NOTES EXCHANGED
BETWEEN
FRANCE AND THE UNITED STATES
ON THE SUBJECT OF
A MULTILATERAL TREATY FOR THE
RENUNCIATION OF WAR, TOGETHER
WITH THE TEXT OF M. BRIAND'S
ORIGINAL PROPOSAL FOR A
PACT OF PERPETUAL
FRIENDSHIP

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(III)
NOTES EXCHANGED BETWEEN FRANCE AND THE UNITED STATES ON THE SUBJECT OF A MULTILATERAL TREATY FOR THE RENUNCIATION OF WAR, TOGETHER WITH THE TEXT OF M. BRIAND’S ORIGINAL PROPOSAL FOR A PACT OF PERPETUAL FRIENDSHIP

[Translation]

June 20, 1927.

DRAFT OF PACT OF PERPETUAL FRIENDSHIP BETWEEN FRANCE AND THE UNITED STATES

The President of the French Republic and the President of the United States of America,

Equally desirous of affirming the solidarity of the French people and the people of the United States of America in their wish for peace and in their renunciation of a recourse to arms as an instrument of their policy towards each other,

And having come to an agreement to consecrate in a solemn Act these sentiments as much in accord with the progress of modern democracies as with the mutual friendship and esteem of two nations that no war has ever divided and which the defence of liberty and justice has always drawn closer,

Have to this end designated for their plenipotentiaries, to wit,

The President of the French Republic

The President of the United States of America

Who, after having exchanged their powers, recognized in good and due form, have agreed upon the following provisions:

ARTICLE 1

The high contracting powers solemnly declare, in the name of the French people and the people of the United States of America, that they condemn recourse to war and renounce it respectively as an instrument of their national policy towards each other.

1 Transmitted to the Secretary of State by M. Briand through the American Ambassador at Paris.
ARTICLE 2

The settlement or the solution of all disputes or conflicts, of whatever nature or of whatever origin they may be, which may arise between France and the United States of America, shall never be sought by either side except by pacific means.

ARTICLE 3

The present Act shall be ratified. The ratifications thereof shall be exchanged at .......... as soon as possible and from that time it shall have full force and value.

In witness whereof the above-named plenipotentiaries have signed the present Act and have thereunto set their seal.

Done at .......... in two copies (each drawn up both in French and English and having equal force), the .......... nineteen hundred and twenty-seven.

(Signatures and seals)

20 juin 1927.

PROJET DE PACTE D’AMITIE PERPETUELLE ENTRE LA FRANCE ET LES ETATS-UNIS

Le Président de la République française et le Président des Etats-Unis d’Amérique,

Egalement désireux d’affirmer la solidarité du peuple français et du peuple des Etats-Unis d’Amérique dans leur volonté de paix et dans leur renonciation à recourir aux armes comme instrument de leur politique réciproque,

Et étant tombés d’accord pour consacrer dans un Acte solennel ces sentiments aussi conformes aux progrès des démocraties modernes qu’à l’amitié et à l’estime réciproques de deux nations qu’aucune guerre n’a jamais divisées et que la défense de la liberté et de la justice a toujours rapprochées,

Ont à cette fin désigné pour leurs plénipotentiaires, savoir,

Le Président de la République française

.Le Président des Etats-Unis d’Amérique

Lesquels, après avoir échangé leurs pouvoirs reconnus en bonne et due forme, sont convenus des dispositions suivantes.
The Secretary of State to the French Ambassador

WASHINGTON, December 28, 1927.

EXCELLENCY: I have the honor to refer to the form of treaty entitled "Draft of Pact of Perpetual Friendship between France and the United States," which His Excellency the Minister of Foreign Affairs was good enough to transmit to me informally last June through the instrumentality of the American Ambassador at Paris.

This draft treaty proposes that the two powers should solemnly declare in the name of their respective peoples that they condemn recourse to war, renounce it as an instrument of their national policy towards each other, and agree that a settlement of disputes arising between them, of whatsoever nature or origin they may be, shall never be sought by either party except through pacific means.

I have given the most careful consideration to this proposal and take this occasion warmly to reciprocate on behalf of the American people the lofty sentiments of friendship which inspired the French people, through His Excellency M. Briand to suggest the proposed treaty.

The Government of the United States welcomes every opportunity for joining with the other governments of the world in condemning war and pledging anew its faith in arbitration. It is firmly of the opinion that every international endorsement of arbitration, and every treaty repudiating the idea of a resort to arms for the settlement of justiciable disputes, materially advances the cause of world peace.

My views on this subject find a concrete expression in the form of the arbitration treaty which I have proposed in my note to you of December 28, 1927, to take the place of the arbitration convention of 1908. The proposed treaty extends the scope of that convention and records the unmistakable determination of the two Governments to prevent any breach in the friendly relations which have subsisted between them for so long a period.

In view of the traditional friendship between France and the United States—a friendship which happily is not dependent upon the existence of any formal engagement—and in view of the common desire of the two nations never to resort to arms in the settlement of such controversies as may possibly arise between them, which is recorded in the draft arbitration treaty just referred to, it has occurred to me that the two Governments, instead of contenting themselves with a bilateral declaration of the nature suggested by M. Briand, might make a more signal contribution to world peace by joining in an effort to obtain the adherence of all of the principal powers of the world to a declaration renouncing war as an instrument of national policy. Such a declaration, if executed by the principal world powers,
contiendrait la déclaration d’y renoncer comme instrument de la politique nationale et y substituerait le règlement pacifique des contestations entre les nations.

Votre Excellence ajoutait que si le Gouvernement de la République acceptait de se joindre à cet égard au Gouvernement des États-Unis et aux autres principales puissances du monde pour un acte multilatéral approprié, Votre Excellence serait heureuse d’engager immédiatement les conversations en vue de la préparation d’un projet inspiré des suggestions de M. Briand et destiné à être proposé conjointement par la France et les États-Unis aux autres nations du monde.

Le Gouvernement de la République a hautement apprécié l’accueil favorable que le Gouvernement des États-Unis a fait à la proposition de M. Briand. Il estime que la procédure suggérée par Votre Excellence et suivie dans des termes correspondant à l’opinion publique et au sentiment populaire des diverses nations apparaît bien comme de nature à satisfaire aux vues du Gouvernement français. Il y aurait avantage à en conserver, dès à présent, le caractère par la signature de la France et des États-Unis.

Je suis autorisé à vous faire connaître que le Gouvernement de la République est disposé à se joindre au Gouvernement des États-Unis pour proposer à l’agrement de toutes les nations un acte ainsi que le présent signé par la France et les États-Unis et aux termes duquel les Hautes Parties contractantes s’interdiraient toute guerre d’agression et déclareraient que pour le règlement des conflits de quelque nature qu’ils soient qui viendraient à s’élèver entre elles, elles emploieront tous les moyens pacifiques. Les Hautes Parties contractantes s’engageraient à porter cet acte à la connaissance de tous les États et à les inviter à y accéder.

Le Gouvernement de la République est convaincu que ces maximes ainsi proclamées ne sauraient être accueillies qu’avec gratitude par le monde entier et il ne doute pas que les efforts des deux Gouvernements pour en assurer l’adoption universelle ne soient couronnés d’un plein succès.

Veillez agréer [etc.]

Claudel.

Translation of the note of January 5, 1928, from the French Ambassador to the Secretary of State

Mr. SECRETARY OF STATE: By a letter of December 28 last, Your Excellency was kind enough to make known the sentiments of the Government of the United States concerning the suggestion of a treaty proposed by the Government of the Republic in the month of June 1927, with a view to the condemnation of war and the renunciation thereof as an instrument of national policy between France and the United States.

According to Your Excellency, the two governments, instead of limiting themselves to a bilateral treaty, would contribute more fully to the peace of the world by uniting their efforts to obtain the adhesion of all the principal powers of the world to a declaration renouncing war as an instrument of their national policy.

Such a declaration, if it were subscribed to by the principal powers, could not fail to be an impressive example to all the nations of the world and might very well lead them to subscribe in their turn to the same pact, thus bringing into effect as among all the nations of the world an arrangement which at first was only suggested as between France and the United States.

The Government of the United States, therefore, would be disposed to join the Government of the Republic with a view to concluding a treaty between the principal powers of the world which, open to the signature of all nations, would condemn war, would contain a declaration to renounce it as an instrument of national policy and would substitute therefor the pacific settlement of disputes between nations.

Your Excellency added that if the Government of the Republic agrees thus to join the Government of the United States and the other principal powers of the world in an appropriate multilateral treaty, Your Excellency would be happy to undertake immediately conversations leading to the elaboration of a draft inspired by the suggestions of M. Briand and destined to be proposed jointly by France and the United States to the other nations of the world.

The Government of the Republic appreciated sincerely the favorable reception given by the Government of the United States to the proposal of M. Briand. It believes that the procedure suggested by Your Excellency and carried out in a manner agreeable to public opinion and to the popular sentiment of the different nations would appear to be of such nature as to satisfy the views of the French Government. It would be advantageous immediately to sanction the general character of this procedure by affixing the signatures of France and the United States.

I am authorized to inform you that the Government of the Republic is disposed to join with the Government of the United States in proposing for agreement by all nations a treaty to be signed at the present time by France and the United States and under the terms of which the high contracting parties shall renounce all war of aggression and shall declare that for the settlement of differences of whatever nature which may arise between them they will employ all pacific means. The high contracting parties will engage to bring this treaty to the attention of all states and invite them to adhere.

The Government of the Republic is convinced that the principles thus proclaimed cannot but be received with gratitude by the entire world, and it does not doubt that the efforts of the two governments to insure universal adoption will be crowned with full success.

Accept [etc.]

Claudel.
The Secretary of State to the French Ambassador

WASHINGTON, January 11, 1928.

EXCELLENCE: In the reply which your Government was good enough to make to my note of December 28, 1927, His Excellency the Minister of Foreign Affairs summarized briefly the proposal presented by the Government of the United States, and stated that it appeared to be of such a nature as to satisfy the views of the French Government. In these circumstances he added that the Government of the Republic was disposed to join with the Government of the United States in proposing for acceptance by all nations a treaty to be signed at the present time by France and the United States, under the terms of which the high contracting parties should renounce all wars of aggression and should declare that they would employ all peaceful means for the settlement of any differences that might arise between them.

The Government of the United States is deeply gratified that the Government of France has seen its way clear to accept in principle its proposal that, instead of the bilateral pact originally suggested by M. Briand, there be negotiated among the principal powers of the world an equivalent multilateral treaty open to signature by all nations. There can be no doubt that such a multilateral treaty would be a far more effective instrument for the promotion of pacific relations than a mere agreement between France and the United States alone, and if the present efforts of the two Governments achieve ultimate success, they will have made a memorable contribution to the cause of world peace.

While the Government of France and the Government of the United States are now closely in accord so far as the multilateral feature of the proposed treaty is concerned, the language of M. Briand's note of January 5, 1928, is in two respects open to an interpretation not in harmony with the idea which the Government of the United States had in mind when it submitted to you the proposition outlined in my note of December 28, 1927. In the first place, it appears to be the thought of your Government that the proposed multilateral treaty be signed in the first instance by France and the United States alone and then submitted to the other powers for their acceptance. In the opinion of the Government of the United States this procedure is open to the objection that a treaty, even though acceptable to France and the United States, might for some reason be unacceptable to one of the other great powers. In such event the treaty could not come into force and the present efforts of France and the United States would be rendered abortive. This unhappy result would not necessarily follow a disagreement as to terminology arising prior to the definitive approval by any Gov-

ernment of a proposed form of treaty, since it is by no means unreasonable to suppose that the views of the governments concerned could be accommodated through informal preliminary discussions and a text devised which would be acceptable to them all. Both France and the United States are too deeply interested in the success of their endeavors for the advancement of peace to be willing to jeopardize the ultimate accomplishment of their purpose by incurring unnecessary risk of disagreement with the other powers concerned, and I have no doubt that your Government will be entirely agreeable to joining with the Government of the United States and the governments of the other powers concerned for the purpose of reaching a preliminary agreement as to the language to be used in the proposed treaty, thus obviating all danger of confronting the other powers with a definitive treaty unacceptable to them. As indicated below, the Government of the United States would be pleased if the Government of France would agree that the draft treaty submitted by M. Briand last June should be made the basis of such preliminary discussions.

In the second place, and this point is closely related to what goes before, M. Briand's reply of January 5, 1928, in expressing the willingness of the Government of France to join with the Government of the United States in proposing a multilateral treaty for the renunciation of war, apparently contemplates that the scope of such treaty should be limited to wars of aggression. The form of treaty which your Government submitted to me last June which was the subject of my note of December 28, 1927, contained no such qualification or limitation. On the contrary it provided unequivocally for the renunciation by the high contracting parties of all war as an instrument of national policy in the following terms:

ARTICLE 1

The high contracting powers solemnly declare, in the name of the French people and the people of the United States of America, that they condemn recourse to war and renounce it respectively as an instrument of their national policy towards each other.

ARTICLE 2

The settlement or the solution of all disputes or conflicts, of whatever nature or of whatever origin they may be, which may arise between France and the United States of America, shall never be sought by either side except by pacific means.

I am not informed of the reasons which have led your Government to suggest this modification of its original proposal, but I earnestly hope that it is of no particular significance and that it is not to be taken as an indication that the Government of France will find itself unable to join with the Government of the United States in proposing, as suggested above, that the original formula submitted by M. Briand which envisaged the unqualified renunciation of all
La question de savoir si un acte ainsi envisagé, comme devant être multipartite, gagnerait ou non à être signé en premier lieu par la France et par les États-Unis, ou à être d'abord préparé entre certaines des principales puissances du monde et offert ensuite à la signature de toutes, est essentiellement une question de procédure.

Le Gouvernement de la République n'avait formulé de suggestion que dans le désir d'atteindre plus vite et plus sûrement le résultat qu'il recherche en même temps que les États-Unis. C'est dire qu'il est disposé à se rallier à la méthode qu'elle soit qui apparaîtra comme la plus pratique.

Il existe cependant une situation de fait sur laquelle mon Gouvernement m'a prié d'attirer particulièrement votre attention.

Il ne saurait échapper au Gouvernement américain que la grande majorité des puissances du monde, et parmi elles la plupart des principales puissances, font de l'organisation de la paix l'objet d'efforts communs qu'elles poursuivent dans le cadre de la Société des Nations. Elles sont déjà liées les unes vis-à-vis des autres par un pacte leur créant des obligations réciproques, ainsi que par des accords, comme ceux conclus à Locarno en octobre 1925, ou par des conventions internationales relatives aux garanties de neutralité, tous engagements qui leur imposent des devoirs auxquels elles ne peuvent contrevenir.

En particulier, Votre Excellence n'ignore pas que tous les États membres de la Société des Nations présents à Genève au mois de septembre dernier, ont adopté dans une résolution commune tendant à condamner la guerre, certains principes déterminés par le souci des droits et des devoirs réciproques de chacun. Dans cette résolution, les puissances ont été amenées à spécifier que l'action à condamner comme un crime international est la guerre d'agression et que tous les moyens pacifiques doivent être employés pour le règlement des différends, de quelque nature qu'ils soient, qui viendraient à s'élever entre les États.

Il y a là un état de choses que les États-Unis, tout en y demeurant étrangers, ne sauraient se refuser à prendre en considération comme tout autre État appelé à participer à la négociation.

Les États-Unis ne se trouvent, d'ailleurs, de ce fait, liés en rien par les dispositions du pacte de la Société des Nations. La proposition française du mois de juin dernier tendant à la conclusion d'un pacte bilateral avait été rédigée en tenant compte des relations séculaires de la France et des États-Unis : le Gouvernement de la République reste toujours prêt à négocier avec le Gouvernement américain, dans les mêmes conditions et sur la même base. Il n'a jamais modifié son attitude à cet égard. Mais en présence de l'initiative des États-Unis qui proposent de conclure un pacte multipartite, il devait prendre en considération les relations existant entre
The American Government was only willing, however, to embody the declaration proposed by the French Government in the preamble of the Franco-American arbitration convention now in process of renewal, and considered on the other hand, for reasons of its own which the French Government has not failed to take into account, that it would be opportune to broaden this manifestation against war and to make it the subject of a separate act in which the other powers would be invited to participate.

The Government of the Republic was not opposed to this expansion of its original plan, but it could not but realize, and it felt bound to point out that the new negotiation as proposed would be more complex and likely to meet with various difficulties.

The question as to whether there would be any advantage in having such an instrument, of a multipartite nature, signed in the first place by France and the United States, or else first elaborated by certain of the principal powers of the world and then presented to all for their signature, is essentially one of procedure.

The Government of the Republic offered a suggestion upon this point only because of its desire more speedily and more surely to achieve the result which it seeks in common with the United States. This is tantamount to saying that it is ready to concur in any method which may appear to be the most practicable.

There is, however, a situation of fact to which my Government has requested me to draw your particular attention.

The American Government cannot be unaware of the fact that the great majority of the powers of the world, and among them most of the principal powers, are making the organization and strengthening of peace the object of common efforts carried on within the framework of the League of Nations. They are already bound to one another by a Covenant placing them under reciprocal obligations, as well as by agreements such as those signed at Locarno in October 1925, or by international conventions relative to guarantees of neutrality, all of which engagements impose upon them duties which they cannot contravene.

In particular, Your Excellency knows that all states members of the League of Nations represented at Geneva in the month of September last, adopted, in a joint resolution tending to the condemnation of war, certain principles based on the respect for the reciprocal rights and duties of each. In that resolution the powers were led to specify that the action to be condemned as an international crime is aggressive war and that all peaceful means must be employed for the settlement of differences, of any nature whatsoever, which might arise between the several states.
This is a condition of affairs which the United States, while a stranger thereto, cannot decline to take into consideration, just as must any other state called upon to take part in the negotiation.

Furthermore, the United States would not in any way be bound thereby to the provisions of the Covenant of the League of Nations. The French proposal of June last looking to the conclusion of a bilateral compact, had been drawn up in the light of the century-old relations between France and the United States; the French Government still stands ready to negotiate with the American Government on the same conditions and on the same basis. It has never altered its attitude in that respect. But when confronted by the initiative of the United States in proposing a multiparty covenant, it had to take into consideration the relations existing among the various powers which would be called upon to participate therein. This it has done, with the object of assuring the success of the treaty contemplated by the United States. Its suggestions of January 5 as to the terms of the multiparty treaty are inspired by the formula which has already gained the unanimous adherence of all the states members of the League of Nations, and which for that very reason might be accepted by them with regard to the United States, just as it has already been accepted among themselves.

This is the explanation of our proposal of January 5.

The Government of the Republic has always, under all circumstances, very clearly and without mental reservation declared its readiness to join in any declaration tending to denounced war as a crime and to set up international sanctions susceptible of preventing or repressing it. There has been no change in its sentiments in that respect; its position remains the same. Your Excellency may therefore be assured of its sincere desire to respond to the idea of the American Government and to second its efforts to the full extent compatible with the situation of fact created by its international obligations. It is this preoccupation which inspired the formula proposed on January 5, a formula which does indeed seem to be the most apt at this time to assure the accomplishment of the American project. The Government of the Republic accordingly cannot not hope that the American Government will share this view. Subject to these observations, the Government of the Republic would, moreover, very gladly welcome any suggestions offered by the American Government which would make it possible to reconcile an absolute condemnation of war with the engagements and obligations assumed by the several nations and the legitimate concern for their respective security.

Pray accept [etc.]

Claudel
ship in the League of Nations. If, however, members of the League of Nations cannot, without violating the terms of the Covenant of the League, agree among themselves and with the Government of the United States to renounce war as an instrument of their national policy, it seems idle to discuss either bilateral or multilateral treaties unreservedly renouncing war. I am reluctant to believe, however, that the provisions of the Covenant of the League of Nations really stand in the way of the cooperation of the United States and members of the League of Nations in a common effort to abolish the institution of war. Of no little interest in this connection is the recent adoption of a resolution by the Sixth International Conference of American States expressing in the name of the American Republics unqualified condemnation of war as an instrument of national policy in their mutual relations. It is significant to note that of the twenty-one states represented at the Conference, seventeen are members of the League of Nations.

I trust, therefore, that neither France nor any other member of the League of Nations will finally decide that an unequivocal and unqualified renunciation of war as an instrument of national policy either violates the specific obligations imposed by the Covenant or conflicts with the fundamental idea and purpose of the League of Nations. On the contrary, is it not entirely reasonable to conclude that a formal engagement of this character entered into by all of the principal powers, and ultimately, I trust, by the entire family of nations, would be a most effective instrument for promoting the great ideal of peace which the League itself has so closely at heart? If, however, such a declaration were accompanied by definitions of the word "aggressor" and by exceptions and qualifications stipulating when nations would be justified in going to war, its effect would be very greatly weakened and its positive value as a guaranty of peace virtually destroyed. The ideal which inspires the effort so sincerely and so hopefully put forward by your Government and mine is arresting and appealing just because of its purity and simplicity; and I cannot avoid the feeling that if governments should publicly acknowledge that they can only deal with this ideal in a technical spirit and must insist upon the adoption of reservations impairing, if not utterly destroying the true significance of their common endeavors, they would be in effect only recording their impotence, to the keen disappointment of mankind in general.

From the broad standpoint of humanity and civilization, all war is an assault upon the stability of human society, and should be suppressed in the common interest. The Government of the United States desires to see the institution of war abolished, and stands ready to conclude with the French, British, Italian, German and Japanese Governments a single multilateral treaty open to subsequent adherence by any and all other governments, binding the parties thereto not to resort to war with one another. The precise language to be employed in such a treaty is a matter of indifference to the United States so long as it clearly and unmistakably sets forth the determination of the parties to abolish war among themselves. I therefore renew the suggestion contained in my note of January 11, 1928, that the Government of France join with the Government of the United States in transmitting to the British, Italian, German and Japanese Governments for their consideration and comment the text of M. Briand's original proposal, together with copies of the subsequent correspondence between France and the United States as a basis for preliminary discussions looking to the conclusion of an appropriate multilateral treaty proscribing recourse to war.

Accept [etc.]

FRANK B. KELLOGG

The French Ambassador to the Secretary of State

30 mars 1928.

Monsieur le Secrétaire d'État: En réponse à votre lettre du 27 février dernier relative au projet de pacte multipartite pour la proscription de la guerre, j'ai l'honneur de faire savoir à Votre Excellence que M. Briand a été heureux de trouver dans les observations soumises à son examen une nouvelle et cordiale affirmation de la communauté d'inspiration qui anime nos deux Gouvernements, également soucieux de coopérer au progrès international vers la stabilisation effective de la paix dans le monde. Assuré d'une telle solidarité dans la poursuite d'un même dessein, M. Briand demeure convaincu, comme Votre Excellence, qu'une formule d'entente doit pouvoir se dégager des échanges de vues intervenus jusqu'à ce jour entre nos deux Gouvernements, si l'on veut bien, de part et d'autre, s'attacher aux réalités essentielles qu'il s'agit de sauvegarder dans cette discussion, en leur subordonnant les divergences de forme auxquelles peuvent être réduites à l'analyse toutes questions de terminologie, n'affectant pas la fond même du débat.

C'est dire que le Gouvernement français, à ce point de la discussion où tous les aspects du problème ont été examinés, entend bien se placer à un point de vue aussi pratique que possible et faciliter de son mieux l'effort du Gouvernement américain vers une conclusion immédiate.

Les observations que M. Briand a eu l'occasion d'aventurer à l'appui de sa dernière suggestion, s'inspirent du très sincère désir de faciliter pratiquement la réalisation du projet de pacte multipartite envisagé, par les conditions les plus propres à lui ménager l'assentiment de tous les gouvernements dont l'accord est nécessaire. C'est
ainsi que la rédaction française tendant à limiter à la guerre d'agression la procédure désormais proposée sous forme multipartite, et non plus bilatérale, avait presque pour effet de soustraire le projet américain aux difficultés sérieuses qu'il ne peut manquer de rencontrer dans la pratique; pour ménager, en effet, les obligations internationales des signataires, du moment où il s'agit d'un pacte multipartite, on ne peut lui assurer le caractère inconditionnel souhaité par Votre Excellence sans se trouver dans la nécessité de réunir l'adhésion unanime de tous les États existants, ou pour le moins, de tous les États intéressés, c'est-à-dire exposés par leur situation à la possibilité d'un conflit avec l'un quelconque des États contractants.

Dans les relations entre États du continent américain, ce sont de pareilles difficultés qui ont amené le Gouvernement américain à la Conférence pan-américaine de la Havane à approuver une résolution limitée aux mêmes termes de "guerre d'agression" que le Gouvernement français avait cru devoir employer pour caractériser la renonciation à laquelle il était sollicité de s'engager sous forme de pacte multilatéral. Sans doute ne trouve-t-on pas la même réserve dans une autre résolution à laquelle Votre Excellence a entendu se référer dans sa lettre du 27 février, mais encore faut-il observer que cette résolution elle-même ne constituait qu'une sorte de préambule à la recherche d'un contrat d'arbitrage en vue duquel de nombreuses réserves étaient formulées.

Votre Excellence a paru s'étonner que la France ne pût conclure avec toutes les puissances, sous forme de traité multipartite, le même pacte qu'elle a offert de conclure séparément avec les États-Unis sous forme bi-partite. Mon Gouvernement croyait s'être expliqué assez clairement sur ce point en rappelant que le projet de pacte d'amitié perpétuelle entre la France et les États-Unis proposé au mois de juin dernier était réduit de façon à limiter strictement l'engagement réciproque qu'il comportait aux termes de droits résultant des seules relations entre les deux États signataires. Dans de telles limites pouvait être souscrit un engagement absolument inconditionnel, puisque cet engagement n'exposerait pas les signataires, comme il l'aurait fait dans un traité multipartite, aux difficultés juridiques résultant des positions respectives de diverses puissances les uns vis-à-vis des autres, et qu'ainsi bien, pour deux pays comme la France et les États-Unis, moralement unis par des liens de séculaire amitié, les engagements contractuels conclus d'autre part, par l'une ou l'autre puissance, ne pouvaient jamais constituer, en fait, que des obstacles purement théoriques.

Pour atteindre le but qu'elle se propose, Votre Excellence a jugé préférable de s'attacher à la conception d'un pacte multipartite, et elle a cru devoir insister pour que, même sous cette forme multilatérale le pacte proposé emportât un engagement inconditionnel. Si

Votre Excellence croit vraiment trouver plus de chances de succès dans cette formule, en dépit des conséquences qu'elle entraîne, notamment de la nécessité d'aboutir à l'universalité du pacte, le Gouvernement de la République se ferait scrupule de discuter plus longtemps son adhésion à un projet dont la responsabilité, comme la conception, appartiennent au Gouvernement américain lui-même. Sans perdre en rien conscience de ses obligations internationales en tant que membre de la Société des Nations et partie aux traités de Locarno ou traités de garanti de neutralité, il est tout disposé, après un nouvel examen des propositions formulées par Votre Excellence, et pour y trouver la base commune des premières négociations à amorcer sans délai avec les Gouvernements allemand, britannique, italien et japonais, à rechercher, dans l'esprit et dans la lettre de la dernière note américaine, tous apports qui peuvent lui être fournis, en dernière analyse, quant aux possibilités de concilier ses obligations antérieures avec les termes du nouveau pacte envisagé.

Le Gouvernement français note tout d'abord avec satisfaction que, tout en recommandant la conclusion entre les Gouvernements énumérés, d'un traité dont les signataires s'engageraient à ne pas recourir à la guerre, le Gouvernement des États-Unis admet la participation à ce traité de tous les autres Gouvernements du monde. Cette conception répond à une réserve, en effet nécessaire, pour obtenir un instrument réel de stabilisation de la paix en vue d'aboutir à un engagement formel de toutes les puissances susceptibles d'avoir entre elles des conflits politiques. Un tel engagement risquerait, en effet, d'exposer ses signataires à des dangers et des méscommunications qu'il ne reposait pas sur une égalité complète de tous les États, les uns vis-à-vis des autres dans l'application du traité et non pas seulement sur l'égalité de certains États entre eux. Le traité à intervenir ne pourrait donc produire ses effets à l'égard d'une puissance qui y serait partie que si les autres États, en situation d'avoir des conflits graves, avec tel des contractants, en étaient également signataires.

De même et sous peine de faire de l'acte à élaborer non pas un instrument de progrès et de paix mais un instrument d'oppression, il est clair que si l'un des États signataires venait à manquer à sa promesse les autres signataires seraient eux-mêmes vis-à-vis du contrevenant, dégagés de leur propre engagement. Sur ce deuxième point, comme sur le premier, le Gouvernement français se croit pleinement d'accord avec le Gouvernement des États-Unis.

Il puisse également dans les déclarations que Votre Excellence a bien voulu me faire elle-même, notamment, le premier mars dernier, l'assurance que la renonciation à la guerre ainsi proclamée n'exclurait pas pour les signataires, le droit de légitime défense. Une telle interprétation est de nature à dissiper certaines appréhensions et le Gouvernement français est heureux de l'enregistrer.
Si telle est bien, sur ces trois points fondamentaux, la pensée du Gouvernement américain et s'il est bien entendu, d'une façon générale, que les obligations du nouveau pacte ne doivent se substituer en rien ni porter aucune atteinte aux obligations antérieures d'actes internationaux comme le pacte de la Société des Nations, les accords de Locarno ou les traités de garantie de neutralité dont elles ne sauraient modifier le caractère ni la portée, les divergences de vue qui avaient pu se manifester au cours des phases antérieures de la négociation pourraient sur des motifs bien plus que sur la réalité du problème devant lequel les deux Gouvernements se trouvent aujourd'hui placés.

Dès lors, suivant la proposition contenue dans votre lettre du 11 janvier et que vous avez bien voulu renouveler dans votre lettre du 27 février, le Gouvernement français serait prêt, dès maintenant, à s'associer au Gouvernement des États-Unis pour soumettre à l'examen des Gouvernements allemand, britannique, italien et japonais la correspondance échangée entre la France et les États-Unis depuis le mois de juin 1927 et pour proposer, en même temps, à l'assentiment de ces quatre Gouvernements, sous la forme multipartite souhaitée par le Gouvernement américain et avec toutes les modifications de rédaction que peut nécessiter cette conception nouvelle, un projet de pacte dont l'objet essentiel répondrait à la proposition originelle de M. Briand : les puissances signataires d'un tel acte, sans entendre porter atteinte à l'exercice de leurs droits de légitime défense, dans le cadre des traités existants, déclareraient solennellement condamner le recours à la guerre comme instrument de leur politique nationale, c'est-à-dire comme moyen d'action de leur politique personnelle, spontanée et indépendante.

Elles s'engageraient dans ces termes à ne se livrer, l'une contre l'autre, à aucune attaque ou invasion et à ne rechercher jamais que par des procédés pacifiques le règlement de toute contestation ou conflit de quelque nature ou origine que ce soit, qui viendraient à s'élever entre elles. Il serait bien entendu, toutefois, qu'il ne pourrait y avoir d'obligation pour les signataires que si l'engagement était contracté par tous les États, c'est-à-dire que le traité, ouvert à l'acception de toutes les puissances, entrerait en vigueur qu'après avoir reçu une acceptation universelle à moins que les puissances ayant signé ce traité ou y ayant accédé ne se decisent d'accord pour en décider l'entrée en vigueur, nonobstant certaines abstentions. Enfin, dans le cas où l'une des puissances contractantes viendrait à contrevenir au traité, les autres puissances contractantes seraient, de plein droit, libérées vis-à-vis d'elle des engagements contenus dans ce traité.

C'est dans cette forme, semble-t-il, que pourrait se poursuivre avec le plus de chances de succès, la négociation d'un projet de pacte multipartite tel que le conçoit le Gouvernement américain. Votre Excellence serait assurée, en tous cas, pour la conduite de cette négociation du concours le plus sincère et le plus complet de mon Gouvernement toujours prêt à s'associer, sans ambiguïté ni réserve, à tout engagement solennel et formel tendant à assurer, à confirmer ou étendre la solidarité effective des Nations au service de la Paix.

En répondant à ces vues dont on ne peut méconnaître l'heureuse inspiration, la France serait assurée de poursuivre elle-même la tâche qu'elle n'a cessé de s'assigner dans sa politique extérieure et, fidèle à tous les engagements internationaux qu'elle a déjà souscrits à cet effet, de contribuer haïtement, selon de Votre Excellence "à promouvoir l'idée de paix que la Société des Nations a si grandement à cœur."

Veuillez agréer [etc.]

Claudel

Translation of the note of March 30, 1928, from the French Ambassador to the Secretary of State

MR. SECRETARY OF STATE: In reply to your note of February 27 last regarding the proposal for a multilateral treaty proscribing war, I have the honor to inform Your Excellency that M. Briand has been pleased to find in the observations which you have submitted for his consideration a new and cordial affirmation of the common inspiration which animates our two Governments equally anxious to cooperate in an international movement toward the effective establishment of peace in the world. Assured of such a solidarity in the pursuit of an identical purpose, M. Briand remains convinced, as does Your Excellency, that a mutually acceptable formula may well result from the exchange of views which has taken place up to now between our two Governments, if on both sides there is a disposition to adhere to those essential realities which must be preserved in this discussion, by subordinating thereto those differences of form to which questions of terminology not affecting the substance of the discussion may upon analysis be reduced.

That is to say, that the French Government at this point of the discussion, when all the aspects of the problem have been examined, proposes to adopt as practical a point of view as possible and to facilitate as far as it can the effort of the American Government in the direction of an immediate decision.

The observations which M. Briand has ventured to offer in support of his last suggestion were inspired by a very sincere desire to facilitate in a practical manner the realization of the proposal for the contemplated multilateral treaty by pointing out the conditions best adapted to bring about the consent thereto of all the Governments whose
agreement is necessary. The French wording, therefore, tending to limit to war of aggression the proscription proposed in the form of a multilateral rather than a bilateral treaty, was intended to obviate in so far as the American plan was concerned those serious difficulties which would assuredly be encountered in practice. In order to pay due regard to the international obligations of the signatories, it was not possible, as soon as it became a question of a multilateral treaty, to impart thereto the unconditional character desired by Your Excellency without facing the necessity of obtaining the unanimous adherence of all the existing states, or at least of all the interested states, that is to say, those which by reason of their situation are exposed to the possibility of a conflict with any one of the contracting states. In the relations between the states of the American Continent there are some difficulties which led the American Government at the Pan-American Conference at Havana to approve a resolution limited to the very terms "war of aggression" which the French Government felt compelled to use in characterizing the renunciation to which it was requested to bind itself by means of a multilateral treaty. To be sure, the same reservation does not appear in another resolution to which Your Excellency referred in your note of February 27, but it must be observed that this resolution in itself constituted only a kind of preliminary tendency toward a treaty of arbitration with regard to which numerous reservations were formulated.

Your Excellency appears to have been surprised that France should not be able to conclude with all the powers in the form of a multilateral treaty the same treaty which she offered to conclude separately with the United States in the form of a bilateral treaty. My Government believes that it has explained this point with sufficient clearness in recalling the fact that the project of a treaty of perpetual friendship between France and the United States proposed last June was drafted in such a way as to limit strictly the mutual undertakings which it contained to those relations in law resulting from intercourse between the two signatory states alone. Within such limits an absolutely unconditional agreement might be entered into, since that agreement would not expose the signatories, as would a multilateral treaty, to juridical difficulties resulting from the respective positions of various powers with regard to one another, and since furthermore, as regards two countries like France and the United States morally united as they are by ties of time-honored friendship, other contractual engagements concluded by one or the other power could never constitute in fact anything but purely theoretical obstacles.

In order to attain the result which Your Excellency has in view, you have considered it preferable to adhere to the conception of a multilateral treaty, and you have deemed it necessary to insist that even in the multilateral form the proposed treaty should include an unconditional pledge. If Your Excellency really believes that greater chances of success may be found in this formula in spite of the consequences which it involves, especially the necessity of attaining a treaty world-wide in its scope, the French Government would hesitate to discuss longer the question of its adherence to a plan which the American Government originated and for which it is responsible. Without in any way losing sight of its international obligations, both as a member of the League of Nations and as a party to the treaties of Locarno or treaties guaranteeing neutrality, France, for the purpose of finding a common basis for initial negotiations, is wholly disposed, after a new examination of the proposals formulated by Your Excellency, to suggest immediately to the German, British, Italian and Japanese Governments that they join in seeking, in the spirit and in the letter of the last American note, any adjustments which in the last analysis may be forthcoming with respect to the possibility of reconciling previous obligations with the terms of the contemplated new treaty.

The French Government notes at once with satisfaction that while advocating the conclusion among the Governments specifically mentioned of a treaty binding the signatories not to resort to war, the Government of the United States admits the participation in that treaty of all the other governments of the world. This conception accords with a reservation actually necessary for obtaining a real instrument for the establishment of peace by means of a formal engagement among all powers among whom political controversies may arise. Such an engagement would in fact involve the risk of exposing the signatories to dangers and misunderstandings unless based upon the complete equality in the application of the treaty among themselves of all the states with respect to other states and not only upon the equality of certain states among them. The treaty contemplated could not operate in respect of one power which is a party thereto unless the other states exposed to the possibility of grave controversies with that party were also signatories thereof.

At the same time it is clear that in order not to turn an instrument of progress and peace into a means of oppression, if one of the signatory states should fail to keep its word, the other signatories should be released from their engagement with respect to the offending state. On this second point, as on the first, the French Government believes itself fully in accord with the Government of the United States.

My Government likewise gathers from the declarations which Your Excellency was good enough to make to me on the first of last March, the assurance that the renunciation of war, thus proclaimed, would not deprive the signatories of the right of legitimate defense.
Such an interpretation tends to dissipate apprehensions, and the French Government is happy to note it.

If such is the attitude of the American Government on these three fundamental points, and if it is clearly understood in a general way that the obligations of the new pact should not be substituted for, or prejudiced in any way, previous obligations contained in international instruments such as the Covenant of the League of Nations, the Locarno agreements or treaties guaranteeing neutrality whose character and scope cannot be modified thereby, then the differences of opinion which have appeared in the course of previous phases of the negotiation have to do more with words than with the reality of the problem facing the two Governments today.

Hence, in accordance with the proposal contained in your note of January 11, which you kindly renewed in your note of the 27th of February, the French Government would be prepared forthwith to join with the Government of the United States in submitting for the consideration of the Governments of Germany, Great Britain, Italy and Japan, the correspondence exchanged between France and the United States since June 1927, and in proposing at the same time for the assent of the four Governments, a draft agreement essentially corresponding in purpose to the original proposal of M. Briand, in the multipartite form desired by the United States with the changes of wording made necessary by the new concept; the signatory powers of such an instrument, while not prejudicing their rights of legitimate defense within the framework of existing treaties, should make a solemn declaration condemning recourse to war as an instrument of national policy, or in other words as a means of carrying out their own spontaneous, independent policy.

They would specifically undertake, among themselves, to refrain from any attack or invasion, and never to seek the settlement of any difference or conflict of whatsoever nature or origin which might arise between them save by pacific means. It would, however, be clearly understood that an obligation could only exist for the signatories in the event that the engagement were contracted by all states, that is to say, that the treaty, open to the accession of all powers, would only come into force after having received universal acceptance, unless the powers having signed this treaty or acceded thereto should agree upon its coming into force, despite certain abstentions. Finally, in case one of the contracting powers should happen to contravene the treaty, the other contracting powers would be automatically relieved, with respect to that power, of the obligations contained in the treaty.

It is in this form, it would seem, that the negotiation of a plan for a multilateral pact such as conceived by the American Government could be pursued with the greatest chances of success. Your Excel-