

## MOROCCO.

### FRENCH PROTECTORATE IN MOROCCO. RELINQUISHMENT OF EXTRATERRITORIAL JURISDICTION BY CERTAIN FOREIGN POWERS. ATTITUDE OF THE UNITED STATES.

File No. 881.00/531.

*The French Ambassador to the Secretary of State.*

[Translation.]

FRENCH EMBASSY,  
*Washington, January 8, 1913.*

MR. SECRETARY OF STATE: By order of my Government, I have the honor to communicate herewith to your excellency the text of the Franco-Moroccan Protectorate Treaty that was signed at Fez on March 30, 1912.<sup>1</sup>

The assurances your excellency was pleased to give me heretofore as to the establishment of the French protectorate in Morocco lead me to hope that the Federal Government will see no objection to giving its adhesion to that instrument. The French Government would be glad to be so assured.

Your excellency will note that under article 6 of the aforesaid treaty "the diplomatic and consular officers of France will be in charge of the representation and protection of Moroccan subjects and interests abroad."

A limitation, however, was put upon the provision by the Franco-Spanish treaty of November 27 last of which I had the honor to communicate to the Department of State on the 29th of the same month. Article 23 of that treaty provides that "The Moroccan subjects belonging in the zone of Spanish influence shall be placed abroad under the protection of the diplomatic and consular officers of Spain."

Be pleased [etc.]

JUSSERAND.

File No. 881.00/531.

*The Secretary of State to the French Ambassador.*

DEPARTMENT OF STATE,  
*Washington, January 22, 1913.*

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 8th instant transmitting the text of the Franco-Moroccan Protectorate Treaty, signed at Fez on March 30, 1912, and asking the adhesion of the Government of the United States thereto.

<sup>1</sup> Not printed.

Following the traditional American foreign policy, which forbids participation by the United States in the settlement of political questions which are entirely European in their scope, the Government must refrain from any expression of opinion for or against such part or parts of the Franco-Moroccan Protectorate Treaty as may be deemed of a political nature.

Paragraph I of Article I of this treaty provides that "the Government of the French Republic and His Majesty the Sultan mutually agree to establish in Morocco such administrative, judicial, educational, economical, financial and military reforms as the French Government may deem it desirable to introduce in Moroccan territory", and further, paragraph II, Article V, provides that "the French Commissioner Resident shall be the sole intermediary of the Sultan in all foreign relations." By the terms of article I the Government of the French Republic practically assumes all the powers of government in Morocco, and as a natural corollary thereto it assumes also the obligations of the Moroccan Government in its relations with foreign Governments insofar as existing treaty rights between Morocco and foreign Governments are concerned. As your excellency is aware, adhesion on the part of the Government of the United States to any treaty, under our Constitution, can only be given by and with the advice and consent of the United States Senate, and, after careful consideration of the Franco-Moroccan Protectorate Treaty, this Government is of the opinion that it is not sufficiently detailed and concrete in its provisions to permit of submission to this country's treaty making power.

Provided, however, the Government of the French Republic is willing to give its assurance that American interests and rights in Morocco, as are at present safe-guarded by existing treaties, shall continue to receive the same consideration in the future as they have been entitled to and have enjoyed in the past, on such an understanding the Government of the United States would be inclined to view with favor the reforms which the French protectorate contemplate introducing into Morocco as provided for in the treaty in question.

Accept [etc.]

P. C. KNOX.

File No. 881.041.

*The French Chargé d'Affaires to the Secretary of State.*

[Translation.]

FRENCH EMBASSY,  
Washington, October 7, 1913.

MR. SECRETARY OF STATE: By order of my Government I have the honor to forward herewith to your excellency two copies of the Official Bulletin of the Morocco Protectorate promulgating the new judiciary system in the French zone of the Shereefian Empire,<sup>1</sup> together with a copy of the Journal Officiel of the French Republic of September 9, 1913, which also contains the decree relating to that organization.<sup>1</sup>

<sup>1</sup> Not printed.

The new judiciary system, instituted by virtue of the provisions in paragraph 2 of article 9 of the Franco-German treaty of November 4, 1911, is intended to supersede the French Consular Courts on and after October 15, 1913.

In accordance with the provisions of the aforesaid article, I have been instructed to ask the Federal Government to place its citizens under the new jurisdiction. I shall hasten to forward to my Government the reply your excellency will be so good as to return to me on the subject.

Accept [etc.]

E. DE PERETTI DE LA ROCCA.

File No. 881.00/574a.

*The Acting Secretary of State to the French Ambassador.*

DEPARTMENT OF STATE,  
Washington, February 13, 1914.

EXCELLENCY: The Department has the honor to make reply to the Embassy's notes of August 29,<sup>1</sup> September 14,<sup>1</sup> October 7, and January 7,<sup>1</sup> last, relative to the establishment of the French protectorate in Morocco and the revision of the lists of American protégés in that country.

In the first note above mentioned the Department is informed, in relation to the establishment of the French protectorate, that, owing to the inadequacy of the means theretofore employed to prevent the smuggling of arms and munitions of war into Morocco, General Lyautey had decided "to declare martial law within the zone of French influence in Morocco in the matter of contraband of arms." In the informal note of September 14, Mr. Peretti, who was then acting as Chargé d'Affaires ad interim, made known the wish of his Government that this Government would give instructions to its representative at Tangier looking to the designation of "a delegate to assist in the revision of the protection lists of people lying under the American jurisdiction." Mr. Peretti added that it was not possible to "accept the reserve (of the United States) relative to the right of foreign representatives to act in the last resort upon the decision of the Maghzen" in regard to the natives who should enjoy the protection of a foreign government.

With his note of October 7, Mr. Peretti transmitted to the Department copies of the official bulletin of the Morocco protectorate "promulgating the new judiciary system in the French zone of the Shereefian Empire." Mr. Peretti called attention to the fact that the new judiciary system was "intended to supersede the French consular courts on and after October 15, 1913," and, under instructions, asked this Government "to place its citizens under the new jurisdiction."

Finally, with your note of the 7th of January last, you transmitted to the Department a list of errata in the "Bulletin Officiel"<sup>2</sup> and requested that "the new French courts in Morocco be recognized at the earliest possible date."

Turning first to the subject of the revision of the protégé lists, mentioned in Mr. Peretti's note of September 14, it is proper to state

<sup>1</sup> Not printed

<sup>2</sup> Necessary corrections made in inclosure (not printed) to note of October 7.

that the protection of native Moors in Morocco by this Government rests upon its treaty with Morocco of 1836 and the Madrid convention of 1880. The relevant part of the treaty of 1836 is found in article 15, which reads as follows:

Merchants of both countries shall employ only such interpreters and such other persons to assist them in their business as they shall think proper.

The convention of 1880 declares, in article 1, that the protection of native Moors is based on the British and Spanish treaties with Morocco and on the convention of 1863 between France, Morocco, and other Powers, "with the modifications introduced by the present convention," and stipulates, in article 16, that "the authorities of Morocco will recognize no protection of any kind whatever save such as is expressly provided for in this convention."

After a careful examination of the several articles of the Madrid convention relative to the protection of American protégés, the Department is unable to reach the conclusion that the Moorish Government enjoys the right ultimately to decide upon the persons who may become protégés of this Government. On the contrary, article 2 of the convention provides that "foreign representatives at the head of a legation may select their interpreters and employees from among the subjects of Morocco or others"; and article 3 provides that consular officers "shall be allowed to select" their employees. By article 5 of the same convention, "the Government of Morocco recognizes the right of ministers, chargés d'affaires, and other representatives, which is granted to them by treaties, to select the persons whom they employ." In regard to the lists of protected persons, the convention is equally precise, as appears by articles 7 and 8, which read as follows:

#### ARTICLE 7.

Foreign representatives shall inform the Sultan's Minister of Foreign Affairs, in writing, of any selections of any employee made by them.

They shall furnish annually to the said minister a list of the names of the persons protected by them or by their agents throughout the States of the Sultan of Morocco.

This list shall be transmitted to the local authorities, who shall consider as persons enjoying protection only those whose names are contained therein.

#### ARTICLE 8.

Consular officers shall transmit each year to the authorities of the district in which they reside a list, bearing their seal, of the persons protected by them. These authorities shall transmit it to the Minister of Foreign Affairs, to the end that, if it be not conformable to the regulations, the representatives at Tangier may be informed of the fact.

A consular officer shall be required to give immediate information of any changes that may have taken place among the persons protected by his consulate.

Regarding the appointment of protégés for "signal services," the convention provides (article 16) that the "Minister of Foreign Affairs at Tangier shall be previously informed of the nature of the services, and notified of the intention to award them, in order that he may, if need be, present his observations thereon; yet the final decision shall be reserved for the government to which the service shall have been rendered."

Concerning the protection of the native employees of private persons, the treaty of 1836 appears to contain no stipulation; but in

article 9 and 10 of the convention of 1880, there are found the following provisions:

## ARTICLE 9.

Servants, farmers, and other native employees of native secretaries and interpreters shall not enjoy protection. The same shall be the case with Moorish employees or servants of foreign subjects.

Nevertheless, the local authorities shall not arrest an employee or servant of a native officer in the service of a legation or consulate, or of a foreign subject or protected person, without having notified the authority upon which he is dependent.

If a subject of Morocco in the service of a foreign subject shall kill or wound any person, or violate his domicile, he shall be arrested immediately, but the diplomatic or consular authority under which he is shall be notified without delay.

## ARTICLE 10.

Nothing is changed with regard to the situation of brokers, as established by the treaties and by the convention of 1863, except what is stipulated, relative to taxes, in the following articles.

Inasmuch as the Madrid convention refers, in article 1, to the "convention of 1863 between France, Morocco, and other Powers" regarding the protection of native Moors, and to the British and Spanish treaties with Morocco on the same subject, it is appropriate to examine the provisions of these treaties on the subject.

The provisions of the convention of 1863 appear to be substantially the same as the "regulations relative to protection adopted by common consent by the Legation of France and the Government of Morocco, August 19, 1863," reprinted, in "Treaties in Force, 1904," at the end of the Madrid convention. The regulations are in part as follows:

Protected persons are divided into two classes.

The first class comprises natives employed by the legation and by the various French consular officers.

The second class consists of native factors, brokers, or agents employed by French merchants for their business affairs. \* \* \*

French protection is not extended to natives employed by French citizens in agricultural occupations. \* \* \*

It is, moreover, understood that agricultural laborers, herdsmen, or other native peasants in the service of French citizens shall not be legally prosecuted without immediate information thereof being communicated to the competent consular officer in order that the latter may protect the interests of his countrymen.

The list of all protected persons shall be delivered by the proper consulate to the competent magistrate of the place, who shall likewise be informed of any changes that may subsequently be made in the said list.

Each protected person shall be furnished with a card, in French and in Arabic, mentioning his name and stating the services which secure this privilege to him.

All these cards shall be issued by the Legation of France at Tangier.

The British and Spanish treaties mentioned in Article I of the Madrid convention are presumably the general treaty of December 9, 1856, between Great Britain and Morocco, and the treaty of commerce and navigation of November 20, 1861, between Spain and Morocco. In the British treaty it is specifically provided that the *chargé d'affaires* and the consular officers of Great Britain "shall be at liberty to choose" their own employees and that British subjects "shall be free" to commit their affairs "to the management of any persons whom they may appoint as their broker, factor, or agent; nor," says the treaty, "shall such British subjects be restrained in

their choice of persons to act in such capacities." The Spanish treaty provides that "the chargé d'affaires or consul-general may choose his interpreters and servants from amongst the Mussulman subjects or amongst those of any other country"; that other consular officers "may name" employees "either Mussulmans or subjects of another country," and that Spanish merchants may put their affairs "into the hands of brokers or agents appointed by themselves and they shall not be interfered with, nor shall obstacles be raised to the free choice of the persons to fulfill this charge."

It would, therefore, seem that the choice of the protégés of the United States in Morocco rests, by right of treaty, ultimately with this Government. Such appears to be the view which this Department has always taken of the convention of 1880, and which has been the basis of its action in carrying out the provisions of that convention. The question of the choice of protégés is, however, in the view of this Government, but a phase of the larger question involved in the establishment of French and Spanish control over separate portions of Morocco.

On the subject of the French protectorate this Government has heretofore expressed itself as being in favor of the reforms which France contemplated introducing into Morocco in accordance with the stipulations of the Franco-Moroccan treaty of March 30, 1912, on the understanding that provision be made for the preservation of American interests and rights in Morocco, commercial or otherwise, which are at present safeguarded by existing treaties with that country. The more important of those interests and rights it is proper now to enumerate.

In the first place, attention may be drawn to the right of aliens to hold land in the Shereefian Empire. This right appears now to be based upon the provisions of the Madrid convention and the Algeciras Act. With a view to carry out article 60 of the Algeciras Act, the Sultan's Foreign Minister on December 5, 1912, sent to the Diplomatic Corps at Tangier a set of regulations classifying the public domain of the empire and defining "inalienable property" and "alienable property." These regulations also laid down certain rules to govern the sale of the latter class of property to foreigners.

It is understood that these regulations are not entirely consistent with the provisions on the subject of land ownership in the act of Algeciras and the convention of Madrid. Under article 11 of the Madrid convention the right of "all foreigners" to "hold property" anywhere within the Empire is recognized, but "the purchase of property must take place with the previous consent of the Government." By article 60 of the Algeciras Act this right was confirmed, and it was further provided that within a radius of 10 kilometers around the open ports and within 2 kilometers around certain other towns, land might be acquired by foreigners without the previous consent of the Moorish Government.

The proposed regulations define "inalienable property" to include "Guish" lands, the seashores, "Habous" or mosque properties, tribal lands, forest land, desert, uncultivated or ownerless lands, ore-bearing land, and escheated property. The Department is advised that practically all of the land within the 10-kilometer zones, especially at Tangier, is either "Guish" land or seashore. Consequently, there

would appear to be little or no land lying within the 10-kilometer zones which may be subject to private ownership without the consent of the Moorish Government.

Moreover, while in one paragraph the regulations recognize the fact that under article 60 of the act of Algeciras no authorization is necessary for the sale of lands within certain zones, in the next paragraph the regulations provide that "the Cadi will approve no sale made to a foreigner unless the authorization according to the regulations has been granted by the Maghzen."

It would seem, therefore, that, if the regulations are correctly understood, an interpretation has been given to article 60 which its terms would not ordinarily bear.

By the same regulations the Moroccan Government reserves the right "to annul or to revise" any deeds of so-called "inalienable property" which may have been given prior to the date of the regulations. The Department is advised that much of the Guish and seashore property, as well as other lands, situated within the zones above mentioned, has long been held by private individuals under deeds legally obtained with the authorization of the responsible agents of the Maghzen.

In view of this circumstance, it is difficult to believe that it is the intention of the Moroccan Government to consider these regulations as retroactive in their operation and as thereby divesting or giving opportunity to divest rights in land legally acquired and officially confirmed by the Maghzen's agents.

The proposed regulations, as understood by the Department, further provide in effect that no transfer of land will be authorized until the different Moorish intermediaries have stated that no Government rights are infringed. This provision probably has in view the carrying out of that part of article 60 of the Algeciras Act which stipulates that "before authorizing the execution of deeds transferring property the Cadi will have to satisfy himself of the validity of the title in conformity to the Mohammedan law." The Department is, however, advised that the records of land titles in Morocco are very incomplete, and that this provision of the regulations may be used to delay indefinitely transfers of property in which the Moorish Government has in fact no legal or equitable rights.

As a further restriction upon the right of land ownership, it is reported that, notwithstanding the provisions of article 60 of the Algeciras Act respecting the acquisition of land within stated zones around the open ports and certain other towns, the Sultan about a year ago issued two decrees imposing military servitudes upon land situated within a radius of 250 meters around towns and fortified quarters within certain enumerated districts.

It appears that certain "habous" or mosque properties are alleged to have been irregularly disposed of in the past to persons subject to foreign jurisdiction, who hold these properties either without regular title thereto or by virtue of doubtful contracts. The Algeciras conference took formal note of this situation, and by article 63 of the Algeciras Act, charged the diplomatic body at Tangier to "solve these questions equitably, in accord with the special commissioner whom His Shereefian Majesty may be pleased to designate to that effect." This stipulation does not appear to have been carried

out. On the contrary, the Department is informed that the Sultan has communicated to the Diplomatic Corps a circular proposing measures for the recovery of such properties.

In these circumstances it would seem that titles to land already acquired and the right to make acquisitions in the future are being called into question and placed on an uncertain basis. This Government is therefore desirous of some assurance that the vested rights of its citizens and protégés in property in Morocco will be respected, and to that end will be promptly confirmed by the Moroccan Government, and that existing treaty rights respecting the purchase and sale of land within the Empire will be protected and preserved.

In the second place the Department ventures to mention the subject of trade discriminations practiced by the authorities in Morocco. Complaints, apparently well founded, have reached this Government that customs duties have been imposed arbitrarily and without uniformity; that unreasonable export duties or surcharges have been collected, and that free and open competition in bidding for the construction of public works or the furnishing of supplies for the Government have been denied. It is reported that customs duties on the imports of the Vacuum Oil Co. vary for different ports of entry and for different countries of origin, thus in practical effect working a discrimination between importers at the same or different ports. For example, it is stated that in the recent past the customs duty has varied from 5.50 francs to 6.50 or 7 francs per case. The Department is also informed that in 1911 exporters of olive oil in barrels from Mogador, Morocco, to New York were arbitrarily made to pay 14 pesetas surcharge as tare on the barrels, regardless of the offer and desire of the exporter or his agent to empty a sample barrel for the purpose of determining the exact tare for the shipment.

It is understood that articles 105 to 110, inclusive, of the Algeciras Act require free and open competition "without preference of nationality" in bidding on proposals for public works and supplies for the Moroccan Government. The Department is advised, however, that specific proposals are not always prepared, so that real competition is possible. It is stated, for example, that the specifications do not always disclose the rate of duty on materials, machinery, and tools, so that distant bidders, unacquainted with local conditions, are placed at a great disadvantage in formulating bids. It is understood also that the opportunity of foreign contractors to take part in competitive bidding is minimized by the method of dividing large Government contracts into allotments too small to attract any but nearby contractors.

As the main purpose of the United States in participating in the Algeciras conference and in the adoption of the act resulting therefrom was to preserve and increase its commerce in Morocco, this Government desires equal opportunities for American commercial interests not only to maintain their present standing in Morocco but also to share in the country's commercial development.

In the third place, the Department is advised that a commission composed entirely of French nationals has been appointed for the liquidation of outstanding claims against the Maghzen. Notice of this commission and of the date for presentation of claims has been communicated to this Government and to American citizens and



protégés in Morocco. The Department is not at present advised as to the exact amount of the claims so far presented, but it is believed that the sum approximates \$150,000.

It is also understood that certain awards made by the Claims Commission which sat in 1910 for the purpose of considering the claims of aliens against the Maghzen, have not as yet been fully paid.

This Government, therefore, is desirous that the awards of the commission of 1910 be duly paid to the American claimants and that some assurance be given that the awards of the present commission will be paid within a certain reasonable period.

Finally, it is perhaps proper to mention the case of Jacob Benatuil, an American citizen, who has for some years been engaged in litigation before the Moorish courts, in the manner provided in the treaty of Madrid, in an effort to secure the restoration of a strip of land said to have been arbitrarily taken and used for a highway. It appears that the property of Benatuil bordered on a roadway, and that certain persons of foreign nationality, including Frenchmen and Spaniards, who own land on the opposite side of the road, erected buildings beyond their property lines and thereby caused the roadway to encroach upon the land owned by Benatuil. In the course of the litigation Benatuil obtained a judgment in his favor by the Shraa, which on appeal, as provided by treaty, was confirmed by the Sultan's Foreign Minister. Thereupon the Consul General of the United States, according to custom, requested the Moorish authorities to enforce the judgment, but they never acceded to the request. The only legal course then open to the American claimant was for him to sue upon the judgment in the Consular Courts of France, Spain, and the other countries whose nationals were concerned. It is doubtful whether such a course would have proved effective, inasmuch as it is understood that the defendants would, in the event of a decision adverse to themselves, have had the right to appeal to the superior home courts of their respective countries. As the expense involved in such proceedings was prohibitive to the American claimant, the Department has long desired that this case, which has been a source of misunderstanding and diplomatic correspondence for many years, should be disposed of by a settlement between the two Governments.

The foregoing statement covers the more important matters under discussion between this Government and that of Morocco. There are other matters which have given rise to diplomatic correspondence, but they may be reserved for future discussion, if need be. The present review embraces matters that touch the maintenance of American commercial interests in Morocco and the protection of the liberty and property of American citizens and protégés in that country, and it is for the purpose of removing any points of controversy in these particulars and bringing about an adjustment of them, that this Government, animated with a favorable disposition toward the reforms which the French protectorate is designed to assure, has addressed itself to an exposition of the questions as to which it desires to reach a definite understanding and settlement, as a preliminary to or incident of the recognition, in due and proper form, of the fundamental change involved in the establishment of a foreign governmental régime in the Shereefian Empire.

In conclusion, it may be proper to call attention to the situation of the American missionaries in Morocco. These missionaries have for years labored in this field, including the districts inhabited by the Berber tribes, and, as the Department is advised, have maintained and continue to maintain friendly and mutually satisfactory relations with the authorities of the country. They have expressed themselves as most appreciative of the courteous and kind treatment accorded to them by the French officials in Morocco. This Government therefore ventures to express the earnest hope that, in any reorganization of the Government of the Empire which may be contemplated or in progress, the rights and privileges of these missionaries may be carefully safeguarded and every facility be granted them for the prosecution of their worthy and benevolent task.

Accept [etc.]

J. B. MOORE.

File No. 881.00/576.

*The French Ambassador to the Secretary of State.*

[Translation.]

FRENCH EMBASSY,  
Washington, April 22, 1914.

MR. SECRETARY OF STATE: Referring to the oral communications by which I made known to the Department of State the views of my Government in respect to the remarks contained in your excellency's note of February 13, last, about Morocco, I have the honor, in compliance with instructions I have received, to remind you of the high value we should attach to the United States Government's relinquishing, together with its consular courts, its extraterritorial privileges in the French Zone of the Shereefian Empire.

Your excellency's note above mentioned held out the prospect that the United States would accede to our request and record its accession in due and proper form but pointed out a certain number of topics as to which favorable assurances were requested.

As to the matter of form, my Government wishes me to submit to your excellency the enclosed draft of declaration which in its opinion fits the situation that is to be cleared. I am told that the declaration has already been signed by the Russian and Spanish Governments and that other adhesions are forthcoming.

As to the several points mentioned in your excellency's note I may, as I have already done by word of mouth, assure you that the Government of the Republic is quite ready to settle in the most friendly spirit the questions of interest to the United States in Morocco that may still be pending.

Among these, that of the protégés naturally ceases to be of any practical importance to the Powers that agree to recognize our new courts, the tertib tax being, besides, already paid by foreigners.

As to the right of aliens to own real estate, it has not been restricted by any Shereefian regulations. All that has been done was to take a few urgent measures having relation to strategy or prompted by the necessity of checking speculation in land intended for public use.

The complaint of the "Vacuum Oil Co." against the customs treatment accorded to its products had not been brought by the party

concerned or the representative of its country to the notice of my Government, which deems it its duty in this respect to recall that the treaties in force guarantee equal fiscal treatment to all the Powers and that they may be sure that nothing will be overlooked to let their nationals enjoy the full benefit of those advantages.

My Government indulges the hope that under the conditions I have just brought to mind and in view of its firm intention to examine and settle in an entirely friendly way the few questions yet unsettled in which American citizens are interested, your excellency will kindly coincide in the views I have just had the honor to submit to you. Your acceptance of these propositions would be particularly gratifying to the Government of the Republic, which would take it as fresh evidence of the traditional friendship existing between our two countries.

Be pleased to accept [etc.]

JUSSERAND.

[Inclosure—Translation.]

DECLARATION.

The undersigned, duly authorized by their respective Governments, make in common accord the following declaration:

Taking into consideration the guarantees of juridical equality offered to foreigners by the French Courts of the Protectorate, the Government of the United States relinquish all claims for its Consuls, persons subject to its jurisdiction, and its establishments to any right or privilege derived from the régime of the Capitulations.

The treaties and conventions of every nature in force between France and the United States cover, as of right, unless otherwise stipulated, the French Zone in the Shereefian Empire.

This declaration will go into effect ten days after its date.

Done in duplicate at \_\_\_\_\_ this \_\_\_\_\_.

File No. 881.00/578.

*The Secretary of State to the French Ambassador.*

No. 1315.]

DEPARTMENT OF STATE,  
Washington, April 30, 1914.

EXCELLENCY: I have the honor to inform your excellency that the Department is in receipt of a telegram from the American Chargé d'Affaires at Tangier, stating that the French Diplomatic Agent in that city in the name of the French Resident General had requested of him a memorandum of pending and unsettled claims, understanding that this Government would not be favorably inclined to recognize the French protectorate until those cases were satisfactorily disposed of.

The American Legation at Tangier has been instructed to submit to the proper French authorities a memorandum of all pending American claims in Morocco and I beg to assure your excellency that a satisfactory solution of these cases would greatly aid this Government in replying to your note of January 8, 1913, containing the request of your Government for the formal recognition of the French protectorate in Morocco.

Accept, [etc.]

For the Secretary of State:  
ROBERT LANSING.

File No. 881.00/582.

*The French Ambassador to the Secretary of State.*

[Translation.]

FRENCH EMBASSY,  
Washington, June 10, 1914.

MR. SECRETARY OF STATE: My Government, to which I did not fail to forward the contents of your excellency's notes of February 13 and April 30 last, about the doing away with the extraterritorial rights in the French Zone of Morocco and about certain claims of American citizens, has just affirmed to me that it had promptly taken steps to bring about, under the most equitable conditions, a settlement of those claims.

In regard to one of them, that of the Vacuum Oil Company, my Government, which had never heard of it, wrote to Morocco to inquire about the grievances the concern might have to state as to the customs treatment it receives. General Liautey accordingly called upon the agent of the company for explanations. The answer was "that he had not the slightest ground for complaint against the customs authorities."

As for the other claims, the instructions sent by your excellency to the representative of the United States at Tangier, have no doubt brought to your knowledge with all the needful explanations the facts from which those claims may have arisen.

I beg leave in this connection to refer to the note I had the honor to address to your excellency on the 22nd ultimo [April] in which while answering the main points mentioned in your note of February 13, I laid stress on the importance attached by my Government to the Government of the United States' earliest possible accession to the request I had laid before you. I am informed by my Government that Russia, Spain and Norway have already renounced their extraterritorial rights by signing a declaration like that enclosed in my above mentioned note. Other accessions are momentarily expected.

Be pleased [etc.]

JUSSERAND.

File No. 881.00/585.

*The French Chargé d'Affaires to the Secretary of State.*

[Translation.]

FRENCH EMBASSY,  
Washington, July 16, 1914.

MR. SECRETARY OF STATE: In the course of the negotiations for the suppression of consular courts and the extinction of extraterritorial rights in the French Zone of the Shereefian Empire, it was occasionally objected to the representative of the Republic that it was not possible for the Powers to take any further responsibility in the fate of their Moorish protégés.

There would seem to be some foundation for that feeling. In fact under the provisions of Article 12 of the Franco-German agreement

of November 4, 1911, whose full scope is given in the explanatory letter, the Government of the Republic would certainly have the right after the discontinuance of the consular courts, to ask that protection be done away with, the strict legal effect of this would be to place under native jurisdiction the protégés who, under the present system, are enjoying consular jurisdiction.

But, with a view to obviating the hardships that might thereby be brought upon the Moorish subjects thus deprived of protection, the Government of the Republic is ready to declare them to be, as long as they live, under the jurisdiction of the French courts set up in the protectorate. This would place them, in this respect, on an equal footing with the persons subject to the jurisdiction of the former protecting power and not with the natives.

My Government authorizes me to make its intentions as to this known to the Federal Government, being convinced that they are likely to remove any apprehension concerning its protégés, if, after availing itself of the rights conferred upon it by the existing provisions, the Government of the Republic should procure the abolition.

I avail myself of this opportunity to enclose three copies of Louis Renault's preface to the codes and laws in force in the French protectorate in Morocco which brings forth the value and importance of the legislative work of the protectorate.<sup>3</sup> Showing as it does the guarantees extended to all foreigners in Morocco, that paper ought to expedite adhesion to the new system on the part of the few powers that have not yet relinquished the exercise of consular jurisdiction.

Be pleased, [etc.]

R. CLAUSE.

File No. 881.00/586.

*The French Chargé d'Affaires to the Secretary of State.*

[Translation.]

FRENCH EMBASSY,  
Washington, July 16, 1914.

MR. SECRETARY OF STATE: By a letter dated February 13 last, Mr. Bassett Moore made known to the Embassy the Federal Government's intention respecting the acceptance of the jurisdiction of the new courts instituted by us in Morocco for persons subject to American jurisdiction.

At the same time Mr. Bassett Moore expressed a strong desire to arrive at settlement of various questions affecting American interests in the Shereefian Empire.

The Resident Commissioner General of the French Republic, to whom the State Department's note was forwarded by the Minister of Foreign Affairs has returned to Mr. Viviani an answer the substance of which I have the honor to communicate to you.

With the exception of two clearly defined cases (Vacuum Oil Company and the Benatuil case), which will be fully explained hereinafter, the Federal Government formulates, but does not specify, reservations or demands of a purely general character against the Protectorate Government.

<sup>3</sup> Not printed.

There is no question about the Federal Government being, as much as any other, warranted in watching over the economic rights and interests of Morocco, which, as put by Mr. Bassett Moore, are safeguarded by the treaties concluded between the Foreign Powers and the Shereefian Empire. But it is equally true that the Protectorate Government is bent on respecting to the fullest extent, in favor of Americans as well as all other foreign citizens or subjects, the principle of economic equality.

The principle being once more evoked, the reservations or claims put forth by the Federal Government are so general in their character that, from the fact that the importance of American interests and the number of persons lying under American jurisdiction appear to be out of proportion to the set of reservations and objections offered, the question arises whether Mr. Bassett Moore's letter of February 13, 1914, is not aiming, after all, and while the Federal Government expresses itself in favor of the reforms, to reopen the question of the very principle of the Protectorate regulation powers.

As a matter of fact, it does not seem possible to maintain the protests that have been made against the Protectorate Government, upon careful examination of every one of the questions presented.

1. As regards the contemplated martial law in cases of contraband of arms, the matter having been settled by dropping the subject need not be brought up anew.

2. The Federal Government's statement about protection leads one to believe that the meaning and scope of the Protectorate's intentions have been misunderstood.

Indeed it never was heretofore our intention to do away with protection, but we meant merely to stop its improper use through a revision of the lists jointly with a delegate of every legation concerned. Provision, furthermore, for such a revision was made in the Franco-German treaty to which the Government of the United States gave its adhesion.

It is important, however, to take notice of Mr. Bassett Moore's assertion that "the choice of the American protégés rests ultimately with the Government of the United States," for the right to choose can only be exercised within the limits wherein it conforms to the treaties of the provisions of which the Maghzen may remind the Powers concerned, in order to obtain a return to the enforcement of those conventions.

If the Powers would forego, in principle, their consular jurisdiction, we might, per contra, take up such an enforcement in as liberal a spirit as possible and, to that end, come back to a bilateral revision as provided in the Franco-German treaty.

3. The remarks offered in regard to the original circular of November 1, 1912, laying down rules for the purchase of land appear to have been prompted by an incomplete study of the subject on the part of the Washington Government.

On the one hand, the consent of the Government, referred to in Article 11 of the Madrid Convention, in Article 60 of the Act of Algeciras and again mentioned in the regulations of November 1, 1912, does not, of course, apply to any but those parts where such consent is requisite, that is to say without the ten kilometre zone around the ports and the two kilometre zone allotted to Azemmour.

On the other hand the circular of November 1, 1912, cannot apply to the Tangier territory specifically referred to in the American memorandum, since Tangier and its purlieus do not come under the regulations decreed in the Protectorate.

As to the "habous" or Government land, the Guish lands, the circular of November, 1912, merely repeated in their respect pre-existing principles that are in force in every State, that is to say, the principles that some land is public domain and inalienable. In again bringing forward that principle, the Resident General merely availed himself of the power to issue regulations granted by the Franco-German treaty.

In answer to the fault found with servitude zones, we are justified in holding that all purchases of land are permitted by the Act of Algeciras (Art. 60), subject to the obligation placed on the purchaser to conform to the laws and usages of the country. Now the Shereefian decrees creating zones of military servitude are precisely to be numbered among "local laws," as the aforesaid Act of Algeciras could not presume to prevent on every subject whatsoever, laws and usages, or include in that phrase only those that existed in 1906.

Mr. Bassett Moore's letter further on asserts that the "records of land titles," which must furnish the Cadis with the means of verifying the validity of the contemplated transactions, are very incomplete. The conclusion drawn by Mr. Moore from this purely gratuitous assertion would, if accepted, have but one result; a perpetuation of wrongs based on those previously committed. Furthermore, when looking into the lawfulness of pending transactions, the local authorities do not confine their investigation to an inspection of the said records.

5. As regards Article 63 of the Act of Algeciras, the Protectorate Government never showed any intention to evade its operation and still more unfounded is the assertion that the Sultan gave notice to the diplomatic corps of measures aimed at the recovery of property of the class referred to in the aforesaid Article. Such a notice never was served. The only measures taken had for their sole object the prevention, for the future, of the wrongs the settlement of which for the past, must be effected in accordance with the procedure directed by the Act of Algeciras.

6. As for the customs grievances formulated by the American Government, the Protectorate Government is quite ready to give them full consideration when they are specified.

The only case presented in the memorandum of February 13, has been investigated at Casablanca by our Consul there.

He reports that the agent of the "Vacuum Oil Company" at Casablanca told him "he had not the slightest ground for complaint against the customs authorities." But the memorandum of the Chargé d'Affaires of the United States at Tangier, hereinafter discussed, having explained that the difficulties under consideration had occurred at Safi and not at Casablanca, General Liautey referred the question to the office of the Comptroller of the Debt of Tangier which will furnish all the data with which the settlement of this customs difficulty may be taken up at the earliest possible date.

7. As regards the American claims against the Maghzen, the Government of the United States may be assured that they will be examined in the same light as all the claims of persons under foreign jurisdiction. Those already passed upon by the Commission of 1910 will be paid in toto to the beneficiaries out of the funds of the loan that has just been voted.

8. As for the Benatuil case, our agency at Tangier gives me the following information confirmed by Mr. Filipp, our Consul at Tangier. It agrees with the information supplied by the Washington Government.

Jacob Benatuil, an American seamar, having obtained a judgment from the Shraa, about eight years ago, in a real estate suit against several foreigners, of whom one Mr. Fries was French, did not choose to apply to our Consular Court for an exequatur of the Cadi's judgment. The Legations of France and America tried but failed to bring about a friendly settlement of the Cadi's award by a payment by Mr. Fries, the loser, of an indemnity to be determined by umpires, but our fellow citizen, arguing that the judgment against him had been obtained by fraud, would not listen to any settlement.

Inasmuch, however, as the land in dispute lies within the Tangier zone, the American Government can not condition the relinquishment of its extraterritorial rights upon a settlement of this case which by reason of its situs, does not lie under the jurisdiction of the Protectorate authorities.

In order to arrive at a more precise knowledge, if possible, of what is asked of us, our agency at Tangier has been instructed to apply to the Chargé d'Affaires of the United States for such information as he possesses about the American claims the Government of the United States wished to have settled before recognizing our courts in Morocco.

Mr. Blake's memorandum under date of May 7, sent in reply to our Chargé d'Affaires comprises 14 claims. But seven of these may be even now stricken out; the first five (including the Benatuil case) belong in Tangier and the other two in El Ksar and Larach. They therefore do not come, by reason of their situs, under the jurisdiction of the Protectorate and can not be brought into a discussion of the relinquishing of extraterritorial rights in the French zone.

As to the other seven claims, they are all routine cases and most of them of a judicial nature, they do not offer, either in their character or their importance, a class of litigation which may afford ground to the United States for further postponing the relinquishment of its extraterritorial jurisdiction and privileges.

The Resident General is, at any rate, even now making it his duty to set on foot an examination of those cases and investigations by the Protectorate local authorities respectively concerned therein. But these cases apparently are not such as to warrant opposition, as a matter of principle, to relinquishing the American extraterritorial rights since the Resident General is even now ready to examine and settle those cases in the most conciliatory manner.

I deemed it expedient to relate hereinabove the explanations furnished by the Commissioner of the Republic which answer every point in Mr. Bassett Moore's memorandum. These explanations meet every claim and objection of the Federal Government, both in satisfying inquiries bearing on specific points and in carrying promises as to minor points that could not yet but will be settled. Finally



the report throws as full a light as may be desired on some other topics that do not seem to have been correctly understood or interpreted.

The willingness of the Federal Government to recognize the Protectorate's regulation powers cannot be doubted by the Embassy or by the French Government. I am convinced that your excellency will find in the foregoing explanations all the palliations you may wish for, and I have no doubt that you will, as has already been done by most of the other Powers, agree to forego the benefits of extraterritoriality in the French Zone of the Shereefian Empire and accept to place persons subject to American jurisdiction under that of our Courts.

Aware of the friendly and reciprocal good will which always presides over the settlement of such questions between our two countries, I cannot but remind once more, in conclusion, your excellency (as Mr. Jusserand did before this in his notes of May [April] 22 and June 10 last) of the high value my Government would attach to the Federal Government's early accession to our request laid before it on August 29, 1913.

Be pleased [etc.]

CLAUSSÉ.

File No. 881.00/586.

*The Secretary of State to the French Chargé d'Affaires.*

No. 1358.]

DEPARTMENT OF STATE,  
Washington, July 24, 1914.

SIR: I beg to acknowledge the receipt of your note of July 16 in reply to that of the Department under date of February 13, 1914, relative to the recognition by the Government of the United States of the French protectorate in Morocco and the desire of this Government for the settlement of certain questions affecting American citizens and American protégés and their rights in that country.

The American Government has assured the Government of the French Republic of its favorable disposition towards the reform which the French protectorate proposes and will give the remarks contained in your note referred to above careful consideration.

Accept [etc.]

For the Secretary of State:  
WILLIAM PHILLIPS.

File No. 881.00/588.

*The French Ambassador to the Secretary of State.*

[Translation.]

FRENCH EMBASSY,  
Washington, November 4, 1914.

MR. SECRETARY OF STATE: In continuation of previous communications, the last being the letter of July 16 last from the Chargé d'Affaires of France, relative to the claims in Morocco preferred by the Federal Government which it thought had better be settled before extraterritorial rights were relinquished, I have the honor

to inform your excellency that the result of the latest inquiries prescribed by my Government concerning those claims has just been made known to me and I deem it my duty to impart it to you as follows:

First, in regard to the Werschkul case, it appears from the investigation that the claim formulated in his memorandum of May 7 last by the representative of the United States at Tangier that it was settled as early as the following month of June. The deeds of sale were straightened out at that time.

On the other hand, as to Mr. Werschkul's being given possession by his common law native vendor, the case is one that involves Mr. Werschkul and his vendor on one side and the German agent on the other. Until lately it was for the native from whom Mr. Werschkul held his rights to sue for the execution of the judgment rendered against his opponent the German agent before the Consular Court of that nationality at Casablanca and the Protectorate authorities were quite ready to facilitate when the time came, the formalities required to enable the vendor provided of course that he had previously secured an exequatur of the appellate judgment to give possession to Mr. Werschkul.

The war declared by Germany on France having brought German protégés under the operation of the common law, the execution of the judgment is now a matter for the local authority alone to which the party concerned need only apply for a prompt and final settlement of his case.

Second, in regard to the Vacuum Oil Company's claim touching some land it purchased from one Ben Sauda and which it is said the Moorish authorities will not allow to be sold because of the land being Habou property, the Legation of the United States declared in a memorandum on the case that it could not consider any settlement bearing on Habou property to be applicable to its citizens and protégés before the forms required by Article 63 of the Act of Algéiras had been complied with.

But in the opinion of the Government of the Republic the treaties of 1880 and 1906 could not bar the Shereefian Government from amending or perfecting thereafter the laws and regulations existing at the time of the signature of those treaties. Article 63 cited by the Legation of the United States can hardly be invoked in this particular case since it deals with the examination of titles to Habou property occupied under certain conditions by foreigners in 1906 and the present case is that of land purchased in 1913 by the Vacuum Oil Company upon which there seems to lie certain Habou rights.

It can hardly be doubted under the circumstances that the case in dispute is that of a land transaction which if it does partially or wholly, concern the Habou administration, must be settled with proper regard to the existing regulations governing Habou cases.

The Protectorate Government has nevertheless asked the Habou Department to institute a thorough investigation of the case and the Legation of the United States has been so informed.

As to the various other questions, most of them of very little account (loss of an ox in 1911, the Benatuil case which can only be settled in accordance with the existing law; theft, the existence of which is not admitted, supposed to have been committed to the detriment of an American citizen, a money changer by trade, bearing the

name of Mohamed ben Ali, bags of sugar, ten in number, lost at Larrash, that is to say in the Spanish zone, etc.) the Acting Agent and Consul General of France at Tangier has opened negotiations with the representative of the United States in that city with a view to reaching the earliest possible friendly settlement of these few questions.

The Government of the Republic would fain believe that on the strength of the foregoing statements which, added to those previously submitted, are sufficient proof of the sincere readiness of the French authorities to bring without delay all these cases to a legitimate termination, the Government of the United States will kindly as it has repeatedly and lastly on July 24 last intimated to the Embassy, make a favorable answer to the requests I have had the honor to present as early as last year, and to the effect that the Government of the United States agrees, as has already been done by several European Governments, to the abrogation so far as it is concerned, of the Capitulations in Morocco wherever the Government of the Republic has organized French courts.

Be pleased [etc.]

JUSSERAND.

File No. 881.00/592.

*Chargé Blake to the Secretary of State.*

[Telegram.]

AMERICAN LEGATION,  
Tangier, December 20, 1914.

British Chargé d'Affaires informs me that owing to Turkish intervention in European war, British Government has proclaimed a protectorate over Egypt. A full agreement having been rapidly reached between France, Spain and Great Britain concerning the international régime of Tangier, Great Britain consents to recognize the French protectorate in Morocco, in exchange for recognition of British protectorate in Egypt. British Legation here will be immediately suppressed and the British Chargé will be appointed Diplomatic Agent and Consul General.

The question of the suppression of the Capitulations in the two countries is reserved for ulterior discussion and forms no part of the present understanding. Italian, Spanish and our own are the only Legations remaining.

It is possible that the international statutes of Tangier may shortly be presented for the consideration of the Powers but their application will likely be deferred until the ending of the war as otherwise the international character of the community would entitle the expelled representatives of Germany and Austria-Hungary to recognize technicalities.

In exchange for compensations elsewhere, all the Powers with exception of the United States have now recognized the French protectorate. I see no reason why we should depart from our position that recognition of the French protectorate and the suppression of the American Legation must be deferred until the settlement of our outstanding cases has been discussed. This point of view is well understood and seems to be admitted by the French local authorities as being both logical and reasonable.

BLAKE.