NETHERLANDS

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

611.5631/117a

The Secretary of State to the Minister in the Netherlands (Emmet)

No. 29

WASHINGTON, May 24, 1934.

Sir: I am enclosing, for your confidential information, a copy of a commercial treaty draft which was handed this afternoon to the Netherlands Minister in Washington for transmission to The Hague for the consideration of his Government.

The negotiation of this treaty has been undertaken primarily in order to make it possible for the United States to accord to the Netherlands as favorable treatment with regard to the excise tax upon coal and coke as it accords to Germany and Great Britain on the basis of the most-favored-nation treaties with those countries. The Revenue Act of 1932 contained a provision exempting from this excise any country which imports more coal from the United States than it exports to the United States and upon the basis of this provision Canadian coal imports were declared tax exempt. Great Britain and Germany thereupon claimed a like exemption on the basis of their treaty rights and somewhat later the Netherlands claimed the same treatment as that accorded to Great Britain and Germany.

The Netherlands Minister in presenting this claim stated that the Dutch interest involved was negligible but that the claim was being raised as a matter of principle in order that the Dutch Government might know definitely whether the United States and the Netherlands were to continue to accord mutual most-favored-nation treatment to each other.

The most-favored-nation treatment accorded to the Netherlands appears in the past to have rested, as stated in the Legation’s despatch No. 480 of October 5, 1932, not upon a treaty but merely upon President Taft’s Proclamation of January 29, 1910, and a note dated July

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1 Not printed.
2 Jonkheer H. M. van Haersma de With.
3 47 Stat. 169.
11, 1924, in the latter of which it was stated that the Secretary of State understood that the United States and the Netherlands applied most-favored-nation treatment to the commerce between the two countries and that the United States for its part did not contemplate making any departure from that principle. As it was held that in the absence of a treaty it would be impossible to extend to the Netherlands the same treatment accorded to Germany and Great Britain it was agreed that a most-favored-nation treaty should be concluded between the United States and the Netherlands.

The provisions of the proposed treaty, with the exception of Article 3, are similar to those which have customarily been included in previous simple most-favored-nation treaties concluded by the United States with other countries. Article 3, however, concerns such comparatively new restrictions on trade as rations, contingents, quotas, customs quotas, monopolies, et cetera, and has been drafted with a view to establishing the principle that if either party sets up a system of quantitative restriction or control of imports or sales of any article, the share of the permissible trade allotted to the other party shall not be less in proportion than the share of the total trade enjoyed by that party prior to the establishment of the restriction. I shall be pleased to receive any comments that you may have with regard to this article or any suggestions for its improvement that you may care to make.

It will be noted that the present draft treaty is not an agreement of the type contemplated by the bill now pending in Congress which would authorize the President to enter into reciprocal trade agreements involving reductions in duties and modifications in other trade barriers. This bill has been passed by the House and has been reported favorably by the Senate Committee on Finance. If and when this bill shall have been enacted into law it is expected that negotiations will from time to time be instituted with foreign governments with a view to concluding reciprocal trade agreements. The Department is not in a position to advise you at this time whether the Netherlands will be among the countries with which such agreements will be sought.

Exploratory conversations were instituted some time ago with several countries with a view to concluding reciprocal trade agreements. In the case of Colombia these conversations led to the signing of an agreement. This agreement will not be brought into force until after the pending legislation shall have been enacted. The exploratory conversations with other countries are largely in abeyance pending the enactment of this legislation.

†The Trade Agreements Act, approved June 12, 1934; 48 Stat. 943.
‡Unperfected trade agreement, signed December 16, 1933, Foreign Relations, 1933, vol. v, p. 217.
Although negotiations for a trade agreement with the Netherlands are therefore not in immediate prospect, the Department would welcome an expression of your views with regard to such an agreement. An indication of what American commodities would in your opinion be most likely to benefit substantially from a reduction in the Netherlands duties would be particularly valuable.

Very truly yours,

For the Secretary of State:

FRANCIS B. SAYRE

611.5631/120

The Minister in the Netherlands (Emmet) to the Secretary of State

No. 45

THE HAGUE, July 2, 1934.

[Received July 14.]

Sir: I have the honor to acknowledge the receipt of the Department's instruction No. 29, of May 24, 1934, enclosing a copy of the commercial treaty draft recently submitted to the Netherlands Minister in Washington for the consideration of his Government.

Due note has been taken of the Department’s reasons for initiating the negotiation of this treaty and of the necessity for such a treaty in case the United States were to grant the request presented by the Netherlands Minister in Washington to extend to his Government the benefits of the provision of the Revenue Act of 1932 exempting from the excise tax upon coal and coke all countries which import more coal from the United States than they export to the United States. Such privileges had been extended to Germany and Great Britain on the basis of most-favored-nation treaties with those countries, and I observe from the Department’s instruction that in claiming equal treatment the Netherlands Minister implied that the Dutch interest involved was negligible but that the question of most-favored-nation treatment between the two countries required clarification.

The Department’s instruction states that the Netherlands Minister in Washington made this claim somewhat later than the claims presented by Great Britain and Germany, but presumably it was not long after the passage of the Revenue Act of 1932. Since that time the economic and commercial policy of the Netherlands has undergone a complete transformation. That policy had been based primarily upon the free trade theory, and such restrictions as existed were held in check by a general observance of most-favored-nation clauses. Since the failure of the London Monetary and Economic Conference and the adoption of the British Empire trade agreements, the Netherlands has abandoned free trade and has gone in for an aggressive policy of special trade agreements and restrictive quotas. Extraparliamentary powers have been granted to the Government, giving it
a free hand in these matters, and the appointment of Mr. Steenberghe to succeed Mr. Verschuur, reported in the Legation's despatch No. 43, of June 26, 1934, indicated that this policy is to be carried out without any limitations. Only if this policy proves to be a failure will there be any likelihood of a general use of bargaining tariff.

The new policy has already produced special trade agreements with a dozen countries, including Italy, Portugal, Belgium, Switzerland, South Africa, Chile, Argentine and Germany, and negotiations are now being conducted with Great Britain. Quota restrictions have been applied against imports on a non-discriminatory quota basis but special reciprocal extension quotas are granted under the special agreements. All this has been and is being carried out without regard to most-favored-nation treaties. While the Legation has not received an official statement to that effect, it is understood that the point of view of the Netherlands Government is that when most-favored-nation clauses were included in international treaties, no such situation as the present one had been contemplated as a possibility, and that therefore quota agreements do not violate such most-favored-nation clauses.

Under the circumstances and in view of the fact pointed out in the Department's instruction that the most-favored-nation treatment accorded to the Netherlands by the United States and vice versa has only been based on an understanding and not on an actual treaty, it seems very doubtful if the Netherlands will consent to enter into the treaty recently presented to its Minister in Washington. I have had no official expression of opinion but understand that the treaty is being studied at present in the Department of Economic Affairs, where there seems to be considerable scepticism among the officials with whom the Commercial Attaché is in touch. It may be assumed that our draft treaty, had it been submitted two years ago, would have been acceptable, but as things stand today it is probably not so much to their liking, particularly, of course, Article 8.

I regret to note that in the last paragraph of the Department's instruction there seems to be some doubt as to the negotiation of a trade agreement with the Netherlands. Since the bill authorizing the President to enter into reciprocal agreements has become law and certain other rights have been given him through the National Recovery Act, it seems advisable that a special trade agreement should be negotiated with Holland, particularly as they themselves are anxious to have one. Dr. Colijn recently said to me, "When you are ready to negotiate, we will be."

9 M. P. L. Steenberghe, Netherland Minister for Economic Affairs.
10 Not printed.
12 President of the Council of Ministers and Minister of the Colonies.
It does not seem likely that the Netherlands will be prepared to make reciprocal reductions in tariff schedules, nor does this method of bargaining seem an advantageous one for us. The new tariff Act just passed reestablishes all duties on an approximately 12% level. Such reductions as might be obtained through negotiation would therefore be so small as not to be in a practical sense worth while. There are one or two articles, such as gasoline and cigarettes, against which especially high duties are levied, but since the importation of these articles does not seem to have greatly diminished, they do not present any problem for the moment. It is true that by the new Tariff Act the special duty on gasoline will be raised from six guilders to eight guilders per hundred kilos. This is in addition to an original basic tax of Fl. 1.25 and a sales tax and compensating duty of 5% ad valorem, which when taken altogether makes an excessively high tax. However, only a small percentage of the gasoline imported by American companies comes from the United States so that this item seems also not to present an opportunity for bargaining.

Without going into too great detail concerning specific articles, which have been reported on in full by the Commercial Attaché, I venture to suggest that the following considerations be kept in mind:

1. Trade relations between the Netherlands, including the Indies, and the United States are at present on a fairly satisfactory basis, there being a slight balance of trade in favor of the Netherlands, principally due to exports from the East Indies.

2. The Dutch are at present keenly interested in helping the Indies out of a serious economic slump. Inasmuch as most East Indian articles do not compete with American production, with the exception of sugar, it may be possible to remove certain restrictions on East Indian products in return for special quota concessions for American exports to Holland.

3. As stated above, it does not seem most advantageous for the United States to negotiate for reductions in the Netherlands tariff, though perhaps it may be necessary to do so in accordance with the wording of the new American law.

4. It would seem advisable that, once the Department is prepared to negotiate, either the Netherlands Minister in Washington be requested to present proposals or that this Legation be instructed to obtain such proposals. The crisis brought about by the exchange situation in the Dutch East Indies is a serious one and the Netherlands Government is fully aware of the enormous value of the American market in such a situation. It is not at all unlikely therefore that such proposals will contain a sound basis for negotiation, since the problem in all its aspects is a more urgent one for Holland than it is for the United States.

Respectfully yours, 

GRENVILLE T. EMMET
The Secretary of State to the Minister in the Netherlands (Emmet)

No. 49

WASHINGTON, July 21, 1934.

Sir: There is enclosed a self-explanatory memorandum of a conversation between the Netherland Minister and Mr. Sayre on July 18. Pages three and four of the memorandum deal with suggestions made by this Government to the Minister looking toward the initiation in November of reciprocal tariff negotiations between the Netherlands and the United States. You may, in your discretion, talk over the suggestions offered by Mr. Sayre with the appropriate Dutch officials.

The Department has noted with interest your valuable despatch No. 45, of July 2, 1934, but hopes that you will continue to submit by despatch, for the consideration of the Committee for the Netherlands which we are planning to set up, any further recommendations you have concerning the conduct of negotiations, the essential concessions or commitments for which you feel we should ask, the concession or commitments from us to which you feel the Netherlands is going to attach the greatest importance, and any other pertinent information you may have regarding Netherland trade policy, commercial treaties either concluded or under negotiation with other countries.

You may, of course, call freely on consular officers stationed in the Netherlands for their assistance.

Very truly yours,

For the Secretary of State:

FRANCIS B. SAYRE

Memorandum by the Assistant Secretary of State (Sayre)

[WAShington,] October 31, 1934.

Baron van Breugel Douglas 14 called on me on Wednesday, October thirty-first, to tell me that in reply to the suggestion which we made to his Government early last summer, in connection with the possible negotiation of a trade agreement between our two Governments, his Government desired to inform us that they welcomed the suggestion of the United States and would be glad to go forward with the contemplated negotiations. He asked whether the matter should be made public and, if so, when. I replied that I was very happy to learn that his Government would be glad to go forward with us and suggested that each of the two Governments now make a thorough study of the trade between our two countries. I said that I would appoint a commission to study the trade from the viewpoint of the United

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13 Not printed.
14 Counselor of the Netherland Legation.
States and hoped that his Government would appoint a similar commission to study the matter from the viewpoint of the Netherlands. I suggested that this study would take a month or two and that when the necessary studies had been completed then we could advantageously exchange lists of desiderata and begin active negotiations. I suggested that he get in touch with me some time in December in order to formulate more definite plans.

I said that it seemed to me very important that no publicity be given to this matter until such studies can be made. If premature public announcement were made of the matter, its effect, I feared, would be to cause domestic producers in both countries to concentrate their efforts in order to prevent any concessions being made which would injure them. I therefore suggested that we keep the matter strictly confidential until later on when, having made the necessary preliminary studies, we will be prepared to enter into more active negotiations. To this Baron van Breugel Douglas agreed.

He next asked what was our general plan in connection with such agreement,—whether to bargain off small advantages on both sides or to seek to reduce trade barriers with the hope of stimulating and increasing the general flow of trade in both directions. I said that our program lay emphatically in the second direction; that we were not so much concerned in trying to out-bargain competitive rivals as in the effort to reduce trade barriers generally so as to increase the total flow of trade in both directions. Baron van Breugel Douglas said that this was also his Government's desire. He threw out the suggestion that it might be advisable to make a trade agreement which could be modified in a short period, say three months. In this way he suggested more slashing reductions could be made since each side would know that if undesirable results followed the matter could be corrected before permanent harm would be done. He therefore suggested an agreement for a short term with facilities for modifying it in case it produced an excessive flow of trade in either direction. As to this suggestion I was noncommittal in my remarks.

F. B. Sayre

Memorandum of a Conversation Between the Netherland Minister (Haersma de With), the Chief of the Division of Trade Agreements (Grady), and the Assistant Secretary of State (Sayre)

[WASHINGTON,] December 8, 1934.

Jonkheer van Haersma de With, the Netherlands Minister, called this morning at eleven o'clock by appointment. We discussed with him the initiation of negotiations for a trade agreement between the Netherlands and the United States. I first said that we must decide
as to the scope of the negotiations,—whether they should include the whole Kingdom of the Netherlands including the Netherland India, Surinam and Dependencies, or whether they should include only the homeland of the Netherlands. The Minister replied that it was the hope and desire of his Government, as well as of himself, that the negotiations should include the entire Kingdom of the Netherlands including the Netherland India. I replied that this would be entirely agreeable to the United States and that we would accordingly decide that the negotiations should have this inclusive scope.

I next spoke about the subject matter of the negotiations. I said that inasmuch as our common desire was to increase the trade between the two countries, we felt the negotiations should include not only the matter of tariff duties but also whatever might tend to hinder or obstruct trade, such as quotas, Government monopolies, and the like. The United States therefore would propose in the negotiations a discussion of all these matters. The Minister replied that this would be quite agreeable to his Government inasmuch as his Government also desired to do whatever was possible to increase the trade between our two countries.

I then went on to suggest that I saw no reason for delaying the announcement of the intention to negotiate and, if agreeable to his Government, would suggest that each of the two Governments make a public announcement on December 12 of the intention to enter into negotiations for a trade agreement. The Minister replied that this would be quite agreeable to him and that he would at once telegraph his Government to that effect. He said that he would inform his Government to notify him immediately if this date were not agreeable to it and that unless he informed me to the contrary it would be understood that public notice would be given by each of the two Governments on December 12 of the intention to negotiate the proposed trade agreement.

I further explained to the Minister the arrangements which we proposed to follow with regard to the holding of public hearings as required under the Trade Agreements Act. I suggested that the date of the oral hearings should be fixed for February 3 and informed the Minister that in about ten days thereafter, namely on February 14, we would hope to be ready to present his Government with a list of the concessions which we would request from his Government. I suggested the hope that his Government should also seek to have its list ready by the same date so that we might exchange the two lists of desiderata on February 14. I added that in a few days thereafter we would be prepared to begin active discussions between the experts

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16 See Department of State, Press Releases, December 15, 1933, p. 372.  
17 48 Stat. 943.
and suggested therefore that, if agreeable to his Government, the Netherlands experts should plan to arrive for these discussions during the latter part of February. The Minister expressed himself in agreement with all these suggestions and said that he would communicate with his Government accordingly.

F[ANCIS] B. S[AYRE]

PROPOSAL FOR THE ESTABLISHMENT OF A RECIPROCAL AIR NAVIGATION ARRANGEMENT BETWEEN THE UNITED STATES AND THE NETHERLANDS. 77

711.5627/72

Memorandum by Mr. Stephen Latchford of the Treaty Division

[WASHINGTON,] June 26, 1934.

The negotiations for an air navigation agreement with the Netherlands became involved because of a request of the War Department, concurred in by the Navy Department, that the Philippine Islands, the Hawaiian Islands and the Panama Canal Zone be omitted from air navigation agreements.

In connection with the negotiations with Great Britain the Department agreed to a formula whereby it would be possible if either government desired to include any of its territories in the agreement in addition to those specified at the time the agreement becomes effective. This formula seems to be entirely unobjectional. It is possible that the War and Navy Departments might be willing in the future to modify their attitude somewhat if it can be shown that there are special reasons for including additional territorial possessions in the agreements that we negotiate.

The British Government recently made a special request that we include the Philippine Islands in the proposed air navigation agreement with Great Britain. We are unable to agree to this because of the attitude of the War and Navy Departments. However, we have asked the British Government to include Newfoundland and Labrador in the agreement. It may be that the British Government will inform us that they will do this if we will agree to include the Philippine Islands. If this comes about we may find it advisable to consult the War and Navy Departments.

If by any chance we agree to include the Philippine Islands in the agreement with Great Britain we will no doubt be caused considerable embarrassment with the Netherlands Government because of that Government’s disappointment when it was informed that the Philippine

Islands would have to be excluded from the air navigation agreement with the Netherlands. If we include the Philippine Islands in the agreement with Great Britain we can perhaps persuade the War and Navy Departments to agree to have the Philippine Islands included in the agreement with the Netherlands provided the Netherlands Government will include Netherland India. If this is the case it would be very convenient for us to have a formula for applying the Netherland agreement to additional territories similar to the formula that we have agreed to in the negotiations with Great Britain.

S[TEPHEN] L[ATCHFORD]

711.5627/71

The Secretary of State to the Minister in the Netherlands (Emmet)

No. 38 Washington, June 28, 1934.

Sir: Reference is made to the Legation’s despatch No. 834 of November 22, 1933, and to the Department’s reply of December 29, 1933, in relation to the proposed amendment of Article 1 of the air navigation arrangement concluded between the United States and the Netherlands, but not yet in force.

In view of statements of the Netherland authorities referred to in the Legation’s despatch No. 792 of October 17, 1933, and the Legation’s comments thereon, it seems to the Department that while the Netherland authorities may possibly be willing to include the Netherland possessions of the Western Hemisphere in the arrangement, it is very doubtful whether they would agree to include Netherland India, in view of the request of this Government for the omission of the Philippine Islands, the Hawaiian Islands and the Panama Canal Zone. If you are now convinced as a result of information received from the Netherland authorities that the Netherland Government will not agree to include Netherland India in the arrangement, you may express the hope that it will agree to the revision of Article 1 proposed in the Legation’s note No. 294 of November 22, 1933, to the Foreign Office, a copy of which was transmitted with the Legation’s despatch No. 834 of November 22, 1933.

You may in this connection state that if the revision of Article 1 proposed in the Legation’s note No. 294 of November 22, 1933, to the Foreign Office is acceptable to the Netherland Government the Government of the United States would have no objection to including

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39 Not printed.
in the arrangement a new article providing for the possible extension of the arrangement to territories of either country not covered by the formula proposed by the Legation in its note No. 294 to the Foreign Office. You may add that this Government has agreed to the incorporation of such a provision in an air navigation arrangement which has been under negotiation with another European country but which is not yet in force. You should point out in this connection that while no assurances can be given that the arrangement would be extended to American territories not covered by the arrangement when it comes into force, it is believed that the provision in regard to possible extensions to additional territory might be useful in the event that either Government should in the future modify its present policy with respect to the inclusion of its territories in air navigation agreements to which it becomes a party.

You are, therefore, authorized to propose, in accordance with the conditions stated in the preceding paragraph, that there be included in the arrangement a new article, to be numbered 16, which would read as follows:

Article 16.

Either party may at any time after the present arrangement comes into force apply the provisions of the arrangement to any of the territories under its jurisdiction, including territorial waters, that are not mentioned in Article 1. Such application, if made by either party to additional territory under its jurisdiction, shall be by a notification in writing given to the other party, and shall become effective sixty days from the day when the notification shall have been given.

The party applying the arrangement to additional territory under its jurisdiction, as provided for in the preceding paragraph, may subsequently give notice in writing to the other party of the termination of the application of the arrangement to the additional territory. In that event such application shall cease sixty days after the notice of termination shall have been given.

If this new article is adopted Article 16 of the present arrangement will become Article 17. There are enclosed herewith copies in duplicate of the proposed new Article 16.

The Legation’s attention is called to the fact that an air navigation arrangement was agreed to by an exchange of notes between the Department of State and the Netherland Legation on November 16, 1982. In accordance with the terms of Article 16 the arrangement would have become effective thirty days after notification to the Government of the United States of the ratification of the arrangement by the Queen of the Netherlands. The Department found it necessary before waiting for such notification to instruct the Legation to request the omission of the Philippine Islands, the Hawaiian Islands and the Panama Canal Zone from the arrangement, in accordance with a de-
cision reached by the authorities of this Government to omit these territories from air navigation agreements. The request for such omission appears to have created difficulties for the Netherland Government. The Department hopes, however, that any remaining differences may be adjusted between the two Governments in the near future, in order that the arrangement may be made effective as soon as possible.

Very truly yours,

For the Secretary of State:

R. WALTON MOORE

711.5627/73

The Chargé in the Netherlands (Wilson) to the Secretary of State

No. 112

THE HAGUE, November 26, 1934.

[Received December 5.]

Sir: I have the honor to refer to the Department’s instruction No. 38 of June 28, 1934, relating to the Air Navigation Convention between the United States and the Netherlands dating from an exchange of notes on November 16, 1932, between the Netherlands Legation in Washington and the Department of State. Upon receipt of this instruction a note was sent to the Ministry of Foreign Affairs, a copy of which is enclosed herewith. Some weeks ago, having received no reply, Mr. Emmet personally called the matter to the attention of the Minister for Foreign Affairs, who has now replied, and a copy and translation of his reply are attached to this despatch.

I should be pleased to have the Department’s instructions before again approaching the Netherlands Government on this subject. It will be seen from the enclosed Note that the Netherlands authorities are not prepared to agree without bargaining and take the position that in granting free aerial traffic over Surinam and Curacao something would be given for which nothing is being received in return.

Obviously they are most anxious to have the Philippines included in the wording of the new Article. As Jonkheer de Graeff says in his Note, the proposed limitation of free operation of Netherlands commercial aircraft in the Philippines is not of theoretical importance. It may be said in this connection that the Netherlands are going in for commercial aviation on a large scale. The success of the Dutch flyers in the London to Melbourne air race has given great encouragement and stimulus to their plans. It is now stated reliably here in The Hague that commercial air routes will be established eventually not only to cover all the trade routes of the Far East but perhaps also in the West Indies. A Dutch plane will fly with Christmas mail to Surinam and Curacao.

**22 Not printed.**
I realize that our various conventions for aerial navigation are based on questions of general policy which cannot very well be departed from in special instances. However, I wish to point out the possibility that the Netherlands authorities might be satisfied, in so far as the Philippines and Hawaiian Islands are concerned, if they were given to understand that they would be allowed to fly commercial airplanes in the Philippines and Hawaii provided they did so along certain defined routes and under the provisions of a strict agreement, such as the one between Pan-American Airways and the Government of Venezuela, which has worked very successfully.

This suggestion is made without any knowledge as to what actually would be the attitude of the Netherlands authorities. I will not discuss the matter with them for the time being and until I receive further instructions from the Department.

Respectfully yours,

Warden McK. Wilson

[Enclosure]

The Netherland Minister for Foreign Affairs (De Graeff) to the American Chargé (Wilson)

No. 34973

The Hague, November 20, 1934.

Mr. Chargé d'Affaires: With reference to the Note of His Excellency Mr. Emmet, No. 52, of August 3rd, last, concerning the eventual modification of the Air Navigation Convention concluded between the Netherlands and the United States of America on November 16, 1932, I have the honor to inform you as follows:

In the first place, Mr. Emmet was good enough to inform me that he has the impression that the American Government's proposal tending to modify in a limiting sense Article I of the Convention, is considered as being acceptable in principle; probably a misunderstanding here prevails, as thus far the Government has not expressed its opinion on this question.

By virtue of the new text of Article I, proposed in the above-mentioned Note, the Air Navigation Convention would apply to the United States on the one hand, as well as to Alaska, Puerto Rico, the Virgin Islands and American Samoa; on the other, to the Netherlands as well as to Surinam and Curacao. According to this text it follows that your Government is of the opinion that the Philippines, the Islands of Hawaii and the Panama Canal Zone, as well as the Netherlands Indies ought to be excluded from the operation of the Convention. The aforesaid Note does not make mention of either Guam or the Aleutian Islands. However, His Excellency Mr. Swenson, in his Note

*Not printed.*
No. 294, of November 22, 1933, observed that those territories ought to be considered as prohibited zones, as provided in Article 4 of the Convention, flight over which being subject to previous authorization. In view of the foregoing, I would appreciate your informing me of the American Government’s intention in this respect. I further take the liberty to add that the above-mentioned Note of Mr. Emmet does not contain any reasons which might render the restriction of the operation of the Convention concluded acceptable. On this point, the Government of the United States has merely communicated (see Mr. Swenson’s Note No. 279 of September 20, 1933) that it had opened negotiations with other Powers for the effecting of Air Navigation Conventions, bearing a similar restriction. The American Government perhaps overlooks the fact that the Bill approving the Convention concluded in 1932 has already been voted upon by the “Volksraad” in the Netherland Indies, the result of which is that the Netherland Government, assuming that the latter is disposed to render its cooperation for the proposed amendment, would have to give reasons for the new course of affairs by efficacious arguments. From the foregoing it follows that the Netherland Government would highly appreciate it if the American Government would be willing to inform the latter of the plausible reasons for the proposal tending to limit the operation of the Convention concluded.

However, apart from the foregoing, I am taking the liberty of pointing out that, in general, Her Majesty’s Government has very serious objections to such limitation. According to the proposal of the Government of the United States, the route by the Netherland planes to the Philippines and the Hawaiian Islands would be prohibited, the result of which would be that the Netherlands Government would have to follow the same line of conduct, concerning the route to be taken by American airplanes to the Netherland Indies. In fact, this latter prohibition is proposed by your Government. However, this line of conduct is entirely contrary to the efforts of the Netherlands Government, tending to favor, as far as possible, free aerial navigation; for this reason, it collaborated, with so much satisfaction, to the conclusion of the Convention of 1932.

Moreover, these efforts were made clear, especially as regards the Government of the United States, first by the facilities granted to the Company “Pan American Airways” at Surinam and at Curacao, and later by the free traffic accorded in the Kingdom in Europe to American airplanes, pending the coming into force of the Convention subject to ratification by the Netherlands.

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25 Not printed.
I am anxious to point out to your kind attention that the proposed limitation of the operation of the Convention is by no means of exclusively theoretical importance, in view of the fact that in the future the possibility of aerial traffic between the Netherland Indies and the Philippine Islands is not at all improbable.

However, Her Majesty's Government does not lose sight of the fact that, if the limitary text of Article I is acceptable to the Netherlands, your Government is disposed to insert a new Article 16 in the Convention.

It goes without saying that the Netherlands Government would not fail to apply the Convention equally to the Netherland Indies as soon as the American Government would act likewise concerning the Philippines and the Hawaiian Islands.

As to the Panama Canal Zone, the Government is of the opinion that the latter could eventually be designated as prohibited zone according to the interpretation of Article 4.

Nevertheless, with respect to Article 16 above-mentioned, Mr. Emmet adds the following:

"It is hoped that negotiations may be undertaken in the future for the extension of the Agreement to other territories . . ." 26

I would highly appreciate your informing me in due course as to the intention of your Government in this matter and notably if, in fact, the latter agrees to proceed, as soon as possible, to negotiations on the extension of the Convention to the territories actually excluded.

I avail myself [etc.]

De Graeff

26 Omission indicated in the original note.