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be settled by negotiation, shall be submitted to the Permanent Court of the International Justice provided for by article 14 of the Covenant of the League of Nations.

The present declaration shall be deposited in the archives of the League of Nations. Certified copies shall be forwarded by the Secretary General of the League of Nations to all Powers Signatories of the Treaty of Peace with Germany.

Made at Geneva the 17th day of December 1920.

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DECLARATION BY THE JAPANESE GOVERNMENT RELATING
TO "C" MANDATES.

From the fundamental spirit of the League of Nations and as the question of interpretation of the Covenant, His Imperial Japanese Majesty's Government have a firm conviction in the justice of the claim they have hitherto made for the inclusion of a clause concerning the assurance of equal opportunities for trade and commerce in "C" Mandates. But from the spirit of conciliation and cooperation and their reluctance to see the question unsettled any longer, they have decided to agree to the issue of the Mandate in its present form. That decision, however, should not be considered as an acquiescence on the part of His Imperial Japanese Majesty's Government in the submission of Japanese subjects to a discriminatory and disadvantageous treatment in the Mandated territories; nor have they thereby discarded their claim that the rights and interests enjoyed by Japanese subjects in these territories in the past should be fully respected.

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Article 1.

The islands over which a mandate is conferred upon his Majesty the Emperor of Japan (hereinafter called the Mandatory) comprise all the former German islands situated in the Pacific Ocean and lying north of the Equator.

Article 2.

The Mandatory shall have full power of administration and legislation over the territory subject to the present mandate as an integral portion of the Empire of Japan, and may apply the laws of the Empire of Japan to the territory, subject to such local modifications as circumstances may require. The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory subject to the present mandate.

Article 3.

The Mandatory shall see that the slave trade is prohibited and that no forced labour is permitted, except for essential public works and services, and then only for adequate remuneration.

The Mandatory shall also see that the traffic in arms and ammunition is controlled in accordance with principles analogous to those laid down in the convention relating to the control of the arms traffic, signed on September 10th, 1919 or in any convention ending same.

The supply of intoxicating spirits and beverages to the natives shall be prohibited.

Article 4.

- 3 -

Article 4.

The military training of the natives, otherwise than for purposes of internal police and the local defence of the territory, shall be prohibited. Furthermore, no military or naval vessels shall be established or fortifications erected in the territory.

Article 5.

order and public Subject to the provisions of any local law for the maintenance of public morals, the Mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship and shall allow all missionaries, nationals of any State Member of the League of Nations, to enter into travel and reside in the territory for the purpose of prosecuting their calling.

Article 6.

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information with regard to the territory, and indicating the measures taken to carry out the obligations assumed under Articles 2, 3, 4, and 5.

Article 7.

The consent of the Council of the League of Nations is required for any modification of the terms of the present mandate.

The Mandatory agrees that, if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation of the provisions of the Mandate, such dispute, if it cannot

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MANDATE FOR THE GERMAN POSSESSIONS
IN THE PACIFIC OCEAN LYING
NORTH OF THE EQUATOR,

The Council of the League of Nations:

Whereas, by Article 119 of the Treaty of Peace with Germany signed at Versailles on June 28th, 1919, Germany renounced in favour of the Principal Allied and Associated Powers all her rights over her oversea possessions, including there in the group of islands in the Pacific Ocean lying north of the Equator; and

Whereas the Principal Allied and Associated Powers agreed that in accordance with Article 22, Part I (Covenant of the League of Nations) of the said Treaty a mandate should be ~~assigned~~^{conferred} upon His Majesty the Emperor of Japan to administer the said islands and have proposed that the Mandate should be formulated in the following terms; and

Whereas His Majesty the Emperor of Japan has agreed to accept the Mandate in respect of the said islands, and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions; and

Whereas, by the aforementioned Article 22, Paragraph 8, it is provided that the degree of authority, control or administration to be exercised by the Mandatory, not having been previously agreed upon by the Members of the League, shall be explicitly defined by the Council of the League of Nations:

Confirming the said Mandate, defines its terms as follows;

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Yap was not included in the action of May 7, 1919. Its position was subsequently stated at length.

It is a cause of regret to my Government that after and despite this protest there should have been any attempt to pass upon drafts of mandates purporting to deal with the Pacific Islands including Yap and that a mandate should have been approved or attempted to be put into effect which, while purporting to be made in the name of the United States, was without the assent of the United States. My Government trusts that this action, which it must assume was taken under misapprehension, will be reconsidered.

In particular as no treaty has ever been concluded with the United States relating to the Island of Yap and as no one has ever been authorized to cede or surrender the right or interest of the United States in the Island, my Government must insist that it does not lose its right or interest as it existed prior to any action of the Supreme Council or of the League of Nations and cannot recognize the allocation of the Island or the validity of the mandate to Japan.

In this view the Government of the United States deems it to be unnecessary at this time to consider the terms of the so-called "C" mandates or the discussion with respect thereto.

The American Government, as has been clearly stated in previous communications, seeks no exclusive interest in

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in the Island of Yap and has no desire to secure any privileges without having similar privileges accorded to other Powers, including of course Japan, and relying upon the sense of justice of the Government of Japan and of the Governments of the other Allied and Associated Powers my Government looks with confidence to a disposition of the matter whereby the just interests of all may be properly conserved.

I venture to add that notes similar to the foregoing are being sent simultaneously to the Governments of Great Britain, France and Italy and that in view of the widespread interest in the subject and the public attention which it has already received, the notes will be made public in Washington as soon as they have been delivered to the respective Foreign Offices.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed)

"I beg to return the note received yesterday from the Japanese Government which I have read in relation to the proposed mandate covering the Island of Yap.

My first information of a contention that the so-called decision of May 7, 1919, by the Council of Four assigned to Japan a mandate for the Island of Yap was conveyed to me by Mr. Norman Davis in October last. I then informed him that I had never consented to the assignment of the Island of Yap to Japan.

I had not previously given particular attention to the wording of the Council's minutes of May 7, 1919, which were only recently called to my attention. I had on several occasions prior to the date mentioned made specific reservations regarding the Island of Yap and had taken the position that it should not be assigned under mandate to any one power but should be internationalised for cable purposes. I assumed that this position would be duly considered in connection with the settlement of the cable question and that it therefore was no longer a matter for consideration in connection with the peace negotiations. I never abandoned or modified this position in respect to the Island of Yap and I did not agree on May 7, 1919, or any other time that the Island of Yap should be included in the assignment of mandate to Japan.

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As a matter of fact all agreements arrived at regarding the assignment of mandates were conditional upon a subsequent agreement being reached as to the specific terms of the mandates and further upon their acceptance by each of the Principal Allied and Associated Powers. The consent of the United States is essential both as to assignments of mandates and the terms and provisions of the mandates after agreement as to their assignment or allocation. The consent of the United States as you know has never been given on either point as to the Island of Yap".

Apart from the expressed purpose of President Wilson in relation to the Island of Yap, inasmuch as the proceedings of the Supreme Council on May 7, 1919, did not, and in the nature of things could not, have finality, my Government is unable to perceive any ground for the contention that it was its duty to make immediate protest with respect to the so-called decision of May 7, 1919, and certainly it cannot be said that an omission to do so operated as a cession of its rights. It may be added, however, that when the matter was brought to the attention of the Government of the United States in connection with the Conference on Communications in October last, my Government informed the Government of Japan and other Governments (by notes of November 9, 1920) that it was the understanding of the American Government that the Island of

Yap

the equator, which was subsequently proposed, proceeded in the same view, purporting on behalf of the United States as one of the grantors to confer the mandate upon Japan thus recognizing the right and interest of the United States and the fact that the proposed action could not be effective without the agreement of the United States as one of the Principal Allied and Associated Powers. As the United States did not enter into this convention or into any treaty relating to the subject, my Government is unable to understand upon what grounds it was thereafter attempted to confer the mandate without the agreement of the United States. It is manifest that the League of Nations was without any authority to bind the United States and that the confirmation of the mandate in question and the definition of its terms by the Council of the League of Nations in December 1920, cannot be regarded as having efficacy with respect to the United States.

It should be noted that this mandate not only recites Article 119 of the Treaty of Versailles to the effect that "Germany renounces in favor of the Principal Allied and Associated Powers all her rights over her overseas possessions including therein the group of islands in the Pacific Ocean lying north of the equator" but also recites that "the Principal Allied and Associated Powers agreed that in accordance

accordance with Article 22 Part I (Covenant of the League of Nations) of the said treaty a mandate should be conferred upon His Majesty the Emperor of Japan to administer the said islands and have proposed that the mandate should be formulated" as set forth. While this last quoted recital, as has already been pointed out in previous communications by my Government, is inaccurate in its terms inasmuch as the United States as one of the Principal Allied and Associated Powers had not so agreed and proposed, the recital again recognizes the necessity of the participation of the United States in order to make the proposed disposition effective.

As, in the absence of any treaty with the United States relating to the matter, there was no decision on May 7, 1919, binding the United States, it is deemed to be unnecessary again to discuss the brief minutes of the meeting of the Supreme Council on that date. It may, however, be proper to say that the minutes of this meeting, although obviously without any finality, could not properly be construed without due regard to the other proceedings of the Supreme Council and without taking account of the reservation which President Wilson had already made in the previous meetings of the Supreme Council on April 21st, April 30th, and May 1st, 1919. The attitude of President Wilson is sufficiently shown by the following statement which he made to the Department of State on March 3, 1921:

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the other hand the United States has never assented to the mandate purporting to embrace the Island of Yap.

In view of the frequent references in the note of Your Excellency's Government to what is termed the decision of the Supreme Council, my Government deems it appropriate to state the fundamental basis of its representations and the principles which in its view are determinative. It will not be questioned that the right to dispose of the overseas possessions of Germany was acquired only through the victory of the Allied and Associated Powers and it is also believed that there is no disposition on the part of the Imperial Japanese Government to deny the participation of the United States in that victory. It would seem to follow necessarily that the right accruing to the Allied and Associated Powers through the common victory is shared by the United States and that there could be no valid or effective disposition of the overseas possessions of Germany now under consideration without the assent of the United States. My Government must therefore point out that as the United States has never vested either the Supreme Council or the League of Nations with any authority to bind it or to act on its behalf there has been no opportunity for any decision which could be deemed to affect the right of the United States. It may also be observed that the right accruing to the United States through the victory in which it has participated could not

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be regarded as in any way ceded or surrendered to Japan or to other nations except by treaty and that no such treaty has been made.

The fact that the United States has not ratified the Treaty of Versailles cannot detract from rights which the United States had already acquired, and it is hardly necessary to suggest that a treaty to which the United States is not a party could not affect these rights; but it should be noted that the Treaty of Versailles did not purport to secure to Japan or to any other nations any right in the overseas possessions of Germany save as an equal right therein should be secured to the United States. On the contrary Article 119 of the Treaty of Versailles provides "Germany renounces in favor of the Principal Allied and Associated Powers all her rights and titles over her overseas possessions."

It will not be questioned that one of the "Principal Allied and Associated Powers" in whose favor Germany renounces her rights and titles is the United States. Thus not only could the position of the Government of Japan derive no strength from the Treaty of Versailles or from any discussions preliminary thereto but the terms of that treaty confirm the position of the Government of the United States.

Further the draft convention relating to the mandate for the German concessions in the Pacific Ocean north of

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EMBASSY OF THE
UNITED STATES OF AMERICA

No. 551.

Tokyo, April 5, 1921.

Your Excellency:

I have the honor to inform Your Excellency that I have transmitted to my Government your note of February 26, 1921, No. 7, in reply to my note of December 10, 1920, No. 506, regarding the status of the Island of Yap and that I have been instructed by my Government to reply as follows:

The Government of the United States finds itself unable to agree with the contention of the Imperial Japanese Government that in order to maintain the position of the Government of the United States with respect to the Island of Yap it is necessary for the Government "to prove not merely the fact that the particular line of views was stated at the meetings" of the Supreme Council but also that the Supreme Council "decided in favor of those views". If it is meant that the United States could be bound without its consent by the action of the Supreme Council, the contention is deemed by my Government to be inadmissible and on the

His Excellency

Council Uchida,

His Imperial Japanese Majesty's

Minister for Foreign Affairs.

etc.,

etc.,

etc.

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out that this Article was intended solely to provide a means of settlement, in view any dispute that may arise as to boundaries or the assignment of lands. Such provisions were by no means confined to the particular draft in question but there were also found similar provisions in all original draft mandates covering other territories, which were simultaneously submitted to the same meeting. If the American contention in this connection is to be upheld, it must needs follow that all the mandatory territories, which were-sims are liable to be honeycombed by exceptions or exclusions. But such a conclusion is wholly at variance with facts and cannot be thought by any one to be convincing. Consequently the reference made to it in the Note under reply, tends, in the opinion of the Imperial Government, in no way to strengthen the contentions of the United States Government.

In the concluding part of the Note under reply it is observed that even on the assumption that the Islands of Yap should be included among the islands held under the mandate by Japan, it is not conceivable that other Powers should not have free and unhampered access to and use of the island, for the landing and operation of cables. If this observation is put forth irrespective of the fact that the island is within the mandatory territory, then the question seems to be one which should be freely settled by the nation which

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has the charge of the place, namely Japan. If the meaning be, however, that owing to the nature of the mandate the island should have its doors kept open, the Imperial Government would draw attention to the fact that at the meeting of the Commission on Mandates, held on July 8th, 1919, Colonel House opposed Count (then Viscount) Ghinda's claim that the same equal opportunities for commerce and trade should be guaranteed in territories belonging to the C class as in those belonging to the B class. In view of the position thus taken up by the American Delegate the Imperial Government feel obliged to state that in their opinion the American Government cannot with justice contend for the open door in the C class territories, at least as against Japan, and to inform the United States Government, at the same time, that they cannot consider themselves bound in any way to recognise the freedom of other nations, in the manner insisted upon by the American Government, in regard to the landing and the operation of cables, even in places where the principle of the open door is to be guaranteed.

I have the honour to request you to be so good as to transmit to your Government the views of the Imperial Government as above stated.

I beg you, Monsieur le Charge d'Affaires, to accept the assurances of my high consideration.

the equator were to be assigned under the mandate to Japan, it is obvious that in employing the words, Mr. Lloyd George can not have intended to signify the exclusion of the Island of Yap.

To sum up, since in a matter of such a grave nature as the establishment of mandatory territories, only what Expressly appears on the face of the decisions should be accepted as authoritative, the Imperial Government can not agree in giving an extraordinary and unusual interpretation to the decision on a vague ground that certain thoughts or intentions not expressed in the text thereof existed in the mind of the delegate of one Power only.

3. The decision of May 7th, 1919 was made public on the following day, the 8th. If the published text of the decision differed in sense from what was understood by the Government of the United States to be its meaning the latter should have, and would naturally have been expected to have, entered an immediate protest. No such step was taken, however, at the time and the Imperial Government fail to understand the reason why the American Government should have allowed more than a year and a half to pass by before electing to question the decision. The Note under reply refers to the fact that President Wilson's statement before the Senate Committee

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on Foreign Relations on August 19th, 1919, called forth no comments by any nations, and points to this absence of contrary opinion as amounting to evidence to prove that no Power found anything in the President's view to which it would take exception. The Imperial Government are quite unable to follow contentions of this kind. In the one case, we have the publication of an international agreement in which the American representative participated, whereas the other was essentially a pure domestic affair. As to the former, in case the published text should be found to differ from what was understood by one party, it was incumbent on him forthwith to lodge a protest and have the errors, if any, rectified. In the latter case, however, no third Power is called upon to make any refutation or correction and consequently the fact that there was no nation which took it upon itself to make any adverse comment has no bearing whatever on the matter under consideration.

4. On the strength of Article 3 of the obsolete draft mandate covering ex-German islands in the Pacific north of the equator, submitted to the Supreme Council on December 24, 1919, it is contended in the Note under reply that no definite agreement has yet been reached as to the final disposition of all the ex-German islands in the Pacific north of the equator. The Imperial Government would point

out

It must also be remembered that if a decision in favour of the exclusion of the Island of Yap - a question of grave concern to Japan, and one of which the Japanese Delegation invariably maintained a firm attitude had really been made, as is implied by the argument of the United States' Government, at the meeting of May 7th, at which Japan was not represented, it could not but have been regarded as an act of entire faith. It is, therefore inconceivable to the Imperial Government that such a decision could have been reached at a meeting at which no Japanese Delegation was present. Since the decision under consideration says on the one hand "German islands" and on the other, does not make any exception of Yap, the Imperial Government regard it as perfectly clear that the ex-German Pacific islands north of the equator, with no exception whatever, all belong to the mandatory territory allocated to Japan. Nor are the Imperial Government alone and unsupported in their interpretation of the Decision for they are in receipt of authentic information that the Governments of Great Britain and France being of the same opinion as Japan on the matter, made statements to that effect in their replies to the American Note in November last. If the decision incorporated in the memorandum appended to the minutes for May 7th be one which was really reached at the meeting of the Supreme Council held on May 6th, as represented in the Note under reply, then the inevitable conclusion will be that, inasmuch as the meeting

meeting held on the latter date (i.e. May 6th) was that of the heads of Delegations of the United States, Great Britain and France, the intention of the American Government is tantamount to saying that President Wilson by himself arrived ^(sic) at an understanding which differed from that of all others present, a conclusion difficult to understand.

Again, a reference is made to the use of words "certain islands" by Mr. Lloyd George at the meeting of the Supreme Council held on May 6th, 1919, as tending to prove the exclusion of the Island of Yap. Granting for the sake of argument that the words "certain islands" occur in the minutes for May 6th., the use of such a phrase is perfectly natural and easy to understand without supposing it to refer to refer to the exclusion of Yap. There are other islands in the ^{Sou} North Pacific North of the Equator, which did not belong to Germany and it does not appear how better Mr. George could succinctly describe the islands to be allotted to the ^(sic) Japanese mandate in that region, than as "certain islands". "Certain" is a word which is far from appropriate to mean "all but one", and had he had the exclusion of a single island such as Yap in mind, he would have been almost sure to have explicitly mentioned it. Seeing that the British Government adopts the interpretation that it was decided at that time that all the ex-German Pacific islands north of the

the islands that it was decided should be held under the mandate by Japan unless they can establish at the same time the further fact that the representations of President Wilson and Mr. Lansing were accepted by the Council and that the latter decided to exclude Yap from the mandatory territories assigned to Japan.

In order to maintain successfully, therefore, that the Island of Yap is not included in the mandate territories assigned to Japan, the Imperial Government consider it necessary for the American Government to prove not merely the fact that the particular line of views was stated at the meetings but also that the meeting decided in favour of those views. Further in this same connection, the Imperial Government would point out that view expressed by the delegates previous to arriving at a decision are not necessarily to be interpreted as reservations naturally attached to the decision. It follows that the question whether the Island of Yap is excluded from the mandatory territories assigned to Japan must be judged from the decision of May 7th, by which the Mandatory Powers and the their mandatory territories were for the first time and at the same time finally decided upon, and it must be concluded that whatever utterances may have been made previous to that date were only preliminary conversations that took place before

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the decisions were reached, and in themselves possessed no such cogency as to qualify the meaning or limit the application of the decision. This conclusion is the more irrefutable since the Imperial Delegation never expressed their agreement, whether at any meeting of the Councils or elsewhere, with the above stated views of President Wilson or of Mr. Lansing.

Furthermore Viscount, then Baron, Makino announced distinctly his disagreement with them at the meeting of Foreign Ministers held on April 30th, 1919.

2. A view is advanced further in the Note under reply that, if Yap was meant to be included among the islands assigned under the mandate to Japan, then the decision of May 7th, 1919 should have been drafted in more specific language than is the case. In the opinion of the Imperial Government, however, it is more in accordance with sound principles of interpretation to say that the fact should have been set down with especial clearness if exclusion were meant, as an exception always requires to be stated expressly. To assert that the fact of non-exclusion should have been specifically mentioned in a decision of this kind could only be regarded as an extraordinary and even an unreasonable contention with which no one would be likely to concur.

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Monsieur le Charge d'Affaires,

I have the honour to acknowledge the receipt of your Note of the 10th December last on the status of the island of Yap in reply to the memorandum of the Imperial Department of Foreign Affairs, dated the 18th November last, and to state candidly herewith the opinion of the Imperial Government on the view of the United States Government propounded in the said Note.

In support of the argument advanced by the Government of the United States the following points are enumerated in your note first, that, in the course of various discussions in the Supreme Council and the Council of Foreign Ministers at the Peace Conference, (namely at the meeting of the Supreme Council on April 21st, 1919, and at the meeting of Foreign Ministers on April 30th and May 1st, 1919), the President and Mr. Lansing, the then Secretary of State of the United States, respectively gave utterance to a view that the Island of Yap should be internationalised or that it should not pass into the hands of any one Power next, that, at the meeting of the Supreme Council held on May 6th, 1919, Mr. Lloyd George employed the words "certain islands" in giving expression to what he understood to be the territories to be committed to the charge of Japan; and lastly, that, according to the minutes of the meeting of the

Supreme

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Supreme Council of May 7th, 1919, no discussion took place on that day in respect to mandates, and that although there exists a memorandum, appended to the minutes of the meeting of May 7th, which purports to be a codification of the agreement reached at the meeting of May 6th with reference to the North Pacific islands such memorandum does not expressly include all the islands in the North Pacific.

Of the meeting referred to it must be noted that the Imperial Delegates were not present at the meetings of the Supreme Council of April 21st, May 6th and May 7th and in consequence the Imperial Government have no means of ascertaining what views were expressed by the American Delegates at those meetings. Assuming, however, that President Wilson did in fact give utterance at those meetings to such views as are ascribed to him this cannot warrant the United States Government as against the Imperial Government, in going beyond asserting as a fact that President Wilson or Mr. Lansing gave it as his opinion before the Supreme Council and the Council of Foreign Ministers, at some time previous to May 1st, 1919, that the Island of Yap should be internationalised, or that it should not pass into the hands of any one Power. In the opinion of the Imperial Government such a fact argues in no way in favour of the contention of the American Government that the Island of Yap stands outside

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the terms of the mandate have not been accepted by Japan or even as yet approved by the principal interested powers or the League of Nations. In this event it would appear that until the island is accepted under mandate upon terms approved by the powers concerned, the status of temporary occupation must exist, which in the circumstances does not signify a vested interest in the island and which admits of present determination of the conditions or terms of the control and administration.

I am directed by the President to inform you that the Government of the United States cannot agree that the Island of Yap was included in the decision of May 7th or in any other agreement of the Supreme Council, and in addition that as the Island of Yap must form an indispensable part of the international communications it is essential that its free and unhampered use for such purpose should not be limited or controlled by any one power. Even on the assumption that the Island of Yap should be included among the islands held by mandate by Japan it is not conceivable that other powers should not have free and unhampered access and use of the island for the landing and operation of cables. This is a right which the United States would be disposed to grant upon any of its unfortified islands which may be essential for such purposes.

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The Government of the United States expresses the hope that the above statements of fact will convince the Japanese Government of the correctness of the position of the United States with respect to the mandate over the Island of Yap, and also that the Japanese Government will concur in the view of the United States that even if Yap should be assigned under mandate to Japan all other powers should have free and unhampered access to the island for the landing and operation of cables.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

Edward Bell

previously excluded and reserved for future determination in connection with the consideration of cable communications. In view of the President's reiterated objections to the inclusion of Yap in the mandate territories to be assigned to Japan, it is striking that the minutes of May 7th do not give any discussion whatever regarding Yap which would have been most natural had the President been prevailed upon to recede from his previous firm position. It is most logical that the withdrawal of the previously recorded objection would have been noted, or at least that the decision would have been drafted in more specific language. It would seem clear that the President acted on the assumption that the Island of Yap was not intended to be included in the decision of May 6th and 7th.

It should also be noted that President Wilson on August 19, 1919, before the Senate Committee on Foreign Relations made the following statement when questioned concerning the status of the Island of Yap:

"It is one of the bases and centres of cable and radio communication of the Pacific, and I made the point that the disposition, or rather, the control of that island should be reserved for the general conference which is to be held in regard to the ownership and operation of the cables. That subject is mentioned and disposed of in this treaty, that general
cable

cable conference is to be held".

This statement evidences the understanding of the President, and it is interesting that, though wide publicity was given to the President's declaration at the time, no comments were received by my Government from any nation indicating a contrary opinion. Furthermore, attention is called to the fact that the draft mandate covering ex-German islands north of the equator, submitted to the meeting of the heads of delegations on December 24, 1919, contemplates that the question is a question as to what islands north of the equator should be allocated under mandate to Japan. Article 3 reads as follows:

"If any dispute should arise as to whether any particular island is or not covered by the above mandate, the matter shall be submitted to the Council of the League of Nations whose decisions shall be final".

The draft was not accepted primarily on account of objections raised by the Japanese, which however did not relate to this particular provision. The point is cited merely as indicating an understanding that the definite agreement had not yet been reached as to the final disposition of all the islands north of the equator.

It might also be observed that, assuming for the sake of argument the conditional allocation to Japan, the
terms

position that the status of the Island of Yap should be decided before the question of cables, Mr. Balfour replying that while the status of the island was a matter of great importance, he did not think that the questions of cables could be deferred, as it must be settled in time for the treaty with Germany; Germany could be required to give up all title to the island and its status thereafter could be discussed among the Allies. At a meeting on May 1st, held in Mr. Fishon's room, President Wilson stated that as the cable lines all alike passed through the Island of Yap, it thus became a general distributing centre for lines of communication for the Northern Pacific and that Yap should not pass into the hands of one Power. In the meeting of May 6th, in the discussion regarding the allotment of mandates in the Pacific, Mr. Lloyd George expressed his understanding that the Japanese should receive a mandate for certain islands north of the equator. According to the record President Wilson consented in principle to this, with an explanatory statement that with respect to mandates, the policy of the "open door" would have to be applied, and that there must be equal opportunity for the trade and commerce of other members of the League. The Island of Yap, having been previously cited as a special case for particular further consideration, was not intended to be included among

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the "certain islands" designated as available to Japan under mandate. This seems obvious as Yap appears to have been the only island north of the equator in regard to the disposition of which there had existed any difference of opinion. There is no indication in the minutes of any further discussion with regard to this island. There is attached, as an appendix to the minutes of the meeting of May 7th, 4:15 P.M., a Memorandum which obviously purports to be a codification of the agreement reached in the meeting of May 6th with reference to the North Pacific islands. Upon this, my Government understands, is based the assertion that Yap was assigned under mandate to Japan. Even that, however, does not expressly include all the islands in this particular category, although the qualifying word "certain" is omitted. According to the minutes of this meeting there was no discussion whatever on May 7th in respect to mandates; the minutes quoted the Memorandum with the statement merely that "the following decisions were reached".

The erroneous publication of such a decision of which my Government was not aware would not validate it. The President recollects no proposal offered in this meeting to change the decision of May 6th, and it is certain he agreed to no variants of the original proposition. He understood it was generally agreed that the Island of Yap had been

previously

Tokyo, December 10, 1920.

Excellency:

I have the honor to inform Your Excellency that I have transmitted to my Government your Memorandum of November 19, 1920, in reply to the Memorandum submitted by me on the 12th of November regarding the Island of Yap, to which my Government has directed me to reply as follows:

There would appear to be no difference of opinion with regard to the reservation made by President Wilson and Mr. Lansing with respect to the Island of Yap during various discussions of the Supreme Council and the Council of Foreign Ministers at the Peace Conference. For clearer understanding of the issue as to whether on the part of the United States it was agreed that all the ex-German islands in the Pacific north of the equator should be allotted to Japan, Your Excellency's attention is drawn to the following facts.

On

His Excellency

Count Ushida,

His Imperial Japanese Majesty's

Minister for Foreign Affairs,

etc.,

etc.,

etc.,

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On April 21st at the meeting of President Wilson, Messrs Lloyd George and Clemenceau, President Wilson in reporting his conversation of that morning with Baron Makino and Count Chinda, stated among other things that he had reminded the Japanese delegates that it has been understood that Japan was to have the mandate for the islands in the North Pacific although he had made a reservation in the case of the Island of Yap which he considered should be international.

At the meeting of Foreign Ministers held on April 30th, 3 p.m., 1919, in a discussion relating to cables, Mr. Lansing stated that there was a relevant question which he would like, on future occasion, to discuss, namely, whether in the interests of cable communications it would not be desirable that the Island of Yap be internationalized and administered by an International Commission in control of cable lines, and that he merely raised the question although not on the agenda in order to give warning that the question was in his mind and that he would propose it for discussion at a later time. He suggested that it was not necessary to maintain that all the islands should have the same status but that the Island of Yap should be held to constitute a special case. Baron Makino took the

position

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