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BRITISH EMBASSY,

WASHINGTON, D. C.,

June 15th, 1939

No. 234

Sir,

I have the honour to inform you, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, that the question has arisen in the English courts as to the interpretation of Article 1 (2) of the Convention for the Unification of Certain Rules relating to International Carriage by Air, signed at Warsaw, 12th October, 1929, and that a majority of the House of Lords have held that the expression "High Contracting Party" in the definition contained in Article 1 (2) includes a Party which has signed the convention but has not ratified it. His Majesty's Government in the United Kingdom are of the opinion that this decision is not in accordance with the intentions of the framers of the article and are considering legislation in order to guide the English courts for the future. Before proposing such legislation, however, they would like to be assured that the Government of the United States, as being a party to the above-mentioned convention, share their view as regards the interpretation of the provision in the convention.

His Majesty's Government are of the opinion that the ordinary meaning of High Contracting Party/

The Honourable

Cordell Hull,

Secretary of State of the United States,

Washington, D. C.

FRHM:CB:AR:DH

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Party in a convention is to designate a party who is bound by the provisions of a convention and therefore does not cover a signatory who does not ratify it. If this were not so, it would mean that a party who was not bound by any reciprocal obligations was entitled to claim the benefits of a convention. His Majesty's Government consider that in Article 1 (2) of the Warsaw Convention the words "High Contracting Party" were used in their ordinary sense and that the intention of the framers of the definition of international carriage in Article 1 (2) was to render the convention applicable to carriage going outside the territories of a single High Contracting Party, when both ends of the journey were situated in a territory to which the convention applied, and therefore in a territory where the rules and the convention had the force of law.

I should be grateful to learn, therefore, at your early convenience, whether the United States Government agree with the view of His Majesty's Government as to the interpretation of this provision as set out above. In this connexion, I am instructed to point out that in the formal articles (Articles 36 et seq.), by what appears to His Majesty's Government to be inaccurate drafting, the words "High Contracting Party" are undoubtedly used in a sense which is intended to cover a party which has signed but has not yet ratified the convention, and it is this fact which has led the House of Lords to the  
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END

view which it took. His Majesty's Government are of the opinion that in spite of the use of the words "High Contracting Party" in an unusual sense in Articles 36 et seq., there was no intention in Article 1 (2) to give to the expression anything except its ordinary and natural meaning.

I have the honour to be,  
with the highest consideration,  
Sir,  
Your most obedient,  
humble servant,

(S'D) R. C. LINDSAY