POLAND

REPRESENTATIONS REGARDING ALLEGED DISCRIMINATION AGAINST AMERICAN TRADE IN POLAND

660C.116/152 : Telegram (part air)

The Acting Secretary of State to the Ambassador in Poland (Cudahy)

WASHINGTON, February 27, 1935—2 p. m.

10. The Department desires that the Ambassador seek an early interview with the Minister for Foreign Affairs during which he should inform him that the Government of the United States, in connection with the trade agreements which are now being negotiated with several countries, is examining the treatment accorded by foreign countries to American trade with a view to determining whether tariff reductions specified in such agreements should be extended to imports from other countries. You should point out that the law contains provisions for the suspension of the extension of such tariff reductions to any country which discriminates against American commerce.

The liberalized commercial policy which this Government feels must be pursued by it and other important nations, if the normal value of international trade and finance is to be restored, rests upon the doctrine of equality of trade treatment and opportunities. Naturally, it desires to generalize any concessions granted in a reciprocity trade agreement to all countries without regard to compensation. This policy, of course, assumes that other countries will likewise be disposed gradually, at least, to abandon narrow and exclusively bilateral bargaining arrangements which are filled with discriminations, and proceed simultaneously with this and other countries in pursuit of the broad commercial policy which will be calculated very much to increase trade.

This Government observes that the Polish Government at present is not pursuing this liberalized commercial policy with the doctrine of equality of trade treatment, but it assumes that the Polish Government will undoubtedly not desire to pursue the more narrow and exclusively bilateral and discriminatory trade methods for an indefinite period, but that the Polish Government will seek as early and as rapidly as may be practicable to join with the United States and other governments in support of the broader economic program.

This Government, therefore, would be much interested to learn from the Polish Government just how soon it can be expected to proceed in support of the doctrine of equality in commercial treatment, to the end that its contrary course will not impede the earnest desire of this Government to generalize fully all concessions to the Polish Government.

You should recall to the Minister for Foreign Affairs the representations which you made in November, 1933, in compliance with the Department's telegram No. 48 of November 8, 1933,[1] and state that the Government of the United States would regret exceedingly if it were compelled to come to the conclusion that it continues to be the policy and practice of the Polish Government to deny to American trade the treatment to which it is entitled under the provisions of the treaty of friendship, commerce, and consular rights.[2] Consequently, under instructions from your Government, you are approaching the Minister for Foreign Affairs with a view to ascertaining authoritatively the attitude of the Polish Government with regard to American trade and in particular whether it is the purpose of the Polish Government to accord to American trade the treatment specified in the treaty and you would appreciate information regarding the restrictions now imposed or to be imposed by the Polish Government on imports from the United States, including full details relating to the application to American imports of contingents, quotas, and the system of compensation exports, and an explanation of the nature, purpose, and disposition of special fees levied or charged on American imports subjected to such restrictions.

In your discussions with the Minister for Foreign Affairs, you should endeavor to bring about the removal by the Polish Government of measures and practices which in effect discriminate against American trade, and you should make special efforts to obtain a clear statement of the precise conditions under which imports from the United States may enter Poland.

A summary of the reply made by the Minister for Foreign Affairs to these representations together with your frank opinion with regard thereto and with regard to the actual treatment which American trade is now receiving in Poland should be cabled promptly to the Department.[3] A complete report should be forwarded by mail as soon as possible. This report should also include detailed information regarding the treatment of American imports (1) on the so-called free list, (2) under contingents and quotas, and (3) subject to the compensation system. Statistical information for the most recent period available should be furnished covering totals and important individ-

[1] Not printed.
[2] Signed June 15, 1931, *Foreign Relations*, 1931, vol. II, p. 924.
[3] Telegram not printed.

ual commodities in each category. The nature, amount, and disposition of compensation fees charged should be adequately explained and compensatory exports to the United States discussed.

PHILLIPS

660C.116/165

The Ambassador in Poland (Cudahy) to the Secretary of State

No. 624 WARSAW, March 8, 1935.
[Received March 20.]

SIR: I have the honor to report that pursuant to the Department's telegram No. 10, February 27, 1935, I called today on Colonel Józef Beck, Minister for Foreign Affairs, and explained to him that I had been instructed by my Government to ascertain the views of the Polish Government toward pursuing a broad commercial policy such as has been inaugurated by the Government of the United States. I directed attention to my call on November 18, 1933 (despatch No. 86, November 18, 1933 [4]) when I presented the point of view of the American Government with regard to the difficulties encountered in Poland by foreign trade. I stressed the fact that this visit and subsequent conversations had failed to achieve any conclusive results with regard to the viewpoint of the American Government that a conflict was presented by the Treaty of Friendship, Commerce and Consular Rights, particularly the most-favored-nation clause thereof and the Polish application of the contingent or quota treatment of American imports and the Polish system of compensation exports. I asked for an early reply concerning the treatment which American trade might expect in Poland in the future; also an explanation of the nature, purpose and decision of special fees levied or charged on American imports subjected to contingents or quotas and the system of compensation exports.

The Minister replied that the subject being a complicated, economic one, he was, of course, unable to give me an immediate reply but would expedite matters as much as possible. He said, however, that the Polish Government must maintain a favorable trade balance and that it therefore could not abandon its system of contingents and compensatory exports. He added that the contingent system is in force throughout Europe. I stressed the importance of immediate action since the information sought was for the purpose of enabling the American Government to study foreign trade between the United States and Poland along the line we had discussed. The Minister promised to supply me with information that would enable me to cable the Department within three days.

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[4] Not printed.

I left with the Minister for Foreign Affairs the memorandum dated March 8, 1935, herewith appended.[5]

Respectfully yours, JOHN CUDAHY

660C.116/161 : Telegram

The Ambassador in Poland (Cudahy) to the Secretary of State

WARSAW, March 11, 1935—3 p.m.
[Received March 12—3 : 28 p.m.]

18. When I called upon Minister for Foreign Affairs March 8, in compliance with the telegraphic instruction No. 10, February 27, he stated that he was not familiar with the matter but that he would cause a preliminary reply to my representations to be sent me on March 11. Foreign Office today reports that Ministry of Commerce has found it impossible to prepare a satisfactory preliminary reply and that it therefore is working on a comprehensive reply which will be sent to Embassy at earliest possible date. See my despatch 624, March 8.

CUDAHY

660C.116/167

The Ambassador in Poland (Cudahy) to the Secretary of State

No. 638 WARSAW, March 21, 1935.
[Received April 4.]

SIR: With reference to my telegram No. 21, March 19, 1935,[6] I have the honor to enclose herewith a copy of *Note Verbale* No. P.II.SZ.57/20/35, dated March 16, 1935, from the Ministry of Foreign Affairs, in reply to the representations that I made to the Minister on March 8, 1935, in compliance with telegraphic instruction No. 10, February 27, 1935; a translation thereof, and a memorandum prepared by the American Consulate General in Warsaw under date of March 18, 1935,[7] on the subject of the treatment accorded in Poland to imports from the United States.

[Here follows the substance of the Polish *note verbale* of March 16, 1935, printed on page 635.]

In its argument that the United States could not have enjoyed over a period of eleven years so favorable a balance in its trade with Poland had not the Polish Government tended to facilitate trade between the two countries, the Polish note gives no consideration to the circumstance that the greater part of American exports to Poland ever has been raw materials which Poland has purchased from the United

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[5] Not printed; the substance of the memorandum is practically the same as that contained in Department's telegram No. 10, February 27, *supra*.

[6] Not printed.

[7] Memorandum not printed.

States not because the Polish Government has desired to make a gracious gesture to American trade but for the reason that these commodities could be bought either solely or more advantageously in the United States.

. . . . . .

This Embassy has several times, and notably in my telegram No. 76, November 23, 1933, and in my despatch No. 86, November 18, 1933,[8] brought to the attention of the Department the contention of the Polish Government that it is essential to Polish economy that the Government balance its foreign trade. To this end there have been introduced quotas and the requirement that if and when the importation of certain commodities is permitted, it is only upon the condition that Polish products of at least equal value be exported in compensation thereof. The Chief of the Legal and Consular Section of the Ministry of Foreign Affairs has gone as far as to say to a member of my staff that Poland's entire commercial policy would have to be reconstituted and its commercial treaties rewritten if Poland were to abandon the restrictions which it now imposes for the purpose of reducing the adverse trade balances which it has with certain countries.

It is the misfortune of imports from the United States that they originate in a country with which Poland has a heavily adverse trade balance. It is for this reason, and this reason alone, as far as any evidence that has come to my attention would indicate, that imports from the United States are not accorded in Poland the treatment that is accorded to imports from a country with which Poland has a favorable trade balance; from Great Britain, to cite only one example. In other words, the less favorable treatment that is accorded in Poland to imports from the United States does not result from the circumstance that they are imported from a country against which Poland *desires* for some ulterior purpose to discriminate, but from the circumstance that they originate in a country against which the policy vital, in the opinion of the competent Polish authorities, for preserving Poland's foreign trade balance *requires* that it discriminate. I propose now to discuss the form that this less favorable treatment takes, and its practical importance to American trade. For the reason that no data has been furnished by the Polish Government I shall base my brief discussion on the Consulate General's memorandum of March 18, 1935, which constitutes enclosure No. 3 to this despatch.

In accordance with Polish commercial policy with respect to countries with which Poland has an adverse trade balance, imports from the United States fall into one of the following categories, and the category into which they fall determines the treatment that is accorded them by the Polish authorities:

[8] Neither printed.

1. *Unrestricted goods.*

These goods may enter Poland freely. They are subject to neither compensatory exports nor to quotas. Within this classification fall such imports from the United States as raw cotton, scrap iron, raw tobacco, rags for paper, cotton waste, and exposed motion picture film. As is set forth in enclosure No. 3 to this despatch, imports from the United States in the calendar year 1934 of commodities on the list of unrestricted goods were valued at 109,166,000 zlotys and comprised 90 per cent.* by value of the imports into Poland of American goods in that year.

2. *Goods subject to quotas.*

On paper, goods subject to quotas are on the restricted list that is maintained by the Polish Government. Merchandise included on this list may be imported into Poland only upon compliance by the importer with certain requirements laid down by the Ministry of Industry and Commerce. In practice, however, no restriction is placed upon the importation of merchandise for which a quota has been allotted,† *provided* the quantity imported does not exceed the quantity for which a specific quota was granted. Importation in a quantity in excess of the quota that was allotted is, however, permitted upon the condition that compensatory exports be made for the excess quantity. In enclosure No. 3 to this despatch the Consulate General has estimated that in 1934 the value of American imports into Poland under quotas (that is to say, imports that were not penalized by the Polish Government provided the volume of the imports of each commodity was kept within the quota that had been allotted to it) was 3,962,000 zlotys, which represents 3.25 per cent. of the value of total imports into Poland of American goods in that year. It thus will be seen that in practice no restrictions were imposed upon something in excess of 93 per cent.‡ by value of American imports into Poland in 1934, although in theory 3.25 per cent. by value of such imports were liable to restrictive measures.

3. *Goods subject to compensatory exports.*

Commodities subject to compensatory exports are commodities which appear on the list of restricted commodities and which may be admitted into Poland only under the condition that in compensation for their admittance Polish products of at least equivalent value shall be exported. These imported commodities are, of course, definitely restricted and this restriction affects chiefly the following commodities from the United States: dried prunes, leather, fresh apples, raisins, office machines, raw furs, rosin, oranges, photographic films and rasorite. But the value of imports from the United States that are subject to the compensation requirement totaled in 1934 only 7,957,444 zlotys, or 6.5 per cent. by value of total imports from the United States into Poland in that year. It thus is apparent that the incidence on total American trade in 1934 of the compensation

*Actually 90.25 per cent. [Footnote in the original.]

†Imports in an amount within the quota that has been allotted are *not* on a compensation basis. [Footnote in the original.]

‡ i. e., the sum of unrestricted imports plus imports made under quotas. [Footnote in the original.]

requirement was not in practice particularly burdensome or damaging. The nature of the fees that are imposed upon imports subject to compensation and the disposition of these fees is set forth on the final page of enclosure No. 3.

In view of the circumstance that on March 14, 1935, quotas for American goods were abolished by the Polish authorities, what I have said with regard to the quota system has no present application in a discussion of American trade with Poland. The value and volume of American imports that will be affected by the compensation requirement is bound to undergo change in the future, since the commodities that formerly were under quotas now are admitted only against compensation. Both the Embassy and the Consulate General are following the development that was communicated to the Department by the latter's telegram of March 19, 1935,[9] and as soon as the situation has been clarified a further report will be made.

As I stated in my telegram No. 21, March 19, 1935,[9] I possess no evidence that there exists in Poland discrimination against imports from the United States on any ground other than that of the national policy of protecting Poland's trade balance. There is no reason to believe that the situation that confronts American imports in this country would exist were Poland's trade balance with the United States favorable to Poland. I desire to say again that, having in mind the commercial policy to which the Polish Government is firmly committed, I believe that American imports receive in Poland treatment as favorable as we can expect.

Respectfully yours, JOHN CUDAHY

[Enclosure—Translation]

The Polish Ministry for Foreign Affairs to the American Embassy

No.P.II.SZ.57/20.35

NOTE VERBALE

By a memorandum of March 8, 1935,[9] the Embassy of the United States brought to the attention of the Ministry of Foreign Affairs the opinion of the Government of the United States that the Polish Government does not pursue a liberal policy in regard to the importation of goods of American origin. The Embassy expressed at the same time the hope of the Government of the United States that the Polish Government will soon join in its action looking to the realization of a broader economic program in the sphere of international trade.

[9] Not printed.

In the opinion of the Ministry of Foreign Affairs these remarks could not properly apply to the commercial policy of the Polish Government which aims at the facilitation of international trade by all means possible under present conditions.

The Ministry of Foreign Affairs has the honor to remark that the commercial relations between Poland and the United States in particular are developing in a most favorable manner for the latter. During the course of the last eleven years the trade balance between Poland and the United States shows a total sum of 2,485 million zlotys in favor of the United States. Imports from the United States into Poland during this period reached the sum of 2,668 million zlotys while the exports of Poland to the United States hardly reached the sum of 182 millions. In the period of economic prosperity in Poland for instance during the year 1928, the balance in favor of the United States exceeded the sum of 447 million zlotys, American exports to Poland amounting to 466.6 millions while Polish exports to the United States amounted to 19 millions.

The opinion expressed in the memorandum of March 8 regarding the narrow and discriminatory character of Polish commercial policy in regard to American imports can be considered only as the result of a misunderstanding. It is evident that without a tendency on the part of the Polish Government to facilitate trade between the two countries, the United States could not have attained in its exports to Poland figures so high and so favorable to its trade both during the period which preceded the conclusion of the Treaty of Commerce of 1931 as well as during that which followed.

Under these conditions the questionnaire at the end of the memorandum of March 8 seems to be of a general character having no connection with Polish-American economic relations. The premises of the argument presented in the memorandum of March 8 do not agree, in the view of the Polish Government, with the principles applied in the trade relations between the two countries, and could not for this reason constitute a basis for discussions concerning the entire field of economic relations between Poland and the United States.

The Polish Government is nevertheless disposed at any time to proceed to the examination and to a discussion of the subject of economic relations between the two countries with a view to augmenting the trade of both, at the same time assuring to Poland the benefit of a certain equilibrium which it has failed to obtain in its present relations with the United States.

The Polish Government would most willingly examine on this basis the methods and means by which it might be possible to develop and to increase commerce between the United States and Poland. It considers that the figures previously cited sufficiently prove its favor-

able attitude towards the importation of goods of American origin. This attitude should be taken into particular consideration because of the facilities offered by the monetary circulation* in Poland which is free and without impediments and which results in the favorable functioning of trade. The Polish Government hopes that the Government of the United States recognizes the direct benefits which it continually enjoys from its commerce with Poland.

Concerning the advantages granted to third States, the extension of which to Poland is under examination by the Government of the United States, the Polish Government has the honor to state that it would be constrained to consider a negative decision in this matter as a discrimination aimed at impeding improvement of present commercial relations between the two countries in the direction of re-establishment of a more just balance. The Polish Government hopes that the figures which have been cited as well as the experience of recent years constitute sufficient proof of the extent to which the present state of these relations is unfavorable to Polish economy, and what sacrifices Poland makes in maintaining the present state of affairs with a view to imposing as few obstacles as possible in the way of the functioning of commerce and in the constant hope of an improvement in this field. The Polish Government could not conceal the fact that the serious deficit in its trade balance with the United States constitutes the most serious element and the most dangerous factor in the total trade balance of Poland.

The Polish Government does not understand the intention on which the memorandum of March 8 is based. If the Government of the United States intended to arrive at a unilateral increase in its exports to Poland, the Polish Government would not be in a position to cooperate unless the United States should adopt appropriate measures to make possible a simultaneous increase in Polish exports to the United States; measures adapted to present circumstances and containing a guaranty of real and tangible benefits. It is to be noted that not only the Polish Government but also Polish public opinion recognizes the necessity of finding a solution of this problem.

In conclusion, the Ministry of Foreign Affairs has the honor to request the Embassy of the United States to be good enough to enlighten it on the following points:

1) Is the Government of the United States of the opinion that the intention and the spirit of the Polish-American treaty of commerce envisage the enduring maintenance of the present relationship in reciprocal trade in spite of the fact that during the last eleven years the latter has been one to fourteen to the disadvantage of Poland?

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*Obviously referring to the absence of restrictions on foreign exchange transactions. [Footnote in the original.]

2) Is the memorandum of March 8, 1935, and particularly the criticism of Polish commercial policy which it contains, actuated by the idea that Poland should renounce increasing the export of its goods to the United States? Should the Polish Government consider that the efforts which it undertakes in this respect are contrary to the wishes and desires of the Government of the United States?

WARSAW, March 16, 1935.

660C.116/164 : Telegram

The Secretary of State to the Ambassador in Poland (Cudahy)

WASHINGTON, March 22, 1935—6 p.m.

18. Your 21, March 19, 5 p.m.[11] Department does not understand reply of Polish Government as summarized in your telegram and consequently is not able to issue you further instructions pending the receipt of full text of Polish note and of any memorandum you may have left with Minister for Foreign Affairs together with memorandum of your conversation with him. Please forward them immediately if you have not already done so.

With reference to your confidential comments, Department would greatly regret if the Polish Government has misinterpreted the spirit of the representations which you were instructed to make. The second, third, and fourth paragraphs of the Department's telegraphic instruction set forth the general foreign trade policy being pursued by this Government with a view to enlisting the sympathetic and valuable cooperation of the Polish Government in the promotion of a policy which has already won the support of the majority of the countries of the world. It was not the purpose of this exposition to take the Polish Government to task for its commercial policy, but to invite it to cooperate at once, or as soon as it is in a position to do so, with the United States and other countries in the pursuit of a broad commercial policy calculated to bring about a world wide increase in international trade.

With respect to the specific question of American-Polish trade, this Government earnestly desires, as stated in the Department's telegram, to generalize fully to Poland all concessions made in reciprocal trade agreements with a view to affording to Poland equality of trade opportunity and trade treatment thereby making available increased markets for Polish goods in the United States. The American Government, consequently, views with favor the increase of Polish exports to this country. It was for the purpose of enabling this Government to generalize to Poland concessions accorded other countries that you

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[11] Not printed; but see despatch No. 638, March 21, from the Minister in Poland, p. 632.

were instructed to ascertain the attitude of the Polish Government with respect to American trade, since it would be difficult for this Government to justify the generalization of tariff reductions to Poland if the Polish Government were pursuing a policy or engaging in acts designed to divert to other countries imports formerly obtained from the United States.

You are authorized to express the foregoing as your personal opinion in any informal conversations which you may have with appropriate Polish officials. In this connection it is suggested that the Embassy study carefully our commercial policy as set forth in press releases, et cetera, forwarded from time to time by the Department.

HULL

660C.116/167

The Secretary of State to the Ambassador in Poland (Cudahy)

No. 185 WASHINGTON, May 12, 1935.

SIR: Reference is made to your despatch No. 638 of March 21, 1935, transmitting the reply of the Polish Government to the representations with respect to the treatment accorded by Poland to American trade which you made on March 8, 1935, in compliance with the instructions contained in the Department's telegram No. 10 of February 27, 1935. The Department has studied carefully this reply and the Embassy's comments thereon and forwards herewith, for presentation at an early date to the Polish Minister for Foreign Affairs, a draft note setting forth in greater detail the position of the American Government in the premises. You should make special efforts to impress upon the Minister for Foreign Affairs the importance which the American Government attaches to this matter and its earnest desire to generalize fully to Poland all concessions made in reciprocal trade agreements with a view to according to Poland equality of trade opportunity and treatment, thereby affording increased markets for Polish goods in the United States. You should emphasize that this Government desires to obtain from the Polish Government an authoritative statement setting forth the precise conditions under which American goods are admitted into Poland in order that it may be in a position to determine whether Poland should be assured continued enjoyment of the benefits of reduced duties proclaimed under trade agreements.

In view of the statement contained in the first paragraph on page 7 of your despatch under reference, to the effect that the matter is being considered for the Polish Government by the Minister of Commerce and Industry and subordinate officials in his Ministry, the Department suggests that the Embassy endeavor to arrange discussions with those officials with a view to enlightening them with respect to the

policy of the American Government and clarifying any points upon which they may not be fully informed and desire additional information. The general foreign trade policy now being pursued by this Government has been set forth at length in numerous press releases and other material which have been forwarded from time to time to the Embassy. It is believed that the Embassy can, in that manner, assist materially in bringing about a satisfactory conclusion to these discussions and the Department hopes that it will endeavor to facilitate in every appropriate manner complete understanding by the competent Polish officials of the position of this Government.

The comments of the Embassy and memoranda of conversations with Polish officials will be read with much interest in the Department.

Very truly yours, CORDELL HULL

[Enclosure]

Draft Note for the Polish Government

1. The Government of the United States has considered with the greatest care the *Note Verbale* of the Polish Government dated March 16, 1935, and observes with satisfaction that the Polish Government is most willing to proceed with the examination of the problems confronting commerce between the United States and Poland which was initiated by the American note of March 8.

2. The American Government desires to emphasize that the purpose of its note of March 8 was to set forth frankly the general foreign trade policy being pursued by it with a view to enlisting the sympathetic and valuable cooperation of the Polish Government in the promotion of a policy which has already won the support of many other countries. It was not the intention of that note only to point out the discriminatory features of the policy now pursued by the Polish Government towards American trade, but also to invite Poland to cooperate at once, or as soon as it is in a position to do so, with the United States and other countries in pursuit of a broad commercial policy calculated to bring about a world-wide increase in international trade. Since the American Government attaches great importance to this matter, it now proposes to set forth in greater detail the considerations which actuated it in presenting the note of March 8 in the hope that this exchange of views will remove any misunderstanding in that regard on the part of the Polish Government.

3. Equality of opportunity and treatment is the keynote of the foreign commercial policy of the Government of the United States which neither seeks nor accords preferential discriminatory treatment—it asks only that a foreign country treat American commerce no less favorably than it treats the commerce of third countries and,

in turn, accords equality of treatment to the commerce of foreign countries. This policy is the opposite of discrimination and retaliation. It is a policy of respectful and friendly approach to all countries to cooperate in establishing equality of trade opportunity and treatment throughout the world. This policy reinforces and implements the unconditional most-favored-nation principle, which is the most effective means of bringing about rapidly a general reduction of trade barriers, of giving elasticity to trade arrangements and of increasing international trade throughout the world.

The reciprocal trade agreements program recently inaugurated by the United States under the Trade Agreements Act of June 12, 1934,[12] which provides that the duties proclaimed in consequence of trade agreements entered into with foreign countries shall be extended to all countries but also provides that those duties may be confined to such countries as do not discriminate against American commerce or pursue policies which tend to defeat the purposes of the Act, is wholly in accord with the unconditional most-favored-nation principle. The United States stands ready to extend unconditionally the tariff concessions granted in its trade agreements to all other countries which give American commerce non-discriminatory treatment.

4. It is the carefully considered view of the Government of the United States that the rule of no discrimination is the only standard of international conduct sufficiently definite to be applied fairly and with a minimum of international controversy in connection with the extension of minimum tariff rates and the administration of other forms of trade control measures. The Government of the United States rejects the view that such criteria as the relative balance of trade between countries, or the absolute height of trade barriers, can be used as proper guides as to whether a country is entitled to the enjoyment of American minimum duties. The first of these rejected criteria—the balance of merchandise trade—implies the desire to bring about a bilateral balance of merchandise trade between each pair of countries and leads to the impairment or destruction of multilateral trade based upon an economical and mutually advantageous international division of production. It also fails to take into consideration other important factors in the balance of payments between countries. Such factors are particularly significant in American-Polish economic relations. With respect to the second rejected criterion—the absolute height of trade barriers—such wide differences of opinions must necessarily exist and the question is, moreover, so complicated by the characteristic structure of a nation's industries, and by historical and traditional considerations, that any definite conclusions with regard to the application of such a criterion must of necessity be arbitrary.

[12] 48 Stat. 943.

Under the policy which the Government of the United States is pursuing and in which it urges the Government of Poland to cooperate, the United States does not refuse generalization of minimum duties and equality of treatment to a foreign country, irrespective of the degree to which it is restricting trade, as long as American commerce is offered equality of opportunity and accorded its fair and equitable share of the permitted importations.

5. The President of the United States proclaimed on April 1 the Trade Agreement with the Belgo-Luxemburg Economic Union.[13] Concurrently with that action he issued instructions to the Treasury Department regarding the countries to which the tariff concessions made in that Agreement will be extended.[14] Poland is included in the third section of the President's instruction under the following qualification:

"3. In respect of the products of each country designated under this item, the proclaimed duties shall be applied so long as such duties remain in effect and this direction is not modified in respect of such countries [*country*]."

The Government of the United States is, consequently, continuing to accord to Poland most-favored-nation treatment under the provisions of the treaty of friendship, commerce, and consular rights between the two countries. One purpose of the present conversations is to ascertain the precise policy of the Polish Government towards trade with the United States with a view to determining whether Poland should be assured continued enjoyment of the benefits of duties proclaimed under trade agreements. If Poland continues to discriminate against trade with the United States, consideration must under the law be given by the American Government to the withdrawal of its minimum duties from Poland, with due regard to obligations under the existing treaty.

In his instruction to the Secretary of the Treasury, alluded to above, the President also specified that minimum rates proclaimed in the agreement with the Belgo-Luxemburg Economic Union shall be applied to like articles originating in a number of countries even though they are at present granting less favorable treatment to American trade than to that of other countries, until thirty days from the date on which he advises the Treasury that the United States has ceased, or on a certain day will cease, to be bound by provisions of existing treaties or agreements. In the case of the countries in this group, it is expected that notices of termination of existing treaties or agreements will be given, in accordance with their terms, since the treatment

[13] See pp. 102 ff.

[14] For text of letter of April 1, 1935, from President Roosevelt to the Secretary of the Treasury, see Department of State, *Press Releases*, April 6, 1935, p. 216.

foreseen in the applicable treaty or agreement is not being accorded to American trade. The Government of the United States proposes to follow this policy with respect to all countries discriminating against trade with the United States with which most-favored-nation treaties are in force.

6. While the American Government is not unmindful of the benefits that the United States has enjoyed from its trade with Poland, it is definitely of the opinion that Poland has likewise benefited greatly from the financial and commercial transactions that have taken place between the two countries since the re-establishment of the Polish State. It feels, consequently, that it must reiterate that the increasing difficulties confronting American trade in Poland which have arisen from the discriminatory measures applied since 1932 to imports of numerous American products and from the definite intervention of the Polish authorities into the field of American-Polish trade, resulting in the restriction of imports from the United States and the direction to other countries of the importation of commodities formerly obtained from the United States, have occasioned anxiety as to the course of future development of American-Polish economic relations. The system employed by the Polish Government to control imports from the United States has operated to destroy the natural relative competitive position in the Polish market of American products vis-à-vis similar products from other countries and to withhold from American commerce the treatment to which it is entitled under the provisions of the treaty of friendship, commerce, and consular rights between the United States and Poland. While the Government of the United States appreciates the circumstances in which the Polish Government has found it necessary to have recourse to a system of controlling imports, it desires to stress that the principle of fair treatment in international trade and the most-favored-nation principle enjoin upon every country making use of systems of limiting and controlling imports to apply those systems so as to derange as little as possible the natural relative competitive positions of the various countries supplying the imports of the articles affected. A policy of effecting through compensation trade, or other administrative devices, a balance of the merchandise trade between two countries is, in the opinion of the American Government, in conflict with the most-favored-nation treatment provided for in the treaty of friendship, commerce, and consular rights between the United States and Poland. In this connection it is desired to point out that Article VI of the treaty of friendship, commerce, and consular rights between the two countries provides, in part, as follows:

"Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or charges, and no condition or

prohibition on the importation of any article, the growth, produce, or manufacture of the territories of the other Party than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other country. . . .

. . . . . .

"Neither High Contracting Party shall establish or maintain restrictions on imports from or exports to the territories of the other Party which are not applied to the import and export of any like article originating in or destined for any other country. Any withdrawal of an import or export restriction which is granted even temporarily by one of the Parties in favor of the articles of a third country shall be applied immediately and unconditionally to like articles originating in or destined for the other Contracting Party. In the event of rations or quotas being established for the importation or exportation of articles restricted or prohibited, each of the High Contracting Parties agrees to grant for the importation from or exportation to the territories of the other Party an equitable share in the allocation of the quantity of restricted goods which may be authorized for importation or exportation."

The Government of the United States cannot but regard the continued effectuation of an import policy deliberately calculated to divert to other countries the imports of commodities formerly obtained from the United States and the application of extra charges on imports of American origin as an indication of an unfriendly attitude of the Polish Government towards commercial and financial relations with the United States.

7. In view of the considerations set forth above, the Government of the United States must repeat the request made in its previous note for information concerning the precise conditions under which American products are admitted into Poland, since it cannot accept the contention of the Polish Government, as made in its note of March 16, that such information

"seems to be of a general character having no connection with Polish-American economic relations."

The Polish Government, it is hoped, will appreciate the desire of the Government of the United States to have accurate and authoritative information with respect to the attitude of the Polish Government towards, and the treatment now being accorded to, American trade in Poland, in order that there may be no possibility of its coming to a decision which, as a result of inadequate or inaccurate information in the premises, might not be fair to Poland. But apart from this special consideration, the Government of the United States holds the sincere conviction that this request is fully justified on the grounds of the friendly relations which have always existed between the two countries. The American Government, consequently, would appreciate receiving from the Polish Government a statement setting

forth the restrictions now imposed or that are to be imposed on imports from the United States. It is particularly desirable that this statement contain full details with respect to the following points:

1. The application to American imports of:
   (*a*) contingents, quotas, or licenses,
   (*b*) the system of compensation exports.
2. An explanation of the nature, purpose, amount, and disposition of the special fees levied or charged on American imports subjected to restrictions.

8. In this connection, it has been noted that, coincident with the coming into force of the new Anglo-Polish trade agreement,[15] the Polish Government canceled quotas on certain American commodities and placed the commodities affected under the Polish compensation system, thus subjecting another important group of American products upon importation into Poland to additional high charges which are not levied on similar goods imported from other countries. The Government of the United States naturally feels justified in calling attention to the constantly widening discriminatory measures applied to American imports and in seeking definite remedial action.

9. The Government of the United States desires to advance the following views with respect to the two questions raised in the final paragraph of the Polish note of March 16:

With respect to the first question relating to the American-Polish treaty of friendship, commerce, and consular rights, it is the view of the American Government that the treaty envisages equality of treatment in each country for the trade of the other which is the only basis upon which enduring and mutually beneficial trade relations can be developed between countries. The Government of the United States cannot in any circumstances agree that the treaty is to its advantage because merchandise exports from the United States to Poland have exceeded Polish merchandise exports to the United States. Furthermore it considers that attempts to balance the merchandise trade between two countries by artificial means are highly detrimental to the fundamental economic well-being of the countries concerned and to the development of world trade. The American Government is not in complete accord with various observations and figures presented by the Polish Government in regard to American-Polish trade, but it does not desire to enter into detailed discussion in view of the larger issue. It is of the opinion that the Polish Government overemphasizes the influence of the balance of merchandise trade which is but a single factor in the balance of payments and is frequently counter-balanced by other factors of special significance in American-Polish economic relations. The treaty was intended to regulate and promote the whole range of the economic relations between the United

[15] Signed February 27, 1935, League of Nations Treaty Series, vol. CLXII, p. 181.

States and Poland. The incorporation therein of the most-favored-nation principle with respect to merchandise trade was to ensure the same equality of opportunity and treatment for that trade in both countries as the United States willingly extends to Poland in connection with all transactions concerned with other financial and economic intercourse between the two countries. Allusion has been made earlier in this note to the views of the American Government with respect to the purpose and value of the most-favored-nation principle in regulating international merchandise trade. It is hoped that those statements will serve to enlighten the Polish Government as to the attitude of the American Government in the premises and to enlist its cooperation in opposing the tendency displayed by some governments to endeavor to equalize on a bilateral basis the balance of merchandise trade between countries and thus to decrease the normal volume of international trade.

With respect to the second question relating to the increases of Polish exports to the United States, the American Government is happy to state that it views with favor the increase of Polish exports to the United States. It earnestly desires to continue generalizing fully to Poland all tariff and other concessions made in reciprocal trade agreements with a view to maintaining for Poland equality of trade opportunity and trade treatment, thereby affording increased markets for Polish goods in the United States. One purpose of the present discussions with respect to the attitude of the Polish Government towards American trade is to enable the Government of the United States to generalize to Poland concessions accorded to other countries in the expectation that the duty reductions thus extended to Polish goods will result in increased exports to the United States.

10. The Government of the United States trusts that the full statement of its foreign trade policy which it has now made will indicate clearly the basis of the present conversations, namely, its profound conviction that the normal flow of international trade can only be restored through the adoption by the important countries of a liberalized commercial policy resting upon the doctrine of equality of trade treatment and opportunity. It hopes that the present discussions between the Polish Government and itself upon the question of American-Polish economic relations will be productive of beneficial results in promoting commerce between the two countries and thus will contribute substantially to the revival of world trade and prosperity. The Government of the United States is convinced that the prospects of success will be materially improved by the adherence of Poland to the policy set forth hereinbefore, and it is prepared to discuss with Poland ways and means of increasing the merchandise trade between the two countries on the basis of equality of opportunity and treatment for the trade of each country in the territory of the other.

660C.116/171

The Chargé in Poland (Crosby) to the Secretary of State

No. 726 WARSAW, June 5, 1935.
[Received June 19.]

SIR: I have the honor to acknowledge receipt of the Department's instruction No. 185 dated May 12, 1935, with respect to the treatment accorded by Poland to American trade. Acting under these instructions I sought an early interview with Foreign Minister Beck but was informed that his time was so fully occupied that he would be unable to receive me until some time next week, and the suggestion was made that I take up my business with the Under Secretary, Count Szembek. The latter received me at noon today at which time I presented to him a copy of the Department's note that was enclosed with instruction No. 185 above referred to, setting forth in great detail the position of the American Government in the premises (copy enclosed [16]).

During my conversation with the Under Secretary he explained his unfamiliarity with the question at issue and he expressed his regret at being unable to discuss the matter with me, but stated that he would immediately consult Count Józef Potocki, Director of the Western Department, and Mr. Jan Wszelaki, the Economic Adviser of the Foreign Office, in order that they should make a very careful study of the contents of the note. I did not fail to point out for the Under Secretary's special attention and cognizance the concluding paragraph of my note No. 173 [17] and the importance which my Government attaches to this matter as well as its desire to obtain from the Polish Government an authoritative statement setting forth the precise conditions under which American goods are admitted into Poland in order that it may be in a position to determine whether Poland should be assured continued enjoyment of the benefits of reduced duties proclaimed under trade agreements.

Count Szembek then asked me if identic notes were being sent to other governments. I replied in the negative and stated that the questions dealt with and the conversations which had been in progress since March last concerned only the treatment of American merchandise entering Poland. I pointed out the great importance which my government attached to a general awakening and resumption of world trade, the reduction of trade barriers, and the removal of discriminations as a means to more peaceful world conditions. Count Szembek expressed his concurrence in such a policy.

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[16] Copy of note No. 173, June 5, 1935, to the Polish Minister for Foreign Affairs, not printed.

[17] The concluding paragraph of note No. 173 contained the substance of the last two sentences of the first paragraph of instruction No. 185, May 12, to the Ambassador in Poland, p. 639.

I asked him with whom the Embassy could discuss and confer about these matters in the Foreign Office and he replied that Messrs. Potocki and Wszelaki would deal with the Foreign Office participation in the question. The Embassy will not fail to keep in close touch with future developments, endeavoring, in accordance with the Department's suggestion, to arrange discussions with officials of the Ministry of Industry and Commerce with a view to enlightening them with respect to the policy of the American Government and clarifying any points upon which they may not be fully informed and desire additional information. Further developments will be immediately reported to the Department as they occur.

Respectfully yours, SHELDON LEAVITT CROSBY

660C.116/174

The Chargé in Poland (Nielsen) to the Secretary of State

No. 750 WARSAW, July 1, 1935.
[Received July 16.]

SIR: With reference to the Embassy's despatch No. 726, June 5, 1935, and to previous correspondence with regard to the treatment accorded in Poland to American trade, I have the honor to report that, having in mind the desire expressed in the penultimate paragraph of instruction No. 185, May 12, 1935, that the Embassy endeavor to arrange discussions on this subject with officials of the Ministry of Industry and Commerce, the Embassy last week communicated with the secretary to Mr. Franciszek Doleżal, Under Secretary of State in that Ministry, and informed him that in the event that the Undersecretary should desire to discuss with me our note to the Foreign Office No. 173, June 5, 1935, I would be glad to call on him at any time at his convenience. An appointment thereupon was arranged for July 1.

Mr. Doleżal's secretary was approached by the Embassy with the knowledge and approval of the Ministry of Foreign Affairs, and after Mr. Wiktor Podoski, Chief of the Anglo-Saxon Section of that Ministry, had stated that in his opinion the Embassy would be well advised to discuss the trade situation with none of the "smaller fry" in the Ministry of Industry and Commerce. Mr. Podoski suggested that either the Undersecretary or the Minister (Mr. Henryk Floyar-Rajchman) be approached by the Embassy.

A memorandum of the conversation with Mr. Doleżal is enclosed.

Respectfully yours, ORSEN N. NIELSEN

[Enclosure]

Memorandum by the American Chargé (Nielsen) of a Conversation With the Polish Under Secretary of State in the Ministry of Industry and Commerce (Doleżal)

WARSAW, July 1, 1935.

Within the first few minutes of my conversation with Mr. Doleżal it became quite apparent that his secretary had not informed him that it was the purpose of my visit to discuss any points in our note of June 5, 1935, that he might care to take up with me, and to give him any additional information that he might desire to obtain with respect to the policy of the American Government. Until I stated the purpose of the visit the Undersecretary was under the impression that the Embassy was about to press for a reply to the note under reference, and he explained that because the summer holiday season has greatly reduced the personnel in his Ministry and because a number of his assistants who remain on duty have been engaged in trade negotiations with Germany, Italy, and other countries, the Embassy's note of June 5 has not as yet received the careful study that the Polish Government desires to give to it. He said that his Government desires to make a well considered and adequate reply to the note and that in the course of a few weeks he contemplated requesting an officer of the Embassy to discuss the matter with him before the drafting of his Government's reply should take place. I said that I had received no instructions to press for an answer; that the American Government would not desire the Polish Government to reply until the latter had given the matter careful study; and that the Embassy would be prepared any time that might be convenient to the Undersecretary to supply him with further information and to attempt to clarify any points that might require clarification.

He thereupon said that he was familiar with the general outline of the trade policy of the Government of the United States and he remarked that at various times at Geneva he had discussed with American representatives clearing agreements and allied subjects.

He then went into a general statement of the necessity that confronts the Polish Government to maintain over a long period an excess of exports, or at least to insure that imports are balanced by exports. He spoke of the great volume of raw cotton that Poland buys from the United States and of what an important part these imports of raw cotton play in the adverse balance of Poland's foreign trade with that country. He remarked that imports of raw cotton are subject to no restrictions and he added that Poland always has been well disposed toward trade with the United States and that he could not admit that there has been in Poland any discrimination against American trade.

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To this I remarked that I felt certain that he would not desire to contend that merchandise entering Poland from the United States, a country with which Poland has an excess of imports, is accorded in this country the same treatment that is accorded to merchandise from Great Britain for example, a country with which Poland has an excess of exports. I referred to the compensation export requirement to which certain merchandise of American origin is subject, and I mentioned the fees which are imposed on such merchandise from the United States, although no like fees are imposed on imports from Great Britain. Whereupon he revised his original statement and said that he could not officially admit that any discrimination exists in Poland against imports from the United States.

Since Mr. Doleżal did not seem to be entirely familiar with our note of June 5, 1935, I took occasion to outline for him in some detail the provisions of the Trade Agreements Act of June 12, 1934; to point out that it is the view of the Government of the United States that a return to world prosperity can best be attained not by a policy of imposing further restrictions upon international trade but by liberalizing or abolishing existing restrictions, and to state that the American Government desires to generalize fully to all countries the tariff reductions that it grants in its bilateral trade agreements, but that extension of these reduced duties to countries which discriminate against American trade may be withheld. I said that one purpose of our note is to ascertain the precise policy of the Polish Government toward trade with the United States, with a view to making it possible for the American Government to determine whether Poland should be assured continued enjoyment of the benefits of duties proclaimed under our trade agreements. I remarked that although the Government of the United States desires to continue to accord to Poland most-favored-nation treatment under the provisions of the treaty of friendship, commerce and consular rights between Poland and the United States, and although Poland is listed in a letter from the President to the Secretary of the Treasury under date of April 1, 1935, among the countries designated as entitled to the application of reduced duties as long as such duties remain in effect and as long as the instructions of the President are not modified, whether or not my Government would find it possible to continue to list Poland among such countries would largely be determined, in my opinion, by the reply that the Polish Government makes to the note under reference.

I stated that the American Government has invited the Polish Government to cooperate at once, or as soon as it is in a position to do so, with the United States and other countries in pursuit of a broad commercial policy calculated to bring about a world-wide increase in international trade. I said that judging by Minister Floyar-Rajchman's

address at Poznań on April 28, 1935 (despatch No. 725 [*723*], June 3 [*5*], 1935 [18]), and by the interview which he granted to the Iskra news agency on June 13, 1935 (despatch No. 739, June 18, 1935 [18]), the views of the Polish Government are substantially in accord with those of the American Government. To this Mr. Doleżal replied with a smile that the views of the two Governments are "parallel".*

I stressed that the foreign trade policy of the United States is not designed to benefit the United States alone, but to bring benefits to the second party to each trade agreement and to the world at large. As concrete evidence of the benefits that flow from that policy I thereupon quoted from Assistant Secretary Sayre's address on April 30, 1935,[19] before the annual meeting of the Chamber of Commerce of the United States, in which he gave statistics showing that during the first six months of the life of our trade agreement with Cuba, imports into the United States from that country increased from $30,000,000 in the same six-months period of 1933–34 to $50,000,000, and that exports from the United States to Cuba increased from $13,000,000 to $27,000,000 in the same periods. I added in connection with the attitude of the American Government toward increased imports into the United States that, as was stated in our note of June 5, it views with favor an increase in imports of Polish merchandise. Mr. Doleżal remarked that he had noticed that Poland's exports to the United States recently have somewhat increased.

At the conclusion of the conversation the Undersecretary said that he expects to remain in Warsaw the entire summer, or at least for the greater part of the summer; that the Ministry would give careful study to our representations at the earliest possible date; and that in the course of three or four weeks he hoped to be able to ask me to call on him again so that further discussion might take place.

660C.116/177

The Ambassador in Poland (Cudahy) to the Secretary of State

No. 889 WARSAW, October 30, 1935.
[Received November 15.]

SIR: With reference to my telegram No. 94, October 29, 1935,[18] I have the honor to enclose herewith a copy of a communication from

[18] Not printed.

*I do not take this statement to mean that the Polish Government will necessarily find it possible to accept *in practice* our views. [Footnote in the original.]

[19] Department of State, Commercial Policy Series No. 8, *Bargaining America's Way to Export Markets:* Address by the Honorable Francis B. Sayre, Assistant Secretary of State, Before the Chamber of Commerce of the United States, Washington, April 30, 1935 (Washington, Government Printing Office, 1935).

the Ministry of Foreign Affairs under date of October 28, 1935,[21] with its two enclosures; the Polish text and a translation into English, made at the Foreign Office, of a memorandum in which the Polish Government discusses the several matters which were presented for its consideration in the Embassy's note of June 5, 1935,[22] a copy of which was transmitted with despatch No. 726, June 5, 1935. There also is enclosed a translation of the Ministry's communication of October 28, 1935, and a translation prepared by the Embassy of the Polish text of the memorandum which accompanied that communication.

[Here follows a summary of the memorandum from the Polish Government.]

The paragraph which begins at the bottom of Page 7 in enclosure No. 3 [23] to this despatch contains one ambiguity and one misstatement of fact. When the Polish Government states that compensation fees are *voluntarily* fixed at various levels by autonomous economic organizations it seems to mean that these fees are fixed by these organizations (such as the Compensation Society) themselves rather than by the Government. The only possible translation of the Polish word which is employed in the sentence under reference is *voluntarily*.

The final sentence in the paragraph would be accurate and complete if it were qualified by a statement similar to the one with which there is concluded the paragraph on Page 8 which immediately follows it. The sentence under reference beginning in the fourth line of Page 8 then would read somewhat as follows:

"Such fees, of a character similar to other fees collected by various other countries during the period of crisis, are imposed in the above-mentioned manner on certain commodities regardless of their country of origin and the country from which they arrive, provided the state of Poland's balance of trade with those countries is similar to the trade balance existing between Poland and the United States."

The status of the trade balance between Poland and a given country determines, of course, the treatment that is accorded in Poland to imports from that country.

On Page 3 of enclosure No. 3,[24] there appears the statement that bilateral agreements have become to a marked degree the main instrument of economic collaboration between Poland and foreign states. Requested by the Embassy to cite examples of the bilateral agreements which the Polish Government had in mind when this paragraph of the memorandum was drafted, Mr. Wiktor Podoski, Chief of the

[21] Polish note of October 28 not printed; the memorandum which it transmitted (referred to as enclosure No. 3 throughout this despatch) is printed as enclosure *infra*.

[22] Not printed, but see draft note for the Polish Government, p. 640.

[23] See antepenultimate paragraph of the memorandum from the Polish Government, *infra*.

[24] See fourth paragraph of the memorandum from the Polish Government.

Anglo-Saxon Section of the Foreign Office, stated that his Government had in mind such bilateral agreements as its Tariff Protocol of June 30, 1934, with Finland;[25] the Customs Agreement between Poland and the Soviet Union signed June 22, 1934 (transmitted with despatch No. 785, August 2, 1935,[26]); the Tariff Protocol between Poland and Norway of January 8, 1935 (transmitted with despatch No. 870, October 17, 1935[26]); the Anglo-Polish Trade Agreement of February 27, 1935[27] (transmitted with despatch No. 799, August 14, 1935,[26] and the subject of other despatches from this Embassy); and the Polish-Canadian Trade Convention of July 3, 1935,[28] which has not as yet been published in Poland.

I am of the opinion that the Polish Government's reply to our note of June 5, 1935, is as satisfactory a statement as can be obtained. The reply accepts in principle the thesis of the American Government, pleads that Poland in self-defense has been compelled to resort to certain restrictive measures, but stresses that these measures have been drawn up with a view to causing as little interference as possible with the free movement of trade. In denying that its defensive restrictive measures are "in disaccord with" application of the most-favored-nation clause the Polish Government is restating an interpretation of the application of that clause to which it is firmly committed.

The reference in my telegram No. 87, October 13, 1935,[26] to the possible effect on the Polish Government's reply to our representations of the appointment of General Górecki as Minister of Industry and Commerce was made after Mr. Rose of my staff had been informed by Prince Lubomirski of the Anglo-Saxon Section of the Foreign Office that his Government's reply to our note of June 5, 1935, then was being drafted and was partially completed. The Embassy has subsequently been informed by Mr. Podoski that the Polish Government's note was in fact only recently completed but that the memorandum which contains the formal statement of its position was completed in September last after several officers of the Ministry of Industry and Commerce, among them Mr. Witold Wankowicz, former Commercial Counselor of the Polish Embassy in Washington, had worked on it; that the original of the memorandum was signed by Mr. Franciszek Doleżal, Under Secretary of State in the Ministry of Industry and Commerce; and that Mr. Henryk Floyar-Rajchman, Minister of Industry and Commerce in the Sławek Cabinet, held it up for fully a month. As a matter of fact, said Mr. Podoski, the memorandum was not released until General Górecki took over that Ministry. It

[25] League of Nations Treaty Series, vol. CLIII, p. 29.
[26] Not printed.
[27] League of Nations Treaty Series, vol. CLXII, p. 181.
[28] *Ibid*, vol. CLXXII, p. 69.

then was sent to the Foreign Office without change. Mr. Podoski, who also seems to have had a part in drafting the memorandum, expressed to the Embassy his hope and his belief that the American Government would find it satisfactory.

Mr. Podoski added that preparation by the Foreign Office of an English translation of the memorandum is a distinct innovation. He said that there seemed to be no particular point in making a translation from Polish into French when he understood that the Embassy would have to put the French into English. He was unable to say whether the Foreign Office plans to make it a practice to transmit to the Embassy Polish texts accompanied by translations into English.

With reference to despatch No. 750, July 1, 1935, I may add that the Embassy was not invited by Mr. Doleżal or any other Polish official to discuss further the treatment accorded in Poland to American goods.

Respectfully yours, JOHN CUDAHY

[Enclosure—Memorandum—Translation]

The Polish Ministry for Foreign Affairs to the American Embassy

In reply to note No. 173 of the United States Embassy of June 5th, and following upon its own note of March 16th, No.P.II.SZ.57/20/35, the Polish Government wishes to state that it has given careful consideration to the views regarding the general principles of international trade policies expressed in the Embassy's note under reference and has given its thought and attention to the several problems mentioned therein.

The Polish Government in the first place has the honor to state with satisfaction that the views of the two Governments are in their main outlines in accord on the question of the main principles which should form the basis of policy in international trade.

The Polish Government has on several occasions given expression to its views in this matter, both in the international forum and in its measures in economic policy and autonomous legislation. It has on several occasions expressed its entire readiness to participate in international collaboration in the political and economic field on principles analogous to those expressed in the United States Embassy's note of June 5th. As examples may serve its participation in the International Economic Conference in Geneva in 1927;[30] in three sessions of the International Conference concerning the suppression of prohibitions and limitations of imports and exports in Geneva and Paris in 1927–1929;[31] further in the International Conference concerning

[30] See *Foreign Relations*, 1927, vol. I, pp. 238 ff.
[31] See *ibid.*, pp. 246 ff; *ibid.*, 1928, vol. I, pp. 366 ff.

the status of foreigners held in Paris in 1929; in the International Conference on the question of a customs truce, in Geneva in 1930;[32] in the International Conference convened to deliberate upon the question of the settlement of economic problems in the Danube basin, in Geneva, Stresa, and Rome, 1931–1932;[33] in the World Economic and Monetary Conference in London in 1933;[34] the Gold Bloc Conference in 1934[35] and in the Union of Agricultural States of Central and North-Eastern Europe. Moreover, during the last session of the Assembly of the League of Nations, at the meeting of the Economic Committee, Professor W. Zawadzki, at the time Polish Minister of Finance, presiding over the Committee, speaking as Polish delegate, advanced well known suggestions concerning the liberalization of international commercial methods. His suggestions met with the approval of the United States Government, which found expression in the message of the Secretary of State, Mr. Cordell Hull, to the President of the Economic Committee, Prof. Zawadzki.

The Polish Government has in general given its support to all efforts to remove artificial restrictions which hamper commerce. It has opposed, above all, currency restrictions which exercise a completely paralyzing influence on trade. It has endeavored, moreover, to create, wherever circumstances have permitted, a state of affairs which would be as close as possible to a state free of all restrictions concerning goods or currency. Numerous failures attendant on the efforts to accomplish this by way of multilateral agreements and understandings naturally focussed the attention of the Polish Government in the first place on international bilateral agreements which for this reason became to a marked degree the main instrument of economic collaboration between Poland and foreign states.

It seems in order here to mention that the highly protectionist policy of recent years conducted by the United States, reflected above all in the new Tariff Act of 1930,[36] brought about an immediate and powerful reaction among a whole series of states, and contributed to the general increase of barriers placed by individual countries in the way of international trade. The United States Tariff Act of 1930 introduced extremely high, in some cases prohibitive, tariff rates, and gave furthermore to the President of the United States the power to increase, in a large number of cases, the already considerable tariff rates. The application by the United States, in its discretion, of countervailing duties and antidumping duties obviously is a vivid example of discrimination, affecting Poland among others (matches, ammonium sulphate).

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[32] See *Foreign Relations*, 1930, vol. I, pp. 238 ff.
[33] See *ibid.*, 1932, vol. I, pp. 846 ff.
[34] See *ibid.*, 1933, vol. I, pp. 452 ff.
[35] See *ibid.*, 1934, vol. I, pp. 609–611 *passim*.
[36] Approved June 17, 1930; 46 Stat. 590.

The recently apparent tendency of the United States to make its foreign commercial policy more liberal, a policy which affected first and foremost debtor countries and countries importing raw materials from America, justifies the hope that it will soon be possible to attempt in a more practical manner to loosen the artificial bonds which at present fetter international trade turnover.

Polish commercial agreements with foreign countries are in principle based on the most favored nation clause which determines Poland's attitude towards the states with which it has entered into treaties and commercial agreements.

This also is its attitude vis-à-vis the United States.

Numerous restrictions, however, concerning goods, currency, emigration, and sanitary regulations, applied by various countries to their commercial intercourse with other states, have brought about the necessity for Poland, a deflationist country with a stable currency and free of currency restrictions, to have recourse to a defensive measure, viz.: a system of prohibition on the import of goods from abroad.

This system possesses, however, the elasticity necessary to permit it to adapt itself on the one hand to the conditions of economic cooperation existing between individual states, and on the other hand to eliminate by agreements and on the basis of reciprocity, barriers placed in the way of international trade. It aims at creating by means of bilateral agreements between Poland and each country, a condition of affairs as close as possible to a state of free exchange of goods, capital, and people.

The methods adopted in particular circumstances within the system thus outlined differ from one another in the natural course of things. They are not, however, in disaccord with the basic principle of applying the most favored nation clause to treaty countries in those fields in which the clause is operative and to the extent to which it is universally accepted. Neither does this mean that some countries enjoy preferential treatment while other countries are subject to unfavorable discrimination. On the contrary, this creates a state of affairs in which, together with the existence of an effective means of defense, there remains the full possibility of applying to foreign countries the policy mentioned in point 3 of the note of the United States, namely a policy of respectful and friendly approach to all countries to cooperate in establishing equality of trade opportunity and treatment throughout the world.

The principle outlined in point 4 of the United States' note, that the commercial balance between two countries should not constitute a basis for the application of various facilities in their international commercial relations, would indeed be sound were it not for the

existence of numerous restrictions, monetary and other, but more especially those on the circulation of capital and goods, which form an obstacle to the free growth of international commercial relations and constitute a hindrance to the normal development of business. This is exemplified above all in the abnormal structure of trade balances. The influence of such a state of affairs profoundly affects the balances of payments and therefore necessitates correction along the lines set forth above. In particular, in regard to relations existing between creditor and debtor states, the possibility given to the latter of creating through the exchange of goods an opportunity of executing their financial obligations would appear to be a natural solution and a matter of primary importance.

Referring to point 7 and the subsequent paragraphs of the United States Embassy's note of June 5th, in which the Embassy requests that it be informed in detail concerning the conditions under which American products can be imported into Poland, the Polish Government wishes to state that upon registration of import licenses, minor fees are imposed by the autonomous economic organizations on certain items of American imports into Poland, these fees being imposed in their favor and within the scope of their branch activities. The fees are voluntarily fixed by these organizations at various levels. Such fees, of a character similar to other fees collected by various other countries during the period of crisis, are imposed in the above mentioned manner on certain commodities regardless of their country of origin and the country from which they arrive.

In the field of contingents Poland, having no contingent agreement with the United States, nevertheless permits the import of goods from the United States in accordance with economic necessities, and under conditions identical to those under which such licenses are issued for goods coming from third countries with which the state of the exchange of goods is similar to the one existing between Poland and the United States.

The road toward the removal of the difficulties as well as the barriers and obstacles which under such circumstances may arise between two countries lies, in the opinion of the Polish Government, in bilateral conversations between such states. The best remedy seems to be an elucidation of the position as far as the facts of the case are concerned, the setting forth of the needs of each party, the review of the economic and political possibilities which each party has at its disposition, and finally the establishment of a basis for future collaboration by means of bilateral agreements. Should, therefore, the United States Government consider necessary, in addition to the explanations contained in the present note, a further elucidation of matters appertaining to the mutual exchange of goods, and should the

United States Government deem necessary the settlement of any of these questions, the Polish Government would consider this to be attainable through conversations between the two Governments.

[WARSAW, October 28, 1935.]

NON-APPLICABILITY OF POLISH REGULATIONS CONCERNING SOCIAL INSURANCE TO EMPLOYEES OF THE AMERICAN EMBASSY AND CONSULATES IN POLAND

124.60C3/210

The Secretary of State to the Ambassador in Poland (Cudahy)

No. 138 WASHINGTON, December 12, 1934.

SIR: There has been received your despatch No. 470 of October 19, 1934, with which you transmit a copy of a circular note of October 3, 1934, from the Ministry of Foreign Affairs of the Republic of Poland,[37] calling attention to obligatory social insurance legislation of the Republic, annexed to which is a translation in French of the text of "legal regulations" purporting to hold as subject to those phases of the compulsory insurance laws which deal with illness, maternity, physical disability and death, Polish nationals employed by legations and consulates or by individual members thereof. The "legal regulations" provide for the exemption of the diplomatic and consular employees from the application of insurance providing for old-age pensions or unemployment benefits.

It is stated by the Foreign Office that social insurance in Poland is based upon the general principle of the payment of insurance premiums by the employee and the employer with the reservation that insurance against accidents is exclusively for the account of the employer. The employer is obligated to pay to the insurance institution the full amount of his own and the employee's contribution, but has the right to deduct the employee's share of the contribution at the time of payment of salary.

The employer of the Polish employees in the American diplomatic and consular offices in Poland is the Government of the United States. The Polish Government cannot of course impose upon the Government of another sovereign State any obligations with respect to the payment of social insurance premiums of the nature indicated either on its own account or on behalf of its Polish employees.

The question of whether the Department was authorized, with respect to the Czechoslovak employees in its Legation and Consulates in Czechoslovakia, to pay social insurance premiums of a similar nature stipulated in the laws of Czechoslovakia, was taken up with

[37] Neither printed.

the Comptroller General, who in reply stated in part that the appropriations under the Department's control are not available for such expenditure. A copy of the Comptroller General's letter is enclosed for your information.[38]

In the circumstances the Department would not be in a position even voluntarily to observe the provisions of the Polish laws in question regarding the payment of social insurance premiums. Not only would it not be in a position to make payment for the share attributed to employers, but it would be unable to make payment on behalf of the Polish employees. There would be no objection, however, to the making of arrangements for the employees themselves voluntarily contributing directly to the insurance institution not only their own share of the premiums but also, should they feel that by so doing they would gain a benefit, the share attributed under Polish law to the employer.

The Department would have no objection to American diplomatic and consular officers voluntarily furnishing from time to time, upon request from the competent Polish authorities, information regarding changes in personnel and the amount of salaries paid. However, no obligation should be undertaken in this connection since American diplomatic and consular officers cannot appropriately be made agents of the Polish Government and be required to assume affirmative duties to that Government.

With regard to that phase of the Polish compulsory insurance which is wholly for the account of the employer, that is, insurance against personal injuries, it may be pointed out that under the Federal Compensation Act of the United States, this Government already provides for its civil employees, both American and foreign, without cost to them, benefits payable in cases of disability or death resulting from injuries sustained in the performance of duty. It is apparent, therefore, that Polish employees enjoy under American law the benefit of insurance covering accidents sustained in the performance of their duties, and hence, were the provisions of the Polish law regarding employees' accident insurance applicable to this Government as an employer of Polish nationals, there would be to a considerable extent a duplication in the protection accorded them in this connection.

There is attached a leaflet issued by the United States Employees' Compensation Commission [38] showing briefly the scope of the protective legislation under reference. This has already been transmitted to the field as an accompaniment to Diplomatic Serial No. 620 of June 27, 1927.[38]

The substance of the foregoing may be transmitted to the Foreign

[38] Not printed.

Office in response to its circular note transmitted with your despatch under acknowledgment.

In view of the extraterritorial status of the American diplomatic officers in Warsaw the Polish Government cannot under established rules of international law impose upon them with respect to the personal Polish employees, the obligation to contribute a portion of the cost of the insurance nor can it require them to pay the portion allotted to the employee.

Of course, if American diplomatic officers desire, with respect to the Polish nationals personally employed by them, voluntarily to contribute the employers' share in the cost of the insurance, no objection is perceived by the Department to such a course.

Insofar as American consular officers in Poland are concerned, they would be exempt from the obligation of the laws in question only if their share in the payments could be considered as a tax levied upon their persons or property and hence, as coming within the scope of Article XVIII of the Treaty of Friendship, Commerce and Consular Rights between the United States and Poland, signed June 15, 1931.[40] From the information in the Department's possession it is doubtful that the payments could be regarded as such a tax. Of course, should consular officers of any other country be exempted from the payment of such insurance premiums, American consular officers could claim a similar exemption under Article XV of the aforesaid treaty.

In conclusion it may be stated that while this Government does not have entirely analogous legislation, there do exist certain provisions of law with respect to the compensation of employees for injuries received in the course of their service. (See 44 Stat., p. 1424, and 45 Stat., Ch. 612, p. 600.)

It has been held by the appropriate authorities that foreign governments or their diplomatic representatives at Washington are not subject to these provisions of law and do not have to secure under them the payment of compensation to their employees, whether American or foreign, by taking out insurance or qualifying as self-insurers.

Very truly yours, For the Secretary of State:
WILBUR J. CARR

124.60C 3/214: Telegram (part air)

The Ambassador in Poland (Cudahy) to the Secretary of State

WARSAW, December 27, 1934—12 a.m.
[Received December 29—7:56 a.m.]

59. Your instruction No. 138, December 12, page 4 second paragraph.[41] What is the status of American employees of the Embassy

[40] *Foreign Relations*, 1931, vol. II, p. 924.
[41] Paragraph beginning, "In view of the extraterritorial status . . .", above.

other than officers with respect to liability to contribute portion cost of insurance of Polish nationals personally employed by them?

CUDAHY

124.60C 3/214 : Telegram

The Secretary of State to the Ambassador in Poland (Cudahy)

WASHINGTON, January 4, 1935—8 p.m.

1. Your 59, December 27, 12 a.m. American personnel of Embassy also can not be subjected to laws in question.

HULL