THE BRITISH COMMONWEALTH OF NATIONS

GREAT BRITAIN

EFFORTS BY THE UNITED STATES IN SUPPORT OF AMERICAN INTERESTS SEEKING AN OIL CONCESSION FROM THE SHEIKH OF KUWAIT (KOWEIT)

890b.8363 Gulf Oil Corporation/5 : Telegram

The Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, December 3, 1931—5 p. m.

336. Please refer to the Department’s 61, March 28, 6 p. m., 1929, regarding a petroleum concession in the Bahrein Islands. The Department is informed that at the time the Gulf Oil Corporation obtained the option on the Bahrein concession it also obtained from the Eastern and General Syndicate an option on a concession for which the Syndicate was negotiating in Kuwait. The Syndicate has continued its negotiations with the Shaikh of Kuwait who seems to be willing to grant a concession contract on terms acceptable to the American company, but the Colonial Office appears to have intervened and to have insisted upon the inclusion in the concession contract of the so-called “British nationality clause.” As in the case of Bahrein, the insertion of this clause would effectively exclude a company controlled directly or indirectly by American interests from holding or operating the proposed concession in Kuwait. Unless the Colonial Office is willing to substitute for the “nationality clause” a clause similar to that which was finally agreed upon in connection with the Bahrein concession, the Gulf Oil Corporation will be barred from proceeding with the Kuwait development.

From evidence furnished by the Gulf Corporation it appears that it, as well as the Eastern and General Syndicate, has made sincere efforts during the past 2 years to adjust this matter, but it has met with one delay after another. Finally, on August 4, 1931, the Syndicate addressed a letter to the Colonial Office inquiring whether it would now be prepared, in view of the favorable attitude which had been shown by the Shaikh, to notify the Political Resident in the Persian Gulf that the British Government had no objection to the Shaikh granting a concession from which the British nationality

*Foreign Relations, 1929, vol. iii, p. 80.*
clause was omitted. No definite answer has been received to this inquiry, but on November 25, 1931, the Colonial Office informed the Syndicate that it would reply “as soon as practicable.”

In view of the delays which have already occurred in this matter it is desired that you seek an informal interview with the appropriate authorities and express the Department’s hope that it will soon be possible for the Colonial Office to give a favorable reply to the American company through the Eastern and General Syndicate. In this connection you may state that the Department assumes that the Colonial Office has no desire to exclude American interests from participating in the development of any petroleum resources which may exist in Kuwait and that it is hoped there will be no difficulty in omitting from the proposed Kuwait concession the British nationality clause.

You will understand that the principle which the Department wishes to establish in this case is the right of American interests to participate in the development of the petroleum resources of Kuwait upon an equal basis with British interests. The Department does not wish to insist that any particular concession be granted to any particular American company, but it does wish to open the door in Kuwait so that American interests may have an equal opportunity to compete. In this general connection it may be mentioned that the Department is informed that several draft concessions have been submitted to the Shaikh by the Eastern and General Syndicate. Some of these drafts provide for the grant of certain areas for exploitation, such areas to be selected by the Syndicate or its assignees; other drafts provide for an exclusive exploitation concession for the whole of Kuwait. The Department has made it clear to the Gulf Oil Corporation that this Government would not be prepared to ask for any exclusive rights for American interests in Kuwait and that corporation has expressed its willingness to confine its exploitation rights to a reasonable area. In the event that this aspect of the question is raised by the British authorities you may inform them of the attitude of this Government and of the Gulf Oil Corporation.

It is understood that the Ambassador has been informed of the background of this whole situation. In the event that further or more detailed information is needed it is suggested that you consult Major Harry Davis, the London representative of the Gulf Oil Corporation, who is understood to be thoroughly informed in the matter.

Please inform the Department by telegraph of the results of your informal representations.

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

No. 2482

LONDON, December 29, 1931.

[Received January 6, 1932.]

Sir: I have the honor to refer to the Department's telegraphic instruction No. 336, December 3, 5 p.m., regarding the Koweit oil concession, and, as of record for the Department in its discussions with any interested American company, to state, as set forth in the Embassy's telegram No. 453, December 4, 5 p.m.,\(^2\) that on that date this matter was discussed by the Chargé d'Affaires with the Assistant Secretary of State. On December 14, upon his return from Paris, the Ambassador discussed this matter with Sir John Simon, and supplemented this conversation by an informal note, dated December 22, to the Foreign Secretary, a copy of which is enclosed.

Shortly after the Ambassador's interview with Sir John Simon, the Counselor of the Embassy had occasion to see Sir Lancelot Oliphant and again referred to the matter, and on December 22 received a note of reply to his representations, which stated:

"In the course of our conversation on the 4th December, you raised the question of the application of the Eastern and General Syndicate to be granted a concession in respect of exploration for oil in Koweit.

"I find on enquiry that some doubt exists as to the correctness of the interpretation placed by the Syndicate upon the letter addressed to their representative, Major Holmes, by the Sheikh of Koweit on the 2nd July, regarding the inclusion in such a concession, if it were granted, of a clause stipulating that the concession should not be transferred to a non-British company.

"In these circumstances it has been necessary to obtain a report from the Political Resident in the Persian Gulf and the Political Agent at Koweit before any further communication can be made to the Syndicate. This report has only just been received, and a further communication will be sent to you as soon as it has been considered by the various Departments concerned."

This was followed shortly by an acknowledgment from Sir Lancelot Oliphant, in the absence of Sir John Simon, to the Ambassador's personal letter of December 22, referred to above.

On December 28, in the course of a conversation with Sir John Simon, the Ambassador took occasion again to raise the question, and left with him a memorandum which had been prepared by Major Harry G. Davis, the London representative of the American company, setting forth certain facts for consideration. A copy of this memorandum is attached hereto.\(^2\)

---

\(^2\) Not printed.
On December 29 Mr. Atherton saw Sir Lancelot Oliphant again and in the course of conversation said that he hoped the Foreign Office would satisfy itself that while this matter of the Koweit concession was under discussion between the Embassy and the Foreign Office no facilities for survey and exploration were being sought through the good offices of British officials for any other British oil company. Sir Lancelot Oliphant promised to raise this point at once with the Colonial Office and to indicate his feeling of the correctness of this attitude. He stated further that the text of a note of the Sheikh of Koweit regarding the non-nationality clause which had been referred to in his note quoted in this dispatch was under consideration at the moment by the Colonial Office and that he would again inquire as to the likelihood of an early and fuller reply.

The texts of all notes to and from the Foreign Office in this connection have been shown to Major Davis, the London representative of the American company, and reports of conversations with the Foreign Office have been discussed with him, so that he has been kept fully informed of the Embassy’s action in every detail, and he has, according to his reports here, fully informed his company in New York from day to day of the progress of the negotiations.

Respectfully yours,

(For the Ambassador)
RAY ATHERTON
Counselor of Embassy

[Enclosure]

The American Ambassador (Dawes) to the British Secretary of State for Foreign Affairs (Simon)

LONDON, December 22, 1931.

MY DEAR SIR JOHN: In furtherance of my remarks to you the other day regarding the Koweit oil concession, I venture to set forth below the pertinent section of the United States Mining Lease Act of February 25, 1920, under which you will notice that British subjects receive the same treatment as American citizens:

“(Public—No. 146—66th Congress)
“(S. 2775)

“An Act To promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain.

“Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That deposits of coal, phosphate, sodium, oil, oil shale, or gas, and lands containing such deposits owned by the United States, including those in national
forests, but excluding lands acquired under the Act known as the Appalachian Forest Act, approved March 1, 1911 (Thirty-sixth Statutes, page 961), and those in national parks, and in lands withdrawn or reserved for military or naval uses or purposes, except as hereinafter provided, shall be subject to disposition in the form and manner provided by this Act to citizens of the United States, or to any association of such persons, or to any corporation organized under the laws of the United States, or of any State or Territory thereof, and in the case of coal, oil, oil shale, or gas, to municipalities: Provided, That the United States reserves the right to extract helium from all gas produced from lands permitted, leased, or otherwise granted under the provisions of this Act, under such rules and regulations as shall be prescribed by the Secretary of the Interior: Provided further, That in the extraction of helium from gas produced from such lands, it shall be so extracted as to cause no substantial delay in the delivery of gas produced from the well to the purchaser thereof: And provided further, That citizens of another country, the laws, customs, or regulations of which, deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this Act."

In discussing this with the representative of the interested company here, he informed me that the syndicate concerned has already advised the Colonial Office that the same nationality conditions as incorporated by the Colonial Office in the case of the Bahrain oil concession, which the Embassy discussed with the Foreign Office in 1929 (reference: Foreign Office note No. E 2521/281/91 of May 29, 1929 4) are acceptable in the case of the Koweit concession. I understand the Bahrain concession was assigned to the Bahrein Petroleum Company, the Canadian subsidiary of the Standard Oil Company of California. In this connection a statement to me by the Syndicate representative may be of interest to you:

"The agreement entered into between the Eastern and General Syndicate, Limited, with the Eastern Gulf Oil Company stipulates that the nominee of the Eastern Gulf Oil Company will be a Canadian or English Corporation, at the election of the Eastern Gulf Oil Company. A copy of this agreement has been in the possession of the Colonial Office (in its consideration of the Koweit oil concession) since December 28th, 1928, the same having been furnished to the Colonial Office by the Eastern and General Syndicate, Limited."

As stated to you the other day, the discussions have been so long delayed that I should be most appreciative of an early word of reply.

Yours sincerely,

Charles G. Dawes

890b.6363 Gulf Oil Corporation/20 : Telegram

The Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, February 2, 1932—1 p. m.

50. Your despatch 2482, December 29, 1931. If you have not received the reply promised by Oliphant please take up the matter again informally with the Foreign Office. Explain that the Department does not wish to be unduly insistent in this matter, but since the whole question has been under consideration by the interested departments of the British Government for some time it is hoped that a reply may soon be received.

STIMSON

890b.6363 Gulf Oil Corporation/21 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

LONDON, February 3, 1932—11 a. m.
[Received February 3—8:40 a. m.]

45. Department’s 50, February 2, 1 p. m. On January 27 Oliphant telephoned me Foreign Office were pushing matter to their utmost ability, and on February 1 by appointment I called on Oliphant at the Foreign Office who informed me Foreign Office had called conference on January 29 of interested departments concerned.

I understand confidentially Colonial Office deliberations are completed but Indian Government have not yet decided their position, and urgent telegram has been sent pointing out the undue delay.

I have kept Major Davis, Gulf Company representative here, fully informed from day to day.

ATHERTON

890b.6363 Gulf Oil Corporation/26 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

LONDON, February 24, 1932—4 p. m.
[Received February 24—1:10 p. m.]

84. Department’s 50, February 2, 2 [t] p. m. In informal conversation yesterday with Foreign Office I took occasion to refer to representations made by me as reported on top of page 3 of Embassy’s despatch 2482, December 29, and to point out that according to reports reaching me Anglo-Persian Oil Company geologists had

* Ante, p. 4, paragraph beginning, “On December 29 Mr. Atherton saw Sir Lancelot Oliphant ...”
recently arrived in Koweit having brought drilling machinery, et cetera, to carry on exploration work. Despatch by pouch.¹

ATHERTON

8206.6363 Gulf Oil Corporation/28 : Telegram
The Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, February 25, 1932—4 p.m.

73. Your 84, February 24, 4 p.m. The Department received yesterday from the Gulf Oil Corporation a communication on the same subject which suggests the possibility that the delay in replying to your representations may be intentional in order to afford more time in which to bring pressure upon the Shaikh of Kuwait to alter his attitude with consequent advantage to the Anglo-Persian Oil Company.

The Department considers that the views which you expressed in this matter to Oliphant on December 29 were eminently proper. In view of the reappearance of Anglo-Persian geologists in Kuwait it is desired that you again emphasize the correctness of these views and urge that the activities of the company in Kuwait be suspended pending the receipt of a reply to your previous representations. At the same time stress the desirability of obtaining such a reply without further undue delay.

STIMSON

8206.6363 Gulf Oil Corporation/29 : Telegram
The Chargé in Great Britain (Atherton) to the Secretary of State

LONDON, February 26, 1932—4 p.m.
[Received February 26—1:23 p.m.]

89. I made emphatic representations to the Foreign Office today in line with the Department’s instruction No. 73, February 25, 4 p.m. The Under Secretary of State for Foreign Affairs said he hoped he was not making too optimistic a statement but that from the most recent inquiries he had made he felt a reply might be expected before too distant a date. Possibly it may be desired that the substance of this information reach the Gulf Oil Corporation via the Department rather than through its London agent who has an appointment with me tomorrow morning.

ATHERTON

¹Not printed.
890b.6363 Gulf Oil Corporation/35 : Telegram

The Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, March 7, 1932—6 p. m.

82. Your 89, February 26, 4 p. m. For your information. Chargé d’Affaires at Baghdad ⁷ reports he has learned from a confidential source in Kuwait that the Shaikh has secretly signed a document granting Anglo-Persian Oil Company an oil concession covering the Shaikdom.

Stimson

890b.6363 Gulf Oil Corporation/37 : Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

LONDON, March 11, 1932—5 p. m

[Received March 11—2:20 p. m.]

102. In the course of a conversation today on his own initiative Vansittart brought up the question of the Koweit oil concession and said he regretted that it had not been possible to give the Embassy an answer to date. This gave me an opportunity to review the discussions which had gone on since December 4 between the Embassy and the Foreign Office and also to express to him “personally and informally” the anxiety of the American interests concerned lest, while the matter was under discussion between the Embassy and the Foreign Office, the present activities of the Anglo-Persian Oil Company in the Sheikdom might result in the granting of an oil concession, thereby entirely excluding or, at any rate, very much limiting the field of American exploration in Koweit.

In conclusion Vansittart said he hoped to give me an early answer.

Atherton

890b.6363 Gulf Oil Corporation/48

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 2686

LONDON, March 22, 1932.

[Received March 31.]

SIR: I have the honor to refer to my telegram No. 112, March 18, 5 p. m., ⁸ regarding the Koweit Oil Concession, and to transmit here-with a complete copy of Sir Lancelot Oliphant’s note, a portion of

—Alexander K. Sloan.
—Not printed.
which was telegraphed to the Department in my telegram No. 110, March 15, 1 p. m.\textsuperscript{9}

There is also attached for the Department's consideration a copy of a proposed informal reply from me.\textsuperscript{10} The London agent of the Gulf Company is most anxious that this note should be discussed by the State Department with the New York office and further gives his opinion that early action is important in view of the activities of the Anglo-Persian Oil Company in Koweit. If, as I understand, Sir John Simon will consider this case some time during the week of April 4th, I should be grateful if the Department would advise me by cable at as early a date as may be possible whether the text of the proposed note herewith appended is approved of.

Respectfully yours,

Ray Atherton

[Enclosure]

The British Assistant Under Secretary of State for Foreign Affairs (Oliphant) to the American Chargé (Atherton)


My Dear Ray: I have now looked into the question of the activities of the Anglo-Persian Oil Company at the present time in Koweit, about which you made representations in the memorandum, which you were good enough to leave with me on the 26th February, and in our conversation on the 23rd of the same month.

As the Eastern and General Syndicate are already aware, the Anglo-Persian Oil Company are also considering the question of applying at an early date for a concession from the Sheikh of Koweit. I may say that this Company manifested an interest in Koweit oil, and indeed made a formal application for a concession before the Eastern and General Syndicate had even appeared on the scene. At that time the negotiations were not brought to a conclusion, chiefly because the terms suggested were not satisfactory. The Company have, however, not lost interest in Koweit and are at the present time, with the sanction of the Sheikh, carrying out merely a geological exploration of the territory. I find that they made their request to be allowed to carry out this survey several months before you made any representations in the matter.

As regards the general question, let me explain that, since the return of our Secretary of State, I have found it necessary to put the whole matter before him, as the views of the various Government Offices have been so divergent.

\textsuperscript{9} Not printed.

\textsuperscript{10} For summary, see telegram No. 118, March 28, 1 p. m., from the Chargé in Great Britain, p. 10.
Sir John wishes me now to add these few lines to say that he will be considering the whole matter in the near future and that yet some further delay must be inevitable. We are so sorry.

Yours v. sincerely, 

LANCELOT OLIPHANT 

890b.6363 Gulf Oil Corporation/42: Telegram

The Secretary of State to the Chargé in Great Britain (Atherton) 

WASHINGTON, March 22, 1932—6 p. m. 

95. Your 112, March 18, 5 p. m.12 Please telegraph summary of note which you propose to send to Oliphant.

STIMSON 

890b.6363 Gulf Oil Corporation/44: Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State 

LONDON, March 23, 1932—1 p. m. 

[Received 1:25 p. m.] 

116. Department’s 95, March 22, 6 p. m. My note acknowledges Oliphant’s, et cetera (my 110, March 15, 1 p. m.12), and sets forth: 

1. Representative of American oil interests concerned informs me Eastern and General Syndicate deny they were aware Anglo-Persian considering applying for concession but in any case I am informed that this situation will not militate against position of Eastern and General Syndicate. 

2. I refer to advices that Colonial Office gave full and unqualified consent to initiation of negotiations with Sheikh by the Eastern and General Syndicate and that it was not until November 29, 1928 (one year after American interests had associated themselves with the Eastern and General Syndicate), that Colonel More (representative of the Colonial Office as political agent in Koweit) wrote a letter as to the necessity for the inclusion of a British nationality clause in any oil agreement concluded. 

3. I transmitted copy of a Colonial Office letter to the Eastern and General Syndicate dated January 31, 1931, stating the nationality clause was being insisted upon by the Sheikh. 

4. I refer to a letter of the Sheikh of Koweit dated July 2, 1931, expressing the Sheikh’s willingness on his part to omit the nationality clause provided His Majesty’s Government would allow the omis-
sion. I also pointed out that in transmitting copy of Sheikh’s letter to the Colonial Office the Eastern and General Syndicate stated they were prepared to include in the Koweit concession similar conditions to those incorporated by the Colonial Office in the assignment of the Bahrein concession.

The final paragraph of my proposed note concludes:

“All of the above evidence would seem to indicate that the American interest associated in the Koweit concession project with the Eastern and General Syndicate has been awaiting for some time the decision of His Majesty’s Government, not yet received.

“Since, as according to your note, the Anglo-Persian Oil Company geologists are in Koweit with the approval of the Sheikh, I understand that such approval could only have been obtained with the prior knowledge and assent of the Colonial Office and through the intermediation of the Political Resident in the Persian Gulf; in other words, at a time when His Majesty’s Government had under consideration the merits of the claim of the Eastern and General Syndicate, in which there was an American interest, to proceed to the consummation of the Koweit oil concession without the inclusion therein of the so-called ‘British nationality clause’.”

ATHERTON

8908.6363 Gulf Oil Corporation/46 : Telegram

The Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, March 26, 1932—4 p.m.

100. Your 116, March 23, 1 p.m. After mature consideration, the Department has arrived at the conclusion that no useful purpose would be served by continuing further with the Foreign Office your informal representations regarding the question of American rights in Kuwait.

In view of the undue delay that has already intervened in this matter and the evident necessity of receiving as soon as possible an expression of the British Government’s intentions with respect thereto, it is desired that you seek an early interview with the Foreign Secretary and present to him at the same time a communication embodying in appropriate terms the following considerations:

1. This Government recalls the inquiry which it made through the Embassy in 1929 as to the policy of His Majesty’s Government in the matter of the holding and operation of petroleum concessions by American nationals in British-protected Arab territories such as Bahrein.33 His Majesty’s Government is aware of the solution sub-

---

sequently arrived at in the specific case of the Eastern and General Syndicate which on behalf of the Eastern Gulf Oil Company was at that time seeking a modification of the Nationality clause, the inclusion of which in any oil concessions granted by the Sheikh of Bahrein was being insisted upon by the Colonial Office. The arrangement then agreed upon had appeared to this Government only just in view of the extremely liberal treatment accorded in the United States and in its possessions in regard to the operation of petroleum concessions by British controlled companies. This Government had therefore supposed that the policy of His Majesty’s Government would be no less liberal in the matter of according open-door rights to American nationals in Kuwait than it had shown itself to be in the almost identical case of Bahrein. This Government sincerely trusts that it has been correct in this assumption and would appreciate an early indication that such is the case.

2. This Government understands that it is the policy of His Majesty’s Government to require of companies seeking concessions in Arab States such as Kuwait, that such companies obtain the prior consent of the rulers of such States to the entry and operations of such companies in the territories in question. This Government is informed that contrary to the impression that seems to have prevailed in the Colonial Office the Sheikh of Kuwait is understood to be quite agreeable to the specific entry of the Eastern Gulf Oil Company and to the granting on behalf of that company of an oil concession without the inclusion of the “Nationality clause”. This Government trusts that in view of the apparent willingness of the Sheikh in this matter, the British Government will see its way clear to taking up in the case of the Kuwait concession no less liberal an attitude than was assumed in the case of the Bahrein concession.

3. This Government understands that despite the fact that the Colonial Office as early as 1925 gave its full and unqualified consent to the negotiation by the Eastern and Central Syndicate of an oil concession with the Sheikh of Kuwait that office later qualified its consent by insisting upon the inclusion of the Nationality clause in any agreement arrived at with the Sheikh for the apparently specific purpose of preventing the entry into that territory of the Eastern Gulf Oil Company which had meanwhile arrived at an understanding with the Syndicate as to the transfer of any concessions that it might obtain from the Sheikh. The continued insistence of the Colonial Office on this point and its apparent unwillingness to accord to that Syndicate the same treatment as was accorded in the case of Bahrein has seriously handicapped the Syndicate in bringing to a conclusion with the Sheikh the negotiations which that concern was authorized by the Colonial Office to undertake.
The above situation is further complicated by the fact that at the very moment while His Majesty's Government had under consideration the petition of the Syndicate for the elimination or modification of the Nationality clause, permission was granted the Anglo-Persian Oil Company, a rival concern, to send a small party of geologists to Kuwait for the purpose of studying the surface geology of the ground. It will be recalled that the Embassy on repeated occasions requested of the Foreign Office that the Company in question not be permitted to proceed with its operations pending a decision by His Majesty's Government on the question then before it regarding open-door rights for American nationals in Kuwait. Now, this Government has been informed, this study of the surface geology has been followed by a second expedition equipped with drilling machinery and plant. This Government greatly regrets that no effect has been given to the Embassy's request in this matter but would appreciate being assured by His Majesty's Government that this fact will not be allowed to militate against the position of the Syndicate and its affiliate, the Eastern Gulf Oil Company, in the eventual granting of an oil concession in Kuwait.

STIMSON

890b.6363 Gulf Oil Corporation/47: Telegram
The Chargé in Great Britain (Atherton) to the Secretary of State

LONDON, March 30, 1932—noon.
[Received March 30—7:54 a.m.]

123. I delivered note (Department's telegram 100, March 26, 4 p.m.) to Sir John Simon this morning who asked me to assure you the matter was receiving his attention and memoranda for a draft reply had already been compiled. The British position will be discussed at the next Cabinet meeting which takes place on April 6th and Sir John stated he hoped immediately thereafter to forward me a note of reply.

ATHERTON

890b.6363 Gulf Oil Corporation/56
The Ambassador in Great Britain (Mellon) to the Acting Secretary of State

No. 2

LONDON, April 11, 1932.
[Received April 20.]

Sir: I have the honor to refer to the Embassy's telegram No. 140, April 11, 12 noon, relating to the Koweit oil concession, and to

*Not printed.*
forward herewith a copy of the Foreign Office note, addressed to Mr. Atherton, Chargé d’Affaires, referred to therein.

Respectfully yours,

(For the Ambassador)

RAY ATHERTON
Counselor of Embassy

[Enclosure]

The British Secretary of State for Foreign Affairs (Simon) to the American Chargé (Atherton)

No. E 1733/121/91

[LONDON,] 9 April, 1932.

Sir: With reference to your Note No. 1696 of the 29th March regarding the application of the Eastern and General Syndicate for an oil concession in Koweit, which they propose, if granted, to transfer to United States interests, I have the honour to inform you that His Majesty’s Government have given careful consideration to the representations made by General Dawes and yourself on this subject and I am now in a position to return you a reply.

2. Your Government will appreciate in the first place that the Sheikh of Koweit, though an independent ruler, is in special treaty relations with His Majesty’s Government and enjoys their protection. These special relations lead him to seek their advice on important matters of policy, and place His Majesty’s Government under an obligation to watch over his interests. Many years ago the predecessor of the present Sheikh gave an undertaking that he would not grant an oil concession in his territories without their consent.

3. In paragraph 2 of your note of the 29th March you mention that your Government are informed that the Sheikh is agreeable to the “entry of the Eastern Gulf Oil Company and to the granting on behalf of that Company of an oil concession without the inclusion of the ‘nationality Clause’”. As was explained to you in a semi-official letter of the 22nd December last from my Department 29 His Majesty’s Government on learning this, felt some doubt as to the correctness of this interpretation of the Sheikh’s attitude, since the Sheikh had consistently expressed himself emphatically to the local British authority as desirous of confining any oil concession to entirely British interests. In your letter of the 30th December you were good enough to transmit for my information a copy and translation of a letter from the Sheikh to Major Holmes, the representative of the Eastern and General Syndicate, on which the American interests apparently based the information on this point given to your

---

29 See despatch No. 2482, December 20, 1931, from the Ambassador in Great Britain, p. 8.
Government. His Majesty's Government have caused enquiry to be made of the Sheikh, who replied that he was still averse from receiving in his principality a company other than an entirely British one and that he did not consider himself as in any way committed by his letter to Major Holmes to grant the Eastern and General Syndicate the concession which they seek. It will be observed from a reference to the Sheikh's letter that its final sentence only expresses a readiness to discuss the matter further with Major Holmes after agreement has been reached between the Syndicate and His Majesty's Government.

4. When examining the necessity for the continued insistence on the inclusion in any oil concession in respect of Koweit of a clause confining it to British interests, His Majesty's Government have been concerned not only with their own interests in the matter, but also with their duty to secure the best terms possible for the Sheikh of Koweit, and in particular, have had regard to the possibility that it would be less difficult for the local British authorities to control the activities of a purely British concern and to reconcile them with the Sheikh's interests. On a balance of all the conflicting considerations, His Majesty's Government are, however, now prepared, for their part, not to insist in this case that any concession must contain a clause confining it to British interests, if the Sheikh for his part is willing to grant a concession without such a clause.

5. I wish, however, to make it clear that this decision does not imply agreement in the immediate grant of the proposed concession to the Eastern and General Syndicate, to which the Sheikh, as stated above, considers himself in no way committed. His Majesty's Government indeed do not consider that they could properly advise the Sheikh to give prior or preferential treatment to the Eastern and General Syndicate, but hold it to be necessary that any application for a concession which may be forthcoming from any quarter be examined with a view to decide which, if any, will best serve the interests of the Sheikh and his principality. I should add that the draft concession submitted to the Colonial Office by the Syndicate would in any case need revision both in respect of the provisos designed to safeguard the interests of His Majesty's Government (Clause 8) and on many points affecting the interests of the Sheikh.

6. In paragraphs 4 and 5 of your Note of the 29th March you have referred to the operations now being carried out by the Anglo-Persian Oil Company in Koweit and reminded me of the requests made to my Department that this company should not be permitted to proceed with its operations pending a decision by His Majesty's Government as to the exclusion of all but British interests. I would
explain that the Anglo-Persian Oil Company manifested an interest in Koweit oil, and indeed made a formal application for a concession before the Eastern and General Syndicate had even appeared on the scene, though the negotiations were at that time not brought to a conclusion, chiefly because the terms suggested were not satisfactory. Several months before any representations were made by General Dawes or yourself in the matter, the Anglo-Persian Oil Company made a request for permission to carry out a geological survey in Koweit with a view to decide whether to submit an application for an oil concession. In order to ensure that any oil concession which the Sheikh may grant shall embody the best available terms, it is in the view of His Majesty’s Government desirable and proper that any interested companies be given every opportunity in advance of satisfying themselves whether or not they wish to submit an offer. His Majesty’s Government therefore raised no objection to the grant by the Sheikh of the application of the Anglo-Persian Oil Company. I understand that their present activities in Koweit are confined to such a geological survey.

7. The position therefore is that His Majesty’s Government for their part are prepared to agree to the omission from any oil concession, which the Sheikh may be prepared to grant, of a clause confining it to British interests. If therefore the Eastern and General Syndicate desire to renew their application to the Sheikh for a concession, which they would subsequently transfer to the Eastern Gulf Oil Company, His Majesty’s Government will raise no objection to the application being taken into consideration together with any other applications for oil concessions which may be forthcoming from other quarters.

I have [etc.]

John Simon

890b.6363 Gulf Oil Corporation/132: Telegram

The Acting Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, September 2, 1932—6 p. m.

231. Your despatch No. 2, April 11, 1932, regarding Kuwait. The Department is informed by the Gulf Oil Company that the Eastern and General Syndicate has been unable to obtain from the Colonial Office a definitive reply to its letter of June 10, 1932, requesting information as to whether Clause 8 of a proposed draft concession with the Shaikh of Kuwait was satisfactory from the point of view of safeguarding the interests of the British Government, and, if not, requesting an indication of wherein it failed to do so.
It is represented to the Department that the failure of the Colonial Office to give a definite indication of its views in this matter prevents the Shaikh from taking a decision on the draft concession which the Syndicate submitted on May 26, 1932, since he is barred from taking action before knowing what safeguards the British Government requires in a concession which is eventually to be assigned to a British incorporated company controlled by American interests. Meanwhile, it is stated, the Anglo-Persian Oil Company has submitted a draft concession which the Shaikh is being urged to grant immediately. Inasmuch as the question of safeguards does not arise in the case of the latter concession, the Shaikh is presumably free to make a decision on it at any time. Thus the Syndicate is placed in a disadvantageous position since it is unable to obtain consideration from the Shaikh for its draft concession because of the failure of the Colonial Office promptly to furnish information requested nearly 3 months ago. Consequently effect is not being given to the assurance contained in the Foreign Office note of April 9, 1932, in which the British Government agreed that it would raise no objection to the Shaikh taking under consideration any application which the Syndicate might wish to make for a concession.

Please take up this question immediately with the Foreign Office and urge that appropriate steps be taken in order that the American interest involved may be placed in as favorable a position as the Anglo-Persian Oil Company in having its application considered by the Shaikh. The Department leaves to your discretion the determination as to whether this question should be taken up formally or informally.

Please telegraph the results of your representations.

CASTLE

896b.6333 Gulf Oil Corporation/150

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 365 London, September 17, 1932.

[Received September 30.]

Sir: I have the honor to refer to my telegram No. 272, September 17, 1932, regarding the applications of the Eastern and General Syndicate and the Anglo-Persian Oil Company for an oil concession in Koweit, and to forward herewith a copy of the Foreign Office note received in reply to my note of September 6, 1932.

Respectfully yours,

RAY ATHERTON

*Not printed.*
The British Secretary of State for Foreign Affairs (Simon) to the American Chargé (Atherton)

No. E 4582/121/91

[London,] 16 September, 1932.

Sir: I have the honour to inform you that your note No. 231 of the 6th September regarding the applications of the Eastern and General Syndicate and the Anglo-Persian Oil Company for an oil concession in Koweit has been considered by the Departments of His Majesty's Government in the United Kingdom concerned.

2. It appears from that note that the United States company interested in the application made by the Eastern and General Syndicate have represented the situation as being as follows. They state that the Eastern and General Syndicate have not yet learnt from the Colonial Office what alterations would be required in the draft concession submitted to the Sheikh by them, in order to render it satisfactory from the point of view of safeguarding the interests of His Majesty's Government. They contend that this fact precludes the Sheikh of Koweit from giving consideration to the Syndicate's application, but that there is nothing to prevent the Sheikh from taking a decision upon the application for a concession submitted by the Anglo-Persian Oil Company. They complain that the Syndicate are thus placed at a disadvantage in their efforts to obtain the desired concession. These contentions appear to be based upon a misunderstanding of the present position in the matter.

3. As you are aware from my note No. E 1733/121/91 of the 9th April, His Majesty's Government decided that they could not advise the Sheikh to give preferential treatment to the Syndicate, and that any applications which might be forthcoming for a concession, should be compared in order to see which appeared to be to the best interests of the Sheikh and his principality. The Anglo-Persian Oil Company submitted to the Sheikh last month a draft of a concession; but a copy of this draft concession has only very recently been received by His Majesty's Government and some time must elapse before a thorough comparison of its terms with those of the draft concession submitted by the Eastern and General Syndicate can be completed. The results of that examination will then be communicated to the Sheikh in order that he may reach a conclusion as to the respective merits of the two offers from the point of view of his own interests and those of his Sheikhdom. In the meanwhile, no expression of the views of the Sheikh on either proposal has yet been received by His Majesty's Government, and he is not in a posi-
tion, as suggested in your note under reply, to take a decision in favour of the application of the Anglo-Persian Oil Company, since, as was stated in my note referred to above, he is bound by an undertaking given by his predecessor to grant no oil concession in his territories without the consent of His Majesty’s Government.

4. It will thus be seen that the application of the Eastern and General Syndicate is receiving consideration equally and pari passu with that of the Anglo-Persian Oil Company and that the question of the provisions designed to safeguard the interests of His Majesty’s Government, which would be required in any concession not confined to a British company, does not arise until the Sheikh has compared the two draft concessions in the light of the comments of His Majesty’s Government. The American interests concerned suffer no prejudice therefore from their ignorance of the precise nature of these provisions, and His Majesty’s Government for their part consider it preferable not to communicate further with either the Anglo-Persian Oil Company or the Syndicate regarding the terms of their respective draft concessions, until their own consideration of the draft concessions and consultation with the Sheikh is complete.

I have [etc.] (For the Secretary of State)
G. W. RENDEL

890b.8363 Gulf Oil Corporation/155: Telegram
The Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, October 4, 1932—6 p. m.

258. Your despatch 365, September 17. Unless you perceive some objection the Department desires you to seek an interview with the appropriate authorities and to emphasize that this Government has requested no preferential treatment for the American interests seeking the concession in Kuwait but only an opportunity for it to compete on equal terms with other interests. You should add that inasmuch as the American interest concerned has been endeavoring to obtain a decision regarding this matter for approximately 4 years, during which time it has been put to considerable expense, this Government trusts that the appropriate authorities will now find it possible to expedite such action in the case as may be necessary to permit the Shaikh of Kuwait to come to a decision at the earliest possible date.

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

LONDON, October 18, 1932—11 a. m.
[Received October 18—6:51 a. m.]

298. I presented views outlined in your 258, October 4, 6 p. m., yesterday to Vansittart and urged early action.

MELLON

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

No. 465

LONDON, November 2, 1932.
[Received November 11.]

SIR: I have the honor to state that on November 1 I supplemented my representations made to the Foreign Office as reported in my telegram No. 298, October 18, 11 a. m., 1932, and pointed out to Sir Robert Vansittart that the delay in reaching a settlement in the matter of the Koweit oil concession was becoming "exasperating". A memorandum of the conversation which I intended to have with Sir Robert Vansittart had been previously prepared and a copy was left with the Under Secretary of State for Foreign Affairs at the conclusion of my visit. The line of conversation followed very closely this memorandum, copies of which are enclosed herewith.

On leaving, I asked Sir Robert Vansittart to give the matter his personal attention in the hope that a speedy settlement might be worked out, to which he gave me his full assurance.

Respectfully yours,

(For the Ambassador)
RAY ATHERTON
Counselor of Embassy

[Enclosure]

The American Embassy to the British Foreign Office

MEMORANDUM OF CONVERSATION

In a note from the British Foreign Secretary, dated April 9, 1932 (No. E 1733/121/91), regarding an application of the Eastern and General Syndicate, Limited, for an oil concession in Koweit, reference is made to the extended period of time that oil companies have been interested in oil lands in Koweit.

The Eastern and General Syndicate initiated and carried on negotiations with the Sheikh of Koweit for an oil concession in his Principality with the knowledge and approval of the British Gov-
ernment but it was not until after American interests became associated in the venture with the Syndicate in 1927 that the British Government required (in 1928) the inclusion in the concession agreement of a "nationality clause", which clause would have the effect of excluding any but purely British interests from exploiting such a concession.

Thus the Syndicate for years prior to 1927 and in agreement with American interests since 1927 has continuously endeavored to obtain a concession in Koweit very similar in principle to a concession which, with the knowledge of the British Foreign Office, had been granted to the Syndicate in the Bahrein Islands.

Last December American interest in the Koweit concession formed the basis of representations by the American Ambassador to the British Secretary of State for Foreign Affairs. In referring to these representations, the Foreign Office note of April 9, mentioned above, stated that "His Majesty's Government for their part are prepared to agree to the omission from any oil concession, which the Sheikh may be prepared to grant, of a clause confining it to British interests . . .".

On September 6, 1932, however, the American Embassy, in a note to the Foreign Office urged that early appropriate steps might be taken, that this statement become effective, and that the American interests involved might be placed in as favorable a position as a British oil company in having its application considered by the Sheikh of Koweit. In acknowledging this note of September 6, a Foreign Office note in reply stated: "His Majesty's Government decided they could not advise the Sheikh to give preferential treatment to the Eastern and General Syndicate". In the opinion of the Department of State, some misunderstanding may exist in the mind of the British Government in this connection, since no preferential treatment has been asked for American interests, nor has any been granted.

It may be recalled that the American Ambassador, in discussing the Koweit oil concession with Sir John Simon last December, pointed out that the Eastern and General Syndicate had initiated and carried on its negotiations with the Sheikh with the knowledge and approval of the British Government; that the Syndicate had offered the Anglo-Persian Oil Company the opportunity, over six years ago, to interest itself in the Koweit oil concession which opportunity that company declined; that according to his information it was only after efforts to interest the Anglo-Persian Oil Company and other British groups in the said concession that the Syndicate sought to interest and, in November 1927, succeeded in interesting the American company since then associated with it in the venture; that it was after these Ameri-
can interests became associated with the Syndicate in 1927 that the British Government in 1928 insisted upon the inclusion of a "nationality clause" which for a period of several years from that date had prevented the Syndicate from consummating with the Sheikh the concession it sought. Since the withdrawal of the Anglo-Persian Oil Company in 1926, it is only, I understand, during this last year (1931-1932) of the Eastern and General Syndicate’s negotiations that the Anglo-Persian Oil Company (in October 1931) manifested further interest in Koweit. On the contrary, the Syndicate has been conducting its negotiations with unceasing activity for many years. It may also be recalled that it was not until April of this year that the British Government reached any decision to the urgent representations initiated by the American Ambassador in the latter part of last year.

In a most recent Foreign Office note it was stated that the Anglo-Persian Oil Company submitted a draft concession for consideration in August last, and study of this Anglo-Persian draft will necessitate further and considerable delay in His Majesty’s Government’s reaching any conclusion regarding the draft concession which subsequent to receipt of the Foreign Office note of April 9, 1932, the Eastern and General Syndicate submitted to the Sheikh on May 26, thus renewing its application for the Koweit oil concession which, as above indicated, it has been negotiating in association with American interests unremittingly for many years.

With reference to representations made by the American Ambassador to the Foreign Secretary in December, it may be well to draw attention to General Dawes’ letter to Sir John Simon of December 22, pointing out the Mining Lease Act of February 25, 1920, regarding lands under which British subjects are given the same treatment as American citizens. The text of this letter reads as follows:

[Here follows text printed on page 4.]

In conclusion, it may be realized from the above facts that for more than four years American interests, in agreement with the Syndicate, have been seeking to obtain an oil concession in Koweit, and for approximately the last year of that time representations have been made by the American Embassy, seeking for its nationals in this matter such opportunities as British subjects receive in the United States. In this connection, the American Embassy pointed out only recently that opportunity to American interests seems to be obstructed by the arbitrary decision of His Majesty’s Government, as set forth in the Foreign Office note to this Embassy of September 16, containing a refusal to inform the Eastern and General Syndicate at this time whether that portion of the draft concession submitted by it (namely
Clause 8) was satisfactory from the point of view of safeguarding the interests of His Majesty's Government, and, if not, to state wherein the said conditions failed to satisfy in safeguarding the interests of His Majesty's Government.

The Department of State has therefore instructed the American Embassy to review the facts with the Foreign Office and to request that this matter, which has been delayed for over a period of four years, may be expedited by the British authorities to the end that such action may be taken as will permit the Sheikh now to come to a decision.

LONDON, November 1, 1932.

S90b.6363 Gulf Oil Corporation 161

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

No. 483

LONDON, November 12, 1932.

[Received November 23.]

Sir: I have the honor to refer to my despatch No. 465 of November 2, 1932, and to report that on November 11, having heard nothing from the Foreign Office since my call there on November 1, informal inquiry was made as to whether there had been any progress.

I receive now from the Permanent Under Secretary of State for Foreign Affairs a letter dated November 11, copy of which is enclosed, with regard to the present status of the matter.

Respectfully yours,

(For the Ambassador)

BENJAMIN THAW, JR.

First Secretary of Embassy

[Enclosure]

The British Under Secretary of State for Foreign Affairs (Vansittart) to the American Ambassador (Mellon)

[LONDON,] 11 November, 1932.

My Dear Ambassador: I am glad to be able to let you know that the Departments concerned have now completed the comparative examination of the draft concessions for oil exploitation in Koweit, submitted to the Sheikh by the Eastern and General Syndicate and by the Anglo-Persian Oil Company respectively, and that the document embodying the result of this examination is already on its way to the British authorities in the Persian Gulf.

On its receipt by them it will be communicated to the Sheikh of Koweit for his consideration.
Meanwhile I am arranging to have a detailed reply prepared to the various other points raised in the memorandum which you left with me on November 2nd.

Yours very sincerely,

ROBERT VANSITTART

890b.6363 Gulf Oil Corporation/163

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

No. 516

LONDON, November 26, 1932.

[Received December 7.]

Sir: I have the honor to refer to the Embassy’s despatch No. 483 of November 12, 1932, with reference to the Koweit oil concession, and to enclose a copy of a Foreign Office note, dated November 23, 1932, on this subject.

The text of this note has been discussed with the representative of the American company in London, who surmises that the terms of the American draft proposals for a concession are more favorable than those of the Anglo-Persian Oil Company.

I shall take occasion when I visit the Foreign Office at a not distant date to make inquiry as to the status of this matter.

Respectfully yours,

(For the Ambassador)

RAY ANHTHERTON
Counselor of Embassy

[Enclosure]

The British Under Secretary of State for Foreign Affairs (Vansittart) to the American Ambassador (Mellon)

[LONDON,] 23 November, 1932.

MY DEAR AMBASSADOR: Since I wrote you on November 11th about Koweit oil, I have been considering the question, on which, as you know, I was not in possession of full details at the time of our interview. I have, therefore, come to it with a fresh mind, and one or two points have at once struck me.

2. The memorandum which you left with me on November 2nd might be interpreted as implying that His Majesty’s Government have been purposely procrastinating in regard to the participation of American interests in the development of Koweit oil for over four years. But, apart from the fact that the Anglo-Persian Oil Company were in the field in Koweit long before the British concern which is now acting for the United States interests, I wish to make it clear that the decision of His Majesty’s Government (which was
communicated to the Eastern and General Syndicate in November 1928) that any oil concession which might be granted must contain a clause which would confine it to British interests, was taken on grounds of general policy and before we had heard anything of American participation in the matter. The decision was in fact taken in pursuance of the then existing general policy of His Majesty’s Government which had been in force for many years, and also because the Sheikh of Koweit, whose interests they are, of course, under an obligation to protect, expressed himself as unwilling to grant a concession to any company not under British control. It was not until December 19, 1928, that the Syndicate informed the Colonial Office of their agreement with the Eastern Gulf Oil Company, by which the concession, if obtained, was to be transferred to United States interests. His Majesty’s Government did not however feel able to change their decision until, in December 1931, your Embassy first made representations in the matter. Then His Majesty’s Government, in their desire to go as far as they could to meet the United States Government, reconsidered the question and decided after much deliberation that, while they could not commit the Sheikh of Koweit, they would, for their part, not insist in this case that any concession granted must contain a clause confining it to British interests, if the Sheikh for his part was willing to grant a concession without such a clause, and we so informed your Embassy in April.

3. Your memorandum also reverts to the representations made in Atherton’s official note No. 231 of the 6th September, to the effect that the American interests concerned are labouring under a disadvantage as compared with the Anglo-Persian Oil Company owing to their ignorance of the provisos which His Majesty’s Government would require to see embodied in the concessions granted, in order to safeguard their own interests. But surely these representations were satisfactorily answered in Sir John Simon’s reply, No. E 4582/121/91 of the 16th September. As I understand it, the “safeguards” are a matter for discussion after the Sheikh of Koweit has made his decision from the point of view of what is to the best advantage of his own State. (I am advised that though no final decision has been taken on the point it is not unlikely that at least some of them would equally have to be embodied in any concession which might be granted to a purely British Oil Company wishing itself to operate in Koweit). As these safeguards are not primarily the concern of the Sheikh, and will not affect the comparison of the two draft concessions on their merits, they do not in our view affect the matter at the present stage.

4. As you know, that stage is that the latest draft concession submitted by the Eastern and General Syndicate and the draft sub-
mitted by the Anglo-Persian Oil Company have been compared in London by the department concerned on the technical side in order that the Sheikh, who is naturally not well versed in such technical matters, may understand what in fact will be the effect of the main provisions of each offer (e.g. the financial side, conditions of working the oil, etc., etc.). The resulting document is now on its way to the Persian Gulf and we must await the result of the Sheikh’s examination.

5. The two offers made for the concession are thus being treated concurrently, and that, I feel sure you will appreciate, was the only correct course for His Majesty’s Government to take in order to secure the most acceptable terms for the Sheikh. If only in his interest, His Majesty’s Government were naturally bound, as Sir John Simon informed Atherton in his note No. E 1738/121/91 of the 9th April, to allow any interested company to consider whether they wanted to apply for a concession, and if so to give them time to do so. The Anglo-Persian Oil Company formally renewed their efforts to obtain a concession in Koweit in August, 1931 (not October as mentioned in your memorandum).

6. I regret that there has been delay in the whole matter; I cannot of course at this stage say exactly when the Sheikh will decide to grant a concession; I do hope, however, that in the light of the preliminary information I have now given, you will be able to assure your Government that there has been no desire on our part to cause them embarrassment by any avoidable delay.

Believe me [etc.]

ROBERT VANSITTART

890b.0363 Gulf Oil Corporation/167
The Ambassador in Great Britain (Mellon) to the Secretary of State
No. 558
LONDON, December 15, 1932.
[Received December 23.]

SIR: I have the honor to refer to my despatch No. 483 of November 12, 1932, and subsequent correspondence, with regard to the matter of American interests seeking an oil concession in Koweit, and to state that on December 13 I called upon the Foreign Office and orally presented the considerations set forth in the enclosed memorandum of conversation, based on Sir Robert Vansittart’s note of November 11, which went forward to the Department with the despatch above referred to. Sir Robert expressed some surprise at this delay and promised to look into the matter and inform the Embassy as soon as he is able to get the data from the Colonial Office. I told Sir Robert that it was my intention to sail for America very shortly
and asked him to communicate with Mr. Atherton in my absence, who would cable me the Foreign Office reply, since I desired to discuss the matter with the Department during my short visit to Washington. On leaving, I reminded Sir Robert that if Mr. Atherton did not hear from him within the next week or so he would, under my instructions, again be reminding Sir Robert of my desire for an early reply to his promise to expedite the matter.

Respectfully yours, (For the Ambassador)
RAYATHERTON
Counselor of Embassy

[Enclosure]

Memorandum by the Embassy in Great Britain

On November 11 of this year Sir Robert Vansittart wrote the Ambassador that the comparative examination of the draft concessions for oil exploitation in Koweit submitted to the Sheikh by the Eastern and General Syndicate and the Anglo-Persian Oil Company, respectively, had been completed and that the document embodying the result of this examination was already on its way to the British authority in the Persian Gulf. The Ambassador informed the American interests concerned of the receipt of this information from the British Government. However, he has been informed by the American interests concerned on December 10 that the British Political Resident in the Persian Gulf had stated that week that he had no knowledge of the receipt of this document, and that consequently it had not presumably been presented to the Sheikh.

In view of Sir Robert Vansittart's note of November 11 and the fact that the November bi-weekly air mail only took some six days from London to the Persian Gulf, the Ambassador hesitated to regard this information as accurate, and would be grateful if Sir Robert would inform him as to whether in fact the document had been received by the British authority in the Persian Gulf and had been delivered to the Sheikh.

LONDON, December 13, 1932.

8906.6333 Gulf Oil Corporation/170

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 582  LONDON, December 28, 1932.
[Received January 7, 1933.]

Sir: I have the honor to refer to my telegram No. 345 of December 28, 12 noon,17 and to report that on December 22 I called by

* Not printed.

644211*—47—8
appointment on Sir Robert Vansittart and invited his attention to the fact that the Embassy had yet received no reply to the representations made by the Ambassador in the matter of the Koweit oil concession, reported in the Embassy’s despatch No. 558 of December 15, 1932. Sir Robert stated his regret at the delay and promised an immediate reply.

On the evening of December 23 I received a Foreign Office note signed by the Assistant Secretary of State, Sir Lancelot Oliphant. A copy of this is attached hereto. The contents of this note have been orally transmitted to the London representative of the American interests concerned.

Respectfully yours,

RAY ATHERTON

[Enclosure]

_The British Assistant Under Secretary of State for Foreign Affairs (Oliphant) to the American Chargé (Atherton)_


MY DEAR ATHERTON: We have made enquiries about the point which you mentioned to Vansittart yesterday morning in connexion with the question of the proposed Koweit Oil Concession.

As you know, it concerns a number of different Departments of His Majesty’s Government and at every stage complicated inter-departmental discussions have been necessary. As Vansittart told your Ambassador in his letter of the 11th November, the document embodying the result of the examination of the two draft Concessions submitted by the Eastern and General Syndicate and by the Anglo-Persian Oil Company respectively had, at that date, been already despatched to the British Authorities in the Persian Gulf. But I fear that the suggestion in Vansittart’s letter of the 11th November that this document would within a very short time of its receipt by them be communicated to the Sheikh for his consideration was somewhat over optimistic. Further inter-departmental discussions have had to take place in the interval, and have thus caused some further delay in the communication of the document to the Sheikh.

I have now done all I can to speed matters up, and the local British Authorities should now be in a position to proceed in the matter with the Sheikh in the very near future.

I am so sorry for this recent and quite unexpected additional delay which has arisen but which has now been terminated.

Yours sincerely,

LANCELOT OLIPHANT
The Acting Secretary of State to the Chargé in Great Britain (Atherton)

WASHINGTON, January 7, 1933—1 p. m.

7. Your 345, December 28, noon. Unless you perceive some objection, please express to the Foreign Office the disappointment with which the Department has learned of the further delay which has taken place in permitting the Sheikh of Kuwait to come to a decision in this case. At the same time state that, since on December 28th it was expected that the appropriate local authorities would be able to proceed in the matter in the "very near future" the Department assumes that definite and final action is now imminent.

Castle

REPRESENTATIONS TO THE BRITISH GOVERNMENT AGAINST PROPOSAL TO GRANT A PREFERENCE TO PALESTINIAN PRODUCE IMPORTED INTO THE UNITED KINGDOM

641.67a3/2

The British Ambassador (Lindsay) to the Secretary of State

No. 232

WASHINGTON, 15 July, 1932.

Sir: I have the honour under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to inform you that the question of extending Imperial preference to Palestine under Clause 5 (2) of the Import Duties Act of 1932 has recently been under consideration by His Majesty's Government in the United Kingdom, and that His Majesty's Government propose to grant a preference to Palestinian produce imported into the United Kingdom.

2. His Majesty's Government desire to enquire whether the United States Government feel any objection to this proposal, though they do not consider that the United States Government would be entitled under the most-favoured nation provisions of the Convention of Commerce between the United Kingdom and the United States signed on July 3rd, 1815 to claim that Imperial preference should also be extended to goods the produce or manufacture of the United

---

28 Not printed.
29 The British Government's comments upon the two draft concessions were presented to the Sheikh of Kuwait on January 9, 1933, but neither draft concession was accepted.
30 Sir John Simon.
31 22 & 23 Geo. V, 27.
States. At the same time it is of course not proposed that the Government of Palestine should grant a preference to British produce imported into Palestine.

3. I am to add that as regards the degree of preference to be accorded to Palestine it is proposed to grant the preference which is accorded to goods consigned from and grown, produced or manufactured, in certain other mandated territories administered by His Majesty’s Government in the United Kingdom.

4. I am requested to add that His Majesty’s Government would be grateful for a very early reply to this communication.

I have [etc.]

R. C. Lindsay

641.67n3/2: Telegram

The Acting Secretary of State to the Chargé in Great Britain
(Atherton)

WASHINGTON, July 30, 1932—2 p. m.

205. I have received recently a note from the British Ambassador, to which a “very early” reply was requested, informing me of the intention of the British Government to grant a unilateral preference to Palestinian produce imported into the United Kingdom, the degree of the preference to be the same as that accorded to goods “consigned from and grown, produced or manufactured in other mandated territories administered by” the British Government. The following is the actual text with certain omissions of the second paragraph of the note:

“His Majesty’s Government desire to enquire whether the United States Government feel any objection to this proposal, though they do not consider that the United States Government would be entitled under the most-favoured nation provisions of the Convention of Commerce between the United Kindom and the United States signed on July 3rd 1815 to claim that Imperial preference should also be extended to goods the produce or manufacture of the United States.”

My preliminary reply was a bare acknowledgment of the note with the request to be informed of the preferences apparently already granted to other mandated territories.

We have not yet decided as to the scope of our final reply. Particularly it has not been decided as to whether to take note of the general observation in the quoted paragraph on the general subject of Imperial preference; and if note is to be taken, what the form and substance of it shall be.
Have you any suggestions as to what may best be replied at the present time as regards (1) the specific question of preference to Palestine; (2) the veiled declaration on Imperial preference.

Can you ascertain also whether other governments have been queried on the Palestine matter and if so, whether accompanied by the same declaration?

White

641.67n3/4: Telegram

The Chargé in Great Britain (Atherton) to the Secretary of State

London, August 3, 1932—4 p. m.  
[Received August 3—12:05 p. m.]

233. Department's 205, July 30, 2 p. m. I learn the query in question has been addressed to Paris, Madrid, Rome and Rio de Janeiro as the Governments most concerned. None of their respective embassies in London have any knowledge of the matter at all except the Italian Chargé d'Affaires, who states his Foreign Office has advised him that this question of Palestine preference was raised by the British Embassy on July 11th and has been referred to the Economic Division of the Italian Government for study. I have been assured by the majority of my colleagues now that when any information is received here they will let me know.

Well informed sources advise me this preference is extended to Palestine because of its Jaffa orange shipments which form 90 per cent of the Palestine exports to this country; furthermore that the reference to Imperial preference is merely inserted to indicate that this fruit shipment from Palestine will receive the same consideration as fruit shipments from parts of the Empire proper.

Atherton

641.67n3/5

The British Chargé (Osborne) to the Secretary of State

No. 245 (C. 84)  
Washington, August 6, 1932.

Sir: I have the honour to acknowledge receipt of your note of July 20th in reply to Sir Ronald Lindsay's note No. 232 dated July 15th, 1932, with regard to the proposal of His Majesty's Government in the United Kingdom to extend to Palestine under the provisions of Clause 5 (2) of the Import Duties Act, 1932, the degree of preference accorded to goods consigned from and grown, produced or manufactured in certain other British mandated territories, and

* Not printed.
in reply to the enquiry contained in its final paragraph, to inform
you that the provisions in question apply to Tanganyika territory,
the Cameroons under British mandate and Togoland under British
mandate.

2. These territories enjoy the same treatment as British colonies,
and in addition to exemption from duties, imposed by the Import
Duties Act, 1932, they receive under previous Orders varying rates
of preference on most goods which were dutiable in the United King-
dom prior to the Import Duties Act of 1932.

I have [etc.]  

D. G. Osborne

The Secretary of State to the British Chargé (Osborne)

WASHINGTON, August 27, 1932.

SIR: I have the honor to refer to Sir Ronald Lindsay’s note No.
232 of July 15, 1932, (supplemented by your note No. 245 (C. 84) of
August 6, 1932,) outlining a proposal of the British Government to
grant a preference to Palestinian products imported into the United
Kingdom, and inquiring whether the Government of the United
States feels any objection to this proposal.

In reply, I regret to state that this Government is unable to concur
in the feeling of the British Government respecting the right of the
United States under the most-favored-nation provisions of the Con-
vention of Commerce between the two countries signed on July 3,
1815, to claim such preference. The Government of the United
States considers that Palestine is a “foreign country” within the
meaning of the term as used in Article 2 of the Convention, and
therefore holds that any tariff privileges accorded to Palestine should
also accrue to the United States.

In regard to preferential treatment of goods originating in or con-
signed from those other British mandated territories named in your
note of August 6, 1932, I wish to inform you that the Government of
the United States has been unable to perceive any ground upon which
Tanganyika, the Cameroons under British mandate, and Togoland
under British mandate should, in matters of trade preference, be
treated as if they were possessions of the mandatory power. I feel
therefore called upon to state that the position of the Government of
the United States with respect to these territories is the same as is
its position with regard to Palestine.

Accept [etc.]  

For the Secretary of State:

James Grafton Rogers
The Chargé in Great Britain (Atherton) to the Secretary of State

LONDON, August 31, 1932—2 p. m.
[Received August 31—10:35 a. m.]

251. My 233, August 3, 4 p. m. Embassy informs me Italian note of reply has been forwarded Foreign Office taking position that inasmuch as Palestine although under British mandate is not a part of British Empire it is to be regarded as foreign country and consequently the Italian Government does not feel that it could renounce in favor of imports from Palestine to Great Britain the most-favored-nation treatment to which Italian goods are entitled by treaty.

ATHERTON

641.67n3/10

The Chargé in Great Britain (Atherton) to the Secretary of State

No. 326  
LONDON, August 31, 1932.  
[Received September 9.]

SIR: I have the honor to refer to my telegram No. 251, August 31, 2 p. m., in which I set forth the substance of what my Italian colleague advised me relative to the action of his Government in the question of unilateral preference to imports from Palestine. In advising me of the above, my Italian colleague added that in so far as the British Import Duty Act of 1932 was concerned he felt that it was merely an internal law which consequently could not operate to change the accepted principles of international law contained in the Treaty of 1883 between Great Britain and Italy,²⁴ granting the most-favored-nation treatment.

In conclusion, my Italian colleague asked if I would inquire what action my Government had taken in this matter and advise him as a courtesy, in view of the information he had given me. I accordingly venture to request that the necessary information be furnished me.

Respectfully yours,

RAY ATHERTON

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

No. 1323  
Washington, September 10, 1932.

SIR: I enclose copies, as listed below, of correspondence between the Department and the British Embassy at Washington, relative to a proposal of the British Government to grant a preference to Palestinian products. I enclose also paraphrases of an exchange of telegrams with the American Chargé d'Affaires ad interim at London, from whose reply, dated August 3, 1932, it will be apparent that the Government to which you are accredited has also been consulted in this matter.

If you perceive no objection thereto, you may bring the contents of my note of August 27, 1932, informally to the attention of appropriate French officials, at the same time endeavoring to obtain information on the attitude of the French Government toward the British proposal.

Very truly yours,  

W. R. Castle, Jr.

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

No. 2942  
[Received October 5.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 1323 of September 10, 1932, and the enclosures thereto with regard to the proposal of the British Government to grant a preference to Palestinian products. The Department's response of August 27th, addressed to the British Chargé d'Affaires, was shown to a member of the Commercial Section at the Ministry for Foreign Affairs. He thanked the Embassy for the information but stated that the French Government had taken a contrary stand.

The Embassy was shown a copy of the French response wherein it was briefly stated that the French Government had no objection to the proposed preferential treatment for Palestine.

The competent officer of the Ministry explained that the French

---

25 The same, *mutatis mutandis*, on the same date to the Ambassadors in Brazil (No. 1777), Italy (No. 729), and Spain (No. 346).

26 British Embassy note No. 282, July 15; note to British Ambassador, July 20 (not printed); British Embassy note No. 245 (C. 84), August 6; note to the British Chargé, August 27; telegram No. 205, July 30, to the Ambassador in Great Britain, and telegram No. 238, August 3, from the Chargé in Great Britain. Copies of these enclosures were also sent on the same day to the Consul General at Jerusalem, and all but the last two to the Chargé in Great Britain.
point of view is logical in that while the Government has not yet accorded any special customs privileges to Syria, it may at some future date desire to do so. In fact, he added, the French authorities had insisted upon the insertion of a provision in the commercial treaty now under negotiation between the United States and France whereby the special privileges accorded to United States products would not extend to Syria. In conclusion, the officer volunteered the personal remark that the American response did not seem altogether consistent, since the United States has granted to Cuba preferences not greatly different from those objected to in the instance of Palestine.

Respectfully yours,                                            THEODORE MARRINER

641.67n3/16

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

No. 3956                                                    RIO DE JANEIRO, September 30, 1932.
                                                            [Received October 8.]

Sir: I have the honor to acknowledge the receipt of the Department's instruction No. 1777, of September 10 last, with which was enclosed correspondence between the Department and the British Government, through the British Embassy at Washington, and the American Embassy in London regarding a proposal of that Government to grant a preference to Palestinian products, and to state that before the receipt of the said instruction the Brazilian Foreign Office had answered the British Government's inquiry in the sense that it was not interested in the principle involved as much as in obtaining a preference for the entry of Brazilian fruit into Palestine. This reply was prepared by the commercial and not by the diplomatic section of the Foreign Office and would have been somewhat different in substance if the said office had been aware of the American viewpoint thereon.

Respectfully yours,                                            EDWIN V. MORGAN

641.67n3/17

The Chargé in Italy (Kirk) to the Secretary of State

No. 1646                                                    ROME, October 22, 1932.
                                                            [Received November 9.]

Sir: With reference to the Department's instruction No. 729 of September 10, 1932, regarding a proposal of the British Govern-

---

27 See pp. 195 ff.
28 See footnote 25, p. 34.
ment to grant a preference to Palestinian products, I have the honor to inform the Department that the substance of the Department's communication to the British Chargé d'Affaires ad interim at Washington was brought to the attention of the appropriate official of the Italian Ministry of Foreign Affairs, and that the official in question has communicated to me the following observations on the matter:

Several months ago the British Embassy in Rome addressed to the Italian Ministry of Foreign Affairs representations analogous to those made by the British Embassy at Washington to the Department of State, but the representations made by the British Embassy here were limited to questions affecting Palestine only. The Italian Government replied to these representations to the effect that Palestine as a mandate territory should be considered as a foreign State even in so far as Great Britain was concerned, and that, consequently, all customs facilities granted by Great Britain to Palestinian products should be automatically extended to products of the States, such as Italy, with which England is bound by the most-favored-nation clause. No communication has been received by the Italian Ministry of Foreign Affairs from the British Embassy in Rome as regards other territories under British mandate, but it would seem to the Ministry, however, that the position of the latter territories should not be regarded as different from that of Palestine.

Respectfully yours,

ALEXANDER C. KIRK

641.6753/18

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

No. 905

MADRID, October 28, 1932.

[Received November 11.]

Sir: In reply to the Department’s instruction No. 346 of September 10th, 1932, relative to a proposal of the British Government to grant tariff preferences to Palestinian products, I have the honor to report that following an interview between a member of the Embassy and Señor Ocerín, the Under Secretary of State, the Embassy has been furnished with a copy of a Note addressed by the Spanish Government to the British Ambassador under date of September 8, 1932. This communication, which is enclosed in copy and translation, refers to three Notes addressed to the Spanish Foreign Office by the British Embassy, and declared, with reference to the provisions con-

*See footnote 25, p. 34.
**Not printed.
tained in Art. 22 of the Covenant of the League of Nations and the provisions of Art. 18 of the mandate granted to the British Government over Palestine, that the territory in question could in no way be considered as imperial territory, but solely as a foreign country depending from the League of Nations. From this point of view, it was in a situation with regard to the mandatory power analogous to other sovereign states. Full proof of this was found in the fact that Palestine was not permitted to grant any different treatment whatsoever in favor of British products, which were placed on the same footing as those originating in any other state likewise a member of the League of Nations. In continuation the Note invokes Art. 6 of the Treaty of Commerce between Spain and Great Britain and declares that any privileges granted by Great Britain to Palestine, whatever they might be, would thereby be extended automatically and without distinction to similar products of Spanish origin.

In the interview referred to above, the contents of the Department's Note of August 27, 1932, to Mr. Osborne, the British Chargé d'Affaires, were brought to the attention of Señor Ocerín for the information of his Government.

Respectfully yours,

IRWIN LAUGHLIN

[In despatch No. 433, January 15, 1934, the Chargé in Great Britain reported as follows: "I have the honor to refer to the Department's telegram No. 205 of July 30, 1932, 2 p. m., as well as to the subsequent correspondence respecting a British proposal to grant a preference to Palestinian products imported into the United Kingdom. A member of the Embassy staff inquired informally of the appropriate Foreign Office official what was the present situation in regard to this question, and, after the subject had been looked up in the Foreign Office files, was informed that 'nothing more had been done in the matter.' Although the Embassy Officer endeavored to obtain an expansion of this laconic Foreign Office reply, he did not succeed in doing so. The inference is, therefore, that following the representations made by foreign missions in London on this question the Foreign Office did not proceed with its proposal." (641.67n3/20)]

---


3 Great Britain, Cmd. 1500: Final Drafts of the Mandates for Mesopotamia and Palestine, 1921.

The British Embassy to the Department of State

AIDE-MÉMOIRE

The United States Destroyers Worden, Putnam, Osborne and Dale have been recently converted into banana carriers. It is understood that these vessels were removed from the United States Navy List on October 28th, 1930 and on the 10th January 1931 sold by the Navy Department to the Boston Iron and Metal Company, Baltimore. The Worden and Putnam were reduced by this company to hulks and, after inspection by officials of the Navy Department, were towed to New Orleans, reconditioned, and finally sold to the Standard Fruit and Steamship Company of New Orleans, an American Company registered in Honduras [Nicaragua?] whose ships fly the Honduran [Nicaraguan?] flag. They were fitted with Diesel engines and this experiment in reconditioning has apparently been successful since it is understood that the Osborne and Dale are now similarly in process of conversion.

If the facts are accurately set out above, two questions arise, one of fact and the other concerning the interpretation of existing treaties.

As regards the first question the rules for the disposal of vessels of war applicable to these destroyers would be those contained in the London Naval Treaty, Annex II* which lays down that war vessels to be disposed of must be dealt with in one of the following ways:—scraped, converted to a hulk, converted for target use exclusively or retained exclusively for training or experimental purposes. It is presumed that in the United States view the Worden, Putnam, Osborne and Dale should be regarded as having been “disposed of” in accordance with the treaty by having been “converted to hulks”. The rules for conversion to a hulk are contained in Section II of Annex II to the Treaty. These rules provide not only for the removal of all armaments, flying decks, ammunition lifts, etc., but also for the mutilation beyond repair of all propeller shafts, thrust blocks, turbine gearing or main propelling motors, and turbines, or cylinders of main engines, and for the removal of propeller brackets. Sir Ronald Lindsay is advised that if all these provisions had been thoroughly carried out in the case of the Worden, Putnam, Osborne and Dale and especially if this had been done in the spirit rather than the letter of the London Treaty, it is questionable whether

---

the subsequent conversion of these boats to banana carriers could have been an economic proposition.

Assuming, however, that these United States destroyers have been converted into hulks in accordance with the provisions of the London Treaty referred to above, a further question regarding the interpretation of this treaty arises, namely, whether the subsequent reconversion of these vessels into merchant ships is compatible with the intention of the treaty. In the opinion of His Majesty's Government it is not so compatible, for it is implied throughout that treaty that the rules for disposal mean final disposal and there is no provision permitting reconversion. This is confirmed by paragraph 1 of Section 2 of Annex II, where it is stated that "a vessel to be disposed of by conversion to a hulk shall be considered finally disposed of when . . . ."

It is interesting to note in this connection that Admiral Pratt, while giving evidence before the House of Representatives Committee on Naval Affairs on 5th [12th] January, 1932, answered a question by the Chairman, as follows:

(page 608 of the Report)\(^\text{35}\)

"The rules for scrapping are very strict. We have had from time to time calls by commercial companies to turn over some of our old ships to them for use, and we would be very glad to do it, but the terms for scrapping are so stringent that frequently they cannot use them. They can use them as hulks and that is about the only use to which they can put them."

This is precisely the view of the Admiralty.

If, however, this view is not upheld and, it should now be accepted as both legally and economically possible to reconvert hulks (and it should not perhaps be overlooked that, in the case of countries whose mercantile shipping companies are subsidised by their governments, the term economically possible might prove very elastic), the value of the London Treaty might be seriously impaired, for in the event of its being possible for destroyers to be reconverted into merchant ships, there seems no valid reason why larger vessels could not also be reconverted.

Moreover, apart from the question of an infringement of the London Naval Treaty, it is arguable that if, as is understood, these destroyers fly the Honduran [Nicaraguan?] flag, Article 18 of the Washington Treaty\(^\text{36}\) has been violated. That article forbids the

---


transfer of any vessel of war "in such a manner that such a vessel may become a vessel of war in the navy of any foreign Power", and since vessels originally constructed as warships, if subsequently put to mercantile use, might be easily readapted for use as warships, the only effective method of ensuring that they do not "become a vessel of war in the navy of any foreign Power", would seem to be to make it a condition of sale that they should not be placed under any foreign mercantile flag. This is the British Admiralty's own practice, and if, as reported, the United States Government did not make this condition in the present case they have, in the Admiralty's view, "disposed of" the vessels in a manner inconsistent with Article 18.

Sir John Simon is of the opinion that possibly the questions raised in this aide-mémoire may eventually have to be settled by friendly exchanges of opinion between all the treaty Powers but has moved Sir Ronald Lindsay to discuss them first confidentially and unofficially with the Secretary of State, for he foresees a danger that if departures from the intent of the treaty are to be condoned in small cases the gap might be steadily widened until at length irreparable damage might be found to have been done to the principle on which the treaty rests.

WASHINGTON, 6 June, 1932.

---

811.34/487

The Secretary of State to the British Ambassador (Lindsay) 38

1. The Secretary of State has given careful study to an aide-mémoire dated June 6, 1932, which the British Ambassador left with him, relating to the present status of four former United States destroyers which have recently been converted into banana carriers, and two of which are flying a foreign flag. In connection with these ships Sir Ronald Lindsay raised one question of fact and two questions concerning the interpretation of existing treaties.

2. Before discussing either of these questions, Mr. Stimson desires to review the circumstances surrounding the conversion of these destroyers into merchant vessels.

3. The four destroyers in question, the Worden, Putnam, Osborne and Dale were stricken from the Navy list on October 22, 1930, and after being stripped of their ordnance and other equipment were sold to the Boston Iron and Metal Company, Inc., of 313 Hanover Street, Baltimore, for purposes of scrapping, under an agreement dated

38 Handed to the British Ambassador by the Secretary of State July 21, 1932.
January 14, 1931. Pertinent provisions of the catalogue under which the vessels were advertised for sale (No. 365-B of January 10, 1931) and of the specific agreement of sale are to be found in an annex to this aide-mémoire.39

4. Subsequently, on February 5, 1931, the Boston Iron and Metal Company requested the sanction of the Navy Department to reduce the Worden and Putnam to the condition of hulks and to sell them to the Standard Fruit and Steamship Company of New Orleans for service as fruit boats. The plans submitted contemplated carrying out completely the pertinent provisions of the London Treaty as given in Section II, Annex II, and thereafter reengining the vessels with Diesel engines. This request for a change in contract was acceded to by officers in the Navy Department and a supplementary agreement was signed modifying the original contract.

5. The pertinent provisions of this new contract, dated February 6, 1931, follow:

“(2) That in lieu of scrapping Destroyers Nos. 287 and 288, the U.S.S. Worden and the U.S.S. Putnam, the purchaser is authorized to convert said two vessels to hulks. Said conversion shall, in accordance with the requirements of the London Treaty, consist of removing and landing or else destroying in the ships

(1) all guns and essential parts of guns, fire control tops and revolving parts of all barbettes and turrets;
(2) all hydraulic or electric machinery for operating turrets;
(3) all fire control instruments and range finders;
(4) all ammunition, explosives, mines and mine rails;
(5) all torpedoes, war heads, torpedo tubes and training racks

and by effecting the following:

(1) mutilation beyond repair of all propeller shafts, thrust blocks, turbine gearing or main propelling motors, and turbines or cylinders of main engines;
(2) removal of propeller brackets
(3) removal and breaking up of all aircraft lifts, and removal of all aircraft cranes, derricks and launching apparatus.

“(3) The purchaser will notify the Government when the work of converting the U.S.S. Worden and the U.S.S. Putnam to hulks has been finally accomplished and said vessels shall not be turned over to the Standard Fruit and Steamship Company or to any other party until the work of conversion has been inspected by the Government and the Government is satisfied that the work has been completed to conform in every respect with the treaty requirements. Any expense necessary to complete said work to conform to such requirements shall be borne by the purchaser.
“(4) The work of converting these vessels to hulks shall be completed not later than December 31, 1936. If notice shall not have been received by July 1, 1936, of the completion of such work, the Government may investigate the progress made thereon, and if in the opinion of the Secretary of the Navy sufficient work has not been performed to insure complete conversion as aforesaid prior to December 31, 1936, then the Government shall have the right at any time after July 1, 1936, to again take possession or assume control of the vessels and any work thereon and to proceed in such manner as it may deem expedient to complete the work of conversion as above set forth.

“(6) Except as specifically provided herein, all the provisions of the contract aforesaid shall be and remain in full force and effect. Nothing contained in this agreement or done or required under its terms shall operate to annul, release, or otherwise affect the validity of any bond given in connection with agreement dated January 14, 1931, and said bonds shall remain in full force and effect in the same manner and with like effect as if the modifications provided for herein had been made a part of the original contract at the time of its execution, and the sureties under said bonds shall, and by signing hereby do, consent to this agreement for the purpose of extending their obligation to the modifications aforesaid.”

6. In response to a further request from the purchaser, a similar agreement was signed on May 6, 1931, with respect to the Dale and Osborne.

7. The vessels were thereupon reduced to hulks, the Worden and the Putnam prior to April 2, 1931, the Dale and the Osborne prior to July 29, 1931. In this connection Sir Ronald Lindsay raised the question as to whether all of the rules for conversion as found in the London Treaty, embracing as they do, not only the removal of armaments, flying decks, ammunition lifts, etc., but also the mutilation beyond repair of certain parts of the engines, were thoroughly carried out.

8. The Secretary of State has made careful inquiry on this point. He is informed by the Navy Department that all of these vessels were inspected after the work of reduction was completed and were found to have been reduced to hulks in strict accordance with the terms of the Treaty. The Secretary of State is thus able to assure the British Ambassador, in answer to the question of fact which he has raised, that the requirements of the Treaty of London governing reduction of vessels to hulks were fully complied with.

9. In addition to this question of fact, Sir Ronald Lindsay raised two questions concerning the interpretation of existing Treaties.

10. One of these questions was whether the transfer of two of these vessels to foreign registry is in violation of Article 18 of the Washington Treaty, which forbids the transfer of any vessel of
war "in such a manner that such a vessel may become a vessel of war in the navy of any foreign power." Sir Ronald Lindsay holds that, according to the terms of this article, the parties to the Washington Treaty should make it a condition upon selling any vessel of war that it would not subsequently be placed under a foreign mercantile flag. In this contention, the American Government concurs. The transfer to foreign registry of the two ex-destroyers which are now flying the Nicaraguan flag was not only unauthorized, but was in fact a violation of the requirement that "such vessel will be documented promptly under the laws of the United States if it is to be operated as a vessel subsequent to sale", found under Article 24 of the catalogue of January 10, 1931, quoted in the annex. The Navy Department has given no sanction for other action.

11. Steps have already been initiated to require the purchasers of these two destroyers promptly to retransfer the vessels to American registry. Pending the completion of the necessary formalities, it should be borne in mind that the vessels are still under American ownership and that their present condition and characteristics are such as to render them valueless for combatant purposes.

12. The second question concerning treaty interpretation raised by Sir Ronald Lindsay relates to the interpretation of the Treaty of London with respect to the subsequent reconversion into merchant ships of vessels which have been reduced to hulks. The Secretary of State is glad to inform the British Ambassador that the American Government's interpretation of the Treaty in this respect is precisely the same as that of the British Government, namely that the Treaty as it stands does not contemplate the reengining or reconditioning of such hulks, and that the governments concerned will not countenance such action. It was only due to a misconception of this interpretation of the Treaty on the part of the officials charged with the sale of the destroyers that their reconditioning was agreed to. This misconception has been corrected and will not occur again.

13. Although the American Government does not seem to possess the power at the present time to secure any alteration in the present physical condition of these four vessels, inasmuch as the terms of sale contained no provision to prevent their being reengined by the purchaser, nevertheless the American Government hereby gives the assurance (1) that the ex-destroyers, Worden, Putnam, Osborne and Dale will never be used for naval purposes by this Government, and (2) that it will in the future assure itself that American naval vessels disposed of by conversion to a hulk under the provisions of the London Treaty shall be finally disposed of, and that provision
shall be made with any purchaser of a hulk to prevent its being subsequently reconditioned.

14. With the two safeguards indicated above, namely, the transfer back to American registry of the two destroyers now flying a foreign flag, and the assurance that the four destroyers will never be used for naval purposes in this country, the Secretary of State believes that the purpose of the pertinent portions of the naval treaties, namely, to prevent the reconversion into warships of naval vessels which had been disposed of, has been fully assured.

15. In the circumstances, the Secretary of State plans to lay the facts of this case before all the other parties to the Washington and London Treaties and to repeat the commitments given above.40

WASHINGTON, July 15, 1932.

811.34/498

The British Chargé (Osborne) to the Secretary of State
No. 289

His Majesty’s Minister presents his compliments to the Secretary of State and, with reference to the aide-mémoire of July 15th communicated by Mr. Stimson to Sir Ronald Lindsay on July 21st last, regarding the present status of four former United States Destroyers which were recently converted into fruit ships, has the honour to inform him, under instructions from His Majesty’s Principal Secretary of State for Foreign Affairs, that His Majesty’s Government will regard the contents of this aide-mémoire as a satisfactory disposition of the matter.

Mr. Osborne has also been instructed by Sir John Simon to inform Mr. Stimson that His Majesty’s Government much appreciate the frank and helpful nature of his reply.

WASHINGTON, September 21, 1932.

40 In despatches dated August 31, 1932, the Secretary of State instructed the American Ambassadors in France, Italy, and Japan to convey to the respective Governments to which they were accredited the substance of the above aide-mémoire.
EFFORTS TO OBTAIN INFORMATION FROM AUTHORITIES IN THE
BAHAMAS REGARDING VESSELS SUSPECTED OF SMUGGLING
LIQUOR INTO THE UNITED STATES

813.114 Fisher Lassie/9

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

No. 1010  WASHINGTON, November 27, 1931.

Sir: There is enclosed a copy of an instruction addressed to the
American Consul at Nassau, Bahamas, under date of October 10,
1931,\(^\text{41}\) requesting him to endeavor to obtain from the appropriate
Bahaman authorities certified copies of the entrance and clearance
papers of certain vessels suspected of being engaged in the smuggling
of liquor into the United States, as well as information regarding
the cargo carried, names of shippers and names of masters. This
information was requested by Assistant Attorney General Young-
quist on behalf of the Director of the Bureau of Prohibition for
use in connection with proceedings which are contemplated against
the vessels. A copy of Mr. Youngquist’s letter, with its enclosures,
is likewise transmitted herewith.\(^\text{41}\)

The Consul stated in his reply that he had been informed by the
Acting Colonial Secretary of the Bahamas that the furnishing of
such information was, upon instruction from the Secretary of State
for the Colonies, forbidden. A copy of the Consul’s reply, trans-
mitting copies of correspondence exchanged with the Acting Colonial
Secretary on the subject, is also enclosed. The latter bases his refusal
apparently on instructions received prior to the agreement reached
at the conference held in London in July, 1926,\(^\text{42}\) between representa-
tives of Great Britain and the United States, as the result of which
certain methods of cooperation were formulated. Section 4 of this
agreement entitled “Prosecutions” provides that proceedings shall be
instituted for infringement of British or United States law, and the
last sentence reads, “In this connection, an attempt should at once
be made to secure, if possible, the necessary evidence to enable pro-
ceedings to be instituted in the case of vessels known to be engaged
in the traffic.”

You are requested to take up this matter with the appropriate
British authorities and to inquire whether the understanding of the
Acting Colonial Secretary is correct.

Very truly yours,  For the Secretary of State:

W. R. Castle, Jr.

\(^{41}\) Not printed.

The Consul at Nassau (Fisher) to the Secretary of State

No. 536

NASSAU, October 30, 1931.

[Received November 5.]

Sir: I have the honor to acknowledge receipt of the Department’s memorandum instruction of October 10, 1931 (file No. 811.114 Fisher Lassie/3 [/4]), directing that I endeavor to obtain and forward to it, for the use of the Department of Justice in an investigation it is making into alleged smuggling activities in the Gulf of Mexico, certified copies of the entrance and clearance papers, cargo carried, names of shippers, and names of masters of vessels named in the instruction, on their several arrivals at and departure from Nassau and Salt Cay, during the period from January 1, 1930, to date.

In reply, I have to report that immediately upon receipt of the instruction the certified copies of the papers and the information called for were requested in a letter dated October 20, 1931, addressed to the Acting Colonial Secretary of the Bahamas, a copy of which is herewith enclosed.

On October 17, 1931, the question of furnishing the information desired by the Department of Justice was discussed at an interview had with the Acting Colonial Secretary, on which occasion he informed me that the furnishing of such information to this Consulate was, upon instruction from the Secretary of State for the Colonies, forbidden, and that this Consulate had been so informed in a letter from his Office dated September 18, 1925. The confirmation of the Acting Colonial Secretary’s statement at that interview is contained in his letter dated October 28, 1931, a copy of which is also enclosed. In this connection the Department is respectfully referred to this Consulate’s despatch No. 82, of September 22, 1925, and subsequent correspondence on this subject.

It is not believed that the information concerning the movements of liquor vessels in Bahamian waters now being supplied this Consulate by the local authorities is of any material value to the United States authorities in their efforts to suppress the smuggling of liquor from the Bahamas into the United States. The weekly reports of departures of vessels from Bimini and West End are not received by this Consulate until several days after the close of the week concerned, and practically no departures of vessels with “interesting cargoes” from Nassau are officially reported to this office.

*Filed separately under 811.114 Fisher Lassie/6.
*Not printed.
The only information that has been obtained by this Consulate relative to the movements of liquor-running vessels in the Bahamas since July 1, 1930, has been secured from private sources, and with the exception of a short period,—November, 1930, to March, 1931,—has been paid for from private means. From these sources it has been learned that the vessels Leon Juin, Rosita and Paddy Hafferty, mentioned in the Department’s instruction under acknowledgment, have left Bahamas waters with cargoes of liquor supposedly for points along the United States coast on several occasions since July 1, 1930, on each of which the information was telegraphed to the Commander, Florida East Coast Patrol Area, at Fort Lauderdale, Florida.

Yours respectfully,

Fred D. Fisher

[Subenclosure 1]

The American Consul at Nassau (Fisher) to the Acting Colonial Secretary of the Bahamas (Bethel)

No. 624.4–FDF

Nassau, October 20, 1931.

Sir: I have the honor to inform you that I have been directed by the Department of State, Washington, to request from the appropriate authorities of the Bahamas Government, certified copies of the entrance and clearance papers, as well as information showing the dates of entry and clearance, cargoes carried, names of shippers, and names of masters, of each of the following vessels on their several arrivals and departures from Nassau, Salt Cay and other places in the Bahamas Group, during the period from January 1, 1930, to date:

Fisher Lassie       Lady Antoinette
Miss Carmen Blanconeaux  R. A. Glen
Concord              Rosita
Corozal              Pasajero
Admiral Sturdee      Olivia M.
C. M. Lawrence       Quitchouan
General Tosta        Montagua (Motagua?)
La Plata             Maya Prince
Marshal Frank        Halcon
Mavis Barbara        Hattie Hafferty (Paddy Hafferty)
Leon Juin

I would be very appreciative if you will kindly furnish me with the necessary information to enable me to reply to the instruction of the Department of State in this matter.

I have [etc.]

Fred D. Fisher
No. 4638A  

BAHAMAS, 28 October, 1931.

Sir: With reference to your letter No. 624.4.FDF. of the 20th October applying for certified documents relating to the arrivals at and departures of certain vessels from ports in this Colony, I am directed to point out that had any of these vessels cleared foreign with cargoes of liquor from one of the ports of Nassau, Bimini or West End, the information would appear in the list of such vessels which are regularly supplied to your office. I am to add that, under instructions received from the Secretary of State for the Colonies, of which your office has been previously informed, this Government is required to supply you with information in general terms only respecting vessels clearing from ports of this Colony with substantial cargoes of liquor destined for ports outside the Colony or adjacent to the East Coast of America between Panama and the St. Lawrence. In this connection I am to refer you to letters from this office of 18th September, 1925, and 28th January, 1926, copies of which are enclosed for convenience of reference.

2. There has hitherto been no departure from this rule excepting where further information has been required for adjudication on seizure of vessels by United States Authorities and having regard to the fact that the present practice is the outcome of negotiation between the Governments of the United States of America and Great Britain this Government will not take upon itself to alter the existing rule.

I have [etc.]

Chas. P. Bethel

811.114 Fisher Lassie/25

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

No. 168  

LONDON, June 20, 1932.  
[Received June 30.]

Sir: I have the honor to refer to the Department’s instruction No. 1010 of November 27, 1931, File No. 811.114 Fisher Lassie/9, and to transmit herewith a copy of the Embassy’s informal communication of December 11 to the Foreign Office and a copy of the reply of June 18, with enclosures, which has just been received.

Respectfully yours,

For the Ambassador:

Ray Atherton
Counselor of Embassy

* Not printed.
The First Secretary of the American Embassy (Thaw) to Mr. R. G. Howe of the Treaty Department, British Foreign Office

LONDON, December 11, 1931.

My Dear Howe: May I have recourse to your assistance in the following matter?

It appears from instructions which the Embassy has just received from the Department of State that under date of October 10 last the American Consul at Nassau, Bahamas, was directed to try to obtain from the appropriate authorities there certified copies of the entrance and clearance papers of certain vessels suspected of being engaged in the smuggling of liquor into the United States, as well as information regarding the cargo carried, names of shippers and names of masters, during the period from January 1, 1930, to date. This information was requested on behalf of the Bureau of Prohibition for use in connection with proceedings which are contemplated against the vessels.

The Consul replied to the Department that he had been informed by the Acting Colonial Secretary of the Bahamas that the furnishing of such information was forbidden under instructions from the Secretary of State for the Colonies. Specifically the Consul was informed by the Acting Colonial Secretary that "... this Government is required to supply you with information in general terms only respecting vessels clearing from ports of this Colony with substantial cargoes of liquor destined for ports outside the Colony on or adjacent to the East Coast of America between Panama and the St. Lawrence." The Acting Colonial Secretary referred to certain correspondence from his office on September 18, 1925, and January 28, 1926, and went on to say that there had hitherto been no departure from the existing rule excepting where further information had been required for adjudication on seizure of vessels by United States Authorities and that having regard to the fact that the present practice is the outcome of negotiation between the Government of the United States of America and Great Britain his Government would not take upon itself to alter the rule.

The Department of State now points out to the Embassy that the Acting Colonial Secretary at Nassau bases his refusal apparently on instructions received prior to the agreement reached at the conference held in London in July, 1926, between representatives of Great Britain and the United States, as the result of which certain methods of cooperation were formulated, and that Section 4 of this agreement entitled "Prosecutions" provides that proceedings shall be
instituted for infringement of British or United States law, the last sentence reading, "In this connection, an attempt should at once be made to secure, if possible, the necessary evidence to enable proceedings to be instituted in the case of vessels known to be engaged in the traffic."

I should be greatly obliged if you can let me know whether the understanding of the Acting Colonial Secretary at Nassau is correct.

Sincerely yours,

   BENJAMIN THAW, JR.

[Enclosure 2]

The Head of the American Department, British Foreign Office (Craigie), to the First Secretary of the American Embassy (Thaw)


MY DEAR THAW: I am very sorry that we have been so long in giving you a considered reply to your letter of 11th December to Howe enquiring whether the action taken by the Acting Colonial Secretary at Nassau in the circumstances described in your letter was, in our opinion, correct. As you will no doubt have realized, we had to refer this matter to the Bahamas Government, a procedure which was bound to take time. I hope however that you will agree that the present letter, which is based on a very full report received from the Governor, clears up this question satisfactorily.

In the first place I enclose full copies of letters from the United States Consul to the Acting Colonial Secretary and the latter’s reply, parts of which you quoted in your letter under reference. From the United States Consul’s letter you will see that, while he asks for extensive information about twenty one vessels over a period of ten months, he does not suggest that this information was wanted in connexion with proceedings which were contemplated against the vessels. Moreover, you will see that amongst the particulars with which the United States Consul asked to be supplied were details regarding the cargoes carried and the names of shippers. While in the light of the 1926 Agreement, the authorities of His Majesty’s Government would of course arrange for the production of such records or certified copies thereof as might be considered necessary for the purpose of instituting criminal proceedings, it was explained to the United States authorities at the Conference in 1926 and has been brought to their notice on several occasions since that the British authorities would not be prepared to give the United States authorities copies of papers which show the names of individual consignors.

---

*Ante, pp. 47 and 48.*
or consignees or gave detailed particulars of individual consignments. As a case in point I enclose a copy of a letter of the 27th November, 1929 from Mr. Bertenshaw of the Customs Office to the United States Consul General in London about certain shipments of liquor to St. Pierre and Montreal. Moreover, our reluctance to supply particulars of individual consignments was responsible, as you will no doubt recollect, for the arrangement about “interesting cargoes” and from the Acting Colonial Secretary’s reply you will observe that if any of the vessels about which particulars were requested had cleared foreign with cargoes of liquor from one of the ports of Nassau, the usual information regarding the date of clearing of vessels carrying “interesting cargoes” would have already been supplied to the United States Consulate. Although we agree that the reference in the Acting Colonial Secretary’s letter to instructions issued prior to the 1926 Agreement was misleading, it would nevertheless appear that he was substantially correct in the line which he took. If finally the United States Consul had returned to the charge as he was practically invited to do in the last paragraph of the Acting Colonial Secretary’s letter with an explanation that the information was for the purpose of instituting criminal proceedings, the Bahamas Government would of course have co-operated with a view to affording the United States authorities all relevant evidence that could properly be supplied.

The Governor of the Bahamas adds that he has taken an opportunity of having a friendly conversation with the United States Consul, during which the question of co-operation between the Bahamas Government and the United States Consulate in regard to the liquor traffic was frankly discussed. The Governor then explained to the United States Consul the reasons, as set forth above, which had prompted the Acting Colonial Secretary’s letter, and at the same time assured him that the Bahamas Government was anxious fully to live up to the spirit of the 1926 report. In so doing he also expressed the wish that on any future occasion the United States Consul should come to see him personally and informally in the first instance if he had any reason to believe that he was not being supplied

---

*Not printed.*

*The “interesting cargoes” arrangement, effected through an exchange of notes between the United States and Great Britain and put into effect on June 6, 1929, was intended as an aid in detecting shipments of liquor destined for smuggling into the United States. By the terms of the arrangement the British Collector of Customs at Leith, Scotland, was to inform the American Consulate at Edinburgh of the departure of vessels with cargoes of not less than 500 gallons or cases. This information, strictly confidential in nature, was to consist of the name of the vessel, its destination and date of clearance, and the disclosure that it carried an “interesting cargo.”*
with information he was entitled to receive. We understand, therefore, that this matter is now satisfactorily settled.

Yours ever, R. L. CRAIGIE

AGREEMENT BETWEEN THE UNITED STATES AND GREAT BRITAIN TO SUBMIT TO AN AMERICAN COMMISSION CLAIMS ARISING FROM USE OF BRITISH INVENTIONS

§115424/36

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

No. 3285 LONDON, January 8, 1929.
[Received January 18.]

Sir: I have the honor to refer to the Department's instructions No. 1293 of February 15, 1928, and No. 1323 of March 2, 1928, in connection with the claims of British inventors against the United States Government, and to state that on January 4th the Counselor of this Embassy was asked to call at the Foreign Office and a note with enclosure, copies of which are transmitted herewith, were handed to him. The hope was expressed that the information contained therein supplied all the data desired by the American authorities.

In the conversation regarding these claims with several officers of the Foreign Office, reference was made to the friendly spirit of the negotiations between Sir John Broderick of the British Embassy and Mr. Phenix of the State Department, and these officers expressed their opinion that the State Department's note, dated July 23, 1928, in reply to Sir John Broderick's Memorandum of January 5, 1928, deviated from this spirit in its phraseology and the purely legal points of view set forth therein, more especially in view of the last paragraph of the exchange of notes of May 19, 1927.

I have [etc.]

For the Ambassador:
RAY ATHERTON
Counselor of Embassy

---

52 For previous correspondence on this subject, see Foreign Relations, 1928, vol. ii, pp. 997 ff.
53 Neither printed.
55 Ibid., p. 997.
[Enclosure]

The Head of the American Department, British Foreign Office
(Craigie), to the American Chargé (Atherton)


MY DEAR ATHERTON: You will remember that on February 27th and March 12th last you wrote to me in connexion with the claims of British inventors against the United States Government, seeking certain information in regard to the application of patent law in this country. I now have pleasure in enclosing a memorandum⁷⁷ replying to the queries contained in your letters, together with one copy each of the First and Second Reports of the Royal Commission on Awards to Inventors,⁷⁸ which I think you will find of interest, particularly paragraphs 13, 14 and 33–38 of the First Report, and 12–14 of the Second Report.

I much regret that there should have been so long a delay in replying to your letters. This was due in part to the technicalities of the issues raised, but I should have been in a position to answer you some months ago had it not been for the State Department note of July 23rd last to Sir Esme Howard in which the Ambassador was informed in categorical terms that the United States Government were unable to consider our suggestion that some body akin to the Royal Commission on Awards to Inventors should be set up to deal both with patented and unpatented claims of British inventors. While I have no intention of troubling you with this aspect of the question, I may say that we agree with the Department of State that British claimants in respect of patented inventions enjoy facilities for prosecuting their claims in the United States. As regards unpatented inventions, however, we feel that British subjects are under grave disabilities as matters stand at present, and in this connexion we are supplying Sir Esme Howard with some new facts upon which to base further conversations with the authorities in Washington. I feel confident that when the State Department have had the opportunity to reconsider the matter in the light of this further information, we will experience no difficulty in disposing of these outstanding claims in a manner satisfactory to both Governments.

Yours very sincerely,

R. L. CRAIGIE

⁷⁷ Not printed.
⁷⁸ Great Britain, Cmd. 1112 (1921), Cmd. 1782 (1922).
The Assistant Secretary of State (Castle) to the Under
Secretary of State (Cotton)

WASHINGTON, August 14, 1929.

Mr. Cotton: Mr. Hurley, Assistant Secretary of War, had a conference with me Monday on the matter of certain British patent claims. He brought with him Colonel McMullen, who has been handling claims in the War Department and I called in Mr. Vallance who has handled them for us under Hackworth. Most of the British claims have been settled, as you probably know, under the Dent law. The Judge Advocate General of the Army holds, however, that these so-called patent claims are not covered by the law. Mr. Daugherty, when he was Attorney General, also ruled that they were not so covered. There are 16 of these claims for the use by the American Army and Navy of certain British inventions patented in England but not in this country. According to the statute of limitation I suppose we are not bound any longer to pay any of the claims, but I feel strongly that they should be paid as a matter of grace if we can arrive at proper amounts. Mr. Vallance says that he has no sympathy with them because we did not pay our own Army people for inventions made by them which were used by the United States. I told him that I did not agree with this since it seemed to me that an invention made by an American Army Officer, for example, which might help in winning the War was owed by such an officer to the Government without compensation, but that, on the other hand, a British officer did not equally owe his invention to the American Government. I pointed out also that American inventions used by the British have been paid for. Colonel McMullen said that he felt we could get out of the whole business at not over $250,000. In all cases arrangements for the use of these inventions were made with the British Government as General Pershing refused to deal with individuals. In most cases, also, the British are unable to claim any specific amounts because they do not know to what extent the invention was used. In one case at least there was a definite contract that we would pay 6 d. for every British made Brodie helmet used. How we have got out of paying that I do not know except that we have just not done it. The decision of the Conference was that I should find out from the British Ambassador whether the British would be willing, for the sake of getting the matter cleaned up, to give a definite understanding that findings made in the individual cases by the American

40 Stat. 1273.
Government would be final. This same arrangement was made in the so-called Bowling claims and there was not any trouble. If the British will make this agreement, the War Department will get authority from the President for Colonel McMullen, possibly with one or two assistants, to secure from the various Departments the papers necessary to make a real estimate of the claims. After the amount has been made up, it will be referred by the Secretary of War, and presumably by the Secretary of the Navy, to the President for reference to Congress. Of course, we cannot promise that Congress will be willing to appropriate the money, but judging by the past I think Congress would act favorably. It is certainly a strong argument that similar claims on the part of America have already been paid by the British.

WILLIAM R. CASTLE, JR.

811.54241/99
The Secretary of State to the Ambassador in Great Britain (Dawes)

WASHINGTON, September 4, 1929.

Sir: The Department has received your No. 148, of August 12, 1929, with enclosure, in further relation to claims of the British Government against the United States for inventions alleged to have been delivered by the British Government to American officers during the World War.

Copies of your despatch and its enclosures have been sent to the War and Navy Departments and the Departments of Justice and Commerce, with requests for expressions of the views of the Department of Justice and the Navy Department.

The Department desires to receive definite assurances that no claims are outstanding in addition to the claims of record in notes exchanged by the respective governments. The Department also desires to know whether the British Government will agree in advance to accept the findings of a tribunal organized by the United States as a final adjudication of the amounts, if any, due from the United States, and with the understanding that the awards would be submitted to Congress for action, without guarantee that they would be paid.

I am [etc.]

For the Secretary of State:

WILLIAM R. CASTLE, JR.

* See article I of the agreement effected by an exchange of notes on May 19, 1927, between the Secretary of State and the British Ambassador, Foreign Relations, 1927, vol. II, p. 750.

* Neither printed.
The British Secretary of State for Foreign Affairs (Henderson) to the American Ambassador in Great Britain (Dawes)

No. A 925/135/45

[London,] 10 February, 1930.

Your Excellency: I have the honour to refer to Mr. Belin’s letter of the 14th September last to Mr. Thompson regarding the claims of certain British inventors against the United States Government, and in reply to state that I am now in possession of the views of the competent departments of His Majesty’s Government on the questions raised in the above communication.

2. In the first place, besides the claims of Commander Gwynne, Mr. Sturgeon, Mr. H. J. Taylor, Captain Usborne, R. N., Lieutenant Kilroy, Lieutenant Colonel Newton and Mr. J. L. Brodie which have already been recorded in notes exchanged between His Majesty’s Embassy in Washington and the State Department,64 His Majesty’s Government have knowledge of six other possible claims of the same character: a claim of Mr. T. Graham and Sir E. H. Tennyson d’Eyncourt in respect of a design for fabricated ships sent to the Emergency Fleet Corporation in Washington in 1918, a claim of Sir James Henderson in respect of Firing Gear invented by him, a claim of Messrs. Thornycroft and Company, Limited, in respect of Depth Charge Thowers, a claim of Mr. F. L. H. Davis in respect of navigational tables, and a claim of Lieutenant Davidson, R.N.V.R., in respect of a system of cyphering invented by him. Finally, with regard to the claim of Commanders Riley, Sherman and Mock in respect of Mines and Depth Charges invented by them, it is understood that while thirty thousand dollars have been paid to these officers by the United States Government, dispute exists as to whether this payment covered both war-time and post-war use or only the latter.

3. His Majesty’s Government are prepared to accept the findings of a tribunal organised by the United States Government to examine these claims for final adjudication and, while they cannot bind the individual claimants to accept the awards, they undertake not to re-open through the diplomatic channel any claims so adjudicated and, in cases where an award is made, paid. His Majesty’s Government further understand that the awards of the tribunal would be submitted to Congress for action without guarantee that they would

---

64 Copy transmitted to the Department by the Ambassador under covering despatch No. 653 of February 11, 1930; received February 26.
65 Not found in Department files.
66 Not printed.
be paid; nevertheless His Majesty’s Government would not consider themselves debared from further diplomatic representations should Congress fail to give effect to the awards of the tribunal. His Majesty’s Government feel confident, however, that this is an unlikely contingency, as they assume that in the event of awards being submitted to the legislature for payment, the United States Government would use their best endeavours to obtain the necessary appropriations.

4. Though they cannot affect the liberty of the individual claimants to make claims, His Majesty’s Government are prepared to give an assurance that they will not press any claims diplomatically other than those mentioned in the second paragraph of this note, with the exception of claims (if any) which have, without the cognizance of His Majesty’s Government, already been presented to the United States Government direct.

I have [etc.]  

(For the Secretary of State)

T. M. Snow

811.54241/119

Major William W. Dick of the Office of the Adjutant General to Lieutenant Colonel Joseph I. McMullen of the Office of the Judge Advocate General

WASHINGTON, July 7, 1932.

Subject: Establishment in the War Department of a commission to hear and determine Patent Claims of certain British Nationals.

1. Under authority of Section 3 of the Act of Congress, approved March 2, 1919 (40 Stat. 1273), there is hereby constituted in the War Department, a commission to be known as “The Commission for Adjustment of British Claims”, composed and charged with duties and invested with powers as hereinafter described.

2. The following personnel is designated to constitute the commission:

Lieutenant Colonel Joseph I. McMullen, J.A.G.D., chairman.
Honorable Charles B. Rugg, Assistant Attorney General, Member and Legal Adviser.
Honorable Harvey H. Bundy, Assistant Secretary of State, Member.
Lieutenant Commander Robert A. Lavender, U. S. Navy, Member.
Major George P. Hill, J.A.G.D., Assistant Legal Adviser.
Captain Thomas H. Green, J.A.G.D., Secretary.

*Copy transmitted to the Department of State by the Adjutant General’s office, July 7, 1932; received July 8.*
3. The officers of the Army detailed on this commission will perform the duties required of them in addition to their other duties.

4. The assignment of Mr. Rugg, Mr. Bundy, and Lieutenant Commander Lavender has been concurred in by The Attorney General, The Secretary of State and The Secretary of the Navy, respectively.

5. It shall be the duty of the commission to hear and determine claims of British Nationals arising out of the acceptance and/or use by the United States of their patents, inventions, or designs during the World War; the claims in question being limited to those claims which have been agreed upon in the correspondence between the British Government and the Department of State.

6. The commission shall have all powers necessary and incident to the proper performance of its duties and shall adopt its own methods of procedure and rules and regulations for its conduct. The office of the commission shall be in the City of Washington, but hearings may also be had in such other places as may be expedient and necessary for the proper performance of its duties. The hearings of the commission were held in London, August 3-12, 1932.

7. All members of the commission, and the Assistant Legal Adviser and the Secretary thereof, shall have authority to administer oaths to witnesses, testifying or deposing in the course of any investigation, proceeding or hearing, in accordance with Section 183, Revised Statutes of the United States as amended.

8. The commission shall fix the time and place for hearings and shall serve notice thereof upon all parties thereto, or their representatives, who shall be entitled to be heard and present evidence. The act of a majority of the members of the commission, when in session as a commission, shall be deemed to be the act of the commission; but, in the course of any investigation undertaken by the commission, any member or members shall have power to examine witnesses and to receive evidence and to report the same to the commission.

9. The findings and decisions of the commission shall be final and conclusive, subject only to review by the Secretary of War.

10. A full and complete record shall be kept of all proceedings, hearings and testimony, and all testimony shall be recorded by a reporter. Copies of all findings, including the findings on questions of fact, and the commission's decision, duly certified, shall be served upon the parties or their attorneys and a copy shall be transmitted to the Secretary of War. Upon termination of its duties the commission shall render to the Secretary of War a report containing a full and complete account of its transactions and proceedings.

11. Request for employment or detail of the necessary clerical assistance will be made to the Secretary of War. Stationery and office
supplies will be furnished by the Supply Division of the War Department.

12. The necessary expenses of the Commission will be paid from an appropriation provided in the Second Deficiency Act, Seventy-Second Congress, First Session, under the head "Office of The Judge Advocate General".67

By order of the Secretary of War:

Wm. W. Dick

[This Commission, which completed its hearings August 12, 1932, awarded claims to the British inventors totaling $255,500 (811.54241/135½). At the request of President Hoover, an appropriation covering this amount was made a part of the Second Deficiency Act of March 4, 1933 (House Document No. 557, 72d Cong., 2d sess., 47 Stat. 1614).]
A copy of a report by Mr. James Hornell, F.L.S., F.R.A.I., late Director of Fisheries to the Government of Madras, on the turtle fisheries of the Seychelles Islands is enclosed herewith for the information of the United States Government.

I have [etc.]

R. C. LINDSAY

---

811b.628/10

The Acting Secretary of State to the British Chargé (Osborne)

WASHINGTON, August 5, 1931.

Sir: With reference to previous correspondence regarding the question of the cooperation of the United States authorities in the Philippines in the steps taken by the Governor of British North Borneo to preserve the hawksbill turtle fisheries, I desire to inform you that a communication has been received from the Office of the Governor General of the Philippine Islands indicating the willingness of the Philippine authorities to cooperate with the Governor of British North Borneo in this matter and requesting copies of laws and regulations in force in British North Borneo for use in drafting suitable regulations by the Government of the Philippine Islands.

The copy of “The Turtle Fisheries of the Seychelles Islands” by James Hornell is returned herewith.

Accept [etc.]

For the Acting Secretary of State:

HARVEY H. BUNDY

---

811b.628/13

The British Ambassador (Lindsay) to the Secretary of State

No. 212 WASHINGTON, June 24, 1932.

Sir: With reference to Mr. Osborne’s note to the Acting Secretary of State, No. 296 of the 2nd September last, regarding the desire of the British North Borneo Company to secure the co-operation of the United States authorities in the Philippine Islands to preserve the hawksbill turtle fisheries, I have the honour to inform you that the British North Borneo Company have suggested that 1933 should be observed by the Government of the Philippine Islands and the Government of North Borneo as a close season and thereafter every alternate year unless and until it is agreed by both Governments to vary this procedure. I am to enquire whether this proposal is agree-

---

* Not found in Department files.
* Not printed.
able to the United States Government and whether the authorities in the Philippine Islands will co-operate in putting it into effect.

I should also be grateful if the competent authorities in the Philippine Islands might be informed of the following further measures of protection that are being brought into force in North Borneo as from the date of their publication in the May issue of the Official Gazette:

(a) Prohibition on the killing or capture of female hawksbill turtles going up to lay.
(b) Prohibition on the killing of hawksbill turtles under 24 inches long.

A copy of the Gazette notification is enclosed.\(^7\)

I have [etc.] \hspace{2cm} \text{R. C. LINDSAY}

\hspace{2cm} \text{811b.628/19}

\textit{The Secretary of State to the British Ambassador (Lindsay)}

Washington, November 22, 1932.

 Excellency: I have the honor to refer to your note No. 61, dated March 4, 1931, and to subsequent correspondence relative to the preservation of the hawksbill turtle fisheries in the waters adjacent to British North Borneo and the Philippine Islands, and to transmit herewith material, as listed below, indicative of the present position of the Government of the Philippine Islands:

1. Copy of transmitting letter, dated November 15, 1932, from the Secretary of War;\(^7\)
2. Copy of letter, dated October 4, 1932, from the Secretary of the Philippine Department of Agriculture and Natural Resources;
3. Explanatory note to and text of Bill No. 1694, Ninth Philippine Legislature, Second Session.\(^1\)

It will be noted that Article VIII of the draft bill constitutes the amendments referred to in Mr. Alunan’s letter of October 4, 1932, which are designed to create authority for his Department to issue rules and regulations for the protection of hawksbill turtle fisheries.

Accept [etc.] \hspace{2cm} \text{For the Secretary of State:}

\hspace{2cm} \text{W. R. CASTLE, JR.}

\(^7\) Not printed.
\(^1\) Neither document found in Department files.
The Secretary of the Philippine Department of Agriculture and Natural Resources (Alunan) to the Governor General of the Philippine Islands (Roosevelt)

MANILA, October 4, 1932.

Sir: Referring to the request of the British Embassy at Washington, D. C., coursed thru the United States Departments of State and War, that the Government of the Philippine Islands cooperate with the Government of British North Borneo to preserve the hawksbill turtle fisheries, the papers regarding which request were forwarded to this Department by your second indorsements dated October 19, 1931, and August 25, 1932, I have the honor to state that this Office can not at present give the desired cooperation effectively, in view of a recent opinion of the Attorney-General to the effect that there is no law authorizing this Department to issue rules and regulations for the protection of hawksbill turtles. In view of this situation, this Department has prepared suitable provisions regarding the hawksbill turtle fisheries to be inserted as amendments to House Bill No. 1694 entitled “An Act to amend and compile the laws relating to fish and other aquatic resources of the Philippine Islands, and for other purposes”, now pending action in the Legislature. As soon as the said bill is enacted into law, this Department intends to issue the necessary rules and regulations for the purpose of an effective protection of the hawksbill turtle fisheries, in cooperation with the government authorities of British North Borneo.

A copy of House Bill No. 1694 embodying the amendments suggested by this Office is herewith enclosed. 72

Very respectfully,

Raf. R. Alunan

72 Not found in Department files. Act No. 4003 of the Philippine Legislature entitled “An Act to amend and compile the laws relating to fish and other aquatic resources of the Philippine Islands, and for other purposes” was approved December 5, 1932. (811b.628/26)