

ATTITUDE OF CERTAIN GOVERNMENTS WITH RESPECT TO PROPOSED PUBLICATION OF DIPLOMATIC COR- RESPONDENCE WITHIN LESS THAN FIFTEEN YEARS

026 Foreign Relations/1341a

*The Secretary of State to the Chargé in the United Kingdom
(Johnson)*¹

No. 2147

WASHINGTON, February 14, 1938.

SIR: As the Embassy is aware, the Department has been following the policy of publishing *Foreign Relations* volumes approximately fifteen years after the date of the documents printed in the volumes in question. This policy was adopted largely because certain foreign governments had indicated that they were reluctant to consent to the publication of their respective documents in the *Foreign Relations* volumes which were less than fifteen years old. In several instances there was reason to believe the governments regarded even the fifteen-year period or "gap" as too close to current events and consents to publish important documents were only obtained by American diplomatic missions after considerable negotiation. In the circumstances, it was felt by the Department that if the *Foreign Relations* volumes were to be "substantially complete" as required by the Department's order of March 26, 1925, a copy of which is printed on page 59 of Publication No. 864,² herewith enclosed, and, at the same time, were to be published at as early a time as possible after the date of the documents or papers compiled therein, the policy involving the fifteen-year period mentioned was best adapted to carrying out the objective of the *Foreign Relations* publication.

While the procedure in question has resulted in *Foreign Relations* volumes being issued which were very well received by the interested public because of their comprehensive content, there has nevertheless been a great deal of criticism over the alleged delay in issuing the volumes. This criticism has been expressed in numerous resolutions of historical and international law societies, in communications from professors, lawyers, publicists, and others interested in international affairs addressed to the Department and to Congress and in various

¹ The same, *mutatis mutandis*, to the American Embassies in France (No. 689) and Italy (No. 262), February 15; the Soviet Union (No. 322), February 17; Argentina (No. 702), February 19; Peru (No. 81), Brazil (No. 92), Chile (No. 326), Mexico (No. 1930), February 23; Germany (No. 911), February 24.

² *Status of the Foreign Relations and the Miller Treaty Volumes* (Washington, Government Printing Office, 1936).

articles and statements which have received wide publicity. Copies of some of these resolutions and communications are enclosed together with extracts from relevant articles on the subject.³

Reference may also be made to the hearings before the Sub-Committee of the House Appropriations Committee on the Department's appropriation bills for 1937 and for 1938. During the course of these hearings officials of the Department were questioned in detail regarding the *Foreign Relations* volumes and the reasons for the alleged delay in publishing them. The report of the hearings on the 1937 and the 1938 bills with particular reference to the subject of publications have been reprinted by the Department and issued in pamphlet form (Publications Nos. 864 and 1005⁴). Copies of these pamphlets are enclosed. It will be noted that Publication No. 1005 quotes on page 71 the statement regarding the alleged delay in issuing the volumes which was contained in the Report of the Sub-Committee on the 1937 appropriation bill (Report No. 2286, 74th Congress, 2d Session, House of Representatives). The statement in question reads as follows:

. . . The printing of the treaty volumes and additions to the series of volumes on foreign relations of the United States is approved. The committee does feel, however, that the value of the *Foreign Relations* volumes would be considerably enhanced if the material contained in the different volumes could be released for publication by the governments concerned a shorter time after the events transpire. At present some 15 years must elapse before the foreign governments will consent to the publication of material contained in these *Foreign Relations* volumes. The committee is hopeful that the Department will continue its efforts to convince foreign governments of the value of narrowing the gap between the event and its authorized publication.

It will also be noted that there were included as part of the hearings on the 1937 and 1938 appropriation bills the 1935 and the 1936 reports of the Committee on Publications of the Department of State of the American Society of International Law. It may be added that the latest or 1937 report of this Committee was included and made a part of the hearings on the 1939 Department of State appropriation bill. As these latter hearings have not yet been published⁵ a copy of the 1937 report of the Publications Committee mentioned is enclosed.⁶ It will be observed that the three reports discuss at length the so-called "fifteen-year gap", the discussion in the 1937 report being of a somewhat critical nature.

³ None printed.

⁴ *Foreign Relations Volumes and Other Department of State Publications* (Washington, Government Printing Office, 1937).

⁵ Department of State, *International Law Digest and Other State Department Publications* (Washington, Government Printing Office, 1938).

⁶ Not printed.

You are requested to ascertain the views of the British Government with respect to the possibility of issuing *Foreign Relations* volumes which will include documents of a date closer to current events than the fifteen-year period mentioned. In ascertaining these views you may do so either by a note addressed to the British Foreign Office or by bringing the matter to the attention of the appropriate British officials in such a manner as you deem advisable. In communicating with the British officials you will, in your discretion, make such use of the material referred to above as you believe appropriate. In this regard you will please inform the British officials that the views expressed in the reports and resolutions of the historical and international law societies and in the communications, statements and articles mentioned represent the opinion of that section of the American public which is very much interested in the foreign policy of the United States and in having documentary material pertaining to this policy published as soon and as completely as possible. In mentioning the reports the attention of the British officials should be especially invited to the statement regarding the fifteen-year delay in issuing the volumes in Report No. 2286, 74th Congress, 2d Session, House of Representatives.

With respect to ascertaining the views of the British Government regarding the possibility of narrowing the "fifteen-year gap", the Department realizes that the British Government may not wish at this time to be committed to a definite publication policy in the future as regards the particular issue involved. If the Embassy can obtain, however, an expression of the views of the British officials on the subject which will give the Department a clear indication of the present attitude of the Foreign Office, it will be of great assistance to the Department in determining the policy to be followed in preparing forthcoming numbers of the *Foreign Relations* volumes.

The Embassy is requested to communicate with the British Foreign Office as soon as possible. An early and complete report from the Embassy will be appreciated.

Very truly yours,

For the Secretary of State:
G. S. MESSERSMITH

026 Foreign Relations/1856a

The Secretary of State to the Ambassador in Japan (Grew)

[Extract]

No. 1445

WASHINGTON, March 2, 1938.

SIR: . . .

The Department desires that in your discretion you ascertain the views of the Japanese Government with regard to the possibility of issuing *Foreign Relations* volumes which will include documents of a date closer to current events than the fifteen-year period mentioned.

The Department would prefer, however, that you refrain from making any approach to the Japanese Government on this matter at this time if you have reason to believe that instead of contributing to accomplishment of the purpose which this Government has in view, such an approach is likely to prompt the Japanese Government to insist upon a further widening of the present gap of fifteen years in respect to its documents. The Department has in mind the statement contained in your despatch No. 953 of September 5, 1934⁷ that an official of the Foreign Office in discussing with the Embassy the question of the publication in *Foreign Relations* of certain documents, expressed himself as feeling that 1920 was rather recent and that many documents were not "dead" in so short a time. Reference is also made to your conversation with the Chief of the Division of Research and Publication when you visited the Department in 1935 and your statement to him that the Japanese Foreign Office was opposed to reducing the so-called fifteen-year gap. While such statements clearly indicate that at the time they were made the Japanese Government was opposed to the publication of its documents in the *Foreign Relations* volumes less than fifteen years old, they do not in any way commit the Japanese Government to consenting or agreeing to publishing documents which are fifteen years old; on the contrary, the statements in despatch No. 953 referred to above would seem to indicate that the Japanese Government does not look with favor on even the fifteen-year interval. In the circumstances, the Department realizes that it might be injudicious to present the question again to the Japanese officials in that it might result in the Japanese Foreign Office making use of the occasion to insist on widening the gap rather than shortening it.

If you feel notwithstanding these considerations that you may safely approach the Foreign Office on this question, you may in your discretion make such use of the material referred to above as you believe appropriate.

The Department will appreciate receiving an early and complete report on any action you may take in response to this instruction.

Very truly yours,

For the Secretary of State:
G. S. MESSERSMITH

026 Foreign Relations/1348

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

No. 389

RIO DE JANEIRO, March 7, 1938.

[Received March 14.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction of February 23, 1938,⁸ regarding the publication of *Foreign Relations* volumes and to report that the Embassy has been

⁷ Not printed.

⁸ See footnote 1, p. 976.

informed orally by the Secretary General of the Brazilian Ministry of Foreign Affairs that he perceives no objection, in principle, to the publication of *Foreign Relations* volumes which would include documents of a date closer to current events than the fifteen-year period now observed. The Embassy expects to receive written confirmation from the Ministry of this expression of opinion and will transmit it promptly to the Department.⁹

Respectfully yours,

For the Ambassador:
R. M. SCOTTEN
Counselor of Embassy

026 Foreign Relations/1350

The Ambassador in Italy (Phillips) to the Secretary of State

No. 826

ROME, March 16, 1938.
[Received March 30.]

SIR: With reference to the Department's instruction No. 262 of February 15th, 1938,¹⁰ concerning its desire to obtain the consent of the Italian Government to the publication of its documents in the *Foreign Relations* series, which are less than fifteen years old, I have the honor to inform the Department that a member of the Embassy staff discussed this question informally with an official of the Italian Foreign Office.

After having given study to the matter, the Foreign Office now communicates that in principle it perceives no objections to the inclusion in the *Foreign Relations* series documents which are less than fifteen years old, provided that the American Government will continue, as it has done in the past, to submit specific documents to the Italian Government for its assent prior to publication. It is added that consent to the publication of these later documents has been given in principle so as to facilitate the choice of historic material necessary for the aforesaid publications.

A copy in translation of the memorandum from the Foreign Office is enclosed for the Department's information.¹¹

Respectfully yours,

For the Ambassador:
EDWARD L. REED
Counselor of Embassy

026 Foreign Relations/1349

The Chargé in Chile (Frost) to the Secretary of State

No. 923

SANTIAGO, March 19, 1938.

SIR: I have the honor to refer to the Department's instruction No. 326 of February 23, 1938,¹⁰ requesting me to ascertain the views of the

⁹ No record of written confirmation has been found in Department files.

¹⁰ See footnote 1, p. 976.

¹¹ Not printed.

Chilean Government with respect to the possibility of issuing *Foreign Relations* volumes which will include documents of a date closer to current events than the fifteen year period now in effect.

The Embassy discussed this matter with the Chief of the Diplomatic Department of the Foreign Office;¹² and the latter, after consultation with the Foreign Minister,¹³ prepared in answer to the Embassy's inquiry an *aide-mémoire* of which a copy and translation are enclosed.¹⁴ The Chilean Government is anxious to meet the wishes of the Department and interposes no objection to the suggested reduction of the fifteen year period. As a matter of principle, however, it would wish to be consulted first as to the documents referring to Chile which would be published in the *Foreign Relations* volumes.

Respectfully yours,

WESLEY FROST

026 Foreign Relations/1857

The Ambassador in Japan (Grew) to the Secretary of State

No. 2838

TOKYO, March 31, 1938.

[Received April 18.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction no. 1445 of March 2, 1938, with regard to the attitude of the Japanese Government towards the policy of publishing *Foreign Relations* volumes approximately fifteen years after the date of the documents printed in the volumes. The Department desires that in my discretion I ascertain the views of the Japanese Government with regard to the possibility of issuing *Foreign Relations* volumes which will include documents of a date closer to current events than the fifteen-year period mentioned. Nevertheless the Department prefers that I refrain from making any approach to the Japanese Government on this matter at this time if I have reason to believe that instead of contributing to accomplishment of the desired purpose, such an approach would be likely to prompt the Japanese Government to insist upon a further widening of the present gap of fifteen years in respect to its documents.

In reply I regret to say that all evidence which has come to the Embassy indicates that the Japanese Government regards the period of fifteen years as too short an interval to justify the publication of some of the documents submitted to the Japanese Government by the Department, and there is no reason to believe that the attitude of the Government as expressed informally by an official of the Foreign Office

¹² Benjamin Cohen.

¹³ J. R. Gutiérrez.

¹⁴ Not printed.

and reported in paragraph 3 of my despatch no. 953 of September 5, 1934,¹⁷ has altered in a favorable direction. If our Government were now to seek to reduce the fifteen-year period I believe that in all probability the Japanese Government, when consulted, would express objection to the publication of individual documents in more cases than at present and that one of the important desiderata of the interested American public, including international law societies, professors, lawyers, publicists, and others interested in international affairs, namely that the documents published in *Foreign Relations* be as complete as possible, would be defeated. I think that such an approach to the Japanese officials as the Department suggests would be injudicious in that it might well result in the Japanese Foreign Office making use of the occasion to insist on widening the present gap rather than shortening it. This opinion is naturally speculative but we believe it to be sound.

I have read with interest the various documents enclosed with the Department's instruction and am impressed, as indeed I always have been impressed, with the importance of rendering our *Foreign Relations* volumes as complete and as helpful as possible to the legal and academic world. The great improvement of these volumes in recent years is marked. To aim at earlier publication at the expense of completeness would, I think, be an unwise policy and I have little doubt that so far as the Japanese Government is concerned a reduction of the fifteen-year period—which has been characterized here as already too short an interval—would incur grave risk of impairing the value and purpose of the series.

Respectfully yours,

JOSEPH C. GREW

026 Foreign Relations/1353

The Ambassador in Peru (Steinhardt) to the Secretary of State

No. 370

LIMA, April 6, 1938.

[Received April 12.]

SIR: I have the honor to refer to the Department's instruction No. 81 of February 23, 1938,¹⁸ describing the policy of the Department of publishing *Foreign Relations* volumes fifteen years after the date of the documents printed in the volumes in question and requesting that the views of the Peruvian Government be ascertained with respect to the possibility of issuing *Foreign Relations* volumes which

¹⁷ Not printed.

¹⁸ See footnote 1, p. 976.

will include documents of a date closer to current events than the fifteen-year period mentioned.

This matter was brought to the attention of the Peruvian Foreign Office in note No. 108 of March 5, 1938, of which a copy is enclosed.¹⁹ The Foreign Office has now replied in note No. 6-3/40 of April 4, 1937, that it perceives no objection to the immediate publication of all kinds of documents of a diplomatic character with the sole exception of those which, by their nature, have a strictly confidential character. A copy of the text with translation of the Foreign Office's note referred to above is also transmitted herewith.¹⁹

Respectfully yours,

LAURENCE A. STEINHARDT

026 Foreign Relations/1358

The Ambassador in Argentina (Weddell) to the Secretary of State

No. 1990

BUENOS AIRES, April 11, 1938.

[Received April 19.]

SIR: I have the honor to refer to the Department's Instruction No. 702 of February 19²⁰ requesting me to ascertain the views of the Argentine Government with respect to the possibility of issuing *Foreign Relations* volumes which will include documents of a date more recent than fifteen years, the period which now governs the publication of official papers in these volumes.

On March 8 this matter was taken up informally with the Ministry for Foreign Affairs, from which the Embassy has now received a memorandum dated April 5, giving the opinion of the Ministry's Legal Adviser to the effect that he sees no reason why the Government of the United States should not be informed that the Argentine Government considers that the period may be reduced to ten years. The Legal Adviser makes the condition that this modification can apply only to documents which are not reserved or confidential, as these may be made public only with the knowledge and authorization of all the interested governments. The memorandum concludes with the statement that the Legal Adviser's opinion is adopted by the Ministry.

A copy and translation of the memorandum from the Ministry are enclosed.¹⁹

Respectfully yours,

ALEXANDER W. WEDDELL

¹⁹ Not printed.

²⁰ See footnote 1, p. 976.

026 Foreign Relations/1354 : Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, April 15, 1938—1 p. m.

[Received April 15—8:50 a. m.]

316. Your written instruction No. 2147 of February 14, 1938. The Department's desire to issue *Foreign Relations* volumes which will include documents of a date closer to current events than the 15-year period has been fully discussed informally with Sir Stephen Gaselee, the official in the Foreign Office who would determine its policy in the matter. Gaselee was sympathetic and said that from the viewpoint of a scholar he quite understood the reasons for the Department's desire. Precisely he said that from the official point of view he agreed in principle. He pointed out, however, that the actual passing upon documents to be published, if involving the Cabinet as such, had to be submitted to Sir Maurice Hankey.²³ This he said would be with the benevolent recommendation of the Foreign Office but Hankey's decision would have to prevail. He also said that some of the Dominions are extremely conservative in regard to the publication of documents relating to them and this was another case where the Foreign Office did not have the last say.

The conversation with Gaselee is being confirmed informally in writing²⁴ and no publicity should be given to Gaselee's statement until we have received a written confirmation or specific authorization from him to make the decision public.

KENNEDY

026 Foreign Relations/1359

The Ambassador in Mexico (Daniels) to the Secretary of State

No. 6518

MEXICO, April 16, 1938.

[Received April 25.]

SIR: With reference to the Department's instruction No. 1930 of February 23, 1938,²⁵ with respect to the desirability of publishing *Foreign Relations* Volumes at an earlier date than the customary fifteen years after the date of the documents printed in the volumes in question, I have the honor to transmit herewith a copy and transla-

²³ Secretary of the British Cabinet.²⁴ See telegram No. 507, June 13, 7 p. m., p. 986.²⁵ See footnote 1, p. 976.

tion²⁶ of a note which I have received from the Foreign Office regarding this matter.

The Foreign Office has stated that it would have no objection to the period's being reduced to ten years, it being understood, of course, that the former practice of submitting the documents to the Foreign Office for approval before their publication will be continued.

Respectfully yours,

JOSEPHUS DANIELS

026 Foreign Relations/1366

*The Ambassador in the Soviet Union (Davies) to the Secretary
of State*

No. 1178

Moscow, April 16, 1938.

[Received May 17.]

SIR: I have the honor to acknowledge the Department's instruction No. 322 of February 17, 1938,²⁷ stating that consideration is being given to the possibility of shortening the fifteen-year period which at present elapses between the publication of *Foreign Relations* and the date of the official documents included therein and directing the Embassy to ascertain the views of the Soviet Government towards the possibility of publishing such documents within a shorter interval.

In compliance with this instruction the Embassy addressed a note to the People's Commissariat for Foreign Affairs setting forth the reasons which had led the Department to give consideration to this question and requesting an expression of the attitude of the Soviet Government thereon.

In reply to this note an official of the Commissariat has stated informally to an officer of the Embassy that the Soviet Government from its point of view perceives no necessity for the shortening of the present fifteen-year period, but recognizes that the decision in this matter rests with the Government of the United States. He added that if, however, it should be decided to shorten the present period the Soviet Government would prefer in each specific case to be consulted prior to the publication of any official documents or correspondence relating to Soviet-American relations.

Respectfully yours,

For the Ambassador:

LOY W. HENDERSON

First Secretary of Embassy

²⁶ Not printed.

²⁷ See footnote 1, p. 976.

026 Foreign Relations/1370: Telegram

The Ambassador in the United Kingdom (Kennedy) to the Secretary of State

LONDON, June 13, 1938—7 p. m.

[Received June 13—2:25 p. m.]

507. Your instruction No. 2147 of February 14, 1938. Following informal letter just received from the Foreign Office:

"I can now give a definite reply to one of the two letters you wrote to me on April 19th.

I have consulted Sir Maurice Hankey and we agree that we need have no objection to the period after which the State Department publishes diplomatic and other documents being reduced from 15 to 7 years on the understanding that you will continue as before to send us such of our documents as they wish to publish and will accept our decision if we ask for any of them to be omitted.

The State Department has no doubt already faced the fact that the reduction of this period of 'lag' may lead to other countries requesting the omission of a rather larger number of documents than hitherto. I think, however, you will agree that we are not generally unreasonable."

Copies of the correspondence are being forwarded by pouch.²⁸

KENNEDY

026 Foreign Relations/1388

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

No. 2933

PARIS, September 9, 1938.

[Received September 22.]

SIR: I have the honor to refer further to the Department's instruction No. 689, of February 15, 1938,²⁹ and subsequent correspondence relating to the policy of publishing *Foreign Relations* volumes approximately fifteen years after the date of the documents printed in the volumes in question. As the Department was informed by the Embassy's despatch No. 2087, of April 16, 1938,³⁰ a note embodying a full statement of the Department's position in respect of the publication of documents and a summary of the desires of the Department and of representative elements in the United States to see the fifteen year limitation on the publication of documents lessened, was transmitted to the Foreign Office on March 3, 1938. During the interim, occasion was taken to remind the Foreign Office by note and

²⁸ Despatch No. 523, June 13, not printed.

²⁹ See footnote 1, p. 976.

³⁰ Not printed.

personal call of the Department's interest in obtaining an early and favorable response to its suggestions.

The Embassy is now in receipt of a Note of September 1, 1938, of which copies in original and translation are enclosed,³¹ from which it will be noted that the Foreign Office keenly regrets that, for the present, it is obliged to maintain the existing rule. The Foreign Office emphasizes that its diplomatic archives are open to the French public only up to the year 1877, and that the Commission charged, under the auspices of the Ministry, with the publication of diplomatic documents, has restricted its activities to the beginning of the World War. It notes that the American public, which is able to consult much more recent French documents, enjoys a greater privilege.

The decision announced in the enclosure, of course, is in line with the sentiments expressed by Mr. Massigli, Director of Political Affairs at the Foreign Office, in a recent conversation with the Counselor of the Embassy,³² a memorandum of which was enclosed in the Embassy's despatch No. 2873, of August 27, 1938.³¹

In view of the considered opinion expressed by the Foreign Office in the present Note, it is doubted that further representations on this subject would be effective at the present time, but the Embassy will await the Department's instructions in this regard.

Respectfully yours,

For the Ambassador:
EDWIN C. WILSON
Counselor of Embassy

026 Foreign Relations/1401

The Chargé in Germany (Gilbert) to the Secretary of State

No. 560

BERLIN, February 2, 1939.

[Received February 18.]

SIR: Supplementing the Embassy's despatch No. 127 of May 3, 1938,³¹ relative to the attitude of the Reich toward the publication of German documents less than fifteen years old in the United States *Foreign Relations* series, I have the honor to transmit herewith a copy in translation of a self-explanatory note³¹ received from the Ministry for Foreign Affairs on the subject.

It will be observed that the German Government agrees in principle to the publication of such documents, on the condition that they be submitted to the Foreign Office here or the German Embassy at Washington for examination prior to publication.

Respectfully yours,

PRENTISS GILBERT

³¹ Not printed.

³² Edwin C. Wilson.

