

Oil: Mexico: Expropriation

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2/2/18/40

February 6th, 1940

Dear Mr. Welles,

2/2/16.  
I duly communicated the substance of our conversation of yesterday about the Mexican oil dispute to the Foreign Office, and told them of the terms of reference which you proposed to suggest to the Mexican Ambassador as the basis on which the case of the American companies should be arbitrated.

I have not yet had any reply from the Foreign Office but in the meantime I examined these terms of reference in consultation with my legal adviser. I feel bound to say that it seems very doubtful to me whether the terms of reference as at present drafted would accomplish what I had understood from my conversations with the Secretary of State and yourself/

The Honourable

Sumner Welles,

United States Department of State,

Washington, D. C.

L:FRHM:DH

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yourself to be the object of the State Department and what is certainly the only condition upon which His Majesty's Government could agree to arbitration: namely, that if the arbitral tribunal decided that the only practical method of giving effect to its award was to order the restitution of the properties to the management of the companies, the terms of reference would enable it to do so.

It seems to me that as paragraph 3 of the proposed terms of submission to the tribunal refers in terms to the manner in which the damages awarded shall be paid, it is very doubtful whether despite the wording of the rest of the paragraph the Tribunal would, without some specific mention in the terms of reference of such a possibility, feel justified in ordering restitution.

In view of the importance which His Majesty's Government attach to this point being covered in any arbitration concerning the

British/

British companies' claims and of the bearing which any terms of reference adopted for the arbitration of the American claims would have on the terms of reference adopted for the arbitration of the British claims - supposing that as you suggested yesterday the two sets have to be dealt with separately - and as you said to me in the Guatemalan case, it is always possible for the Mexican Government to raise objections to the draft terms of reference, I hope that you will be prepared to give further consideration to this point.

(SGD) LOTHIAN