that he thought that the Foreign Office had not moved before more strongly because it was well aware of the absence of any real justice in Spain under the present regime, and that it had waited for an overt act showing the bad faith of the Government before applying strong diplomatic

[20] Not printed.

pressure, as this was the only method which might possibly obtain justice in the end.

. . . . . .

The Shell interests are the newest and most modern in Spain as the Shell organized its Spanish subsidiary about 1920 and almost all of their plants are new. The total value claimed by the Shell for both physical and intangible assets is about fifty million pesetas. This is the only important British interest in the petroleum industry represented in Spain, although several other smaller British companies sell lubricating oil.

Babel and Nervion and the Sociedad de Compras y Fletamentos are the Standard Oil of New Jersey subsidiaries. Babel and Nervion considers the value of its tangible and intangible assets to be thirty five million pesetas, and the Sociedad de Compras y Fletamentos considers its value to be eighteen million pesetas. The former company is 80% owned by the Standard Oil Company of New Jersey, and the latter some 49%. The other shareholders in these companies are largely French.

Two other French interests, Deutsch and Desmarais Frères, have a book value of approximately twenty five and thirty five million pesetas respectively. The Porto Pi Company which has been distributing Soviet oil in Spain (and doing about 10% of the gasoline trade) is owned in about equal shares by French and Spanish interests. This company intended to claim a valuation of about twenty five million pesetas but I have been informed that no such amount of capital has ever really been invested in its business.

From the above, the Department will observe that the British interests are far from being predominant in Spain and as a matter of fact, up to very recently the Standard Oil of New Jersey, through its directly owned subsidiaries, and several allied French and Spanish small organizations did almost 60% of the gasoline and kerosene business in Spain.

I have [etc.] PERCY BLAIR

352.1153 St 2/40 : Telegram

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

[Paraphrase]

PARIS, *February 14, 1928—11 a. m.*

[Received February 14—9:25 a. m.]

41. Reference to the Department's 14, February 1, and 15, February 2, both to Madrid.[22] Following consultations with Mr. Blair en route from Madrid to London and back from there, where he was encouraged by developments, the Spanish oil situation has been in-

[22] Latter not printed.

formally discussed by this Embassy with the French Foreign Office. The desirability of the French Embassy in London aiding in bringing the British Government to favor concerted action was especially suggested. I refer to the Department's No. 2607 of February 2.[23]

HERRICK

352.1153 St 2/42 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, *February 14, 1928—6 p. m.*

17. Reference your 25, February 13, 3 p. m.

(1) Is any change in the attitude of the British Embassy in Madrid and of the British Foreign Office indicated by the fact that, in withdrawing their representatives from the central Valuation Commission in Spain, the British oil companies are acting with the American and French companies?

(2) The reluctance of the oil companies to continue maintaining representatives on this Commission is fully appreciated by the Department; but a question has arisen here in conversing with the Standard Oil Company of New Jersey. It is whether withdrawing these representatives jeopardizes somewhat their position as to entering protests against the Commission's methods on its record of the proceedings and thus weakens their position in any appeal proceedings hereafter, because the Spanish Government may later argue that remedies open to the companies under the decree were not used by them. Further information as to this point is desired by the Department before forming an opinion regarding the action of the companies.

(3) A conversation with the Standard Oil Company introduced an informal suggestion that one of the companies might sue in the Spanish courts in order to test the decree's constitutionality and the constitutional authority for the issuance of the decree. In such a contingency the Spanish Government, it was thought, might perceive the wisdom of changing its present position. The Standard Oil Company is consulting its representatives in Spain regarding the foregoing, which has also been discussed here with the French Embassy. The latter is communicating the suggestion to its Government. After you informally consult your French colleague and the American oil companies, your comments on the suggestion will be welcome, especially as to whether any diplomatic representations by the United States Government would be embarrassed by the filing of such a suit.

KELLOGG

[23] Not printed.

352.1153 St 2/43 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

[Paraphrase]

MADRID, *February 18, 1928—5 p. m.*

[Received 7: 55 p. m.]

27. Reference Department's 17, February 14, 6 p. m.

(1) The official British attitude remains unchanged, but I am told by the Shell representative that in the near future stronger support is very probable. In retiring from the Valuation Commission, the Shell representative made the strongest protest to Primo de Rivera, so far recorded, against unjust and arbitrary treatment.

(2) In considering the Valuation Commission's attitude to the present, according to Spanish legal advisers of all the oil interests, the companies by refusing to participate in proceedings unless the Commission changes its attitude will strengthen instead of weaken their position. On this point I agree with the French Ambassador. The British company, moreover, assures me that it will not alter its attitude if it fails to receive positive assurances as to the Valuation Commission acting in an impartial and judicial capacity and at the same time interpreting the contracts for industrial value (mentioned in the tenth article of the June 28, 1927, royal decree) to mean both the value of physical property and of the earning capacity of going concerns which cannot be ignored. Ample precedents under Spanish law concerning forced expropriation exist to support this attitude, according to competent legal authorities.

A united front is now presented by the attitude of the companies; and the acceptance of the Spanish Finance Minister's ultimatum (mentioned in 25, February 13, from this Embassy) will, I believe, weaken it.

(3) Eminent legal authorities argue that, under existing conditions here, testing the royal decree's legality by bringing any suit in Spanish courts would be impractical. The terms of the decree deprive the interests involved of legal recourse save to the Council of Ministers of Spain; and it is probable that Spanish courts would refuse receiving an application for suit owing to their subservience to political pressure. While agreeing with this view, the French Ambassador acknowledges that further diplomatic representations would not be weakened if such suit were possible. My belief is that such suit is impractical, although it would strengthen diplomatic efforts.

. . . . . .

BLAIR

352.1153 St 2/44 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

[Paraphrase]

MADRID, *February 21, 1928—5 p. m.*
[Received 8:23 p. m.]

28. At the German Embassy last night King Alfonso talked over the petroleum monopoly question with the French Ambassador and said he thought the Government's taking over property without valuation and compensation was a mistake, wherefore he was instructing the Government to reconsider the central Valuation Commission's procedure which the French Ambassador had fully discussed and characterized to the King as very unjust. His Majesty mentioned recent adverse comment in the British and French press and appeared worried by it. The French Ambassador later saw General Primo de Rivera about the entire matter, on the basis of the telegram sent by this Embassy on February 18 (No. 27, 5 p. m.). Allegations of the Spanish Finance Minister, as summarized in this telegram, were denied by the French Ambassador; and Primo promised to instruct the Valuation Commission to act in its judicial capacity, to give the point of view of the oil companies a full hearing, and to incorporate in the minutes of the Commission's meeting all pertinent valuation data which the companies furnished and any subsequent protests. Both the King and the President of the Council assured the Ambassador of their desire to secure a fair settlement. Diplomatic representations and adverse comments in the foreign press have evidently and finally impressed both of them. Today the French Ambassador is sending Primo a memorandum of the conversation last night and asking for confirmation in writing. In view of the above, the French Ambassador and I informally advised the oil companies to present themselves again in due course before the Valuation Commission, provided the Ambassador's understanding of the situation is confirmed by Primo. The British resident director of the Shell interests is disposed to cooperate. He will fully reserve the question of industrial value and will demand that the protest to Primo (mentioned in this Embassy's telegram 27, paragraph 1) be incorporated in the Valuation Commission's minutes. These conversations are being telegraphically reported to the French Foreign Office. The situation at present appears to be slightly improved. If Primo's undertakings are carried out, the oil companies apparently will be able to return to the Valuation Commission without losing prestige, will have a chance of protesting step by step, and, finally, will be enabled to state that the so-called legal procedure provided by the royal decrees has been duly conformed to. A reply before Saturday, February 25, must be made by the companies

to the Finance Minister with regard to reappearance before the Valuation Commission. The Department will be advised by cable when a final decision is reached. This telegram is being sent to Paris and London.

BLAIR

352.1153 St 2/45 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, *February 21, 1928—6 p. m.*

18. Reference your 27, February 18, 5 p. m. Since the oil companies appear to have ceased definitely taking part in the Valuation Commission's proceedings, the Department's assumption now is that their next step will be preparing appeals to be submitted to the Spanish Council of Ministers regarding the Valuation Commission's decisions in cases which have been actually passed upon. This would be in accordance with the June 28, 1927, decree's provisions.

The only American company up to the present to have its case passed upon by the Valuation Commission, so the Department understands, is Babel and Nervion.

In conversations here with representatives of Standard Oil it has been informally suggested that, if you could communicate the substance of the terms of Babel and Nervion's appeal before it is actually filed, then the Department would presumably be able to send you instructions very specifically stating this Government's position which you would present as soon as Babel and Nervion files its appeal and before the Council of Ministers can formulate their decision on it. By following such a course, the Council of Ministers might be able to give this Government's point of view its full consideration, without derogation to the Council's judicial capacity (established by the June 28, 1927, decree) and also without exposing the Council to being charged with yielding to foreign pressure. You are invited to make comments and suggestions on this point.

(2) Reference to your 27's subhead (3). The advisability at this time of suing in the Spanish courts is questioned by attorneys of Standard Oil, but they see a chance of such action later if the Council of Ministers renders an unfavorable decision.

(3) The substance of your 27 has been given the French Embassy which reports a better chance of English support and says instructions are being sent the French Ambassador in Spain to demand from the Spanish Government an unequivocal and definite reply. This French protest, the Embassy explains, will be based principally on Spain's alleged violation of the 1862 Franco-Spanish treaty, article 7.[24]

KELLOGG

---

[24] *British and Foreign State Papers*, vol. LII, p. 142.

352.1153 St 2/46 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, *February 23, 1928—2 p. m.*

19. The Department's 18, February 21, 6 p. m., crossed your 28, February 21, 5 p. m.

(1) Standard Oil has been informed of the encouraging assurances regarding instructions for the Valuation Commission as received from King Alfonso and Primo de Rivera. The company will probably wait for confirmation of the French Ambassador's understanding with Primo de Rivera before again appearing before the central Valuation Commission, in spite of the ultimatum of the Finance Minister.

(2) These assurances, the Department assumes, will equally apply to American oil interests. If you are at all uncertain on this point, authorization is given you to ask the Spanish Government for appropriate assurances.

(3) Whether the promised instructions contemplate the Valuation Commission reexamining valuations already made or whether the Council of Ministers alone will review them has not been made clear. If the second is so, the Department might find it advisable to give Babel and Nervion's appeal the support indicated in its 18, February 21.

You are requested to cable reply.

KELLOGG

352.1153 St 2/52 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, *February 29, 1928—11 a. m.*

[Received 3 : 45 p. m.]

31. Embassy telegram 28, February 21st, 1928, 5 p. m. On February 25th French Ambassador received a letter from Primo confirming French Ambassador's understanding of conversation of February 21. Primo reiterates Valuations Commission will act judicially in the future and will incorporate all protests and pertinent documents in the minutes. Gives, however, no assurances regarding Commission's instructions to interpret "industrial value" of expropriated companies as set forth in royal decree, June 28, last. Interpretation these words is now crux of the situation. After long discussion between legal representatives of American, French and British interests, the two former communicated to the Minister of Finance yesterday that they would return to the Valuations Commission in view of recent assurances given by Government and on the understanding that such

assurances covered fair interpretation of "industrial value" to mean the value of expropriated businesses taken as a whole, including property, trade marks, value of going concern now being used as such by monopoly and expenses winding up business. Leading lawyers in Spain and recently obtained legal opinions from Fromageot of French Foreign Office and Fourcade all sustain this interpretation of wording of royal decree. . . . British interests have sent Minister of Finance bitter protest again refusing to take part in the proceedings of Valuations Commission unless Government gives categorical assurances that industrial value will be given above referred to interpretation. Spanish Government obviously worried by violent French press campaign and has issued two long semiofficial communiqués which avoid the main issue, reiterating Government's intention to act fairly, which is of course absurd if judged by past procedure, and stress fact that Spain will do nothing to injure the interests of the country (France) so closely allied to Spain by ties of friendship. Will report by telegraph further.

HAMMOND

352.1153 St 2/59 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, *March 9, 1928— 5 p. m.*
[Received March 9—3 : 46 p. m.]

37. American, British and French Embassies have received identical letter from Primo dated March 6 promising that Valuation Commission will in the future act judicially and will be instructed to deal reasonably and generously with all interests affected. Letter encloses new rules governing procedure of Valuation Commission which make great concessions. Companies' representatives now allowed to bring legal and technical advisers before Commission and Commission is moreover instructed to consider proper valuation for entire going concern taking into account value of intangible assets. Wording regarding this point tricky but general principle of entire going concern value of expropriated interests is admitted for the first time.

[Paraphrase.] An appreciable advance has thus resulted. Representations by the American and French Embassies have been aided by the British and French press on Spanish policy, while the Spanish Government has been worried thereby. Since the letter's wording is rather vague, I suggest the advisability of letting the Spanish Government know that the United States Government is not wholly satisfied. [End paraphrase.]

The three Embassies are now considering reply and expect propose a short letter simply taking note of Primo's assurances and expressing the hope that new rule governing Commission will in practice assure all companies fair treatment which they were formerly denied. Instructions requested. Text of above serial number despatch in the pouch of today.[25] Copies of this telegram mailed London and Paris.

HAMMOND

352.1153 St 2/63

The Ambassador in Spain (Hammond) to the Secretary of State

No. 835 MADRID, *March 9, 1928.*

[Received March 21.]

SIR: I have the honor to refer to the Embassy's despatch No. 824 of March 7th last,[26] concerning the latest developments in regard to the expropriation of property on behalf of the Spanish Petroleum Monopoly.

Since this despatch was written, I have received a letter from General Primo de Rivera which is in identic form to letters received by the British and French Embassies informing me that in the future the Valuation Commission, or Jury, is to receive new instructions in regard to the treatment of the expropriated interests.

In order to be able to transmit this communication to the Department as soon as possible, I have held up the pouch for one day, and I am enclosing herewith the Spanish text and English translation thereof of General Primo de Rivera's letter together with the new rules prescribing the procedure to be followed by the Valuation Commission.

I am today telegraphing a summary of the concessions made, Embassy's telegram No. 37, March 9, 5 p. m.,[27] as it seems important that the Department should know the latest developments in the matter, and I will analyse more carefully in a future despatch the text of the rules in question.

I am, however, enclosing herewith a legal opinion of Mr. Gonzalez, the lawyer of Babel and Nervion,[26] which throws considerable light on the wording of the rules and while I believe that a considerable advance has been made in regard to the satisfaction of the legitimate claims of the companies in question, I nevertheless concur in Mr. Gonzalez's opinion that the wording of the rules is ambiguous and may well cause considerable difficulty in the future.

I have [etc.] OGDEN H. HAMMOND

---

[25] *Infra.*
[26] Not printed.
[27] *Supra.*

352.1153 St 2/63

[Enclosure—Translation]

The President of the Spanish Council of Ministers (Estella) to the American Ambassador (Hammond)

MADRID, *March 6, 1928.*

MY DEAR MR. AMBASSADOR AND FRIEND: I take pleasure in sending you, herewith enclosed, a copy of the modifications which have been made in the rules for the valuation of petroleum property, such rules to cover equally both Spanish subjects and foreigners. As you will observe, the best guarantees are provided in these rules in accordance with the desires that have been expressed, and I hope that for this reason the interested companies of your nationality, as well as the government which you so worthily represent, will understand and appreciate the spirit of conciliation and the desire to reach satisfactory results which animate us.

I take [etc.] MARQUÉS DE ESTELLA

[Subenclosure—Translation]

Spanish Rules for the Valuation of Petroleum Plants

The procedure of the Petroleum "Valuation" Jury will be governed by the following rules, when the representatives of foreign companies again appear before it:

A. The interested parties may present to the Jury all documents which they consider pertinent, it being also understood that they will be obliged to present all other documents which the Jury may consider necessary for the proper documentation of its decisions.

B. Every vote will be preceded by a discussion of all the elements in the case, if so desired by the interested parties, in order to fix the terms and bases of each matter. The representatives of the expropriated interests may be accompanied by judicial and technical experts.

C. The minutes of the meetings shall report the discussions in full, although this does not mean literally, as long as the substance of the allegations and arguments, which each member of the Jury may consider it expedient to make appear therein, is stated. For this purpose, the minutes will be revised before they are definitely approved.

D. In further valuations the Jury will proceed to make the appraisals covering, as heretofore, the actual value of the plants and physical property, taking into consideration their industrial efficiency and state of preservation, the Jury's policy to be inspired by a spirit of the greatest impartiality, cordiality, and reasonable compromise. In case of disagreement in regard to the value of lands, the appropriate municipality will be requested to furnish an official valuation.

E. Upon the conclusion of the valuation of plants and physical property, the Jury, using its discretion in the appreciation of the statements made and the data produced in support of the same, will fix, if there are just grounds therefor, a total indemnity for each enterprise or entity expropriated, taking into account such other factors which it may consider computable for inclusion in the indemnity, independently of the intrinsic value of the plant and the physical property; in regard to this latter amount an appeal may be made to the Council of Ministers, in the same way as for the other valuations above-mentioned.

F. The expropriated interests may collect immediately under full reserve of all of their future legal rights, and on account of the quantity which may finally be definitely assigned to them, a sum equal to the amount of the valuation which may have been made by the Jury.

352.1153 St 2/60 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *March 10, 1928—5 p. m.*

25. Your 37, March 9, 5 p. m. You should inform the Spanish Government in writing that this Government has taken due note of the contents of the Spanish note of March 6 regarding the nature of the instructions which have just been given to the Valuation Commission and that it hopes that these instructions will now enable the Commission to proceed to a prompt and satisfactory determination of the full and fair compensation for property losses to which the expropriated American companies have been subjected.

[Paraphrase.] In the opinion of the Department, useful effect would be had from delivering similar, though not identic, notes at about the same time by the American, British, and French Embassies. Accordingly, you may inform your British and French colleagues as to the nature of your reply to the Spanish note and you may use your discretion in timing submission of your reply in order to coincide with the British and French replies. [End paraphrase.]

KELLOGG

352.1153 St 2/65

The Ambassador in Spain (Hammond) to the Secretary of State

No. 839 MADRID, *March 14, 1928.*

[Received March 28.]

SIR: I have the honor to refer to the Embassy's telegram No. 37 of March 9th, 5 p. m., and the Department's telegraphic instruction No. 25 of March 10th, 5 p. m., having to do with the new rules laid down by General Primo de Rivera for the governance of the Valua-

tion Commission, in regard to the determination of the value of the expropriated petroleum companies in Spain.

Upon receipt of the Department's telegraphic instruction above referred to, I wrote a letter of acknowledgement to General Primo de Rivera, and I am enclosing herewith copies of the text of this letter.

It was not possible for me to arrange to send in the replies of the American, British and French Embassies at one time, in accordance with the Department's suggestion, as the French Ambassador left for Morocco on Friday, March 9th, and had already replied before I received the Department's instruction. I am enclosing herewith the Spanish text and the Embassy's translation thereof of the French Ambassador's reply,[29] which is entirely non-committal. I am advised that the French reply is based on the idea that it is now necessary to see how the Valuation Commission will interpret its new instructions, and that it is not opportune to go into further details at this time.

The British Ambassador has simply acknowledged General Primo de Rivera's letter of March 6th, and has made no comment whatsoever on the amended rules.

In the last two weeks, there has been a kind of a lull in the developments, and apparently the Government hopes to let the storm of adverse foreign press comment subside before proceeding further in the matter. A current rumor, which seems to be fairly well founded is to the effect that no serious work by the Valuation Commission is to be anticipated before the Easter Holidays, and in view of the fact that none of the companies have been summoned to appear before the Commission, it seems probable that the Government wishes to gain time, and let the public believe that all is now proceeding satisfactorily. Naturally the Spanish Government has no interest in expediting the valuations as its Monopoly is now enjoying full possession and use of the expropriated companies, and the legal interest which has been promised on any amounts finally awarded will be more than compensated for by the profits realized from the expropriated business.

I have [etc.] OGDEN H. HAMMOND

[Enclosure]

The American Ambassador (Hammond) to the President of the Spanish Council of Ministers (Estella)

MADRID, *March 13, 1928.*

MY DEAR MR. PRESIDENT AND FRIEND: I take pleasure in acknowledging your letter of March 6th,[30] in which you refer to the new instructions which have been given to the Valuation Jury, and with

[29] Not printed.
[30] *Ante*, p. 858.

which you enclosed me a copy of these instructions. I have brought the information which you have given me to the attention of my Government, and I have now been requested to inform you that due note has been taken of the nature of the instructions which have been given to the Valuation Commission.

In taking note of these instructions, together with the assurances which you have given me in your letter above referred to, my Government requests me to express the hope that a prompt and satisfactory valuation of the properties will now be made, with the understanding that such a valuation will be on a basis which will entail full and fair compensation for the losses to which the expropriated companies, largely owned by American interests, have been subjected.

I avail myself [etc.] OGDEN H. HAMMOND

852.1153 St 2/71

The Ambassador in Spain (Hammond) to the Secretary of State

No. 915 MADRID, *May 23, 1928.*
[Received June 12.]

SIR: I have the honor to refer to the Embassy's despatch No. 875 of April 17th last,[81] and to previous correspondence in regard to the Spanish Petroleum Monopoly, and to submit a further report in regard to recent developments.

As stated in the despatch above mentioned, the Valuation Commission reassembled about the middle of April and hearings of the claims of the various companies involved have been taking place.

The policy and the procedure of the Commission have been described at such length in previous despatches that it hardly seems necessary to go into all the complications of recent events, and I believe that a brief statement of the position as it exists at present will be more helpful to the Department.

Acting in accordance with the new rules laid down in February to govern its procedure, rules which were entirely the result of the energetic protests of the French and American Embassies, the Commission has allowed practically in full the claims for physical property of the respective companies, but has been very wary about admitting claims for going concern or good will value, as provided for in paragraph E of the rules, transmitted with the Embassy's despatch No. 835 of March 9th, 1928. The difficulties of the situation at present are as follows:

1. So far, the Commission has refused to review its awards made before the new rules were in vigor, and in several cases, notably in the case of the Standard Oil subsidiary, Babel and Nervion, this refusal makes a difference of several million pesetas.

[81] Not printed.

2. While no definite offer has been made in regard to good will value, an unofficial suggestion has been made on behalf of the Commission that the companies accept 8% of the value of their physical property as full compensation for good will and going concern value.

In regard to point one, the action of the Commission seems so arbitrary and unjust, that in the course of a recent interview with General Primo de Rivera in regard to several other matters, I drew his attention to this procedure of the Commission, and asked him to see that the Commission acted in accordance with his instructions mentioned in the Embassy's despatch No. 835 of March 9th last. General Primo said that he would discuss the matter with the Finance Minister (always hostile to foreign interests) and remarked that he saw no reason why the awards of the Commission for physical property should not be on a uniform basis.

In regard to point two, a considerable discussion took place, and the President, obviously ill informed about the details of the matter, was very unsatisfactory and brought up a number of irrelevant matters. He repeated his contention that he thought the companies were being fairly treated in accordance with his recently given instructions, that the matter of good will was very difficult to assess in a precise form, and said that he did not think the Government was liable to indemnify the various companies on a basis which would compensate them for lost earning power. I replied that the Spanish Railway Statutes and other previously existing legislation in Spain provided for a capitalization of earning power in the event of expropriation by the State. He then replied that he was willing to consider some method of indemnity along these lines, but that he refused to take into consideration the 1927 earnings of the companies, which were considerably larger than in past years. He said that he believed the companies had exaggerated their 1927 earnings in the hope that they might be included as a basis for indemnity. I replied stating that I could see no reason for refusing to give the companies the benefit of the one profitable year they had had recently, particularly as they had paid taxes on the earnings in question, and that their books were subject to inspection by the Spanish financial authorities. A considerable amount of discussion followed, the substance of which was that the President admitted that something was due to the companies for good will, but that he was not willing to admit that the liability was as high as the companies claimed.

To give the Department a concrete idea of what this means in regard to the Babel and Nervion Company, the following figures are of interest: the Company claims 21,000,000 pesetas for fixed property, and some fourteen or fifteen million pesetas for good will, trade marks, etc. As against this, granting that the original awards of the Commission are corrected and brought into line with its more recent awards

for physical value, the Company would receive about 19,000,000 pesetas for physical property, and on the basis of the tentative and arbitrary offer of the Commission to pay some 8% of the value of the physical property as compensation for good will, the Company would receive about 21,000,000 pesetas. The Company claims that this is practically confiscation of half of its assets, and in view of the fact that the Monopoly has taken over the whole organization of the Company as a going concern, and is profiting thereby (I brought this out strongly to General Primo de Rivera), I think the Company's claim is justified.

If the Company's earnings for the last five years, including 1927 were capitalized at a 4¼% basis, as provided for in the above mentioned Railway Statutes, its total compensation would work out at about the sum claimed, some 36,000,000 pesetas. If, on the other hand, the earnings of the profitable year, 1927, were left out of account, and the earnings for the previous five years calculated on a 4¼% basis, the amount in question would approximate the sum of money the Spanish Government seems willing to give, namely some 21,000,000 pesetas.

I discussed the above referred to interview with my French colleague, who considers that the offers of the Spanish Government are entirely inadequate, and in view of the unsatisfactory state of affairs, the French Ambassador wrote to General Primo de Rivera under date of May 12th 1928, requesting, first, assurances in regard to the reviewing of the earlier valuations of the Commission above referred to, and second, a fair consideration of the companies claims for good will. I am enclosing herewith the Spanish text together with the Embassy's English translation of the letter above referred to.[32]

The French Ambassador tells me that he intends to take this matter up personally with General Primo de Rivera in the course of the next few days, and we both hope that by constant pressure the Spanish Government will finally decide to make more reasonable and adequate compensation to the companies in question.

The British Embassy here has preserved its rather negative attitude in regard to the British interests affected, but the Shell subsidiary is in practically the same position as the other companies, and its representative here has already refused the Commission's tentative offer for good will, apparently hoping to profit by French and American representations.

The Department will recall that General Primo de Rivera has already promised me in writing to accord equal treatment to foreign and Spanish interests affected by the Petroleum Monopoly, and in this connection it is of interest to know that Spanish interests are being paid in all cases in shares of the new Monopoly Company, which are already selling at a 45% premium, thus giving these interests not only

[32] Not printed.

this amount in good will value, but also a chance to profit by the stranglehold on the Spanish public which the Monopoly will certainly use to its advantage in the future. I think this fact alone should allow us to claim at least equal treatment for American interests affected, as they are not allowed to receive Monopoly shares and must be paid in money. I have already mentioned this fact to General Primo de Rivera and have pointed out that foreign interests forcibly expropriated almost without warning had an even greater claim for consideration than Spanish interests which will be able to profit from the Monopoly in the future.

As of general interest to the Department in this connection, I am enclosing herewith an English translation of the memorandum by Mr. Gonzalez, the lawyer of Babel and Nervion Company,[34] which strongly supports the Company's claims.

I have [etc.] OGDEN H. HAMMOND

352.1153 St 2/68 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, *May 31, 1928—5 p. m.*
[Received June 1—9:05 a. m.]

56. Reference Embassy's despatch No. 875, April 17,[34] and 917 [*915*], of May 23, last. On May 29th the French Ambassador communicated to Primo the direct text of instruction from Briand which is the strongest communication yet sent, summary of which is as follows:

(1) Spanish Government has replied to French communications stating that procedure of monopoly directly violates French treaty of 1862 and international law.

(2) Commission has wilfully undervalued physical property and refused to give adequate compensation for good will resulting thereby in actual confiscation of investment. The seizures have taken place without previous indemnity in accordance with treaty, the trade have been deprived of any ordinary judicial course, and appeal to Council of Ministers, which means in effect Finance Minister, is worthless.

(3) French Government instructs Ambassador to bring this directly to Primo's attention "feeling sure that when he understands the facts that he will take disciplinary measures regarding officials who have violated French rights; that all the earlier inadequate awards be annulled and that total indemnity be paid not only for the physical property but for the prejudice caused by the arbitrary stoppage of an industry."

I understand that the French Government thinks that an indemnity of at least fifty per cent of the value of the physical property is the least that could be accepted as total compensation.

---

[34] Not printed.

The Spanish Government has refused to take the net earnings of the companies capitalized at four and one-quarter per cent over a five-years' period as the basis for a total indemnity in accordance with existing Spanish railway legislation in case of expropriation by the state. Valuation Commission has likewise so far refused to review awards made before new rules transmitted with Embassy despatch 835, March 9, were effective. This occasions serious loss in appraisal of part of physical property of American interests. Shell Company has been offered about 10 per cent less than the physical value of its entire property, plus 8 per cent for good will and liquidation, which it has refused. On this basis Standard Oil Company subsidiaries claim that they would not even receive the capital value of their investment.

Under the circumstances I am sending another note to the Spanish Government [35] along the lines of the Department's past instructions and renewing general claim for prompt and adequate compensation.

HAMMOND

352.1153 St 2/72

The American Ambassador in Spain (Hammond) to the President of the Spanish Council of Ministers (Estella) [36]

MADRID, *May 31, 1928.*

DEAR MR. PRESIDENT AND FRIEND: I have received a memorandum from the Section of Commerce of the Ministry of State, dated May 18th last, which refers to our conversation on May 11th and to the brief suggestion in the form of a memorandum which I left with you, all having to do with the valuation of one of the petroleum enterprises which have been forcibly seized by the Spanish Petroleum Monopoly before January 1, 1928. The point of view set forth in this memorandum hardly seems to me to accord either with the spirit of the new rules laid down by you in February for the guidance of the Valuation Commission, or with the assurances which you have given me in the past in regard to fair and equitable treatment of the interests involved.

Leaving aside for the moment the technical details of a possible method of valuation which I referred to in my conversation with you, as a basis of a fair settlement, and which is referred to in the above mentioned memorandum of May 18th, I must recall to your attention our conversations of last autumn and of last winter, when we first discussed the question of the forcible seizures on behalf of the Petroleum Monopoly of enterprises largely owned by American interests.

At that time, in accordance with my Government's instructions, I informed you that a very unfavorable effect on public opinion had

---

[35] *Infra.*

[36] Copy transmitted to the Department by the Ambassador as an enclosure to his despatch No. 929, June 6, 1928; received June 18.

been created in the United States by the sudden and arbitrary seizures of lawfully constituted enterprises—seizures which were illegal in accordance with previously existing Spanish constitutional and civil law. You then assured me that full and fair compensation would be given to all the interests affected.

The fact remains, however, that although the companies have been for five months deprived of all their property and their privileges of doing business in Spain, no compensation has as yet been paid, and the expectation of my Government that fair, full and prompt compensation should be received by the interests involved, has not been fulfilled.

Since the coming into force of the new rules which you prescribed for the guidance of the Commission last February, I understand that the valuation of the physical property of American owned companies has been made on a more satisfactory basis, although even these physical valuations are materially below the book values of the companies. The Commission has, however, refused to review its earlier awards made before the coming into force of these new rules, and as these earlier awards often only gave fifty percent of the real value of the seized property a serious loss necessarily results.

I must therefore request you to set aside the earlier awards, which would seem to be against both the letter and the spirit of the rules of February, and grant compensation for physical property on a uniform basis.

Further, I had hoped that paragraph E of the regulations above referred to would provide a fair basis of compensation for the business of the companies, the operations of which were forcibly arrested by the various Royal Decrees and Ordinances of 1927; but I understand that the Commission refuses to interpret this paragraph on any broad basis.

In view of your past assurances that you intended to give just and "equitable" treatment to the interests involved—assurances which I have naturally communicated to my Government—I should be greatly obliged if you would inform me that the Valuation Commission will review its earlier unfair awards, in accordance with the spirit of the rules above referred to, and that prompt payment will be made for the losses resulting to American interests.

I am [etc.] OGDEN H. HAMMOND

352.1153 St 2/69 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *June 1, 1928—6 p. m.*

38. Your 56, May 31, 5 p. m. The attitude of the Spanish Government and of the Valuation Commission in failing to formulate

a definition of the criteria (including "industrial value") on which compensation to the expropriated companies should be based, as well as its failure to review the awards made previous to the issuance of the new rules transmitted with the Embassy's despatch of March 9, is most disappointing and this Government doubts whether any satisfactory solution can be attained until such a definition has been framed and has been recognized by the companies as affording a substantially just basis for compensation. This Government shares the apprehensions of the French Government and will, of course, expect equal treatment. You may therefore second the French protest along similar lines if in your judgment it seems expedient.

[Paraphrase.] Standard Oil representatives here, with whom the question has been informally discussed, are of the opinion (the Department being inclined to concur therewith) that an agreement among the affected foreign companies regarding the nature of such a definition and in order to act together to urge the Spanish Government to adopt it would seem by the logic of the situation to be suggested as in the best interest of said companies. Playing one off against another by dealing with each company individually and separately would otherwise be to the advantage, obviously, of the Spanish Government; while, also obviously, if the companies take a united, common stand, their Governments will be enabled to coordinate better and to make more effective whatever diplomatic support from time to time may seem required by the situation.

The Paris representative is being instructed by Standard Oil to start conversations toward such an agreement with representatives of the British and French oil companies. You may informally discuss matters with your British and French colleagues and with representatives of the oil companies in Madrid. [End paraphrase.]

Please keep Department informed of developments.

Please mail cipher copies of your 56 and of this telegram to Paris and London for their information and guidance.

KELLOGG

352.1153 St 2/88

The Ambassador in Spain (Hammond) to the Secretary of State

No. 933 MADRID, *June 12, 1928.*

[Received June 25.]

SIR: Referring to my Despatch No. 929 of June 6th, last,[37] reporting recent developments in regard to the Spanish Petroleum Monopoly, I have the honor to transmit herewith for the Department's information copy and translation of a Note from the President of the

[37] Not printed.

Council of Ministers under date of June 6th (only received, however, this morning) in reply to my note, copy of which is transmitted with the Embassy's Despatch No. 929 of June 6th last.[88]

While the President's reply is couched in the friendliest of terms, and skillfully worded particularly in the handwritten postscript to make it appear that I am only urging a prompt and adequate settlement of the companies' claims because of being "prodded" by the American interests concerned, I consider the Note entirely unsatisfactory and an obvious, though friendly attempt to dodge the issue.

Inasmuch as Mr. William Brewster, Managing Director of the Standard Oil Company of Madrid, has not yet returned from Paris, I shall await his arrival before making detailed comment upon the particular statements made in the Spanish note regarding the specific case of the Babel and Nervion Company.

I have [etc.] ODGEN H. HAMMOND

[Enclosure—Translation]

The President of the Spanish Council of Ministers (Estella) to the American Ambassador (Hammond)

MADRID, *June 6, 1928.*

MR. AMBASSADOR AND DEAR FRIEND: I have not yet replied to your courteous letter of the 31st of May regarding the evaluation of petroleum installations on account of the necessity of obtaining certain data from the competent department regarding the matter to which you specifically refer. Although you do not specify in your letter to which American company you refer, I am able to inform you that the revision of the evaluations of the above mentioned petroleum installations made by the jury prior to the month of February has been subsequently completed, the jury making a new study based on the broadest principles in order that the possible errors committed may be remitted in the final evaluation. Specifically, my information relates to the Babel and Nervion Company, and it appears that in attempting to evaluate certain properties belonging to it, as the value attributed to the property of the Company did not coincide with that proposed by the official commission, the jury decided to ask the official evaluation of the municipal authorities within whose limits the properties were situated. The municipal authorities assigned to the properties a very much smaller figure, not only than the one requested by the company, but also than the one proposed by the official state commission, and in view of this, the Government, in harmony with its spirit of benevolence, has ordered the jury to disregard the official evaluation given by the municipality, and to adhere to the proposal made by the official commission.

[88] Despatch not printed. For the Ambassador's note of May 31, 1928, see p. 865.

According to my information, it would seem untrue that the official commission refuses to take into account indemnifications of a commercial character in evaluating the petroleum businesses. The Jury which has received indications from the Government in this particular has taken into consideration the profits which the petroleum companies made within a given period of time, capitalizing them at an average of 10%, which is the profit usually made by petroleum companies, and rejecting a capitalization at extremely low rates suggested by the petroleum companies, which have no legal precedent in Spain or in any other country.

The fact that up to the present writing no indemnification to American companies has been made is occasioned by the fact that evaluation has been very slow due in many instances, as I am informed, to the wishes of the interested parties themselves. At the present time, the evaluation of the most important foreign companies has been definitely accorded, and one of these days that of the totality of the companies will be decided upon, for which reason I can assure you that the payment will only be delayed during the time that the companies take to present their titles and other documents for the purpose of legalizing the pertinent deeds (*escritura*). At any rate the delay referred to does not harm the interested companies since, as you already know, the indemnification which is ultimately granted will be supplemented by the legal interest from the date of the seizure.

As you see, Mr. Ambassador, the desire to accord fair and just treatment to which we have referred in our past correspondence on this subject has not been discontinued, and the legitimate American interests which are under your protection are not to be disregarded.

Believe me [etc.] MARQUÉS DE ESTELLA

(in handwriting)

I understand, Mr. Ambassador, the not always justified requests that hang over you, but my good will, and that of the Finance Minister, is taking care of all of them, although without going to the extremes which have been attempted to be demanded in this matter.

352.1153 St 2/90

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

No. 942 MADRID, *June 20, 1928.*

[Received July 3.]

SIR: I have the honor to refer to the Embassy's despatch No. 932 of June 12th,[39] having to do with the Petroleum Monopoly, and to

[39] Not printed.

submit a further report on recent developments. In this despatch reference was made to the attitude of Mr. Westcott, the British Director of the Shell interests, who, having been to London recently, had advised Sir Henri Deterding that it would be better to accept some 25,000,000 pesetas on account of the Shell claims, reserving all rights to any future claims for the value of going concern and good will.

The French Embassy and the various French and American interests affected by the Monopoly considered that the acceptance of any sum on account at the present time would weaken the diplomatic position and would at the same time play into the hands of the Spanish Government, which would be able to announce that it was meeting fairly the claims of the foreign companies driven out of business in Spain. The Standard Oil Company therefore decided to send Mr. Brewster, the Managing Director in Madrid, to London, to put the issues involved more clearly before Sir Henri Deterding, and Mr. Brewster accordingly had two interviews with Sir Henri in London on June 12th and 13th. The net result of these interviews was that the Shell Company telegraphically instructed its Madrid representative to hold his hand until the middle of July pending the results of the French negotiations referred to in the Embassy's confidential despatch No. 932 of June 12th last. In this connection I think it is only fair to state that the Standard Oil officials have made every effort to co-operate with both the French and British interests involved, in order to obtain as far as possible a united front, and the more broadminded and less selfish attitude of these officials has been extremely helpful in the course of these long drawn out negotiations.

The French Ambassador was gratified at this result, and I understand that the French Foreign Office was pleased at the effort made by the Standard Oil Company to obtain a united front of all the interests involved, thus preventing the Spanish Government from dealing piece-meal with the companies.

. . . . . .

In the meantime, the position of the principal American industries concerned is as follows: in accordance with repeated requests which the Embassy has made, both verbally and in formal notes, the Valuation Commission has been instructed to reconsider its earlier unfair awards, and at the end of last week, representatives of the Babel and Nervion Company came to a tentative agreement with the Valuation Commission to accept some 19,300,000 pesetas for the whole of its physical property. This is of course exclusive of the 3% already offered to the Shell Company (a sum payable arbitrarily under Spanish law on any transaction involving expropria-

tion by the State) plus 5% for general indemnity, and presumably the same offer will be made to this Company. As against this sum, the Company considers that its total assets, including trade marks, good will and value of going concern, are 36,000,000 pesetas, and it is accordingly addressing a protest to the Council of Ministers asking that reasonable indemnity be given on the basis of its total claims.

In regard to the figure of 19,300,000 pesetas tentatively agreed upon, the Company considers that this is less than the cost of reproducing the property in question and is therefore unfair, but it is nevertheless disposed to settle on this basis on condition that some substantial concession above the supplementary offer of 8% above referred to is obtained.

. . . . . .

In view of the developments of the last two weeks and in accordance with the Department's telegraphic instruction No. 38 of June 1st, 6 p. m., authorizing me to second the protests of the French Embassy if it seemed expedient, I believe the moment is now opportune to give more tangible support to the latest French negotiations. I shall therefore endeavor to see General Primo or the Finance Minister in the near future and try to impress upon them the desirability of making some fair, definite and immediate settlement.

I have [etc.] SHELDON WHITEHOUSE

352.1153 St 2/96

The Ambassador in Spain (Hammond) to the Secretary of State

No. 954 SAN SEBASTIAN, *July 3, 1928.*
[Received July 19.]

SIR: I have the honor to refer to my despatch No. 942 of June 20, 1928, having to do with the Petroleum Monopoly.

In this despatch I stated that I hoped to discuss the latest phases of the expropriation proceedings with General Primo de Rivera in order, if possible, to reach a practical settlement of the matter, and accordingly I saw him on Wednesday, June 27th. After a brief review of the situation during which I informed the President that I was familiar with the various conversations which he and his Finance Minister had had with the French Ambassador, and that my Government was substantially in accord with the French attitude in regard to the expropriations and the payment therefor, General Primo de Rivera reiterated his usual formula that the Spanish Government was dealing generously with the interests involved, that the claims of the companies for compensation were exaggerated, but that nevertheless he would go into the matter again in order to see

if a satisfactory settlement could be reached. I accordingly suggested that I take up the practical details of the matter with the Finance Minister, and an interview with Señor Calvo Sotelo was at once arranged by telephone, and took place immediately after I left the President. Señor Calvo Sotelo on the whole maintained his ostensibly friendly but firm attitude, and on broad lines what he said corresponded with his interview with the French Ambassador as reported in the memorandum transmitted with the Embassy's despatch of June 27th [*26th*] last.[40] I finally suggested that it might be better for the moment to pass over all the legal technicalities and endeavor to reach a practical settlement on business lines. To this end I suggested that in view of the fact that certain Spanish interests had been offered, in payment for their physical assets, Monopoly shares now selling at a premium of 45%, such shares to be taken at par, these interests would receive a substantial compensation for the businesses taken over, whereas the offers so far made to foreign interests only provided for a supplementary payment of 8% over and above their physical assets. I said that I felt sure that the Minister did not wish to discriminate against the foreign interests in favor of Spaniards, that the sum involved to reach a substantial equality of payment was relatively small, and that I hoped that the Minister, in consideration of this, would arrange to meet the foreign interests half way. Señor Calvo Sotelo replied to this saying that he was quite willing to consider some additional compensation to the foreign interests in order to settle the matter, but maintained that the price of the Monopoly shares was somewhat artificial at the moment and he went into this matter at great length. He admitted finally, however, that the shares would always sell at a substantial premium in view of the profitable nature of the business, and in principle he agreed to consider the allotment of additional compensation to foreign interests.

A few days before, in an interview with the French Commercial Attaché, the Minister also agreed to additional compensation and, in reply to a remark of the French Commercial Attaché to the effect that it was a pity to compromise the good name of Spain for the relatively small sum of around 20 million pesetas, stated that he would be willing to consider an increase of the Spanish offer by that amount if it meant the settlement of the claims of all the foreign companies.

In the course of the interview I obtained the general impression that the Minister is weakening and that as a result of the very strong American and French representations the question of compensation is no longer a matter of hard and fast principle but is purely one of expediency and that the Spanish Government is now disposed to

[40] Not printed.

meet the foreign interests more fairly. My French colleague agrees with this impression and informs me that he thinks that the vague menace of a possible appeal to an international tribunal for French interests has worried the Spanish Government considerably and may well result in some practical settlement in the near future.

. . . . . .

In the Embassy's despatch No. 942 of June 20, 1928, reference was made to a formal appeal of the Babel and Nervion Company to the Council of Ministers in view of the fact that the Valuation Commission has only allotted the company the sum of 19,000,000 pesetas as compensation, a sum which the company maintains is wholly inadequate. This petition is long and of a technical character and considered on its merits seems to establish the company's claim for larger compensation. I am forwarding herewith, for the Department's information, the Spanish text together with an English translation thereof.[41]

The Council of Ministers has not yet acted on the petition of this important American interest, but I believe that the representations made have caused a decided weakening in the attitude of the Spanish Government and I am hopeful that a final settlement may yet be reached which will be reasonably acceptable to all the foreign interests. Such a settlement would be the more satisfactory in view of the obdurate attitude that the Spanish Government has maintained for months past, and I believe that only the constant pressure which has been brought to bear by the American and French Embassies has brought about the possibility of a fairly satisfactory outcome of these lengthy negotiations.

I have [etc.] OGDEN H. HAMMOND

352.1153 St 2/104 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

SAN SEBASTIAN, *August 24, 1928—3 p. m.*
[Received August 24—2:39 p. m.]

78. Referring to my telegram number 59, June 9, 11 a. m.[41] I am informed by Wescott, Shell representative, that he has been instructed to accept a settlement of company's claims for expropriations on the basis of actual physical valuation, plus eight per cent, plus legal interest from date of seizure. The Shell group has renounced its endeavors to obtain compensation for good will and settlement on more favorable exchange basis.

HAMMOND

---

[41] Not printed.

352.1153 St 2/105 : Telegram

The Acting Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *August 30, 1928—1 p. m.*

54. Your 78, August 24, 3 p. m. The Department is distinctly disappointed by the failure of the British Government and the Shell group to stand with the French and American Governments and oil companies. The Department is constrained to believe that a secret agreement of some sort has been reached (see Marriner's letter to Whitehouse)[43] and in this connection would be interested to know whether Shell still considers itself bound by its agreement with the Standard Oil a year ago not to sell oil directly or indirectly to the monopoly.

Please discuss situation with your French colleague and endeavor to ascertain what line the French Government proposes to take under the present circumstances. The French Government, thanks to its treaty relations with Spain, appears to have a strong case irrespective of Shell's action, and should it continue to press its claims in the manner it has in the past this Government would be disposed to follow with it assuming, of course, that the American oil companies continue to decline to make terms on the basis of the Shell settlement. If France should decide to follow the example of the British this Government would probably find it difficult to maintain its present stand unless the attorneys for the American oil companies can present a very solid legal claim based on well recognized precedents of Spanish law and practice.

Standard Oil is consulting with the French companies to ascertain their views, and as soon as definite information has been received as to their attitude and that of the French Government it is expected that the Department and Standard Oil will confer upon the course of action to be followed regarding which instructions will be sent to you.

Mail cipher copies to London and Paris.

CASTLE

352.1153 St 2/106 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

SAN SEBASTIAN, *September 5, 1928—noon.*

[Received 10:55 a. m.]

82. Department's 54, August 30, 1 p. m. French Embassy intends to continue pressing for increased compensation for good will, with

[43] Not printed.

the hint that unless some increase is forthcoming they will invoke arbitration under their treaty. The question is now dormant and French Embassy does not expect to take any action before end of October.

HAMMOND

852.6363/139

The Secretary of State to the Ambassador in Spain (Hammond)

No. 462 WASHINGTON, *September 18, 1928.*

SIR: At the dinner given at the American Embassy in Paris on the night of August 26 I discussed the question of the Spanish oil monopoly with M. Briand [44] and said that we were absolutely in accord with the French on this question. M. Briand said that he had appreciated our consistent attitude of energetic cooperation, but also he was glad to have this categorical assurance of its continuation. I suggested that the French had more available means of pressure on the Spanish than have we. M. Briand was not directly responsive, but confined himself to saying that the moment the Spanish knew that the American and French Governments were firmly resolved on a common line of action they (the Spanish) would see the necessity of abandoning their present indefensible attitude. M. Briand concluded by saying that he had already had indications of this.

I have informed the Embassies at London and Paris of this conversation.

I am [etc.] FRANK B. KELLOGG

852.6363/141 : Telegram

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

[Paraphrase]

PARIS, *October 25, 1928—5 p. m.*

[Received 6:50 p. m.]

329. With reference to the Department's No. 2900 of September 18.[45] The French Government, I have learned, believes that the best chance to obtain more adequate compensation from Spain for the oil companies lies now in recourse to arbitration. Whether France can insist successfully upon arbitration under the existing Franco-Spanish convention is being studied by the French Foreign Office. An affirmative decision at present seems likely. If so, the French Government would naturally welcome support for their position from the Department of State.

---

[44] Aristide Briand, French Minister for Foreign Affairs.

[45] Same as instruction No. 462 to the Ambassador in Spain, *supra*.

Such a course is favored by the American oil representatives who inform me that American interests would be covered by French arbitration as a result of a minority of French stockholders in Babel and Nervion.[46]

The foregoing is being mailed to Madrid.

ARMOUR

852.6363/142 : Telegram

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

[Paraphrase]

PARIS, *November 1, 1928—2 p. m.*

[Received 3:15 p. m.]

338. Referring to my telegram 329 of October 25. I am informed by the French Foreign Office that instructions have been given the French Ambassador, Peretti, who is returning to Madrid, to consult his American and British colleagues there and to report regarding the advisability of recourse to arbitration. The French Government apparently is ready to adopt this course unless Peretti offers an objection to it. The foregoing is being mailed to the Madrid Embassy.

ARMOUR

852.6363/159a : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *December 4, 1928—9 p. m.*

67. Paris's 338, November 1, 2 p. m., to the Department. Counselor of the French Embassy called at this Department December 4 and left a memorandum [47] stating that French Ambassador at Madrid had been instructed to ask the Spanish Government to submit to an arbitration the questions arising out of the application of the oil monopoly in Spain and among them: (1) Indemnity for the goodwill of three French companies, (2) indemnity for the assets of one Company, (3) indemnity for French employees deprived of their situation, (4) payment of indemnity on a gold basis, (5) exoneration of taxes on the liquidation of oil companies.

The memorandum added that the French Government would attach the greatest importance to the American Ambassador in Madrid receiving similar instructions from the Department of State. The Department is in consultation with the Standard Oil on this matter which is instructing its Madrid representative to discuss the situation with you. The Department would appreciate your comments and recommendations in the matter before further defining its position

[46] Standard Oil Co. of New Jersey subsidiary.

[47] Not printed.

with regard to arbitration and would be particularly interested to have the text of the French note asking for arbitration or at least to be advised as to the basis upon which the French Government is making its request.

Please mail cipher copies to London and Paris.

KELLOGG

852.6363/145 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, *December 6, 1928—10 a. m.*

[Received 2:55 p. m.]

100. Department's 67, December 4, 9 p. m. On November 30th, French Ambassador sent note to Foreign Office reiterating former complaints in regard to treatment of French interests by oil monopoly and stating that failing an adequate and satisfactory settlement by mutual consent the French Government would have to demand arbitration under the Franco-Spanish treaty of 1904. [Paraphrase.] I am told by the French Ambassador that he attaches the highest importance to some support from the American Embassy to this French note because the concrete threat of international arbitration may well induce the Spanish Government, now obviously worried, to make a satisfactory offer of settlement. [End paraphrase.]

Accordingly, on December 4th I sent a note to General Primo de Rivera, basing my action upon your strictly confidential instruction number 462 of September 18th when you informed Monsieur Briand that we were in absolute accord with the French Government in regard to obtaining adequate compensation for the expropriated companies and on the assurance of the Standard Oil Company's representative here that failing a satisfactory settlement he was willing to abide by an eventual arbitral decision. Text of my note is as follows:

"My French colleague informs me that he has written Your Excellency to the effect that, failing to secure an adequate and prompt settlement of the claims of the French petroleum companies by the Spanish Government, he has been instructed to demand international arbitration in accordance with the Franco-Spanish convention of 1904.

My government is in complete accord with the French Government regarding the obtaining of adequate and prompt compensation for the expropriated companies and I, therefore, take this occasion to inform you that failing a fair settlement by mutual agreement the arbitration proceedings about to be demanded by French Ambassador seem to offer the only satisfactory solution of this problem which has been so long under discussion.

I must, moreover, inform Your Excellency that the American interests involved include a substantial French participation and that these interests will abide by whatever decision may be rendered by arbitral tribunal."

I believe that we could not demand arbitration as a right but, in view of French minority interests in Standard Oil Company here and in view of Primo de Rivera's assurance to me that all interests would receive equal treatment, we will profit by French initiative. For this reason it seemed necessary to give immediate support to preliminary move of French Ambassador on November 30, the more so as British Company, tired of fighting without Foreign Office support, has accepted Spanish Government's offer of some thirty million pesetas with a guarantee exchange of 29.28 to the pound sterling under protest. British company's attitude is that it prefers to take ready money and that it will profit should arbitral tribunal award higher valuation to other companies. [Paraphrase.] Although negotiating over arbitration and terms of reference will be protracted, I believe the Spanish Government may well be influenced by the solidarity of France and the United States at this time to settle satisfactorily, thus avoiding being unwillingly dragged before an international tribunal. [End paraphrase.]

Text of French note of November 30 follows by pouch.[48]

HAMMOND

852.6363/145 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

[Paraphrase]

WASHINGTON, *December 8, 1928—3 p. m.*

68. Your 100, December 6, 10 a. m. Your failure to inform the Department of the French Ambassador's action on November 30 at Madrid and also to consult the Department before sending your note dated December 4 to the Spanish Government is surprising.

The Department and oil companies are in consultation. The situation created by your note will be dealt with in further instructions early next week.

KELLOGG

852.6363/147 : Telegram

The Acting Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *December 18, 1928—7 p. m.*

69. Department's 68, December 8, 3 p. m. Department will await receipt of text of French note of November 30 which it wishes to consider and discuss with oil companies before sending further instructions.

CLARK

---

[48] Not printed.

PROPOSED TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND SPAIN

711.5212A/5

The Secretary of State to the Chargé in Spain (Blair)

No. 335 WASHINGTON, *February 20, 1928.*

SIR: The Spanish Ambassador called to see me January 26, 1928. He brought with him the original of the Department's note of October 20, 1925 [49] (which, however, bore no date) regarding the renewal of the Root Arbitration Convention of 1908.[50] He said that an examination of the Embassy's files did not indicate that any reply had ever been made by his Government to the proposal which was outlined in the note, and inquired as to the present views of the Department on the subject.

I told him that I was prepared to negotiate a new arbitration convention with Spain either on the basis of the original Root Convention of 1908, or on the basis of the draft arbitration treaty which the United States has submitted to France and which is the subject of current negotiation with that Government.[51] The Spanish Ambassador said that he would be glad to have a note or memorandum from the Department confirming my statement so that he might communicate it to his Government. He also indicated a desire to have available for consideration the text of the proposed arbitration treaty with France. I explained that the terms of the treaty with France were now under discussion and that some modifications in phraseology might result from the negotiations now in progress, and that the Spanish Government should not, therefore, regard the draft treaty as final or as a definite proposition from which there would be no deviation. The Ambassador said that he understood this.

In view of the progress which was being made in the negotiations with France I delayed, however, communicating further with the Spanish Ambassador in the hope that it might be possible to send him the text of the definitive treaty instead of merely the preliminary draft. The treaty with France was signed February 6, 1928 [52] and I have since despatched a suitable note to the Spanish Ambassador [49] confirming the statement made by me to him, and transmitting the text of the treaty signed with France.

I am [etc.] FRANK B. KELLOGG

---

[49] Not printed.
[50] *Foreign Relations*, 1908, p. 721.
[51] See vol. II, pp. 810 ff.
[52] Vol. II, p. 816.

711.5212A/7 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *March 12, 1928—6 p. m.*

26. The Department handed the Spanish Ambassador on March 12, a draft of a proposed Treaty of Arbitration between the United States and Spain. The provisions of the draft operate to extend the policy of arbitration enunciated in the Root Treaty of April 20, 1908, which expired June 2, 1923. The language of the draft is identical in effect with that of the arbitration treaty recently signed with France and with the draft arbitration treaties already submitted to the Norwegian, British, Japanese, Italian and German Governments.[54] The text of the proposed treaty will be forwarded in the next pouch.[55]

KELLOGG

711.5212A/9

The Spanish Ambassador (Padilla) to the Secretary of State [56]

[Translation]

No. 76–22 WASHINGTON, *July 11, 1928.*

MR. SECRETARY: In reply to Your Excellency's kind note dated the 10th of March last,[57] in which were enclosed for the consideration of His Majesty's Government a draft of an arbitration treaty between the United States and Spain along the lines which were distinctive in that signed between North America and the French Republic on the 6th of February of this year, I have the honor to inform Your Excellency that under instructions just received, the Government of His Majesty directs me to say that inasmuch as it has adopted for sometime past as a standard for a treaty of arbitration one that embraces all the disputes and conflicts, without any exception whatsoever, it finds itself, much to its regret, unable to sign the pact proposed by the Government of which Your Excellency forms such a worthy part, as it cannot make any exception to the rule it is following in those international questions by signing a treaty of arbitration which, in the opinion of His Majesty's Government, does not respond to the breadth of judgment that has always inspired its international attitude.

All the more so, says His Excellency the President of the Council of Ministers of Spain, also Minister of State, as the conciliation

[54] For negotiations with Germany and Great Britain, see vol. II, pp. 862 ff., and pp. 943 ff.; with Italy and Japan, see *ante*, pp. 102 ff. and pp. 135 ff. Although negotiations with Norway were instituted in 1928, the treaty was not signed until 1929 (Department of State Treaty Series No. 788).

[55] Draft treaty not printed.

[56] No reply appears to have been made to this note.

[57] Not printed.

treaty of 1914 between North America and Spain,[58] which is still in force, is sufficiently broad and modern, even without accepting the principle of compulsory arbitration, to save the friendly relations, happily existing between our nations, from any danger of any possible surprise with unpleasant consequences, although such a thing is not to be feared in view of the cordiality of the relations between the United States and Spain.

As an enclosure to this note, and by way of information for Your Excellency, I have the honor to append a copy in French of the form of an arbitration, conciliation and judicial settlement treaty recently signed by Spain with many countries,[59] and I must say to Your Excellency that His Majesty's Government will always be ready to conclude one like it with the United States if your Government so desires.

That form of a treaty merely represents a further step with respect to the stipulations in that which was signed on September 15, 1914, that is still in force, which also reflects the spirit of North America by concluding an absolute compulsory general convention which are the characteristics shown in the *projet* which I have the honor to submit to Your Excellency for examination by enclosing it in this note.

The Government of His Majesty wishes to renew its fundamental adhesion to the principles which appear in the preamble at the head of the draft of a pact which Your Excellency submitted in a note dated the 10th of March last, and which principles Spain has no hesitation whatsoever in sponsoring. It is the purpose of my nation to show, by our example, that we not only outlaw war as an instrument of international policy, but also that we wish to hasten the arrival of the moment when the stipulation of international conventions for the peaceful settlement of conflicts among peoples will forever eliminate any possibility of war.

Lastly, I take pleasure in informing Your Excellency that His Excellency Señor Don Pablo Soler y Guardiola, Ambassador of His Majesty, has been named to take the place of His Excellency Señor Don Pio Gullón, who died sometime ago, on the Permanent International Commission provided for by Article 1 and in conformity with the provision in Article 2 of the Treaty for the settlement of differences between Spain and United States signed at Washington on September 15, 1914.

The International Commission being thus completed, the said treaty of conciliation will be fully operative for the good of the mutual friendly and cordial relations that bind the United States of America of the North and Spain.

I avail myself [etc.] ALEJANDRO PADILLA

[58] *Foreign Relations*, 1914, p. 1082.
[59] Not printed.