



Treaty Series No. 14 (1927)

Notes exchanged between
His Britannic Majesty's
Government
and the
Government of the United
States of America

REGARDING THE DISPOSAL OF CERTAIN
PECUNIARY CLAIMS ARISING OUT
OF THE RECENT WAR

Washington, May 19, 1927

Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty

LONDON:
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1927

Cmd. 2877

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**Notes exchanged between His Britannic Majesty's
Government and the Government of the United States
of America regarding the Disposal of Certain
Pecuniary Claims arising out of the Recent War.**

Washington, May 19, 1927.

No. 1.

Mr. Kellogg to Sir Esme Howard.

Excellency,

Washington, May 19, 1927.

I HAVE the honour to incorporate herein the text of an arrangement for the disposal of certain pecuniary claims arising out of the recent war, in which His Majesty's Government in Great Britain and the Government of the United States are interested, either as principals or on behalf of their respective nationals. This arrangement, which has been agreed upon by representatives of both Governments, has been approved by the Government of the United States. The terms of the arrangement are as follows:—

“ Article 1.

“ With the exceptions stated in Article 2 hereof His Majesty's Government in Great Britain and the Government of the United States agree:—

“ (1.) That neither will make further claim against the other on account of supplies furnished, services rendered or damages sustained by it in connection with the prosecution of the recent war, all such accounts to be regarded as definitively closed and settled.

“ (2.) That neither will present any diplomatic claim or request international arbitration on behalf of any national alleging loss or damage through the war measures adopted by the other, any such national to be referred for remedy to the appropriate judicial or administrative tribunal of the Government against which the claim is alleged to lie, and the decision of such tribunal or of the appellate tribunal, if any, to be regarded as the final settlement of such claim, it being understood that each Government will use its best endeavours to secure to the nationals of the other the same rights and remedies as may be enjoyed by its own nationals in similar circumstances, and that His Majesty's Government in Great Britain agrees that fullest access to British Prize Courts shall remain open to claimants subject to the right of the British authorities to plead any defences that may be legally open to them.

"(3.) That the right of each Government to maintain in the future such position as it may deem appropriate with respect to the legality or illegality under international law of measures such as those giving rise to claims covered by the immediately preceding paragraph is fully reserved, it being specifically understood that the juridical position of neither Government is prejudiced by the present agreement.

" Article 2.

" Nothing contained in this agreement shall be construed to annul, alter, modify or in any way affect the rights of nationals of either Government or to prevent the presentation of diplomatic claims based thereon, in respect of—

" (1.) The user of inventions by the other Government in connection with its prosecution of the war.

" (2.) Damage caused by or salvage services rendered to a vessel belonging to the other Government.

" It is expressly understood that the provisions of this agreement do not apply to (1) Claims by the Government of the United States, or of its nationals, against the Government of any of His Majesty's self-governing Dominions or of India, or British nationals resident therein, or to claims against the Government of the United States by the Government of any of His Majesty's self-governing Dominions or of India, or by British nationals resident therein, and (2) Claims on behalf of either Government or its nationals for the release of property held by Custodians of Enemy Property in Great Britain and Northern Ireland and all British Colonies and Protectorates, and by the Alien Property Custodian or the Treasurer of the United States."

If the foregoing arrangement is acceptable to your Government, a note from you to that effect will be considered by this Government as completing the understanding and the arrangement will thereupon be regarded by the Government of the United States as having come into force.

In order to obviate the possibility of future misunderstanding as to the purpose or interpretation of the arrangement, I desire to state that the Government of the United States regards it not as a financial settlement but as the friendly composition of conflicting points of view which seemed to lend themselves to no other form of adjustment. It is my understanding, in these circumstances, that the present agreement will be construed by both Governments with full regard for the equities of all parties concerned. The Government of the United States realises that by the terms of the agreement His Majesty's Government waive their right to receive a net cash payment on account of certain claims recognised by the United States as just and proper, and also their right to press certain other claims, liability for which has not been formally admitted by this Government, but which involve considerable amounts. I desire

to record the fact that the Government of the United States will regard the net amount saved to it through the above-mentioned waiver by His Majesty's Government of outstanding claims against the Government of the United States as intended for the satisfaction of those claims of American nationals falling within the scope of paragraph (2) of Article 1 of the agreement, which the Government of the United States regards as meritorious and in which the claimants have exhausted their legal remedies in British courts, in which no legal remedy is open to them, or in respect of which for other reasons the equitable construction of the present agreement calls for a settlement. Consequently, I take pleasure in assuring you that the Government of the United States will recommend such action by Congress as will ensure the utilisation for the purpose just mentioned of the sums saved to the United States under the provisions of the present agreement, and that it will also safeguard His Majesty's Government against possible double liability by exacting an assignment to the Government of the United States of all of a claimant's rights and interests in the claim in question as a condition precedent to the allowance of any compensation in respect thereof.

Furthermore, since it appears that American citizens with claims against His Majesty's Government which do not fall within the scope of the present agreement enjoy certain rights of access to the British judicial or administrative tribunals not enjoyed in similar cases by British subjects seeking remedy against the Government of the United States, I take pleasure in extending to the cases of British claimants whose claims are not covered by the present agreement, the assurance contained in paragraph (2) of Article 1 of the agreement in question, that is that the Government of the United States will use its best endeavours to secure to British nationals the same rights and remedies as may be enjoyed by its own nationals in similar circumstances, and in such cases the Department of State will be happy to give active support to a request to the Congress for appropriate remedial legislation.

Accept, Excellency, &c.

FRANK B. KELLOGG.

No. 2.

Sir Esme Howard to Mr. Kellogg.

British Embassy,

Washington, D.C., May 19, 1927.

Sir,

I HAVE the honour to incorporate herein the text of an arrangement for the disposal of certain pecuniary claims arising out of the recent war, in which the Government of the United States and His Majesty's Government in Great Britain are interested either as principals or on behalf of their respective nationals. The terms of

this arrangement, which has been agreed upon by representatives of both Governments, are as follows :—

“ *Article 1.*

“ With the exceptions stated in Article 2 hereof His Majesty’s Government in Great Britain and the Government of the United States agree :—

“ (1.) That neither will make further claim against the other on account of supplies furnished, services rendered or damages sustained by it in connection with the prosecution of the recent war, all such accounts to be regarded as definitively closed and settled.

“ (2.) That neither will present any diplomatic claim or request international arbitration on behalf of any national alleging loss or damage through the war measures adopted by the other, any such national to be referred for remedy to the appropriate judicial or administrative tribunal of the Government against which the claim is alleged to lie, and the decision of such tribunal or of the appellate tribunal, if any, to be regarded as the final settlement of such claim, it being understood that each Government will use its best endeavours to secure to the nationals of the other the same rights and remedies as may be enjoyed by its own nationals in similar circumstances, and that His Majesty’s Government in Great Britain agrees that fullest access to British Prize Courts shall remain open to claimants subject to the right of the British authorities to plead any defences that may be legally open to them.

“ (3.) That the right of each Government to maintain in the future such position as it may deem appropriate with respect to the legality or illegality under international law of measures such as those giving rise to claims covered by the immediately preceding paragraph is fully reserved, it being specifically understood that the juridical position of neither Government is prejudiced by the present agreement.

“ *Article 2.*

“ Nothing contained in this agreement shall be construed to annul, alter, modify or in any way affect the rights of nationals of either Government or to prevent the presentation of diplomatic claims based thereon, in respect of—

“ (1.) The user of inventions by the other Government in connection with its prosecution of the war.

“ (2.) Damage caused by or salvage services rendered to a vessel belonging to the other Government.

“ It is expressly understood that the provisions of this agreement do not apply to (1) Claims by the Government of the United States, or of its nationals, against the Government of any

of His Majesty's self-governing Dominions or of India, or British nationals resident therein, or to claims against the Government of the United States by the Government of any of His Majesty's self-governing Dominions or of India, or by British nationals resident therein, and (2) Claims on behalf of either Government or its nationals for the release of property held by Custodians of Enemy Property in Great Britain and Northern Ireland and all British Colonies and Protectorates, and by the Alien Property Custodian or the Treasurer of the United States."

I am authorised to inform you that the foregoing arrangement is acceptable to His Majesty's Government in Great Britain, and I hereby convey their acceptance thereof in acknowledgment of that contained in your note on behalf of the Government of the United States. The understanding is therefore regarded as having been completed and the arrangement as having come into force.

In order to obviate the possibility of future misunderstanding as to the purpose or interpretation of the arrangement, I am directed to state that His Majesty's Government in Great Britain regard it not as a financial settlement but as the friendly composition of conflicting points of view which seemed to lend themselves to no other form of adjustment. It is my understanding, in these circumstances, that the present agreement will be construed by both Governments with full regard for the equities of all parties concerned. By the terms of the agreement His Majesty's Government in Great Britain waive their right to receive a net cash payment on account of certain claims recognised by the United States as just and proper, and also their right to press certain other claims, liability for which has not been formally admitted by the Government of the United States. It is understood that the Government of the United States will regard the net amount saved to it through the above-mentioned waiver by His Majesty's Government of outstanding claims against the Government of the United States as intended for the satisfaction of those claims of American nationals falling within the scope of paragraph (2) of Article 1 of the agreement which the Government of the United States regards as meritorious and in which the claimants have exhausted their legal remedies in British courts, in which no legal remedy is open to them or in respect of which, for other reasons, the equitable construction of the present agreement calls for a settlement. I take note with satisfaction of your assurance that the Government of the United States will recommend such action by Congress as will ensure the utilisation for the purpose just mentioned of the sums saved to the United States under the provisions of the present agreement and that it will also safeguard His Majesty's Government in Great Britain against possible double liability by exacting an assignment to the Government of the United States of all of a claimant's rights and interests in the claim in question as a condition precedent to the allowance of any compensation in respect thereof.

Furthermore, since it appears that British subjects with claims against the Government of the United States which do not fall

within the scope of the agreement above quoted do not enjoy rights of access to American judicial or administrative tribunals as complete or effective as are enjoyed in similar cases by American citizens seeking remedy against His Majesty's Government in Great Britain, it is understood that the Government of the United States extends to British claimants whose claims are not covered by the agreement above quoted, the assurance contained in paragraph (2) of Article 1 of the said agreement, that is to say, that the Government of the United States will use its best endeavours to secure to British nationals the same rights and remedies as may be enjoyed by its own nationals in similar circumstances, and that in such cases the Department of State will give active support to a request to the Congress for appropriate remedial legislation.

I have, &c.
 ESME HOWARD.