

United Kingdom for the seizure at sea of goods which are of German origin or property, I have the honour, under instructions received, to inform you as follows:

The Netherland Government maintain their standpoint that reprisals by belligerents should not at the same time be directed against and severely affect the lawful exercise of the rights of neutral shipping and trade, by exposing neutral ships and cargoes to detention and conveyance for other reasons than those recognized by international law, i.e. for carriage of contraband, breach of blockade or unneutral services.

Since the outbreak of war the Netherland Government have not failed to uphold their rights to both belligerents against violations of international law affecting Netherland rights and interests. It is not for them to set up as a critic of the question which belligerent in his conduct of the war against the other, first committed an act contrary to international law. Neither do they therefore desire to judge whether a measure which is contemplated by a belligerent by way of reprisal is justified between belligerents.

The Netherland Government distinguish clearly between serious and less serious acts of belligerents; in their proceedings they by no means disregard proportions. They cannot, however, accept the argument that they should submit to an illegal act by a belligerent because of similar acts or even worse illegalities committed by another belligerent.

Without criticizing the attitude of the Netherland Government with regard to art. 16 of the Covenant of the League of Nations, His Majesty's Government have pointed out that their measures against German exports were in substance the same which the Netherland Government themselves were not long ago prepared to carry out in a joint action by the League of Nations. It must be evident that the Netherland Government cannot follow the British Government in this contention, as they will no doubt admit that from a legal point of view a joint action in accordance with the stipulations of the Covenant of the League cannot be compared with a war which was started without recourse to the procedure of the League.

I have the honour to remain,
with the highest consideration,
My Lord,
Your obedient Servant,
(get.) E. MICHIELS VAN VERDUYNEN

Dokumente betreffend die amerikanische Sicherheitszone

1. Die Deklaration von Panama vom 3. Oktober 1939¹⁾

DECLARATION OF PANAMA

The Governments of the American Republics meeting at Panamá, have solemnly ratified their neutral status in the conflict which is disrupting the peace of Europe, but the present war may lead to unexpected results which may affect the fundamental interests of America and there can be no justification for the interests of the belligerents to prevail over the rights of neutrals causing

¹⁾ The Department of State Bulletin. Vol. I (1939), p. 331ff.

disturbances and suffering to nations which by their neutrality in the conflict and their distance from the scene of events, should not be burdened with its fatal and painful consequences.

During the World War of 1914—1918 the Governments of Argentina, Brazil, Chile, Colombia, Ecuador and Peru advanced, or supported, individual proposals providing in principle a declaration by the American Republics that the belligerent nations must refrain from committing hostile acts within a reasonable distance from their shores.

The nature of the present conflagration, in spite of its already lamentable proportions, would not justify any obstruction to inter-American communications which, engendered by important interests, call for adequate protection. This fact requires the demarcation of a zone of security including all the normal maritime routes of communication and trade between the countries of America.

To this end it is essential as a measure of necessity to adopt immediately provisions based on the above-mentioned precedents for the safeguarding of such interests, in order to avoid a repetition of the damages and sufferings sustained by the American nations and by their citizens in the war of 1914—1918.

There is no doubt that the Governments of the American Republics must foresee those dangers and as a measure of self-protection insist that the waters to a reasonable distance from their coasts shall remain free from the commission of hostile acts or from the undertaking of belligerent activities by nations engaged in a war in which the said governments are not involved.

For these reasons the Governments of the American Republics RESOLVE AND HEREBY DECLARE:

I. As a measure of continental self-protection, the American Republics, so long as they maintain their neutrality, are as of inherent right entitled to have those waters adjacent to the American continent, which they regard as of primary concern and direct utility in their relations, free from the commission of any hostile act by any non-American belligerent nation, whether such hostile act be attempted or made from land, sea or air.

Such waters shall be defined as follows. All waters comprised within the limits set forth hereafter except the territorial waters of Canada and of the undisputed colonies and possessions of European countries within these limits:

Beginning at the terminus of the United States-Canada boundary in Passamaquoddy Bay, in 44°46'36" north latitude, and 66°54'11" west longitude;

Thence due east along the parallel 44°46'36" to a point 60° west of Greenwich;

Thence due south to a point in 20° north latitude;

Thence by a rhumb line to a point in 5° north latitude, 24° west longitude;

Thence due south to a point in 20° south latitude;

Thence by a rhumb line to a point in 58° south latitude, 57° west longitude;

Thence due west to a point in 80° west longitude;

Thence by a rhumb line to a point on the equator in 97° west longitude;

Thence by a rhumb line to a point in 15° north latitude, 120° west longitude;

Thence by a rhumb line to a point in 48°29'38" north latitude, 136° west longitude;

Thence due east to the Pacific terminus of the United States-Canada boundary in the Strait of Juan de Fuca.

2. The Governments of the American Republics agree that they will endeavor, through joint representation to such belligerents as may now or in the future be engaged in hostilities, to secure the compliance by them with the provisions of this Declaration, without prejudice to the exercise of the individual rights of each State inherent in their sovereignty.

3. The Governments of the American Republics further declare that whenever they consider it necessary they will consult together to determine upon the measures which they may individually or collectively undertake in order to secure the observance of the provisions of this Declaration.

4. The American Republics, during the existence of a state of war in which they themselves are not involved, may undertake, whenever they may determine that the need therefor exists, to patrol, either individually or collectively, as may be agreed upon by common consent, and in so far as the means and resources of each may permit, the waters adjacent to their coasts within the area above defined. (Approved, October 3, 1939.)

DECLARATION OF THE BRAZILIAN GOVERNMENT ON CONTINENTAL WATERS

The sovereignty of the American Continent is founded on the inviolate bases of consultation, non-intervention, conciliation, arbitration, and above all, on the pacific sentiment of the American nations, who are enemies of war and friends of peace.

We do not have and we will not have anything to fear from each other in America; on the contrary, we have in each other, on land, sea and air, the assurance of security for each and all of the nations of America.

Continental security against overseas aggression must be obtained on sounder bases.

It is on the seas that surround us that lies the future fate of our sovereignties, because the protection of American soil will not be possible, as in the past, without the security of the surrounding seas.

The sea outside territorial waters, only three miles from our coast, from our cities and even from our capitals, not only is not ours, but in it we are at the mercy of any action contrary to the free and peaceful expansion of our sovereignty, of our continental relations and even of the maritime communications between ports of the same country.

To the defense of the continental territorial integrity, we must add, therefore, as an inseparable part of an American political whole, the security of continental waters.

The Meeting at Panamá must request and receive from all the belligerents engaged in the war, in which no American Republic is involved, the assurance that the countries in conflict will abstain from any belligerent act or activity on the sea, within the limit of the waters adjacent to the American Continent considered as being useful or of direct and primary interest to the American Republics.

We expect the belligerent nations, and those which in the future may take part in the present war, to observe and respect this Declaration which will be made in Panama as a complement of the Monroe Doctrine and of the Declarations of Buenos Aires and Lima.

We believe that the principle of continental waters will not affect the sovereignty of other nations, but rather that it will protect the sovereignty of the American countries and will favor the peaceful relations of all nations.

Our Continent, furthermore, has a right to reduce the effects of the war, by preventing its conflicts from being brought near our shores to perturb our tranquility, threatening to compromise or complicate our neutral status.

Brazil does not make and never has made an issue of formulas and words, but the idea that it suggested with regard to continental waters will be defended by Brazil, because it considers the principle useful for its existence and that of the other Republics of America.

These are the bases of the Brazilian vote and of the attitude of its delegates to the meeting of Panama.

DECLARATION OF THE ARGENTINE DELEGATION

The Argentine Delegation declares that in waters adjacent to the South American Continent, in that territorial extent of coasts which, in the zone defined as free from any hostile act, corresponds to the Argentine Republic, it does not recognize the existence of colonies or possessions of European countries, and adds that it specifically reserves and maintains intact the legitimate titles and rights of the Argentine Republic to islands such as the Malvinas, as well as to any other Argentine territory located within or beyond the said zone.

DECLARATION OF THE MINISTER OF FOREIGN AFFAIRS OF GUATEMALA

The declaration and reservation of His Excellency, Dr. Melo, of Argentina, impels me to present, on behalf of Guatemala, a like declaration and reservation, because the controversy of Guatemala with the British Empire is similar and my silence might be interpreted as an abandonment of the legitimate rights now under discussion.

2. Erklärung der britischen Admiralität vom 13. Oktober 1939¹⁾

Several unofficial reports have been received recently of the important decisions reached at the Panama Conference of the Republics of America. These reports are to the effect that a neutral or safety zone of variously stated depth from the coast is to be established. It is understood that the zone is in no way intended as an extension of territorial waters, but belligerents are to be invited to accept the limitation of their operations which would be involved by the scheme. This is clearly the wisest way of proceeding, since while belligerents, and particularly the Allies, may be anxious to assist all neutral countries in keeping war from the proximity of their coasts, it must be for them to decide whether or not to accept restrictions which would limit their enjoyment of certain well established rights.

Neutral States are entitled and bound to demand that belligerents shall abstain from hostilities in their territorial waters, and it is not a hostile act if a neutral repels, even by force, an attack upon his neutrality. During the Great War, Norway, Sweden, Spain and Holland forbade belligerent submarines to enter their territorial waters except in case of distress.

In olden times many extravagant claims were put forward by the various nations as to the limit of their territorial waters, but since those days such claims have been drastically modified, and it is now generally recognised that no country can properly claim jurisdiction over large areas of ocean, nor the

¹⁾ Lloyd's List and Shipping Gazette, Oct. 14, 1939, p. 2.

right to control or exclude the movements of foreign ships on the high seas. This applies equally to belligerent operations, though a belligerent can, of course, restrict his operations of his own free will if he so wishes.

Since the Great War the importance of the limit of territorial waters has been brought to the notice of the public in several ways, among others by reason of the National Prohibition Act of America. Resulting from discussions with Great Britain, an agreement was reached in Washington in 1924 whereby the United States was given a right to board and examine any British vessel suspected of being engaged in liquor smuggling, at a distance from the coast that could be traversed by that vessel in one hour. By the same agreement Great Britain and America declared that it was their firm intention to uphold the principle that three marine miles, extending from the coastline outwards and measured from low-water mark, should constitute the proper limits of territorial waters. Similar agreements were subsequently entered into by America with Germany and Sweden.

Certain bays, straits and canals have from time to time been the subject of special international agreement, so that when questions of jurisdiction and sovereignty arise, careful reference must be made to any agreements applicable to the particular case. The width of the general belt of territorial waters is now widely accepted as being three miles. Great Britain, in common with many other countries, has long refused to recognise claims to a territorial belt of great width.

3. Interpretation der Deklaration von Panama durch das Staatsdepartement der Vereinigten Staaten von Amerika vom 3. November 1939¹⁾

The Declaration of Panamá is based upon two simple principles. First, the assertion of the 21 American nations that, so long as they maintain their neutrality, a war in Europe in which they are not involved should not jeopardize their right to self-protection nor interfere with or destroy normal relations between the American republics; and, second, that consequently the belligerent activities undertaken by the European powers participating in such war should not take place within those waters adjacent to the American continent which embrace normal inter-American maritime communications, and within which belligerent activities would endanger the security of the American republics. General respect for these principles will mean that the lives and the vital interests of the nationals of the American republics will be to a great extent insured and that the preservation of peace in the Western Hemisphere will be materially safeguarded.

As stipulated in the second article of the Declaration of Panamá, the governments of the American republics will endeavor, through joint representations, to secure the acquiescence of the belligerents in these principles. It is obvious that many highly complicated and technical questions will present themselves which will have to be fully considered and determined through discussions with the belligerents. It is equally apparent that these discussions may necessarily continue over a considerable period of time.

Beyond this agreement for joint representations, the Declaration provides that the American governments will, whenever they consider it necessary, consult together to determine upon measures which they may individually or collectively undertake in order "to secure the observance of the pro-

¹⁾ The Department of State Bulletin. Vol. 1 (1939), p. 463f.

visions of the Declaration." This provision for consultation is similar to the agreement on the part of the American republics to consult together as provided in the inter-American agreements of Buenos Aires and of Lima in the event that there exists a menace to the peace of the American republics. It should be emphasized that such consultation would be undertaken solely for the purpose of determining upon the measures which the American republics might "individually or collectively undertake" and as stipulated in the second article of the Declaration of Panamá "without prejudice to the exercise of the individual rights of each State inherent in their sovereignty." There is no implication within this provision of the exercise of force on the part of any American republic.

It will be further noted that the provisions contained in the fourth article of the Declaration which provides that the American republics, in the circumstances set forth, may patrol "either individually or collectively, as may be agreed upon by common consent" the waters adjacent to their coasts within the area defined in the Declaration, provide for nothing more than the kind of patrol which the Government of the United States and several other American governments have already undertaken. The purpose of the patrol proposed is to enable the governments of the American nations to obtain the fullest information possible with regard to what is going on within the restricted area. It must be apparent that in times such as these it is of the utmost importance in the interest of the preservation of the neutrality of this hemisphere that each American nation have the fullest possible advice as to the activities undertaken within the waters near its coasts.

4. Protest der 21 amerikanischen Republiken vom 23. Dezember 1939, den Regierungen von Deutschland, Frankreich und Großbritannien telegraphisch übermittelt durch den Präsidenten der Republik Panama¹⁾

The American Governments are officially informed of the naval engagement which took place on the thirteenth instant off the northeastern coast of Uruguay, between certain British naval vessels and the German vessel *Graf Von Spee*, which, according to reliable reports, attempted to overhaul the French merchant vessel *Formose* between Brazil and the port of Montevideo after having sunk other merchant vessels.

They are also informed of the entry and scuttling of the German warship in the waters of the River Plate upon the termination of the time limit which, in accordance with the rules of international law, was granted to it by the Government of the Republic of Uruguay.

On the other hand, the sinking or detention of German merchant vessels by British vessels in American waters is publicly known, as appears—to begin with—from the recent cases of the *Dusseldorf*, *Usukuma* and others.

All these facts which affect the neutrality of American waters, compromise the aims of continental protection provided for by the Declaration of Panama of October 3, 1939, the first paragraph of which establishes:

'As a measure of continental self-protection, the American Republics, so long as they maintain their neutrality, are as of inherent right entitled to have those waters adjacent to the American continent, which they regard as of primary concern and direct utility in their relations, free from the commission

¹⁾ The Department of State Bulletin. Vol. I (1939), p. 723.

of any hostile act by any non-American belligerent nation, whether such hostile act be attempted or made from land, sea or air.'

Therefore, in accordance with the method provided for in that instrument and with a view to avoiding the repetition of further events of the nature to which reference is made above, the American nations resolve to lodge a protest with the belligerent countries and to initiate the necessary consultation in order to strengthen the system of protection in common through the adoption of adequate rules, among them those which would prevent belligerent vessels from supplying themselves and repairing damages in American ports, when the said vessels have committed warlike acts within the zone of security established in the Declaration of Panama.

5. Antwortnote der britischen Regierung, dem panamenischen Außenminister überreicht am 14. Januar 1940¹⁾

His Majesty's Government in the United Kingdom have devoted most careful consideration to the communication agreed upon unanimously by the 21 American Republics, the text of which was telegraphed to His Majesty The King by the Acting President of Panama on December 23rd last. In that communication reference was made, among other matters, to the recent naval action between British and German warships in the South Atlantic and to the maritime security zone described in the Declaration of Panama of October 3rd, 1939.

His Majesty's Government, who themselves so long strove to prevent war, fully appreciate the desire of the American Republics to keep the war away from the shores of the American Continent. It was therefore not merely with interest but with understanding that His Majesty's Government learned of the maritime security zone proposal. His Majesty's Government noted with satisfaction from the Declaration of Panama itself that the attempt would be made to base the observance of its provisions upon the consent of the belligerents. This fresh expression of adherence to the idea of solving international difficulties by mutual discussion, which has always been upheld by the American Republics, confirmed His Majesty's Government's belief that these Powers would not attempt to enforce observance of the zone by unilateral action and encouraged their hope that it would be possible to give effect by means of negotiation to the intentions which inspired it.

It was in this spirit that His Majesty's Government were examining the proposal of the Conference of Panama at the time when the communication of December 23rd was received. In view of this communication His Majesty's Government desire to draw the attention of the American Republics to the following considerations: It will be apparent, in the first place, that the proposal, involving as it does the abandonment by the belligerents of certain legitimate belligerent rights, is not one which on any basis of International Law can be imposed upon them by unilateral action, and that its adoption requires their specific assent. The acceptance by His Majesty's Government of the suggestion that the belligerents should forego their rights in the zone must clearly be dependent upon their being assured that the adoption of the zone proposal would not provide German warships and supply ships with a vast sanctuary from which they could emerge to attack Allied and neutral shipping, to which they could return to avoid being brought to action, and in which some un-neutral service might be performed by non-German ships, for example by

¹⁾ The Department of State Bulletin. Vol. II (1940), p. 199 ff.

the use of wireless communications. It would also be necessary to ensure that German warships and supply ships would not be enabled to pass with impunity from one ocean to another through the zone, or German merchant ships to take part in inter-American trade and earn foreign exchange, which might be used in attempts to promote subversion and sabotage abroad and to procure supplies for the prolongation of the war, thus depriving the Allies of the fruits of their superiority at sea. Moreover, the acceptance of the zone proposals would have to be on the basis that it should not constitute a precedent for a far-reaching alteration in the existing laws of maritime neutrality.

Unless these points are adequately safeguarded, the zone proposals might only lead to the accumulation of belligerent ships in the zone. This in turn might well bring the risk of war nearer to the American States and lead to friction between on the one hand the Allies, pursuing their legitimate belligerent activities, and on the other the American Republics, endeavouring to make this new policy prevail.

The risk of such friction, which His Majesty's Government would be the first to deplore, would be increased by the application of sanctions. His Majesty's Government must emphatically repudiate any suggestion that His Majesty's Ships have acted, or would act, in any way that would justify the adoption by neutrals of punitive measures which do not spring from the accepted canons of neutral rights and obligations. If, therefore, the American States were to adopt a scheme of sanctions for the enforcement of the zone proposal, they would, in effect, be offering a sanctuary to German warships, within which His Majesty's Ships would be confronted with the invidious choice of having either to refrain from engaging their enemy or laying themselves open to penalties in American ports and waters.

Up to the present it does not appear that means have been found by which the disadvantages of the zone proposal could be eliminated. That this is the case was shown by the operations in the zone of the warship *Admiral Graf Spee* and the supply ship *Tacoma*.

With regard to the specific incidents of which mention is made in the communication under reply, His Majesty's Government must observe that the legitimate activities of His Majesty's Ships can in no way imperil, but must rather contribute to the security of the American Continent, the protection of which was the object of the framers of the Declaration of Panama. His Majesty's Government cannot admit that there is any foundation for a claim that such activities have in any way exposed them to justifiable reproach, seeing that the zone proposal has not been made effective and belligerent assent has not yet been given to its operation.

In view of the difficulties described above, it appears to His Majesty's Government that the only effective method of achieving the American object of preventing belligerent acts within the zone would be, firstly, to ensure that the German Government would send no more warships into it. Secondly, there are obvious difficulties in applying the zone proposal at this stage of the war when so much German shipping has already taken refuge in American waters. If the Allies are to be asked to forego the opportunity of capturing these vessels, it would also seem to be necessary that they should be laid up under Pan-American control for the duration of the war.

In the view of His Majesty's Government it would only be by means such as those indicated that the wish of the American Governments to keep war away from their coasts could be realised in a truly effective and equitable man-

ner. Until His Majesty's Government are able to feel assured that the scheme will operate satisfactorily, they must, anxious as they are for the fulfilment of American hopes, necessarily reserve their full belligerent rights in order to fight the menace presented by German action and policy and to defend that conception of law and that way of life, which they believe to be as dear to the peoples and Governments of America as they are to the peoples and Governments of the British Commonwealth of Nations.

6. Antwortnote der französischen Regierung, dem panamenischen Außenminister überreicht am 23. Januar 1940¹⁾

1° Le gouvernement de la République française a examiné avec attention la communication que le président en exercice de la République de Panama a bien voulu adresser, le 23 décembre dernier, au président de la République française, à la suite d'un accord unanime entre les vingt et une Républiques américaines. Cette communication se réfère à une action navale qui s'est produite entre bâtiments de guerre britanniques et allemands après que l'*Admiral-Graf-Spee* eut tenté d'atteindre, pour le détruire, le navire de commerce français *Formose*.

2° Cette communication se réfère au désir, manifesté par les Républiques américaines dans la déclaration de Panama, d'écarter la guerre des côtes du continent américain. Le gouvernement de la République, qui s'est longtemps efforcé d'éviter la guerre, apprécie pleinement le désir des Républiques américaines et il a examiné dans l'esprit le plus sympathique leur proposition tendant à la création d'une zone de sécurité maritime. Il interprète les démarches faites au nom des gouvernements américains, tant le 23 décembre que par la communication précédente de la déclaration de Panama, comme impliquant, dans l'esprit de ces gouvernements, que la constitution d'une telle zone comportant une renonciation par les Etats belligérants à l'exercice, dans de vastes espaces, de droits bien établis par la coutume internationale, ne saurait résulter qu' d'un accord entre tous les Etats intéressés.

3° Les faits récents auxquels s'est référée la communication adressée au gouvernement de la République française au nom des vingt et une Républiques américaines illustrent très clairement la situation qu'il s'agit de régler. Ces faits procèdent de la tentative de l'*Admiral-Graf-Spee* d'attaquer et de détruire, dans la zone de sécurité maritime, le navire de commerce français *Formose*. Il est clair que, dans les circonstances de la guerre actuelle, de telles tentatives de la part de navires allemands ne peuvent avoir aucune conséquence sur l'issue de cette guerre. Il est non moins clair que si de tels faits sont commis ou tentés, il est du droit strict de la France et de la Grande-Bretagne de s'y opposer en temps utile par une contre-attaque et qu'on ne peut leur demander de renoncer à ce droit. Il en résulte que, pour que la zone de sécurité maritime puisse devenir une réalité ainsi que le désirent les gouvernements américains, il est indispensable que ceux-ci fournissent au gouvernement de la République une assurance satisfaisante que le gouvernement allemand n'enverra plus de bâtiments de guerre, ni de navires de ravitaillement, dans cette zone.

4° La supériorité incontestable que la France et la Grande-Bretagne ont sur l'Allemagne dans l'Atlantique et le Pacifique a eu pour conséquence que de nombreux navires de commerce allemands n'ont eu d'autre ressource, pour échapper à l'exercice légitime du droit de prise, que de chercher refuge

1) Le Temps, 25 janvier 1940, p. 2.

dans des ports américains. L'institution de la zone de protection ne saurait avoir pour effet de les libérer et de priver ainsi les alliés des avantages découlant pour eux de leur supériorité navale sur l'Allemagne; elle devrait donc comporter, de la part de chaque gouvernement américain, des mesures efficaces et propres à retenir dans ses ports les navires allemands qui s'y sont réfugiés.

5° Les gouvernements américains ne paraissent pas envisager de prendre la responsabilité d'assurer, dans les vastes espaces qui constitueraient la zone de protection, la répression des actes d'assistance hostile (unneutral service). La possibilité de tels actes est si grande, notamment grâce aux radiocommunications, que les forces navales françaises ne sauraient être privées du droit de les prévenir et de les réprimer dans toute la mesure admise par le droit international.

6° C'est sur ces bases, si les gouvernements américains les font accepter par tous les Etats belligérants, que, de l'avis du gouvernement de la République, devrait être recherchée la réalisation des buts que poursuivent les Républiques américaines.

7° Le gouvernement de la République ne se dissimule pas qu'en raison de la nouveauté des procédés et de l'étendue de la zone, des divergences de vues pourront surgir sur des cas concrets. Du moins pourront-elles être aisément traitées par la voie diplomatique si, dans l'application comme dans le principe, on s'efforce de suivre la méthode de la franche discussion et du mutuel accord. On risquerait, au contraire, de provoquer de regrettables frictions en procédant d'une manière unilatérale s'éloignant de la pratique habituelle des nations. Ces frictions seraient particulièrement graves si elles procédaient des mesures pénales contre des navires qui n'auraient rien fait de contraire au droit des gens. Refuser, dans un cas de ce genre, refuge ou ravitaillement à un navire de guerre contrasterait d'une façon fâcheuse avec la ligne de conduite adoptée par le gouvernement de l'Uruguay à l'égard de l'*Admiral-Graf-Spee*.

8° Le gouvernement de la République espère qu'en exposant ainsi son sentiment, il aura contribué à la réalisation des vues dont se sont inspirées les vingt et une Républiques américaines. Il compte, en même temps, que celles-ci reconnaîtront que, tant qu'un accord ne sera pas intervenu sur les bases décrites ci-dessus, le gouvernement de la République conserve le plein exercice de ses droits de belligérant qui sont fondés sur le droit international et qui doivent lui permettre de sauvegarder les principes de droit et la conception de la vie qu'il partage avec les gouvernements et les peuples d'Amérique.

7. Antwortnote der Deutschen Regierung, dem panamenischen Außenminister überreicht am 14. Februar 1940¹⁾

Der verehrte Herr Präsident der Republik Panama hat dem Herrn Deutschen Reichskanzler mit Telegramm vom 4. Oktober v. J. namens der amerikanischen Republiken den Wortlaut der sogenannten Deklaration von Panama mitgeteilt, die das Ziel verfolgt, die neutralen amerikanischen Republiken davor zu schützen, daß ihre Lebensinteressen durch die Auswirkungen des gegenwärtig bestehenden Kriegszustandes gefährdet werden.

Zu diesem Zwecke wird in der Deklaration die Einrichtung einer Sicherheitszone in Aussicht genommen und zwar derart, daß in den an den amerikanischen Kontinent angrenzenden Gewässern in bestimmter Ausdehnung

¹⁾ DNB Nr. 154 vom 14. 2. 1940.

seitens der Kriegführenden keine kriegerischen Aktionen durchgeführt werden sollen. Die Regierungen der amerikanischen Republiken stimmen darin überein, daß sie sich bemühen wollen, von den Kriegführenden die Anerkennung einer solchen Sicherheitszone zu erlangen.

In einem weiteren Telegramm des Herrn Stellvertretenden Präsidenten der Republik Panama vom 24. Dezember v. J. werden bestimmte Vorfälle erwähnt, die nach Ansicht der amerikanischen Regierungen geeignet gewesen seien, die Bemühungen um die Sicherheit des amerikanischen Kontinents zu gefährden. Ferner wurde in diesem Telegramm mitgeteilt, daß die amerikanischen Regierungen bei den kriegführenden Mächten Protest wegen dieser Vorfälle einlegten, und daß sie in eine Beratung zum Zweck der Verstärkung des Systems des gemeinsamen Schutzes eingetreten seien.

Der Herr Deutsche Reichskanzler hat den Empfang dieser beiden Telegramme mit Telegrammen vom 23. Oktober und 29. Dezember v. J. bestätigt und hinzugefügt, daß er die Deutsche Regierung mit der Prüfung der Angelegenheit beauftragt habe. Als Ergebnis dieser Prüfung beehre ich mich, Euerer Exzellenz mit der Bitte um Weiterleitung an die übrigen amerikanischen Regierungen folgendes mitzuteilen:

1. Die Deutsche Regierung begrüßt den in der Erklärung von Panama zum Ausdruck gebrachten Willen der amerikanischen Republiken, während des gegenwärtigen Konflikts strikte Neutralität zu wahren und hat volles Verständnis dafür, daß diese im Rahmen des Möglichen Auswirkungen des gegenwärtigen Krieges auf ihre Länder und Völker vorzubeugen wünschen.

2. Die Deutsche Regierung glaubt sich in Übereinstimmung mit den amerikanischen Regierungen darüber zu befinden, daß die in der Erklärung von Panama in Aussicht genommene Regelung eine Abänderung des gegenwärtigen Völkerrechtes bedeuten würde, und entnimmt dem Telegramm vom 4. Oktober v. J. den Wunsch, diese Frage im Einvernehmen mit den Kriegführenden zu regeln. Die Deutsche Regierung vertritt nicht den Standpunkt, daß die bisher anerkannten Regeln des Völkerrechtes als eine starre und für immer unabänderliche Ordnung angesehen werden müßten.

Sie ist vielmehr der Ansicht, daß diese Regeln einer Anpassung an die fortschreitende Entwicklung und an neu hervortretende Verhältnisse fähig sind und bedürfen. In diesem Geiste ist sie auch bereitwillig an die Prüfung des Vorschlages der neutralen amerikanischen Regierungen herangetreten. Sie muß jedoch darauf hinweisen, daß für die deutschen Kriegsschiffe bisher auch in den Gewässern der in Aussicht genommenen Sicherheitszone natürlich nur die geltenden Rechtsregeln maßgebend sein konnten.

An diese Rechtsregeln haben sich die deutschen Kriegsschiffe bei ihren Aktionen auf das strikteste gehalten.

Soweit sich daher der von den amerikanischen Regierungen eingelegte Protest gegen das Vorgehen deutscher Kriegsschiffe richten soll, kann er von der Deutschen Regierung nicht als begründet anerkannt werden. Sie hat auch in dem besonderen in dem Telegramm des Stellvertretenden Präsidenten der Republik Panama vom 24. Dezember erwähnten Falle ihre abweichende rechtliche Auffassung bereits gegenüber der Regierung von Uruguay zum Ausdruck gebracht.

Ferner kann die Deutsche Regierung den Regierungen der amerikanischen Republiken auch nicht die Befugnis zuerkennen, einseitig in einer von dem bisher geltenden Recht abweichenden Weise Maßnahmen zu beschließen, wie sie nach dem Telegramm vom 24. Dezember v. J. von den amerikanischen Re-

gierungen gegen die Schiffe der kriegführenden Staaten, die in den Gewässern der geplanten Sicherheitszone kriegerische Akte begangen haben, in Erwägung gezogen werden sollen.

3. Bei der Prüfung der Fragen, die mit dem Plan der Einrichtung der Sicherheitszone zusammenhängen, ergibt sich von vornherein ein wichtiger Punkt, der die Lage Deutschlands und die der anderen kriegführenden Mächte in dieser Beziehung als ungleich erscheinen läßt. Während nämlich Deutschland auf dem amerikanischen Kontinent niemals territoriale Ziele verfolgt hat, haben sich Großbritannien und Frankreich auf diesem Kontinent und auf vorgelagerten Inseln im Laufe der letzten Jahrhunderte wichtige Besitzungen und Stützpunkte geschaffen, deren praktische Bedeutung auch für die hier in Betracht kommenden Fragen keiner näheren Darlegung bedarf.

Durch diese Ausnahme von der Monroe-Doktrin zugunsten Großbritanniens und Frankreichs wird der von den neutralen amerikanischen Regierungen gewünschte Effekt der Sicherheitszone von vornherein grundsätzlich und ernstlich beeinträchtigt. Die hierdurch bedingte Ungleichheit in der Lage Deutschlands und seiner Kriegsgegner könnte vielleicht bis zu einem gewissen Grade dadurch beseitigt werden, daß sich Großbritannien und Frankreich unter der Garantie der amerikanischen Staaten bindend verpflichten würden, die erwähnten Besitzungen und Inseln nicht zum Ausgang- oder Stützpunkt kriegerischer Aktionen zu machen.

Auch wenn das geschähe, würde noch immer die Tatsache bestehen bleiben, daß ein kriegführender Staat, nämlich Kanada, nicht nur im Westen und Osten unmittelbar an die erwähnte Zone angrenzt, sondern daß Teile kanadischen Gebietes sogar von der Zone umschlossen werden.

4. Trotz der vorstehend dargelegten Umstände würde die Deutsche Regierung ihrerseits durchaus bereit sein, in einen weiteren Gedankenaustausch mit den Regierungen der amerikanischen Republiken über die Inkraftsetzung der Erklärung von Panama einzutreten. Aus der neuerdings durch Presse und Rundfunk bekannt gewordenen Antwort der Britischen und Französischen Regierung muß die Deutsche Regierung jedoch entnehmen, daß diese beiden Regierungen nicht gewillt sind, ernstlich auf den Gedanken der Sicherheitszone einzugehen.

Allein die Tatsache der Aufstellung von Forderungen, wonach deutschen Kriegsschiffen das Einlaufen in die erwähnte Zone nicht gestattet sein soll, während die Kriegsschiffe der Gegner offenbar das Recht zum Einlaufen in die Zone unbeschränkt behalten sollen, zeigt einen derartigen Mangel an der Achtung der elementarsten Begriffe des internationalen Rechts und mutet den Regierungen der amerikanischen Staaten eine so flagrante Verletzung der Neutralität zu, daß die Deutsche Regierung darin nur den Willen der Britischen und Französischen Regierung erblicken kann, den Grundgedanken der Sicherheitszone von vornherein zunichte zu machen.

5. Bei aller Bereitschaft der Deutschen Regierung, auf die Vorschläge und Anregungen der amerikanischen Staaten auf diesem Gebiet einzugehen, kann die Deutsche Regierung sich einen Erfolg von der Weiterverfolgung des Planes der Sicherheitszone nur dann versprechen, wenn der bekannt gewordene englische und französische Standpunkt grundlegend revidiert wird.

gez. Winter,
Deutscher Geschäftsträger.

8. Protest der 21 amerikanischen Republiken, dem König von Großbritannien durch den Präsidenten der Republik Panama übermittelt am 16. März 1940¹⁾

I have the honour to bring to the attention of Your Majesty that on the fourteenth of February the Government of the United States of Brazil informed me as follows:

'I have to advise Your Excellency that on February 12th last the German freighter *Wakama* was sunk by its own crew about 15 miles from the Brazilian coast when hailed by an English war vessel, obviously for purposes of visit and capture. As from the procedure of the English war vessel there results a hostile act classified as such by the 13th Hague Convention and committed in waters adjacent to the American continent which the American Republics have the right to keep free of any hostile act on the part of any belligerent nation, I desire to request Your Excellency to be good enough to consult with the other American countries in the manner of the precedent already established on the suitability of a collective protest against this new violation of the Maritime Zone which we undertake to preserve from the evils of war.'

The American republics, which have been consulted through me regarding this communication, have agreed that the fact referred to by the Brazilian Government constituted a violation of the principles which they established in Panama for the purpose of keeping the war away from continental waters, and at the same time have authorized me to present to Your Majesty the unanimous protest of the American republics as the result of this fact, and to reiterate their appeal that the war be kept away from the waters which the Declaration of Panama contemplated preserving for the pacific use of inter-continental commerce.

¹⁾ The Department of State Bulletin. Vol. II (1940), p. 306.