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APPENDIXES

APPENDIX A

The Madrid Protocol, 1885

PROTOCOL BETWEEN GREAT BRITAIN, GERMANY AND SPAIN, SIGNED AT MADRID, 7 MARCH 1885

The undersigned, Sir Robert B.D. Morier, Envoy Extra-ordinary and Minister Plenipotentiary of Her Britannic Majesty, his Excellency Don Jose Elduayen, Marquis del Pazo de la Merced, Minister of State of his Majesty the King of Spain, and Count Soloms Sonnenwale, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the German Emperor, duly authorized to bring to a close the negotiations conducted in London and at Berlin during the years 1881–82 by the Representatives of His Majesty the King of Spain at the Courts of Great Britain and Germany, for the purpose of obtaining from these two Powers the formal recognition of the sovereignty of Spain over the Archipelago of Sulu (Jolo), have agreed upon the following Articles:-

ARTICLE I

The Government of Great Britain and of Germany recognize the sovereignty of Spain over the places effectively occupied, as well as over those places not yet occupied, of the Archipelago of Sulu (Jolo), of which the limits are laid down in Article II.

Source: J. de V. Allen, A.J. Stockwell and L.R. Wright, eds., *A Collection of Treaties and Other Documents Affecting the States of Malaysia, 1791–1963*, vol. 2 (London: Oceana Publications, 1981), pp. 465–68.

ARTICLE II

The Archipelago of Sulu (Jolo), conformably to the definition contained in Article I of the treaty signed September 23rd, 1836, between the Spanish Government and the Sultan of Sulu (Jolo), comprises all the islands which are found between the western extremity of the island of Mindanao on the one side, and the continent of Borneo and the Island of Paragua on the other side, with the exception of those which are indicated in Article III.

It is understood that the Islands of Balabac and of Cagayan-Jolo form part of the archipelago.

ARTICLE III

The Spanish Government renounces, as far as regards the British Government, all claims of sovereignty over the territories of the Continent of Borneo, which belong, or which have belonged in the past to the Sultan of Sulu (Jolo), and which comprise the neighbouring islands of Balambangan, Banguey, and Malawali, as well as all those comprised within a zone of three maritime leagues from the coast, and which form part of the territories administered by the company styled the "British North Borneo Company".

ARTICLE IV

The Spanish Government engages to carry out, in the Archipelago of Sulu (Jolo), the stipulations contained in Articles I, II, and III of the Protocol signed at Madrid, March 11th, 1877, that is to say:- "(1) The commerce and the direct traffic of vessels and subjects of Great Britain, Germany, and the other powers, with the Archipelago of Sulu (Jolo), and in all parts thereof, are declared to be, and shall be, absolutely free; as well as the right of fishing without prejudice to the rights of Spain recognised by the present Protocol, conformably to the following declarations. (2) The Spanish authorities shall not be able to require in future that vessels and subjects of Great Britain, Germany, and the other Powers, freely repairing to the Archipelago of Sulu, or from one point of it to another indiscriminately, or thence to any other part of the world, shall be under the necessity of touching, before or after, at a point indicated in the archipelago or elsewhere; or of paying any dues whatsoever; or of procuring permission from the said authorities; who, on their side, shall abstain from all obstruction and all intervention in the above-named traffic. It is well understood that the Spanish authorities shall not hinder in any manner, or under any pretext, the free importation and

exportation of all kinds of merchandise without exception, save at such places as are occupied, and conformably to Declaration III; and that in all the places not effectively occupied by Spain, neither the vessels, nor the subjects above-mentioned, nor their merchandise, shall be submitted to any tax or duty or payment whatever, nor to any regulation, sanitary or otherwise. (3) In those places in the Archipelago of Sulu, which are occupied by Spain, the Spanish Government shall be able to establish taxes and regulations, sanitary or otherwise, during the effective occupation of the places indicated. But Spain, on its side, engages to maintain in those places the establishment and employees necessary for the needs of commerce, and for the application of the said regulations.

“It is, nevertheless, expressly understood, and the Spanish Government being resolved on its side not to apply restrictive regulations to the places occupied, undertakes the engagement willingly, that it shall not introduce in the said places any taxes or duties greater than those fixed by Spain tariffs, or by the Treaties or Conventions between Spain and any other Power. It shall not, moreover, put into force exceptional regulations applicable to the commerce or to the subjects of Great Britain, Germany, or the other Powers.

“In case Spain shall effectively occupy other places in the Archipelago of Sulu, maintaining there the establishments and employees necessary for the needs of commerce, the Government of Great Britain and of Germany shall make no objection to the application of the same rules agreed upon for the places already occupied. But in order to prevent new cases of claims which might arise from the uncertainty as to trade with places which are occupied, and which are subject to regulations and tariffs, the Spanish Government shall communicate in each case the effective occupation of a place in the Archipelago of Sulu to the Government of Great Britain and of Germany, and shall, at the same time, inform the trading interest concerned by a suitable notification published in the official journals of Madrid and Manila. As regards the tariffs and regulations for commerce agreed upon for the places actually occupied, they shall not be applicable to the places subsequently occupied by Spain until after a period of six months, dating from the said publication in the official journal of Madrid. It is agreed, however, that no vessel or subject of Great Britain, of Germany, or of other Powers shall be obliged to touch at one of the places occupied, either in going or returning from a place not occupied by Spain, and that no prejudice will be caused to them on this account, nor in respect of any kind of merchandise destined for a place in the archipelago which is not occupied”.

ARTICLE V

The Government of Her Britannic Majesty engages to see that there is entire freedom of commerce and navigation, without distinction of flag, in the territory of North Borneo administered by the company styled "British North Borneo Company".

ARTICLE VI

If the Government of Great Britain and of Germany have not refused their adhesion to the present Protocol within a period of fifteen days from this date or if they notify their adhesion before the expiration of this period through their undersigned representatives, the present declarations shall immediately come into force.

Done at Madrid, March 7th, 1885.

Seals of

R.B.D. MORIER
J. ELDUAYEN
P.C. SOLMS

APPENDIX B

Convention between Great Britain and the Netherlands Defining Boundaries in Borneo

Signed at London, 20 June 1891

[Ratifications exchanged at London, 11 May 1892]

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and Her Majesty the Queen-Dowager, Regent of the Netherlands, in the name of Her Majesty Wilhelmina, Queen of the Netherlands, being desirous of defining the boundaries between the Netherland possessions in the Island of Borneo and the States in that island which are under British protection, have resolved to conclude a Convention to that effect, and have appointed as their Plenipotentiaries for that purpose, that it to say:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, the Right Honourable Robert Arthur Talbot Gascoyne Cecil, Marquis of Salisbury, Earl of Salisbury, Viscount Cranborne, Baron Cecil, Peer of the United Kingdom, Knight of the Most Noble Order of the Garter, Member of Her Majesty's Most Honourable Privy Council, Her Majesty's Principal Secretary of State for Foreign Affairs, & c.; and Her Majesty the Queen Dowager Regent of the Netherlands, Count Charles

Malcolm Ernest Georges de Bylandt, Knight Grand Cross of the Order of the Netherland Lion, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary at the Court of St. James': who, having produced their Full Powers, found in good and due form, have agreed upon the following Articles:-

ARTICLE I

The boundary between the Netherland possessions in Borneo and those of the British protected States in the same island shall start from $4^{\circ}10'$ north latitude on the east coast of Borneo.

ARTICLE II

The boundary-line shall be continued westward from $4^{\circ}10'$ north latitude, and follow in a west-north-west direction, between the Rivers Simengaris and Soedang, up to the point where the meridian 117° east longitude crosses the parallel $4^{\circ}20'$ north latitude, with the view of including the Simengaris River within Dutch territory. The boundary-line shall then follow westward the parallel $4^{\circ}20'$ north latitude until it reaches the summit of the range of mountains which forms on that parallel the watershed between the rivers running to the North-West coast and those running to the east coast of Borneo, it being understood that, in the event of the Simengaris River or any other river flowing into the sea below $4^{\circ}10'$, being found on survey to cross the proposed boundary-line within a radius of 5 geographical miles, the line shall be diverted so as to include such small portions or bends of rivers within Dutch territory; a similar concession being made by the Netherland Government with regard to any river debouching above $4^{\circ}10'$ on the territory of the British North Borneo Company, but turning southwards.

ARTICLE III

From the summit of the range of mountains mentioned in Article II, to Tandjong-Datoe on the west coast of Borneo, the boundary-line shall follow the watershed of the rivers running to the north-west and west coasts, north of Tandjong-Datoe, and of those running to the west coast south of Tandjong-Datoe, the south coast, and the east coast south of $4^{\circ}10'$ north latitude.

ARTICLE IV

From 4°10' north latitude on the east coast the boundary-line shall be continued eastward along that parallel, across the Island of Sebittik; that portion of the island situated to the north of that parallel shall belong unreservedly to the British North Borneo Company, and the portion south of that parallel to the Netherlands.

ARTICLE V

The exact positions of the boundary-line, as described in the four preceding Articles, shall be determined hereafter by mutual agreement, at such times as the Netherland and the British Governments may think fit.

ARTICLE VI

The navigation of all rivers flowing into the sea between Batoe-Tinagat and the River Sibokoe shall be free, except for the transport of war material; and no transport duties shall be levied on other goods passing up those rivers.

ARTICLE VII

The population of Boelongan shall be allowed to collect jungle produce in the territory between the Simengaris and the Tawao Rivers for fifteen years from the date of the signature of the present Convention, free from any tax or duty.

ARTICLE VIII

The present Convention shall be ratified, and it shall come into force three months after the exchange of the ratifications, which shall take place at London one month, or sooner if possible, after the said Convention shall have received the approval of the Netherland States-General.

In witness whereof the Undersigned have signed the sent Convention, and have affixed thereto their seals.

Done at London, in duplicate, this 20th day of June, 1891.

(L.S.)

(Signed)

SALISBURY

(L.S.)

(Signed)

C. De BYLANDT

APPENDIX C

Agreement between the United Kingdom and the Netherlands Relating to the Boundary between the State of North Borneo and the Netherland Possessions in Borneo

Signed at London, 28 September 1915

His Britannic Majesty's Government and the Government of Her Majesty the Queen of the Netherlands having agreed in a spirit of mutual goodwill to confirm the joint Report with the accompanying map prepared by their respective Commissioners in accordance with Article 5 of the Convention signed at London on the 20th June, 1891, for the delimitation of the boundary line between the States in the Island of Borneo which are under British protection and the Netherland possessions in that island, and relating to the boundary between the State of North Borneo and the Netherland possessions in the island; the undersigned duly authorized to that effect, hereby confirm the aforesaid joint Report and map, as signed by their Commissioners at Tawao on the 17th February, 1913.

The text of this joint Report, signed in English only, is as follows:-

We, the undersigned: J.H.G. Schepers, engineer of the Triangulation Brigade, Netherland India, E.A. Vreede, 2nd Lieutenant of the Netherland Royal Navy, appointed by Netherland India Government Resolution No. 1 of the 9th April 1912, and No. 38 of the 30th October 1912, respectively,

as leader and Joint Commissioner of the Netherland Commission to delimitate on the spot the frontier between Netherland territory and the State of British North Borneo; H.W.L. Bunbury, officer of the First Class, British North Borneo Civil Service, G. St. V. Keddell, surveyor, appointed by commission from his Excellency the Governor of British North Borneo, dated the 30th May 1912, respectively, as Civil Commissioner and Surveyor representing the Government of British North Borneo; have the honour to report as follows:-

1. We have travelled in the neighborhood of the frontier from the 8th June 1912, to the 30th January 1913, during which period the Netherland Commission has made the necessary astronomical observations and topographical surveys, the results of which we declare to be correct and sufficient for the determination of the boundary.
2. Where physical features did not present natural boundaries conformable with the provisions of the Boundary Treaty of the 20th June 1891, we have erected the following pillars:-
 - (a) Two pillars on the opposite banks of the Pentjiangan River, both marked "G.P.1."
 - (b) One pillar on the right bank of the Agisan River, marked "G.P. 3."
 - (c) One pillar on the left bank of the Seboeda River, marked "G.P. 2."

All being on the parallel 4°20' north latitude.

3. We have determined the boundary between the Netherland territory and the State of British North Borneo, as described in the Boundary Treaty supplemented by the interpretation of Article 2 of the Treaty mutually accepted by the Netherlands and British Government in 1905 as taking the following course:-
 - (1.) Traversing the island of Sibetik, the frontier line follows the parallel of 4°10' north latitude, as already fixed by Article 4 of the Boundary Treaty and marked on the east and west coasts by boundary pillars.
 - (2.) Starting from the boundary pillar on the west coast of the island of Sibetik, the boundary follows the parallel of 4°10' north latitude westward until it reaches the middle of the channel, thence keeping a mid-channel course until it reaches the middle of the mouth of Troesan Tamboe.

- (3.) From the mouth of Troesan Tamboe the boundary line is continued up the middle of this Troesan until it is intersected by a similar line running through Troesan Sikapal; it then follows this line through Troesan Sikapal as far as the point where the latter meets the watershed between the Simengaris and Seroedong Rivers (Sikapal hill), and is connected finally with this watershed by a line taken perpendicular to the center line of Troesan Sikapal.
- (4.) From the point where this watershed (Sikapal hill) meets Troesan Sikapal the boundary line follows the watershed until the latter joins Mount Bemboeding.
 [Note. – There is thus included in the Netherland territory all the country that is drained by the Simengaris River and its tributaries, while all the country that is drained by the Seroedong River and its tributaries is included in the territory of British North Borneo].
- (5.) Leaving the junction point of the Simengaris- Seroedong watershed with Mount Bemboeding, the boundary line follow successively—
- (a.) Mount Bemboeding in a northerly direction.
 - (b.) Mount Pemantoengan Bagas and Mount Meliat in a westerly direction.
 - (c.) Mount Keblajoeng in a south-easterly direction.
 - (d.) The watershed between the Karawangan and Apat Rivers in a south-westerly direction.
 - (e.) The Inoeloeh Ketek hill in a northerly direction.
 - (f.) The watershed between the Loeloewejen and Siangan streams in a western direction.
 - (g.) The most western spur of this watershed, intersected by a straight line running due east from boundary pillar “G.P.2.”
 - (h.) Along this straight line as far as pillar “G.P.2.”
- [Note.—There is thus included in the Netherland territory all the country that is drained by any of the following rivers and their tributaries: Soboeloeh, Mesaloei, Tempilan, Apat, and Toelit, together with the Seboeda south of 4°20' north latitude and its eastern tributaries debouching south of that parallel; and in the territory of British North Borneo all the country drained by the Seroedong and its tributaries,

and by the Seboeda north of 4°20' north latitude, and by the tributaries of the Seboeda debouching above that parallel.]

- (6.) From the pillar "G.P.2." the boundary line follows successively —
- (a.) A straight line running due west as far as the most eastern spur of the watershed between the Linemoejoe and Labau streams, intersected by this straight line.
 - (b.) The above-mentioned spur.
 - (c.) The watershed between the Linemoejoe and Labau streams.
 - (d.) The watershed between the Labau and Balang streams.
 - (e.) The watershed (the Sinogo ridge) between the Agisan and Seboeda Rivers.
 - (f.) The watershed between the Lakoetan and Makalap streams.
 - (g.) The most western spur of the latter watershed, intersected by a straight line running due east from boundary pillar "G.P.3."
 - (h.) This straight line itself as far as pillar "G.P.3."
- [*Note.*—There is thus included in the Netherland territory all the country drained by the western tributaries of the Seboeda and the eastern tributaries of the Agisan debouching below 4°20' north latitude, and in the territory of British North Borneo the country drained by the corresponding tributaries debouching above that parallel.]
- (7.) From the pillar "G.P.3." the boundary line follows successively—
- (a.) A straight line running due west as far as the most eastern spur of the watershed between the Klawasan and Mesaloei streams intersected by this line.
 - (b.) The above – mentioned spur.
 - (c.) The watershed between the Klawasan and Mesoloei streams.
 - (d.) The watershed (Peloetan ridge) between the Sesoeгон and Agisan streams.
 - (e.) The main watershed between the Sembakoeng and Seboekoe Rivers in a south-westerly direction.
 - (f.) The watershed (Mount Boedjoek Bah) between the

Sementebel, with its tributaries, and the Semantaloen, with their tributaries.

- (g.) The watershed (Mount Boedjoek Bah) between the Sementebel, with its tributaries, and the Seliman and Semanganwat, with their tributaries.
- (h.) The watershed (Poegisiai hill) between the Semandapi, with its tributaries, and the Sementebel, with their tributaries, as far as the Toenangan hill.
- (i.) The watershed between the Semandapi, with its tributaries, and the eastern tributaries of the Pentjiangan River debouching below $4^{\circ}20'$ north latitude, as far as the intersection of this watershed with a straight line running due east from the pillar "G.P.1" on the left bank of the Pentjiangan.
- (j.) This straight line itself.

[*Note.*—There is thus included in the Netherland territory all the country drained by the Agisan River south of $4^{\circ}20'$ north latitude, and by the western tributaries of the Agisan debouching below that parallel, and by the eastern tributaries of the Pentjiangan debouching below the same parallel; and in the territory of British North Borneo all the country drained by the Agisan River north of $4^{\circ}20'$ north latitude, and by the western tributaries of the Agisan and eastern tributaries of the Pentjiangan River debouching above $4^{\circ}20'$ north latitude.]

- (8.) From the pillar "G.P.1" on the left bank of the Pentjiangan River the boundary line follows successively-
 - (a.) A line running due west to the pillar "G.P.1" on the right bank.
 - (b.) The first hill-spur south of the Lombai stream as far as its junction with the main watershed between the tributaries of the Pentjiangan debouching above $4^{\circ}20'$ north latitude and the tributaries that debouch south of that latitude.
 - (c.) The last-named watershed as far as the Seselatan hill.
 - (d.) The watershed, or series of watershed, dividing the northern tributaries of the Sedalir that debouch above $4^{\circ}20'$ north latitude from those that debouch below that parallel.

- (e.) The most western spur of this watershed, or series of the watershed, intersected by parallel 4°20' north latitude.
- (f.) The parallel 4°20' north latitude, crossing the Sedalir River until it meets the most eastern spur of the watershed, or series of watersheds, between the southern tributaries of the Sedalir that debouch above 4°20' north latitude from those that debouch below that parallel, in conformity with Article 2 of the Treaty.
- (g.) The last-named watershed, or series of watersheds (and, if necessary, the watershed between the Sedalir and the Sesajap Rivers), until they meet the main watershed described in Article 3 of the Treaty.

[*Note.*- There is thus included in the Netherland territory all the country drained by the Pentjiangan below 4°20' north latitude, by the Sedalir below that parallel, by the tributaries of both of these rivers debouching below 4°20' north latitude, and by the Sesajap River; and in the territory of British North Borneo any country that is drained by the Pentjiangan north of 4°20' north latitude, by the Sedalir north of that parallel, and by the tributaries of both of these rivers debouching north of 4°20' north latitude.]

To the above we have all agreed and appended our signatures at Tawao, British North Borneo, this 17th day of February, 1913.

J.H.G.SCHEPERS
E.A. VREEDE.
H.W.L.BUNBURY.
G.ST.V.KEDDELL.

In witness whereof the undersigned have signed the present Agreement and have affixed thereto their seals.

Done at London, the 28th day of September, 1915.

(L.S.) E. GREY.
(L.S.) R. DE MAREES VAN SWINDEREN.

APPENDIX D

H.M. Durand's Memorandum 1906

MEMORANDUM, H.M. DURAND, BRITISH AMBASSADOR TO THE UNITED STATES, TO THE SECRETARY OF STATE, U.S.A.

BRITISH EMBASSY,
Washington, 23 June 1906

The Secretary of State's semiofficial note of January 12 in regard to the control of certain islands in North Borneo was duly forwarded by His Majesty's embassy to Sir Edward Grey, who has now replied, giving the views of the British North Borneo Company on the four points raised in that note.

In regard to the first point, the company deprecate having to submit a chart showing the line dividing North Borneo from American territory. They point out that to prepare such a chart would necessitate the dispatch of a joint delimitation commission, which would involve considerable expense. His Majesty's embassy is, however, authorized to communicate to the State Department the inclosed map as showing the limits within which the company desire to carry on the administration.

2. The company would like to be left undisturbed in the administration of the islands without any detailed agreement, the United States Government simply waiving in favour of the company their right to administer, which it is believed they have no special desire to exercise; but if this is not

possible the company would prefer to continue the administration on leases renewable say every twenty-five years, paying the annual rent of \$150 as suggested before.

3. The company suggest that in case of denunciation the United States Government should agree to recognize titles and concessions granted in the islands by the company and should pay the company for improvements.

4. In the event of the United States Government agreeing to refrain from administering the islands, the company will, as a matter of course, agree to the exemption of the United States Government from any claim or allegation of responsibility arising out of acts done in or from any islands within the proposed line of demarcation.

They do not suppose that it was the intention of the Department of State to disclaim responsibility for the consequences of acts done in or from American islands under the direct control of the United States administration.

APPENDIX E

The Secretary of State (U.S.A.) to the British Ambassador

DEPARTMENT OF STATE,
Washington, 19 December 1906

DEAR MR. AMBASSADOR: Your note of November 6 reminded me that a respond has not yet been forthcoming to the memorandum which you left with me on the 23rd June last in relation to the administration or leasing of certain small islands on the North Bornean coast by the British North Borneo Company.

The matter has required much consideration and involved delay which I regret, and even at this late day I am not at all clear as to the most practical way to give effect to the desire of your Government by a formal agreement.

I apprehend that the difficulty in the way of a conventional delimitation of the boundary between the former possessions of Spain in the Sulu Archipelago, now belonging to the United States, and the North Bornean territories on or adjacent to the mainland of Borneo, may lie in the circumstance that the North Bornean domain is not an imperial possession of Great Britain, but is held by a British Chartered Company under grant of the native Sultans and under the protection of the Crown in virtue of such grant. If this be so, I can discern impediments to an international convention between our two countries for establishing a boundary line between their respective sovereignties—and I can equally

see that objections might be raised to undertaking to fix that boundary by agreement between this Government and a chartered corporation having per se no national status.

Something of the same difficulty might arise in the case of the United States undertaking to lease the islands to a chartered company not having the standing of a government. The third condition of your memorandum illustrates this point, suggesting, as it does in effect, that such a lease should carry with it power to the company to grant titles and concessions binding upon the United States and to make valuable improvements, which would be an eventual charge upon this Government should the United States terminate the lease and reenter upon the property.

The second proposition of the company seems, on the whole, to be preferable and safer, namely, that the company be left undisturbed in the administration of the islands, without any detailed agreement, the United States Government simply waiving in favour of the company their right to such administration in the meantime—in other words, that the existing status be continued indefinitely at the pleasure of the parties. It might be agreed that such an understanding shall be with the British Government, acting on behalf of the interests of British subjects; that it shall not carry with it territorial rights (such as those of grants and concessions), that the waiver shall cover the islands to the westward and southwestward of the line traced on the map which accompanied your memorandum of June 23; that the company (through the British Government) shall agree to the exemption of the United States from any claim or allegation of responsibility arising out of acts done in or from any islands within the said line, and that the understanding shall continue until the two Governments may by treaty delimit the boundary between their respective domains in that quarter, or until one year's notice of termination, to be given by either to the other.

I should be glad to have the views of your Government on these suggestions.

I am, my dear Sir Mortimer,
Very faithfully yours,

ELIHU ROOT

APPENDIX F

Exchange of Note of 3 July 1907 between Britain and the United States

The British Ambassador to the Secretary of State.

BRITISH EMBASSY,
Intervale, N. H.,
3 July 1907

SIR, I have the honor to inform you that His Majesty's Government, acting at the request and on behalf of the British North Borneo Company, are prepared to acquiesce in the last proposal stated in your letter to Sir H.M. Durand of the 19th of December last, respecting the administration of certain islands on the east coast of Borneo. I am therefore instructed by His Majesty's principal secretary of state for foreign affairs to place the proposed arrangement formally on record without further delay.

His Majesty's Government understands the terms of the arrangement to be as follows:

Firstly. That the said company be left undisturbed in the administration of the islands in question without any agreement specifying details, the United States Government simply waiving in favour of the said company the right to such administration in the meantime; in other words, that the existing status be continued indefinitely at the pleasure of the two Governments concerned.

Secondly. That such privilege of administration shall not carry with it in question to extend beyond the temporary occupation of the company;

and any grant, concession, or license made by the company shall cease upon the termination of the company's occupation.

Thirdly. That the temporary waiver of the right of administration on the part of the United States Government shall cover all the islands to the westward and southwestward of the line traced on the map which accompanied Sir H.M. Durand's memorandum of the 23rd of June, 1906, and which is annexed to and to be deemed part of this note.

Fourthly. That the British North Borneo Company, through His Majesty's Government, shall agree to the exemption of the United States Government from any claim or allegation that the latter Government has incurred any responsibility in respect of acts done in or from any island within the said line.

Fifthly. That the understanding shall continue until the said two Governments may by treaty delimit the boundary between their respective domains in that quarter or until the expiry of one year from the date when notice of termination be given by either to the other.

Sixthly. That in case of denunciation, the United States Government shall not be responsible for the value of any buildings or other permanent improvements which may have been erected or made by the company upon the islands, but permission is hereby given to the company to remove, at its own expense, any buildings or improvements erected by it, provided the interests of the United States be not injured thereby.

I have therefore the honor to request you to be so good as to inform me whether the United States adhere to the terms of the arrangement above described, and I shall be glad to receive an assurance from you at the same time that this note will be considered by the United States Government as sufficient ratification of the above arrangement on the part of His Majesty's Government.

I have the honor, etc ...,

JAMES BRYCE

APPENDIX G

Exchange of Note of 10 July 1907 between Britain and the United States

The Acting Secretary of State to the British Ambassador

DEPARTMENT OF STATE,
Washington, 10 July 1907

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 151 of the 3d instant, by which you inform me that His Majesty's Government, acting at the request and on behalf of the British North Borneo Company, are prepared to acquiesce in the last proposal stated in the letter of December 19, 1906, from the Secretary of State to Sir H.M. Durand, respecting the administration of certain islands on the east coast of Borneo and that you are therefore instructed by His Majesty's principal secretary of state for foreign affairs to place the proposed arrangement formally on record without further delay.

The understanding of His Majesty's Government of the terms of the arrangement is stated by you to be as follows:

Firstly. That the said company be left undisturbed in the administration of the islands in question without any agreement specifying details, the United States Government simply waiving in favour of the said company the right to such administration in the meantime; in other words, that the existing status be continued indefinitely at the pleasure of the two Governments concerned.

Source: C.O. 874/1002. See also *Papers Relating to the Foreign Relations of the United States For 1907*, vol. 1, pp. 542–49.

Secondly. That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company; and any grant, concession, or license made by the company shall cease upon the termination of the company's occupation.

Thirdly. That the temporary waiver of the right of administration on the part of the United States Government shall cover all the islands to the westward and southwestward of the line traced on the map which accompanied Sir H.M. Durand's memorandum of the 23rd of June, 1906, and which is annexed to and to be deemed part of this note.

Fourthly. That the British North Borneo Company, through His Majesty's Government, shall agree to the exemption of the United States Government from any claim or allegation that the latter Government has incurred any responsibility in respect of acts done in or from any island within the said line.

Fifthly. That the understanding shall continue until the said two Governments may by treaty delimit the boundary between their respective domains in that quarter or until the expiry of one year from the date when notice of termination be given by either to the other.

Sixthly. That in case of denunciation, the United States Government shall not be responsible for the value of any buildings or other permanent improvements which may have been erected or made by the company upon the islands; but permission is hereby given to the company to remove, at its own expense, any buildings or improvements erected by it, provided the interests of the United States be not injured thereby.

The understanding of His Majesty's Government as above recited agreeing with that of the United States, I have the honor formally to announce the adherence of the United States to the arrangement and the acceptance of your note as sufficient ratification of the arrangement on the part of His Majesty's Government.

I have, etc ... ,

ROBERT BACON

APPENDIX H

Boundary Convention between Great Britain and the United States, 2 January 1930, and Exchange of Notes, 2 January 1930 and 6 July 1932

BOUNDARIES: PHILIPPINES AND NORTH BORNEO

*Convention signed at Washington January 2, 1930: exchanges of notes
at Washington January 2, 1930 and July 6, 1932*

Senate advice and consent to ratification February 11, 1930

Ratified by the President of the United States February 21, 1930

Ratified by the United Kingdom November 2, 1932

Ratifications exchanged at Washington December 13, 1932

Entered into force December 13, 1932

Proclaimed by the President of the United States December 15, 1932

47 Stat.2198; Treaty Series 856

CONVENTION

The President of the United States of America and His Majesty the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India,

Source: Charles Bevans, *Treaties and other International Agreements of the United States, (1776–1949)*, vol. 2, pp. 473–81. See also *Papers Relating to the Foreign Relations of the United States, 1930*, vol. 3, pp. 147–55. Also in C.O. 531/22, ff. 22–28.

Being desirous of delimiting definitely the boundary between the Philippine Archipelago (the territory acquired by the United States of America by virtue of the Treaties of December 10, 1898, and November 7, 1900, with Her Majesty the Queen Regent of Spain) and the State of North Borneo which is under British protection,

Have resolved to conclude a Convention for that purpose and have appointed as their plenipotentiaries:

The President of the United States of America,

Henry L. Stimson, Secretary of State of the United States of America; and

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India,

For Great Britain and Northern Ireland:

The Right Honorable Sir Esme Howard, G.C.B., G.C.M.G., C.V.O., His Majesty's Ambassador Extraordinary and Plenipotentiary at Washington;

Who, having communicated to each other their respective full powers found in good and due form have agreed upon and concluded the following Articles:

ARTICLE I

It is hereby agreed and declared that the line separating the islands belonging to the Philippine Archipelago on the one hand and the islands belonging to the State of North Borneo which is under British protection on the other hand shall be and is hereby established as follows:

From the point of intersection of the parallel of four degrees forty-five minutes ($4^{\circ}45'$) north latitude and the meridian of longitude one hundred twenty degrees ($120^{\circ}0'$) east of Greenwich, (being a point on the boundary defined by the Treaty between the United States of America and Spain signed at Paris, December 10, 1898), a line due south along the meridian of longitude one hundred twenty degrees ($120^{\circ}0'$) east of Greenwich to its points of intersection with the parallel of four degrees twenty-three minutes ($4^{\circ}43'$) north latitude;

thence due west along the parallel of four degrees twenty-three minutes ($4^{\circ}43'$) north latitude to its intersection with the meridian of longitude one hundred nineteen degrees ($119^{\circ}0'$) east of Greenwich;

thence due north along the meridian of longitude one hundred nineteen degrees ($119^{\circ}0'$) east of Greenwich to its intersection with the parallel of four forty-two minutes ($4^{\circ}42'$) north latitude;

thence in a straight line approximately $45^{\circ}54'$ true ($N45^{\circ}54'E$) to the intersection with the parallel of five degrees sixteen minutes ($5^{\circ}16'$) north latitude and the meridian of longitude one hundred nineteen degrees thirty-five minutes ($119^{\circ}35'$) east of Greenwich;

thence in a straight line approximately $314^{\circ}19'$ true ($N45^{\circ}41'W$) to the intersection with the parallel of six degrees ($6^{\circ}0'$) north latitude and the meridian of longitude one hundred eighteen degrees fifty minutes ($118^{\circ}50'$) east of Greenwich;

thence due west along the parallel of six degrees ($6^{\circ}0'$) north latitude to the intersection with the meridian of longitude one hundred eighteen degrees twenty minutes ($118^{\circ}20'$) east of Greenwich;

thence in a straight line approximately $307^{\circ}40'$ true ($N52^{\circ}20'W$) passing between Little Bakkungaan Island and Great Bakkungaan Island to the intersection of the parallel of six degrees seventeen minutes ($6^{\circ}17'$) north latitude and the meridian of longitude one hundred seventeen degrees fifty-eight minutes ($117^{\circ}58'$) east of Greenwich;

thence due north along the meridian of longitude one hundred seventeen degrees fifty-eight minutes ($117^{\circ}58'$) east of Greenwich to the intersection of the parallel of six degrees fifty-two minutes ($6^{\circ}52'$) north latitude;

thence in a straight line approximately $315^{\circ}16'$ true ($N44^{\circ}44'W$) to the intersection with the parallel of seven degrees twenty-four minutes forty-five seconds ($7^{\circ}24'45''$) north latitude and the meridian of longitude one hundred seventeen degrees twenty minutes thirty seconds ($117^{\circ}25'30''$) east of Greenwich;

thence in a straight line approximately $300^{\circ}56'$ true ($N59^{\circ}4'W$) through the Mangsee Channel between Mangsee Great Reef and Mangsee Islands to the intersection with the parallel of seven degrees forty minutes ($7^{\circ}40'$) north latitude and the meridian of longitude one hundred seventeen degrees ($117^{\circ}0'$) east of Greenwich; the latter point being on the boundary defined by the Treaty between the United States of America and Spain signed at Paris, December 10, 1898.

ARTICLE II

The line described above has been indicated on Charts Nos. 4707 and 4720, published by the United States Coast and Geodetic Survey, corrected to July 24, 1929, portions of both charts so marked being attached to this treaty and made a part thereof. It is agreed that if more accurate surveying

and mapping of North Borneo, the Philippine Islands, and intervening islands shall in the future show that the line described above does not pass between Little Bakkungaan and Great Bakkungaan islands, substantially as indicated on Charts No. 4720, the boundary line shall be understood to be defined in that area as a line passing between Little Bakkungaan and Great Bakkungaan Islands as indicated on the chart, said portion of the line being a straight line approximately $370^{\circ}40'$ true drawn from a point on the parallel of six degrees $6^{\circ}0'$ north latitude to a point on the meridian of longitude of $117^{\circ}58'$ east of Greenwich.

It is likewise agreed that if more accurate surveying and mapping shall show that the line describe above does not pass between the Mangsee Islands and Mangsee Great Reef as indicated on Charts No. 4720, the boundary line shall be understood to be defined in that area as a straight line drawn from the intersection of the parallel of $7^{\circ}24'45''$ north latitude and the meridian of longitude $117^{\circ}25'30''$ east of Greenwich, passing through Mangsee Channel as indicated on attached Chart No. 4720 to a point on the parallel of $7^{\circ}40'$ north latitude.

ARTICLE III

All islands to the north and east of the said line and all islands and rocks traversed by the said line, should there be any such, shall belong to the Philippine Archipelago and all islands to the south and west of the said line shall belong to the State of North Borneo.

ARTICLE IV

The provisions of Article 19 of the Treaty between the United States of America, the British Empire, France, Italy and Japan limiting naval armament, signed at Washington on February 6, 1922, shall, so long as that Treaty remains in force, apply in respect of all islands in the Turtle and Mangsee Groups which are or may be deemed to be comprised within the territories of the Philippine Archipelago on the one hand and of the State of North Borneo on the other hand in consequence of the establishment of the line fixed by the preceding articles of the present Convention. In the event of either High Contracting Party ceding, selling; leasing or transferring any of the islands in question to a third party provision shall be made for the continued application to such island of the aforementioned Article-19 of the Treaty between the United States of America, the British Empire, France, Italy and Japan limiting naval armament, signed at Washington on

February 6, 1922, provided that Treaty is still in force at the time of such cession, sale, lease or transfer.

ARTICLE V

The present Convention shall be ratified by the President of The United States of America, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty, and shall come into force on the exchange of the acts of ratification which shall take place at Washington as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the same and have affixed thereof their respective seals.

Done in duplicate at Washington the second day of January in the year of our Lord one thousand nine hundred and thirty.

HENRY L. STIMSON	[SEAL]
ESME HOWARD	[SEAL]

EXCHANGES OF NOTES

The British Ambassador to the Secretary of State

No. 679

BRITISH EMBASSY,
Washington, D.C., 2nd January, 1930

SIR,

By the convention concluded between the President of the United States of America and His Britannic Majesty for the purpose of delimiting the boundary between the Philippines archipelago on the one hand and the State of North Borneo which is under British protection on the other hand, the sovereignty over certain islands which have for many years past been administered by the British North Borneo Company has been definitely recognized as pertaining to the United States of America. These islands which formed the subject of the arrangement effected by an exchange of notes between His Majesty's Government and the United States Government of July 3rd and July 10th, 1907, are:

1. Sibuang, Boaan, Lihiman, Langaan, Great Bakkungaan, Taganak and Baguan in the group of islands known as the Turtle Islands.
2. The Mangsee Islands.

His Majesty's Government in the United Kingdom understand that the Government of the United States of America are prepared to conclude an arrangement in regard to these islands, supplementary to the above-mentioned convention, in the following terms:

FIRSTLY. That the said company be left undisturbed in the administration of the islands in question unless or until the United States Government give notice to His Majesty's Government of their desire that the administration of the islands should be transferred to them. The transfer of administration shall be effected within one year after such notice is given on a day and in a manner to be mutually arranged.

SECONDLY. That when the administration of any island is transferred in accordance with the foregoing the said Company will deliver to the United States Government all records relating to administration prior to the date of transfer.

THIRDLY. The United States of America shall not be responsible for the value of any buildings which have been or may be erected or other permanent improvements which have been or may be made in any island the administration of which is subject to transfer but any buildings or improvements erected or made by the administrative authorities prior to the transfer of administration may be removed provided the interests of the United States of America are not thereby injured. In the event, however, of the Island of Taganak being so transferred, the United States Government will give favourable consideration to the question of the compensation to be paid to the said company in respect of the capital expenditure incurred by the company in connection with the lighthouse situated on the island, and the United States Government will provide for the future maintenance of the lighthouse.

FOURTHLY. That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company; and any grant, concession, or license made by the company shall cease upon the termination of the company's occupation.

The United States Government, however, take note of the desire of His Majesty's Government that the following titles to land in certain of

the islands which were in good faith granted by the Government of North Borneo prior to the arrangement of 1907, be allowed to stand on the terms on which they were issued by that Government.

PARTICULARS

<i>Titles</i>	<i>Date of Alienation</i>	<i>Period</i>	<i>Approximate Total Acreage</i>
<i>Boaan Island</i> 26 Native Titles	1.6.1907	In perpetuity	146 acres
<i>Lihiman Island</i> 7 Native Titles	1.6.1907	" "	37 "
1 Provisional Lease 2416	1.6.1907	999 years	13 "
		Total	50 "
<i>Longaan Island</i> 4 Native Titles	1.6.1907	In perpetuity	
<i>Great Bakkungaan</i> 3 Provisional Leases	26.9.1903	999 years	118 "

FIFTHLY. It is agreed that the United States Government shall be exempt from responsibility in respect of acts done in or from any of the islands in question the administration of which has not been transferred to the United States.

SIXTHLY. The stipulation of the extradition treaties between the United States Government and His Majesty's Government shall be applicable within the limits provided for in the exchange of notes which took place in Washington on September 1st/23rd, 1913, to the islands in question and the United States Government takes note of the importance which, in view of the proximity of the islands to North Borneo, the said company attaches to the establishment and maintenance of an adequate police post thereon, in the event of the administration being transferred to the United States Government.

SEVENTHLY. In the event of the cession, sale, lease or transfer of the islands in question to any third party, the United States Government undertake to use their good offices in commending to the favourable consideration of such third party the desires expressed by His Majesty's Government in the United Kingdom and the British North Borneo Company, as set out in the preceding articles of the present arrangement.

I have the honour under instructions from His Majesty's Principal Secretary of State for Foreign Affairs to request you to be so good as to inform me whether the United States adhere to the terms of the arrangement above described and I shall be glad to receive an assurance from you at the time that this note will be considered by the United States Government as sufficient acceptance of the above arrangement on the part of His Majesty's Government in the United Kingdom.

I have the honour to be, with the highest consideration, Sir.

Your most obedient, humble servant,

ESME HOWARD

The Honourable

HENRY L. STIMSON

*Secretary of State of the Unites States,
Washington, D.C.*

*Mr. Stimson to Sir Esme Howard.
Department of State,
Washington, January 2, 1930.*

Excellency,

In your Excellency's note of to-day's date you stated that His Majesty's Government in the United Kingdom understands that the Government of the United States of America is prepared to conclude an arrangement in the following terms regarding certain islands off the coast of Borneo which have been administered by the British North Borneo Company in accordance with the arrangement effected by an exchange of notes between His Majesty's Government and the Government of the Unites States of America on the 3rd and 10th July, 1907:-

Firstly.- That the said company be left undisturbed in the administration of the islands in question unless or until the United States Government give notice to His Majesty's Government of its desire that the administration of the islands should be transferred to it. The transfer of administration shall be effected within one year after such notice is given on a day and in a manner to be mutually arranged.

Secondly.- That when the administration of any island is transferred in accordance with the foregoing the said Company will deliver to the United States Government all records relating to administration prior to the date of transfer.

Thirdly.- The United States of America shall not be responsible for the value of any buildings which have been or may be erected or other permanent improvements which have been or may be made in any island the administration of which is subject to transfer but any buildings or improvements erected or made by the administrative authorities prior to the transfer of administration may be removed provided the interests of the United States of America are not thereby injured. In the event, however, of the Island of Taganak being so transferred, the United States Government will give favourable consideration to the question of the compensation to be paid to the said company in respect of the capital expenditure incurred by the company in connection with the lighthouse situated on the island, and the United States Government will provide for the future maintenance of the lighthouse.

Fourthly.- That such privilege of administration shall not carry with it territorial rights, such as those of making grants or concessions in the islands in question to extend beyond the temporary occupation of the company; and any grant, concession, or licence made by the company shall cease upon the termination of the company's occupation.

The United States Government however, takes note of the desire of His Majesty's Government that the following titles to land in certain of the islands which were in good faith granted by the Government of North Borneo prior to the arrangement of 1907, be allowed to stand on the terms on which they were issued by that Government:-

PARTICULARS

<i>Titles</i>	<i>Date of Alienation</i>	<i>Period</i>	<i>Approximate Total Acreage</i>
<i>Boaan Island-</i> 26 native titles	June 1, 1907	In perpetuity	Acres 146
<i>Lihiman Island-</i> 7 native titles	June 1, 1907	" "	37
1 provisional lease 2416	June 1, 1907	999 years	13
			Total 50

<i>Longaan Island</i> - 4 native titles	June 1, 1907	In perpetuity	12
<i>Great Bakkungaan</i> - 3 provisional leases	September 26, 1903	999 years	118

Fifthly.- It is agreed that the United States Government shall be exempt from responsibility in respect of acts done in or from any of the islands in question the administration of which has not been transferred to the United States of America.

Sixthly.- The stipulations of the extradition treaties between the United States Government and His Majesty's Government shall be applicable within the limits provided for in the exchange of notes which took place in Washington on the 1st to 23rd September, 1913, to the islands in question and the United States Government takes note of the importance which, in view of the proximity of the islands to North Borneo, the said company attached to the establishment and maintenance of an adequate police post thereon, in the event of the administration being transferred to the United States Government.

Seventhly.- In the event of the cession, sale, lease or transfer of the islands in question to any third party, the United States Government undertakes to use its good offices in commending to the favourable consideration of such third party to desires expressed by His Majesty's Government in the United Kingdom and the British North Borneo Company, as set out in the preceding articles of the present arrangement.

In reply to the enquiry made on behalf of your Excellency's Government in the last paragraph of your note of to-day's date, I take pleasure in informing you that the Government of the United States of America adheres to the terms of the arrangement above described, and in assuring you that your note under acknowledgment is considered by the Government of the United States of America as sufficient acceptance of the arrangement on the part of His Majesty's Government in the United Kingdom.

Accept, &c.

HENRY L. STIMSON.

The Secretary of State to the British Ambassador

DEPARTMENT OF STATE,
Washington, July 6, 1932

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's note of this day's date in which Your Excellency refers to the fact that in the notes exchanged between the Government of the United States of America and His Majesty's Government in the United Kingdom on January 2nd, 1930, constituting an arrangement regarding certain islands off the coast of Borneo which have been administered by the British North Borneo Company in accordance with the arrangement effected by an exchange of notes between His Majesty's Government and the Government of the United States on July 3 and July 10, 1907, the Government of the United States took note of the desire of His Majesty's Government that certain titles to land in certain of the islands which were in good faith granted by the Government. In relation to this matter Your Excellency states that His Majesty's Government regrets that the following title was inadvertently omitted from the list of land titles included in the above arrangement:

<i>Lihiman Island</i>	<i>Date of Alienation</i>	<i>Period</i>	<i>Area</i>
Provisional Lease No. 2417	1.6.1907	999 years	13 acres 0 roods 24 perches

Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs Your Excellency requests that I be so good as to inform you whether the Government of the United States will agree to regard this title as included in those mentioned in the arrangement concluded on January 2, 1930.

In reply I am pleased to inform Your Excellency that the Government of the United States agrees to the extension of the arrangement of January 2, 1930, to include the above-mentioned title, and I take pleasure also in assuring Your Excellency that your note under acknowledgement is considered by the Government of the United States as a sufficient confirmation on the part of His Majesty's Government in the United Kingdom of the aforesaid extension.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

W.R. CASTLE, Jr.

His Excellency

The Honorable Sir RONALD LINDSAY,

P.C., G.C.M.G., K.C.B., C.V. O.,

British Ambassador.

