

AIR MAIL

No. 1686

183
DEPARTMENT OF STATE
OFFICE OF
AMERICAN REPUBLIC AFFAIRS
MAY 2 1945
EMBASSY OF THE
UNITED STATES OF AMERICA



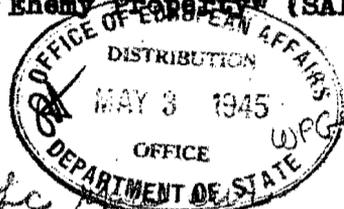
DEPARTMENT OF STATE
APR 16 1945
D.C./L.
LIAISON OFFICE

CONFIDENTIAL

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made us outside Dept
only 2 copies of each!
Lisbon, April 5, 1945.
available for same

Subject: Transmitting Copies of Note to the Portuguese Government Quoting Mexico City Resolution XIX Entitled "Control of Enemy Property" (SAFEHAVEN).

The Honorable
The Secretary of State,
Washington, D.C.



Sir:

APR 12 1945 PM 2 48
I have the honor to refer to Department's circular telegram of March 28, 1945, 4 p.m. and to Department's secret instruction No. 570 of March 21, 1945, and to transmit herewith three copies of the Note which was addressed by the Embassy to the Portuguese Government on April 3, 1945, in which Resolution XIX of the Inter-American Conference on the Problems of War and Peace which was held at Mexico City on February 21, 1945 was quoted.

Note to
710. Conference
(M + Pw) / 4-515

Respectfully yours,

Edward S. Crocker
Edward S. Crocker
Charge d'Affaires ad interim



Enclosures:

Three copies of Note No. 990 to the Portuguese Government Hectograph of Note containing introductory paragraph and three closing paragraphs of Note 990 to the Portuguese Government (quoted portion not included).

JDE/ew

DCR - ECA Unit

WAR AREAS
ECONOMIC DIVISION
APR 30 1945

DEPARTMENT OF STATE

800.515/4-545

800.515/4-545

RG 59
Entry Decimal File, 1945-49
File 800.515/4-145 to 800.515/4-845
Box 4181

DECLASSIFIED
Authority NND 760050
By BT NARA Date 7/13/00

346013

184

Enclosure No. 1 to despatch No. 1686 of April 5, 1945,
from the Embassy at Lisbon.

No. 990

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs and, under instructions from its Government, has the honor to invite the attention of the Ministry to the fact that the Delegates in attendance at the Inter-American Conference on Problems of War and Peace, which was held in Mexico City, Mexico February 21, 1945, approved the following resolution entitled "Control of Enemy Property":

RESOLUTION XIX

WHEREAS:

The American Republics here represented have broken diplomatic, commercial and financial relations with, and have declared war against the common enemy in recognition of the principle that any act of aggression on the part of a non-American state against any of the American Republics must be considered as an aggression against all of them, and that the economic, political and military activities of the enemy constitute a threat to the peace, welfare and security of the American Republics;

"There

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"There are reasons to believe that Germany and Japan will again attempt, in spite of their certain defeat, to conceal their property and property which they have unjustly obtained and which they have placed in other countries in order to finance, during the postwar period, activities of every sort inimical to the security and safety of the Western Hemisphere and of the world in general;

"The peace and welfare of the postwar world must rest upon a foundation of justice and security and that therefore all necessary steps must be taken, in a manner consistent with the laws and practices of each country, to facilitate the location and restitution of property unjustly taken from the peoples of occupied countries, and the uncovering and treatment of property, directly or indirectly originating in Germany or Japan or which is owned or controlled by Germany or Japan or by individuals and entities within such countries all for the purpose of making it impossible again for Germany and Japan to be able to provoke and make war;

"Each of the American Republics has adopted and put into practice various measures to accomplish the foregoing fundamental objectives pursuant to Resolution V of the Third Meeting of Ministers of Foreign Affairs of the American Republics and the Resolutions of the Inter-American Conference on

Systems

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Systems of Economic and Financial Control held in Washington in June-July 1942,

THE INTER-AMERICAN CONFERENCE ON PROBLEMS OF WAR AND PEACE RESOLVES:

1. That the American Republics here represented adopt and reaffirm the principles and objectives enunciated in the following:

(a) The Declaration with respect to Axis acts of dispossession, issued by certain of the United Nations on January 5, 1943.

(b) The Declaration on gold policy made by certain of the United Nations on February 22, 1944, and subsequently adhered to by other of the United Nations; and;

(c) Resolution VI of the United Nations Monetary and Financial Conference, held at Bretton Woods, in July 1944, and subsequently adopted by certain of the United Nations.

2. That the American Republics here represented maintain in force existing measures in so far as they are applicable and take such further measures as are feasible to attain the objectives of the above mentioned declarations and Resolutions, including:

(a) Measures to uncover, to disclose, to immobilize, and to prevent the concealment or transfer of property and rights located within the American Republics or held by or through

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through any person or entity under their respective jurisdictions, which property or rights in fact, whether or not in name, belong to or are controlled by or for the benefit of Germany or Japan or individuals or entities within those countries.

(b) Adequate measures to uncover, to disclose and to prevent the transfer of any property unjustly obtained or taken in like manner by the enemy from other peoples and for the restoration of such property to its rightful owners; it being understood that the American Governments shall consult with one another as soon as possible for the purpose of defining the terms and conditions of such measures and establishing the most appropriate procedures for the adoption and execution of such additional measures as may be necessary;

(c) Measures to prevent, within their respective jurisdictions, all possibility that the American Republics may be used as a refuge for property unjustly obtained or taken in like manner from other peoples or the property of individuals or entities whose activities are inimical to the security of the Western Hemisphere and of the postwar world.

3. That the American Republics expressly agree that their rights in property vested, affected, seized or intervened up to the present time or which may in the future,

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the future, shall remain, with respect to the final disposition of each of such properties or of their respective proceeds, in status quo until the American Governments individually reach final decisions regarding such dispositions, or enter into international agreements in this respect, in so far as they consider it in their respective interests.

4. That the American Republics consider that the provisions of Recommendation VIII of the Inter-American Conference on Systems of Financial and Economic Controls are applicable to the above mentioned matters.

"The phrase 'property unjustly taken from other peoples' shall mean, in the present resolution, property the control of which the enemy has obtained by dispossession, looting, violence, fraud, intimidation and other like acts."

In view of the sympathetic attitude evidenced by the Portuguese Government in issuing Law Decree No. 34455, which appeared in the March 22, 1945 edition of the Government Gazette (Series I, No. 61), and the willingness indicated on the part of the Portuguese Government to assist the United Nations in resolving the confusion of property relationships arising from the present war, the information contained herein may be of value in the

preparation

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preparation of additional decrees of a similar nature.

The January 5, 1943 Declaration referred to in Paragraph No. I (a) of the Resolution above quoted, was made the subject of the Embassy's Note No. 131, dated February 23, 1944 and the subject matter of Paragraph No. I (b) was referred to in the Embassy's Notes No. 573 of September 30, 1944 and No. 736 B of November 29, 1944.

The Embassy ventures to bespeak the good offices of the Ministry of Foreign Affairs in causing the contents of this Note to be conveyed to the appropriate officials of the Portuguese Government.

Lisbon, April 3, 1945.

JDH:gs

A true copy of
the signed original.
g.s.

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Agency NND 760050
JK ENRA Date 7/25/00

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File 800.515-3-46
Box 4205

PREPARING OFFICE WILL INDICATE WHETHER

TELEGRAM SENT

PREPARING OFFICE WILL TYPE HERE CLEARLY THE CLASSIFICATION OF THE MESSAGE:

SECRET

MAY 3 1946
7 pm

Department of State
Paraphrase before
Washington.
SECRET

Collect

Charge Department:

Charge to

AMEMBASSY,

MADRID

631

In view length time Swiss negotiations, Dept believes it most urgent to institute as soon as possible negotiations with Spain, ~~Portugal~~ and Sweden. / Dept considers negotiations Spain and Portugal should be conducted by missions with such assistance from Wash, Paris London as may be needed. It is believed therefore negotiations should be instituted by presentation to Spanish and Portuguese proposed accords which shall be presented simultaneously by Brit, Fr, US missions and concerning which missions would advise Spanish and Portuguese they would be willing to discuss any part of proposed accords. Before agreement can be made on specific presentation, it will be necessary to secure approval Brit and Fr as well as missions Spanish to text proposed accords. In view of differences Spanish and Portuguese situations, accords vary.

Missions Lisbon and Madrid are instructed discuss accords with Brit, Fr colleagues and cable suggestions urgently repeating to London and Paris. Paris, London instructed to discuss with Fr and Brit. McCombe and Chargeraud ^{personally} approve contents of notes although ~~Chargeraud~~ ^{neither} could ~~not~~ commit Govts to policy. ~~Spanish case~~. Paris should so advise Fr FONOFF.

800.515-3-46

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Department of State

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Charge Department:

Washington

Charge to

-2-

(Sent Madrid as 631, rptd London as 3719, Paris as 2099
Lisbon as 453, Stockholm for info as 820, ^{Bein for info as} Berlin for 1145
Clay and Kramer for info as 1041)

Dept's immediately following cable contains text of
accord.

Acheson Acting
(WWS)

CODE ROOM: Please repeat to ~~Madrid~~ Lisbon as 453, London
as 3719, Paris as 2099, Stockholm as 820, ~~and~~ Berlin
as 1041, ~~and Berlin as~~ 1145.

MAY 3 1946 P.M.

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Department of State

Washington

SECRET FOR PRESENTATION TO FOREIGN GOVERNMENT

MAY 3 1946

Jpm

Paraphrase before communicating to anyone.

SECRET

AMEMBASSY,

LISBON

451

Proposed accord follows: (SAFEHAVEN)

QUOTE 1. GOVT of Portugal, in recognition of complete surrender of Germany, exercise of sovereign power in Germany by ACC, and act of that Council vesting all rights, title and interest in Germany's external assets located inter alia in Portugal (Law No. 5, Oct 30, 1945), and further having regard to purposes declared by that law, i.e. to eliminate German war potential for future German aggression represented by those assets and to devote proceeds of their liquidation to relief and rehabilitation of countries ~~devasted~~ ^{devastated} or depleted by Germany's aggression, does hereby after discussion with representatives of Fr, UK and US for its part record that:

(A) Govt of Portugal will designate official Portuguese Agency empowered to uncover, take into possession and liquidate German property.

(B) Govt of Portugal will carry out this accord in conjunction with Govts of Fr, UK and US. For this purpose, there shall be established Joint Commission in Portugal composed of a representative of each of Four Govts which shall act by majority vote.

800.515/5-346

CONFIDENTIAL

800.515/5-346

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NND 760050	Entry <u>DF 1945-49</u>
JK ENRA Dec 7/25/00	File <u>800.515/5-3-46</u>
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Charge Department:

Washington

Charge to

-5-

W ~~The~~ Umpire, agreed upon between Four Govts, whose decision will be final. In all other cases, decision of Port Agency shall be final. This procedure shall be exclusive method for determining all matters relating to this accord. Consideration of a case by Port Agency, Joint Commission or Umpire shall stay any court proceedings, and decision by Port Agency or Umpire shall be fully binding on courts of Portugal.

(2) Umpire shall be qualified by juridical or public service to reach impartial decision. Umpire shall form his own procedures. His certified expenses shall be charge upon sum allocated for expenses of Port Agency.

(I) Proceeds of liquidation of German property (including existing liquid assets and any proceeds of property sold or disposed of) will be made available to US, UK and Fr Govts.

(1) For purposes of support and resettlement of certain classes of victims of Third Reich, who, it is agreed, have special claims upon humanity and assets of Germany, such sum of _____ escudos (the equivalent of 12.5 million dollars), shall be a first charge on proceeds realized from marshalling and liquidating of German assets.

(2) Govt of Portugal also agrees to make available for rehabilitation and resettlement of non-repatriable victims of German action assets in Portugal of victims of Nazi action who have since died and left no heirs. This sum shall be separate and apart from any percentage agreement provided for in this accord.

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in addition's necessity,
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SECRET

US URGENT

AMEMBASSY,

LISBON

742

For information of the column
CLASSIFICATION

Following is informal agenda which you may present

Portuguese (URTEL 661 July 25 rptd London 89, Paris 108 and Madrid 65). Discussions however will not necessarily be limited to subjects below. Questions of interest to Portuguese, such as claims against Germany, intentionally omitted this agenda. Let Portuguese raise them.

(1) Establishment basic principles and procedures by which to take title, sell and liquidate German public and private properties.

(a) establishment agencies for dealing with German assets including organization, responsibilities and operations.

(b) Manner payment funds realized liquidation German assets

(c) Procedures exchange info Allies and Portuguese.

(d) Administrative costs incurred in implementation agreement.

(f) Elimination cloaks.

(g) Definitions German property and Germans.

(2) Elimination undesirable personnel from German-owned and controlled cos.

(3) Present status Portuguese blocking laws and regulations.

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800.515/7-2546

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File 800.515/722646
Box 4212

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Department of State

Charge Department:

Washington

SECRET

Charge to

-2-

(4) Gold acquisitions of Portuguese Govt and public and private institutions.

(5) German patents and trademarks.

(6) Repatriation obnoxious Germans including officials, agents and Safehaven individuals.

(7) Assets of victims of Nazi aggression who died without heirs.

(8) Property bona fide refugees.

(9) Looted property.

Your para 3 will be discussed later tel. (Repeated to London as 5797, Paris as 3809 and Madrid as 1012) Departure date negotiators not yet known. Probably arrive week of August 12.

*Acheson Acting
GMD*

CODE ROOM: Pls repeat to London as 5797, Paris as 3809 and Madrid as 1012

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AUG 2 1946 P.M.

U.S. GOVERNMENT PRINTING OFFICE: 1945

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By WDP NARA Date 7/14/00

RG 59
Entry CDF, 1045-49
File 800-515/72646
Box 4212

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NND 760050
JK WRA Dec 7/25/00RG 59
Entry DF 1945-49
File 800.51/10-22-46
Box 4215A

Enclosure No. 2 to Despatch No. 1183, dated October 28, 1946.

October 3, 1946.

Dear Col. Fernandes:

I regret to inform you that matters of urgency compel my absence from Lisbon for a period of some days, beginning Saturday, October 5.

In my absence, Mr. Dickerson will head the Delegation of the United States, and will be available for conference.

It is my understanding that the work of the subcommittee on gold will continue when certain information with respect to bars of gold which were acquired and disposed of is available. Mr. Herman Kasper, who participated in the previous meeting of the gold subcommittee, will for the present represent the United States Delegation on this subcommittee.

The Allied Delegations have also conferred among themselves with respect to the proposal, communicated by you to me yesterday, that a subcommittee be formed to go into the question of Portuguese claims. A document on this question, stating certain of the points which seem to the Allied Delegations to be important, and accepting, in the interests of collaboration with the Portuguese Delegation, the proposal that such a subcommittee be formed, will be transmitted to you shortly. The American representative on this subcommittee will be Mr. Daniel Hanley.

It is my hope that the work of these subcommittees will proceed rapidly, and will facilitate the reaching of a satisfactory accord. Should matters so develop that my presence should become necessary before my expected return, I shall make every effort to return immediately upon notice from Mr. Dickerson.

Sincerely yours,

Chief of Delegation of
United States of America

Lt. Colonel Tomaz Wylie Fernandes,
Chief of Portuguese Delegation,
Ministry of Foreign Affairs,
Lisbon.

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Embassy NND 760050
JK HARRA Date 7/25/00

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Box 4215A

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BE



EMBASSY OF THE
UNITED STATES OF AMERICA

No. 1183

Lisbon, Portugal, October 28, 1946.

SECRET

SUBJECT: Transmitting Data in Connection
with the SAFEHAVEN Negotiations
at Lisbon.

OFFICE OF EUROPEAN AFFAIRS
DISTRIBUTION OFFICE
DEC 6 1946
DEPARTMENT OF STATE

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THE HONORABLE

THE SECRETARY OF STATE
WASHINGTON.

SECTION OF ECONOMIC SECURITY CONTROLS
File
NOV 26 1946
DEPARTMENT OF STATE

800.515/10-11
ES
FEWE-RE

SIR:

Supplementing Embassy's Despatch No. 1149 dated
October 11, 1946, I have the honor to transmit herewith the
following data in connection with the SAFEHAVEN Negotiations
at Lisbon.

1. Letter dated October 3, 1946 informing Lt. Col. Tomaz Wylie Fernandes of the departure from Lisbon of Mr. Seymour J. Rubin.
2. Aide Memoire dated October 4, 1946, concerning Portuguese claims on German assets.

Respectfully yours,

For the Charge d'Affairs ad interim

Charles E. Dickerson, Jr.

Charles E. Dickerson, Jr.
First Secretary of Embassy

SECTION OF FOREIGN ACTIVITY CONTROL
DEC 9 1946
DEPARTMENT OF STATE

Enclosures:
As Above

JDHanley/HRKasper/mgc

SECRET

Original with two enclosures to Department
Two copies with two enclosures to London
One copy with one enclosure to Madrid

DCR - OFD Unit
Sent <i>FZH</i>
Rev. <i>13</i>
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DEC 9 1946

CS/A 800.515/10-2846
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File 800.51/10-22-46
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Enclosure No. 2, Despatch No. 1183, October 28, 1946

AIDE MEMOIRE

In conversation with Mr. Rubin and Mr. Muntz on October 2nd, Colonel Fernandez suggested that the question of Portuguese claims upon German assets in Portugal might be further examined by a subcommittee. This suggestion was repeated, after discussion of the matter by Colonel Fernandez with the Minister of Finance. The Allied Delegations take note of this suggestion. On the assumption that it is put forward with a view to expediting a settlement of the differences which exist, and in the interests of collaboration with the Portuguese delegation, they are ready to agree to it. In so doing they repeat the principles which underlie their approach to the Portuguese claims.

The Allies not merely in their capacity as the authorities in Germany but on their own account, as well as in the name of the other 15 countries for whom they speak, emphatically deny the existence of any principle or precedent which entitles the Portuguese Government to assert that such claims as it may now sponsor, by that fact itself, become payable out of the assets in Portugal which are held for the account of the German State or its agencies. This is not to say that there may not be claims which deserve consideration or in respect to which it may be possible, without derogation from principle, to make an adjustment. In general, since the claims of which the Allies have knowledge are claims against private institutions and persons in Germany, such claims so far as they be admissible at all should relate to private German assets in Portugal. The Allies assume that the nature of the Portuguese claims and their relation to German private assets in Portugal will be further examined by the proposed subcommittee.

The Allied Delegations cannot but feel that it would have been helpful at this stage and to the work of the proposed subcommittee had there been a clear acceptance by the Portuguese Government of the Allied declaration that all assets in Portugal of Germans in Germany (including those repatriated) should be, as is explicit in Bretton Woods Resolution VI, not only controlled, as under Decree Law 34:600, but also put at the disposal of the Allies. It is not their present purpose to develop the arguments upon which this view rests, save to mention that it was clearly accepted by all the Powers signatory to the Treaty of Versailles that German external assets were at the disposal of the then Allied and Associated Powers, of whom Portugal was one. It is on record that, during the framing of that Treaty, the view was clearly taken by all the Allied and Associated Powers that German external assets and foreign holdings were an appropriate source from which Germany should make good some of the damage which she had caused.

Nevertheless, the Allies trust that it will be possible while the subcommittee is in session for the Portuguese Government to inform them that on further consideration of this fundamental point it accepts to collaborate in a program which will ensure that all assets in Portugal of Germans in Germany will be transferred for value into safe hands and thus yield a fund available to the Allies for the purposes of the refugees and the devastated and depleted countries, to which they intend to devote such proceeds of liquidation. Included in such assets

must be

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JK ENRA Date 7/25/00RG 59
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must be those of Germans who, while retaining their residence in Germany, were engaged in German business in any of the occupied countries or who may have temporarily resided in any neutral country, or who are repatriated. The Allies, for their part, while ready to exempt the assets of bona fide refugees and "stateless" persons, cannot compromise upon any program which proceeds upon any other basis than that of liquidation of all the assets in Portugal (with the exemptions stated) of all Germans in Germany, although they remain ready to seek any feasible means of achieving this end.

The Allied proposals already made contemplate that this liquidation would be carried out by agencies designated by the Portuguese Government in close cooperation with the Allied Missions, and that dispositions of business enterprises would be made as best may serve the Portuguese economy.

The Allied representatives on the proposed subcommittee will be Mr. McCombe of the British Delegation, Mr. Blanger of the French Delegation and Mr. Hanley of the United States Delegation.

October 4, 1946.

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Form DS-302
(7-2-40)

DIVISION OF
COMMUNICATIONS AND RECORDS
TELEGRAPH BRANCH

DEPARTMENT OF STATE 316

INCOMING TELEGRAM

SECRET

Please return to
ES 1818 H S
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11-2246

Control 1859

Rec'd November 6, 1946
8:10 p.m.

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FROM: Lisbon
TO: Secretary of State
NO: 969, November 6, 6 p.m.
US URGENT
FROM RUBIN

10/29/46
10/30/46
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ES 11/9/46

	ACT	INF
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ES	✓	✓
GA		✓
JK		

DEPARTMENT OF STATE

One. Returned Lisbon November 6 for meeting with Fernandes. Intend return Madrid November 9 or November 8 if possible with Shuman and to remain there for probable opening Spanish negotiations November 12. Future plans prior to planned return to US on November 26 depend developments.

Two. In discussion this afternoon Fernandes stated to myself, McCombe and Vaidie for Panafieu:

(A) That Portuguese now considered draft prepared by me as "more or less official". Minister Finance and Under Secretary State are considering draft. Fernandes expressed personal belief that counter-proposal would be submitted by Portuguese in next few days; that it would be based on my draft and that it would be satisfactory to allies; this after I had stated that my draft represented in general maximum allied concessions which could be expected.

(B) That gold issue was still not resolved. Fairly long discussion mostly by McCombe followed on this point. Vaidie and I stressed desirability of normalization of relations of Bank of Portugal with other central banks as important reason why Portuguese should wish amicable settlement this question.

(C) That he would appreciate my being here for at least first drafting sessions after their submission of Portuguese draft. This after I had informed that matters in Madrid might compel my absence but that USDEL would be represented in any case. I stated that within limits of possibility I would try to accommodate him on this.

Three.

800.515/11-646

Confidential
HH

NOV 20 1946
FILED

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DF 1945-49

File

800515/11-2-46

Box

4216A

SECRET

-2- 969, November 6, 6 p.m., from Lisbon

Three. Suggest Dept and Treasury consider question of possible satisfactory offer re German assets with gold question still not resolved. I have pointed out to Fernandes in today's meeting that gold was an integral part of overall negotiations but would appreciate instructions on this point in view possibility stated.

Four. Have received Dept's 1028, November 5 to Madrid as 1343 and will plan action in accordance thereof. Will consult Bonsal soonest possible re designation.

Sent Dept 969; repeated Madrid 96.

CROCKER

DM:EL

SECRET

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NND 760050

JK WRA Date 7/25/00

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Before deciding whether accept possible satisfactory offer re German assets without settlement gold (URTEL 969 Nov 6 para 3) Dept Treas desire following info, (FOR RUBIN SCHMIDT FROM DEPT TREAS) elaborating and partly superseding para 3 DEPTTEL 1037 Nov 6 (also URTEL 971 Nov 7):

One. To what extent--both as to amt and as to conclusiveness--will you, after Schmidt's return, possess evidence about looted gold acquired by Portuguese?

Two. In case you offer evidence for certain amt looted gold, but not accepted as satisfactory by them, will Portuguese open their books to extent necessary fully to prove or exclude identity gold bars involved with those acquired by them still in their possession or resold by them? Is there a chance to get settlement regarding this (probably small portion) into assets settlement with open-end clause for additional gold as evidence is produced (similar to clause in Swedish Accord)?

Three. Have Portuguese mentioned in past any amt gold they are willing return on basis evidence already

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Washington

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shown them on Belgian gold bars (REURTEL 935, Oct 29 para 3) and, if not, what exactly is their position when refusing any return or settlement looted gold?

Four. Do you feel Portuguese would agree over all open-end clause looted gold--without settling any portion in Accord itself--and, if so, do you think they would genuinely cooperate in establishment of evidence and live up to meaning of clause?

Adison ACTING
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Cleared in substance with Treas.

Cleared in substance with WE.

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DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE

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Rec'd November 18, 1946
11:30 a.m.

FROM: Lisbon

TO: Secretary of State

NO: 998, November 18, 11 a.m.

FROM RUBIN

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ES	✓	2
GA		2
JK		

In conversation afternoon November 16 with Fernandes and British and French representatives Fernandes indicated:

One. That if Allies would "formalize" draft prepared by me and informally left with Fernandes by Dickerson and Muntz of American and British Embassies, Portuguese would be able shortly to hand us draft accord based on my draft.

Two. In response to direct question, that accord would "fill the gap" between us and intimated that it would substantially abandon 1939 distinction previously insisted upon by Portuguese.

Three. That Portuguese remained adamant on gold question, partially on ground that bank of Portugal was private institution, partially on ground that gold declaration would not adversely affect future sales of gold other than that identified as being looted gold, and partially on previously stated ground that they purchased in good faith. Allied replies were along lines already stated. In addition, Fernandes indicated that Portuguese position was partially based on assumption that Swiss and Swedes settled only for gold bought after 1944. This notion was corrected.

Four. That Portuguese would have revised claims figures ready for sub-committee meeting on November 19 or 20

Five.

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-2- #998, November 18, 11 a.m., from Lisbon.

Five. That Fernandes was trying to hurry matters in view my departure, which he expected as of November 25. Allies, particularly Vaidie of France, indicated that answer ought to be found shortly, and that most that could be expected, if Portuguese adhered to their attitude on gold, was that they might recess talks for consultation with their govts. Vaidie stated explicitly that Allies could not be expected to remain permanently awaiting Portuguese decisions. I stated I would be in Madrid tomorrow, would be available for meeting Lisbon on November 23, but (pursuant to Dept's instructions) could be available sooner if there actually were profit in my leaving Madrid for discussions here.

BARUCH

RB:ES

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EMBASSY OF THE
UNITED STATES OF AMERICA

No. 1232

Lisbon, Portugal, December 2, 1946.

SECRET

*Tel - Mr Eulars - ES
Leas (77c)*

REC'D
DEC 30 1946
DIVISION OF FOREIGN
REPORTING SERVICES

SUBJECT: Transmitting Translation of
Portuguese Draft Accord
Delivered November 23, 1946.

THE HONORABLE
THE SECRETARY OF STATE,
WASHINGTON.

DEPARTMENT OF STATE
1947

SIR:

I have the honor to transmit herewith a translation of the Portuguese draft Accord (translated "Agreement") which is in the form of a counterproposal to the SAFEHAVEN draft Accord delivered to the Portuguese authorities. (See Embassy's Despatch No. 1218, dated November 19, 1946).

The Portuguese offer, with certain minor language changes plus the following specific desired alterations in substance, was found acceptable to the Allied Delegates at a meeting held by them on November 24, 1946, as representing the minimum terms which it was believed should be accepted by the Allied Governments.

BASE I. The phrase "in money or in kind" should be removed.

BASE II. In paragraph 3 the Portuguese refer to property in Portugal transferred or acquired after the promulgation of the German laws of 1933 and 1938.

a. It has been the contention of the Allies that this provision in any Accord should include all property held as well as transferred or acquired by Germans in Germany after 1933.

b. It has also been the contention of the Allies that Base II should be worded so as to define more definitely German war leaders, their associates or collaborators, to include all German nationals resident in Germany at any time since September 1939 who have held responsible positions in the German state then existing or who have been directors or other responsible officers of German companies or organizations, operating through subsidiaries or otherwise in foreign countries, which have at any time remitted funds to Germany or otherwise given assistance to the German Government then existing, or its agencies.

c. Base II
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Despatch No. 1232, December 2, 1946.
Lisbon, Portugal.

-2-

c. Base II should also be worded so as to include as a German war potential, all mining, industrial or commercial establishments in Portugal, owned or controlled from Germany.

d. Also under Base II, provisions should be made for liquidating all so-called "tainted" bank accounts, deposits or other assets which were controlled or used by persons in Germany at any time during the period in question.

BASES IV and V. With respect to this portion of the Accord, it should be understood that a statement of the maximum amount of the Portuguese claims would be agreed to and attached to the Accord as an essential part of it.

BASE V. It should be agreed that the following order of distribution of the liquidated German assets is intended:

- a. 100 million escudos to the Intergovernmental Committee on Refugees;
- b. 50 million escudos to the Portuguese Government as an advance on its claim;
- c. 50 million escudos to the Allies out of the remaining proceeds.
- d. Distribution of all other proceeds on an equal basis, distribution of such proceeds to the Portuguese Government to be limited only by the total amount of its claims, as agreed for this purpose in the statement to be attached.

BASE VI. The organization (or Mixed Commission) mentioned in Base VI should be composed of three members, namely, a Portuguese and an Allied member who between themselves would select the third member who shall (or may) be a Portuguese national.

a. The special court mentioned in paragraph 3 of Base VI should be composed in the manner named above or if not it should be strictly limited in its jurisdiction to questions of Portuguese law, all other questions arising under the Accord being referred to the Mixed Commission.

b. Paragraphs 2 and 4 of Base VI should be clarified so that the certification by the Allied authorities in Germany will be acceptable and sufficient for the liquidation of properties in accordance with the terms of the Accord.

In addition to the above more important differences between the Allied draft Accord and the Portuguese counter proposal, it will be necessary for the Allied Delegations and the Portuguese to review both proposals with a view towards agreeing on the final text of the Accord and the translations of the text into three languages, namely, Portuguese, French and English, following which the draft would then be referred with recommendations to the three Allied Governments.

The question

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Despatch No. 1232, December 2, 1946.
Lisbon, Portugal

-3-

The question of looted gold should continue to be discussed in order to reach complete agreement on the facts so that the only remaining question regarding gold will involve that of a settlement on principles. With respect to the Accord, it would be understood that the question of gold would be reserved.

Respectfully yours,

For the Ambassador

Charles E. Dickerson, Jr.
First Secretary of Embassy

Enclosure: *att MDA K*

Copy of translation of Portuguese
draft Accord delivered November 23, 1946.

JDHanley/mgc

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Original and hectograph to Department
Two copies to London
One copy to Madrid

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Activity NND 760050

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Entry DF 1945-49

File 800.515/11-29-46

Box 4217

Enclosure No. 1 to Despatch No. 1232, December 2, 1946.
From American Embassy, Lisbon, Portugal

[a free translation of]

PORTUGUESE DRAFT SUBMITTED NOVEMBER 23, 1946, 4 P.M.

The Governments of France, of the United Kingdom of the United States of North America on the one part, and the Government of the Portuguese Republic on the other part, wishing to define the status and the destination of German assets existing in Portugal, having decided that negotiations to this end should take place at a conference meeting in Lisbon, nominated their delegations and the work was begun on the 3rd day of September 1946, under the Presidency of the chief delegate of the Portuguese Republic, and at the conclusion of a series of sessions in which there were presented, analyzed and discussed the proposals of one side and of the other, the aforesaid delegations came to an agreement containing the following clauses:

Base I.

Assets of the German State.

All of the assets of the German State existing on Portuguese territory, whatever be their nature, will be delivered in money or in kind to the representatives of the Allied States signatory to this Agreement, except for the provisions set forth in subdivisions "a" and "b" of Base V.

Sole Proviso. The term "assets of the German State" is understood to include the assets in the hands of all juridical persons and of all organizations which though not possessing juridical personality, have the independent administration of property intended for purposes involving the activity of the State.

Base II.

Assets belonging to individuals.

1. This Agreement shall apply only to the assets of persons of German nationality residing in Germany from the 1st of September, 1939, until the 31st of December, 1946.

2. The assets transferred to Portuguese territory, or there acquired at any time and by any means, by German war chiefs, their associates or collaborators will be considered "juris et jure" as elements of the German war potential and, as such, they shall be liquidated in the manner and by the means provided in Base VI.

3. The assets transferred to Portuguese territory, or acquired thereafter the promulgation of the German laws of 1933 to (?) 1938 which made them liable to requisition by the "German State" subject to grave penalties, including that of death, shall by presumption of "juris tantum" be placed on a par with the assets of associates and collaborators of the German war chiefs since their proprietors and possessors are suspected of having collaborated, with the knowledge of the authorities of their country, in the realization of the ends of the war.

Sole Proviso.

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Enclosure No. 1 to Despatch No. 1232, December 2, 1946.
 From American Embassy, Lisbon, Portugal.

-2-

Sole Proviso. The presumption referred to in Line 2 of this Base may be overcome if the proprietor or possessor should prove before the Commission provided for in Base VI and with appeal to the Tribunal mentioned in paragraph 3 of that Base:

a) that the assets were not subject to requisition under the terms of the laws referred to, nor were in any manner directly or indirectly utilized for war ends;

b) that the person is a bona fide refugee, for political, religious or racial reasons, admitted in to Portugal prior to 1945;

c) that the person lost his German nationality after March 1933 for political, religious or racial reasons.

Base III.

Assets of collective persons with private rights.

1. The assets belonging to collective German persons intended for cultural or propaganda aims, directly or indirectly contrary to international security and peace, shall be placed on a par with the assets belonging to German war chiefs, their associates and collaborators, for the purpose of classification and liquidation as an element of the German war potential.

The

2. /Assets of collective persons intended for purposes other than those mentioned in the preceding paragraph will be considered for the purpose of this Agreement as assets of singular persons.

Sole Proviso. Juridical persons of German nationality shall be those having their headquarters or main establishment in Germany.

Base IV.

Liquidation of German Assets.

German assets covered by this Agreement as intended for war ends shall be liquidated by the competent entities and using the procedure indicated in the following Bases, and so as to eliminate all German interests whose survival should represent a future danger to international peace and security.

Base V.

Disposition of the proceeds of liquidation of the German assets covered by the Agreement.

1. The proceeds obtained from the liquidation of the German assets covered by this Agreement, after deducting the expenses incurred shall have the following destination:

a) In the first place, and up to 100 million escudos, to assist non-repatriable victims of German aggression;

b) In the

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Enclosure No. 1 to Despatch No. 1232, December 2, 1946.
From American Embassy, Lisbon, Portugal.

-3-

b) In the second place, 50 million escudos to the Portuguese Government, as a first installment toward the payment of credits legitimately constituted and demonstrated by evidence, and which are in favor of public and private entities;

c) The proceeds of liquidation of the assets referred to in Bases II and III, insofar as they exceed the amount necessary for the payments enumerated in the preceding subdivisions shall be delivered, in equal parts, to the representatives of the Allied Governments signatory of the Agreement and, up to the amount of the credits referred to in the preceding subdivision, they shall go to the Portuguese Government as the second installment on account of the payment of the same credits.

2. The proceeds referred to in sub-provisos "a" and "b" shall be obtained by the immediate liquidation of the assets which, on the date when this Agreement comes into effect, shall be found readily liquidable, including those mentioned in Base I.

3. The amounts referred to in sub-provisos "a" and "c" shall be deposited in a special account in escudos opened in the Bank of Portugal and they shall be placed at the disposal of the banks of issue or Governments indicated by the Allied Governments signatory to this Agreement to be used by them in harmony with the general or special regulations governing exchange in force in Portugal and without altering the discipline of commercial exchanges with foreign countries.

Base VI.

Organs and Means for the Technical Execution of the Agreement.

1. Upon the present organization of the ICB dealing with German assets or, if circumstances so advise and this is convenient to the Portuguese Government, upon the organizations which the latter decides to set up for that purpose, the discharge of the following functions will be incumbent:

a) To examine the documents of the census of German property drawn up by ICB within the provisions of Decree Law No. 34:600, of May 14, 1945, which cover property coming under this Agreement;

b) To investigate and discover the existence of German property covered by this Agreement and which, owing to fraud or for any other reason has not yet been declared under the census in accordance with the terms of the said decree law;

c) To declare the seizure of assets which are the object of this Agreement and to turn them over to the Liquidating Commission hereinafter named;

d) To examine the evidence referred to in the sole proviso of Base II.

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Enclosure No. 1 to Despatch No. 1232, December 2, 1946.
From American Embassy, Lisbon, Portugal.

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2. Once a definite decision has been reached in respect of the seizure of assets, the latter shall be turned over to a Liquidating Commission consisting of three members, one of whom shall be named by the Allied Governments signatory of the Agreement, another by the Portuguese Government and the third, who shall preside, by the President of the Supreme Court of Justice.

3. The Liquidating Commission, under the terms of the applicable part of Decree Law No. 30:689 of August 27, 1940, shall proceed with the rapid liquidation of the assets turned over to it either by sale, by cession or by other legitimate means admitted under Portuguese law.

4. A sale may be objected to on the following grounds by any of the members of the Commission, who will bring their objection to the attention of ICB, for final solution;

a) Manifest insufficiency of price;

b) Lack of guarantee, on the part of the purchaser or cessionaire, that he is not acting for the account or in the interest of German entities, or of those in which German interests are predominant;

c) Losses which the acts of sale or cession may entail for the Portuguese economy or for commercial activities within Portuguese territory.

Proviso 1) The representatives of the Allied Governments signatory of the present Agreement may at any time furnish any information or require any action to be carried out which they deem convenient for a more rapid and efficient identification of the assets referred to.

Proviso 2) The proprietors of assets subject to this Agreement shall be summoned so that, within a short period, they may allege in their defense whatever they may consider useful.

When those proprietors do not reside, or cannot be found, in Portugal and do not have here representatives with sufficient powers, summons shall be made through the intermediary of the Allied Authorities of Occupation in Germany, citation by public notices being, however, permitted if they have moved from the last given address to parts unknown.

Proviso 3) Appeal may be made from the seizure of property either by the interested parties or the representatives of the Allied Governments signatory of this Agreement to a special Tribunal consisting of three Portuguese citizens, one of whom, who shall be the President, to be designated by the President of the Supreme Court of Justice.

Proviso 4) The liquidation shall be made without depending on any period of time or on any formality in the case of assets of singular or collective persons, who, through the intermediary of the Allied authorities in Germany, may submit to ICB or to any organization set up for this purpose, authentic documents in which they declare that they are turning over their assets to be liquidated under the terms of the present Agreement.

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From American Embassy, Lisbon, Portugal

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Base VII.Indemnification of Dispossessed Proprietors.

It is the responsibility of the Allied States signatory of the present Agreement or of the first legitimate Government to be established in Germany to provide such indemnity as may be due in that country to the proprietors of the assets which are the object of the appropriation provided in the Bases thereof.

Base VIII.Unsatisfied Portuguese Creditors.

In harmony with Portuguese law and general juridical principles, Portuguese credit rights shall subsist against the German State or its subjects, to which Portuguese public or private enterprises are legitimately entitled and which shall not have been paid out of the amounts indicated in Base V, subdivisions "b" and "c".

Base IX.Subsistence of Liens on Property Covered by the Agreement and of Undocumented Credits.

Proviso 1. Deeds creating liens on property covered by this Agreement may be annulled as suspect whenever they have been executed after August 24, 1939, but the presumption of fraud may be overcome by proof of good faith adduced in the first instance, before the organization entrusted with administrative affairs, and finally, before the Tribunal referred to in Base VI, Proviso 3.

Proviso 2. The deeds referred to in the preceding proviso, whenever executed before August 25, 1939, may be annulled only if bad faith is proved.

Proviso 3. Credits which are not submitted with proper documentation shall in no case be paid out of the proceeds of the liquidation.

Base X.Hairless Estates of Deceased Persons.

The proceeds of the liquidation of German assets situated in Portuguese territory whose owners, the victims of German activities, died without heirs, shall be turned over, after liquidation in accordance with the terms of this Agreement, through the intermediary of the Allied representatives signatory of the Agreement, to the Intergovernmental Refugee Committee.

Base XI.Looted Property.

The Portuguese Government, by an internal law, intended to give effect to the present Agreement, shall supplement decree law No. 34:455 of March 22, 1945, by creating an inexpensive and expeditious administrative procedure to attain the object sought therein.

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Rec'd December 11 1946
1:38 p.m.

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FROM: Lisbon
TO: Secretary of State
NO: 1067. December 11. 3 p.

TO DEPARTMENT AND TREASURY FOR RUSIN AND SCHMIDT

One. In informal conversation December 10 prior to gold meeting, Fernandes indicated following:

In view of "fullest reserves re looted gold" expressed in allied letter of November 24, Portuguese now feel gold paramount and primary problem and that there is no use proceeding on drafting until gold issue is settled. Portuguese, therefore, want to await completion of factual work of gold sub-committee and then call plenary meeting to take up principles and policy on gold leaving drafting until gold problem is resolved.

Fernandes expressed views indicating he thought it would be to allied advantage and Portuguese disadvantage to resolve all other questions first leaving gold question unresolved.

Two. We pressed Fernandes to obtain authorization for immediate drafting meetings, pointing out that it is in the interest of both sides to continue work on all problems so as to obtain the clearest overall picture of how they stand on all points, even though the Portuguese may have reservations as to signing without an agreement on gold. Fernandes agreed to see Mesquita on this.

Three. Allied

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-2- #1067, December 11, 3 p.m., from Lisbon

Three. Allied meeting scheduled for this afternoon to discuss strategy, particularly should Portuguese insist on resolution of gold problem before discussing other points. Will report further on this.

Four. At gold sub-committee meeting December 10 we checked information on all gold purchased by Portuguese from Reichsbank. Rough calculation now shows following gold identified as loot: Belgium \$23,000,000, Netherlands \$13,000,000, Austria \$432,000. We are still checking purchases not identified as loot in order to verify total reported Portuguese purchases of 43861 kilos. Analysis of information obtained now being made and comments to follow.

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Authority NND 760050
JK LARA Date 7/25/00

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Rec'd December 12, 1946
8:46 p.m.

FROM: Lisbon
TO: Secretary of State
NO: 1073, December 12, 5 p.m.
US URGENT

DEC 12 1946
8:46 p.m.
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800.515/12-1146

TO DEPT AND TREASURY FOR RUBIN AND SCHMIDT

(1) In view paramount and primary importance gold question in Portuguese negotiations (Embassy's 1067, December 11, to Dept) Embassy would appreciate receiving by fastest route photostatic copies documents in possession of Schmidt establishing re-smelting of Dutch looted gold.

(2) Also please advise whether any Portuguese gold on deposit in Federal Reserve has been identified as (1) German origin, (2) loot deliberate segregation might indicate Portuguese suspicion of doubtful origin.

(3) It would be most desirable for Schmidt to be here to present Allied case at plenary session on looted gold whenever it is held. If this is not possible, Embassy requires urgently a full statement of present position of Washington on acceptable gold settlement with Portuguese and instructions regarding potential pressure on the Portuguese such as implied in the terms "normalization of relations with other central banks" (Embassy's 969, November 6 to Dept).

(4) At Allied meeting yesterday consensus of opinion was that we would finally have to give Portuguese definite figure without open end clause. (DEPTEL 1037, November 6 to Lisbon). Meanwhile gold subcommittee meeting scheduled today and we are continuing efforts to get drafting and claims work re-started immediately.

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DEC 19 1946
[Signature]

MR:RJM

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DEC 24 1946

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Authority NND 760050
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Box 4222



THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

WPA

AMERICAN EMBASSY

Lisbon, January 15, 1947.

Mr. Paul Culbertson,
Director, Western European Division,
Department of State,
Washington 25, D. C.

Φ

Dear Paul:

We finished our "reading series" with the Portuguese Delegation yesterday and we delivered our suggested draft of the Accord which we think is acceptable to both sides. Meetings were held every day since January 6. The tone on the part of the Portuguese during the course of the meetings, strange as it may seem, has been exceptionally favorable and tolerant. However, as you know only too well, the proof is, and must remain, the final act of signing, not "eyewash and sweet words". I do not expect much opposition to our draft because we were not required to suggest many substantive changes and then those which we did suggest were relatively unimportant to the Portuguese.

Our progress during the past week should not be misconstrued as anything but progress. The big issue will be the question of looted gold. The Portuguese admit that German gold was purchased by them but they say that the purchases were made in good faith and that if the gold was loot and must be returned to the original owner, then the Portuguese will have to receive equivalent restitution in some form. You can easily judge for yourself that this is an impossible impasse to solve in Lisbon, therefore, I suggest that you be prepared to discuss with Sy the possibility of having this problem settled elsewhere.

The vital amount of money involved is approximately 24 million (U.S. dollars), although 45 million in gold has been identified as having been purchased from the Germans. I believe the Allies can show that the 24 million was looted but as for the remainder which brings the total to 45 million, our proof is not very good. In fact, it is not even good circumstantial evidence in the legal sense of the term.

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The gold question appears to be a problem for the French to solve as the 24 million in gold will return to France if it is recovered.

After we reach an agreement on the draft Accord it looks as though the Portuguese will only initial it, or, perhaps inform us by an exchange of letters that the document as finally drafted is acceptable and will be signed "if and when the gold question is settled". This is where the French will have to take over.

At present it remains to be seen whether our dilemma continues or whether the Portuguese will consent to the placing into effect of some of the provisions of the Accord. My guess at this moment is that it would be an even money bet that they will stubbornly object to giving effect to any portion of it until it is signed.

As for Portugal, prices in general are still moving higher although at a somewhat slower pace. Now, thanks to an agreement with the Argentine Government, meat, butter and several other items are quite plentiful, and price increases, with respect to these articles, have been somewhat stabilized. Potatoes from Holland have also had a good effect on the commodity market. If food continues to come in from Argentina and flour is obtained from some place, I believe that Dr. S. will have put the last nail in the hand-made coffin of the opposition, which, as you know, when I last wrote you had found plenty of support among the public in general. Another factor which has benefitted Dr. S. has been the mild weather we have had to date. It may change at any moment, however,

Hank Ramsey of Madrid is on his way to the Department to take his oral examinations. I gave him a copy of our January 10 draft to show to Sy Rubin. If you are interested at this point, please ask Sy to show it to you- however, it will not be very long, unless I miss my guess, before I am in a position to send a copy of the final draft.

Many thanks for passing my letter and application on to Selden Chapin. I received a letter from him the other day which was extremely timely and seemed to give me most of the information I need at present. As a result of receiving Selden's letter I have written to him and made certain suggestions, one of which I explained to Ramsey, so if the subject comes up I wish you could give it consideration.

Ramsey told me that Leonard Horwin is thinking of resigning from the Embassy Staff in Madrid. If this is so it may be necessary that a replacement be sent to Madrid. I

346048

DECLASSIFIED

Authority NND 760080

By JK BARRA Date 7/25/00

RG 59
Entry DF 1945-49
File 800.515/1-10-47
Box 4222

-3-

would welcome such a transfer because it would fit into my scheme of things which includes learning a foreign language (Spanish or French) well enough to take oral examinations, and at the same time will allow me additional time during which Colette would be able to secure her naturalization papers, which Selden tells me is a pre-requisition before I can take the oral examinations. As I explained previously while you were here, I would very much like to have the opportunity of improving my French or Spanish so as to be eligible for the oral examinations and with this thought in mind, if there is any possibility of an opening at The Hague, Switzerland, Belgium, Spain or France - please keep me in mind. I have mentioned this in my letter to Selden Chapin so if you do speak to him it will not be a new subject to either of you.

We received a telegram conveying Christmas greetings from Lorna McLeod, but we have not heard what she is doing. If you happen to see her or Hayden Raynor give them my best.

With all best wishes and hopes that everything goes well with you under our new Secretary of State, I remain

Sincerely,

Alan

346049

RG 59
Entry DF 1945-49
File 800.515/1-25-47
Box 4227

Form DS-302
(7-2-40)

DIVISION OF
COMMUNICATIONS AND RECORDS
TELEGRAPH BRANCH

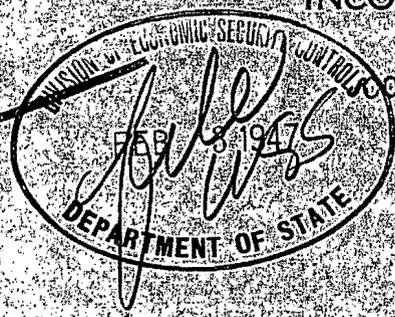
DEPARTMENT OF STATE
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8:05 p.m.

CORRECTION UNDERSCORED

Control 9308

Rec'd January 30, 1947
9:32 p.m.

FROM: Lisbon
TO: Secretary of State
NO.: 73, January 30, 6 p.m.

One. Meetings scheduled Embassy's telegram 66, January 25 cancelled. Ministry Finance must first decide whether Araujo's figure 205 million may be further reduced over Araujo's recommendation that figure is lowest acceptable.

Two. Vaidie arrived expresses French view of dissatisfaction over (A) fixed figure 140 million suggested to Portuguese as possibly acceptable Allied Governments and (B) any acceptance of accord until Portuguese attitude toward gold settlement is known.

Three. While draft accord orally approved at technical level Fernandes must first consult Foreign Office Political Section before draft may be submitted plenary meeting regardless of fixed figure.

Four. SAFEHAVEN draft accord enclosed confidential despatch 1325 January 24 substantially same as January 17 draft is final at technical or committee level. Once understanding reached with French further developments appear to be political on levels above Fernandes' before fixed figure for Article Five can be determined. Department's answer to Embassy's telegram 66 should supply Embassy with (A) information required to determine figure (B) statement attitude on gold.

Five. McCombe regards technical work complete, will depart for Madrid Friday. Panafieu may be Madrid middle February Lisbon later. Gold sub-committee meetings scheduled resume early February.

RSP:EOC:RWN

BARUCH

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FEB 28 1947

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NND 760050
JK WRA 7/25/00

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COMMUNICATIONS AND RECORDS
TELEGRAPH BRANCH

DEPARTMENT OF STATE
INCOMING TELEGRAM

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Control 9308

Rec'd January 30, 1947
9:32 p.m.

FROM: Lisbon
TO: Secretary of State
NO: 73, January 30, 6 p.m

One. Meetings scheduled Embassy's telegram 66, January 25 cancelled. Ministry Finance must first decide whether Araujo's figure 205 million may be further reduced over Araujo's recommendation that figure is lowest acceptable.

Two. Valdie arrived expresses French view of dissatisfaction over (A) fixed figure 140 million suggested to Portuguese as possibly acceptable Allies Governments and (B) any acceptance of accord (*) attitude toward gold settlement is known.

Three. While draft accord oral approved at technical level Fernandes must first consult Foreign Office Political Section before draft may be submitted plenary meeting regardless of fixed figure.

Four. SAFEHAVEN draft accord enclosed confidential despatch 1325 January 24 substantially same as January 17 draft is final at technical or committee level. Once understanding reached with French further developments appear to be political on levels above Fernandes before fixed figure for Article Five can be determined. Department's answer to Embassy's telegram 66 should supply Embassy with (A) information required to determine figure (B) statement attitude on gold.

Five. McCombe regards technical work complete, will depart for Madrid Friday. Panafieu may be Madrid middle February Lisbon later. Gold subcommittee meetings scheduled resume early February.

BARUCH

(*) Apparent omission: service upon request.

RSP:EOC

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JAN 30 1947

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NOTATION OF ACTION TAKEN.

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 Authority NND 760050
 By EK NARA Date 7/8

RG 59
 Entry Dec-Files
 File 800.515 4-1147-
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 Box 4226

Form DS-302 (7-2-46)

DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE
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Control 3226

Rec'd April 11 1947
4:46

FROM: Lisbon
 TO: Secretary of State
 NO: 250, April 11, 3 p.m.

800.515/2-547

DIVISION OF ECONOMIC SECURITY CONTROLS
File - cable reply drafted
 ES:OFF:4/11
 DEPARTMENT OF STATE

800.515/4-1147

Reaction is that unless prior agreement with Swiss-Poles not to accept gold is reached paragraph 2, DEPTTEL 231 March 31 (Bern 377, Warsaw 245, London 1409, Paris 1154, Berlin 696) we might weaken our case regarding settlement looted gold if unilateral presentation note to Portuguese were made first because such action our part without Swiss-Poles support would indicate our inability to secure refusal by other governments to accept suspect gold which is our strongest argument in favor of restitution settlement.

We recommend results Bern-Warsaw demarche be awaited before approaching Portuguese. French, British approve foregoing. British still uninstructed.

Sent Dept 250, repeated Bern 2, Warsaw 1, as airgrams to London A-3, Paris A-3 and USPOLAD Berlin A-2.

DEPARTMENT OF STATE
 DIVISION OF ECONOMIC SECURITY CONTROLS
 APR 14 1947

MD: EFS

DEPARTMENT OF STATE
 APR 25 1947
 DC/L
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APR 22 1947

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Authority NND 760050
By EK NARA Date 7/8
RG 59
Entry Dec-Files 1945-49
File 800.515/9-947
Box 4234

FORM DS-322
7-18-46

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Charge Department **X**

Department of State

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Charge to

Washington

SEP 12 1947

AMEMBASSY,

LISBON.

SECRET

671

FOR THE AMBASSADOR.

In view past experience in gold negotiations with Portuguese (URTEL 724 Sept 10) US, French and British Govts concluded satisfactory gold settlement could be reached only by bringing considerable pressure on Portuguese through Ambassadorial approach to FONMIN or Salazar. Unless gold negotiations can be resumed on such high level we feel there would be little purpose in meeting solely of experts which would probably result only in rehash of ground covered in previous gold talks but without reaching any final settlement.

In view imminent resumption Azores talks, difficulties we will encounter with Portuguese in both negotiations and likelihood of Portuguese associating these two problems, we have assumed Ambassadorial approach on gold should be held in abeyance until conclusion Azores negotiations permit adequate pressure on Portuguese to bring satisfactory gold settlement.

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Department of State

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Washington

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Foregoing was basis our advice to London on Sept 10 in reply London's tel Aug 25 repeated to you as 29. Dept instructed London to advise British for their strictly confidential information that US conducting important negotiations other issues of highly secret nature which unfortunately necessitate our refraining from making other requests Salazar or FONMIN at this time.

Foregoing represents thinking here. However in final analysis you are best able to judge timing resumption gold negotiations and final decision left to your judgment. Please advise.

If you decide resume gold negotiations we feel it highly desirable Rubin confer with you prior thereto in Lisbon. ^{Until} ~~he~~ ~~XXXX~~ sails for US Sept 26, he can be reached at Paris or Geneva.

Marshall
(M.L.L.)

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WE:WBDunham:ca
9/12/47

OE -
Cleared with Mr. Baker

FN - Cleared with
Mr. Fletcher

LE - Cleared with
Mr. Bryan

LE/e - Cleared with
Mr. Surrey

CR CLEARANCE

SEP 12 1947 P.M.

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Authority NND 760050
By EK NARA Date 7/8

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DEPARTMENT OF STATE
WESTERN
DIVISION OF EUROPEAN AFFAIRS

September 22, 1947

FOR WE FILES:

φ

In initialing Department's telegram 3573 of September 19 to Paris, I informed Mr. Fletcher that I did not wish to indicate my approval of the tactic. I was interested solely in the undertaking to continue supporting the French in pressing the Portuguese, at a time to be agreed upon, for the return of identified looted gold. I did ~~not~~, however, wish it clearly understood that I thought it unwise to state to the French that we would not settle for less than 25 million since we might well be in a position which would not permit us to press the Portuguese with sufficient vigor to obtain a settlement for that amount; if he wished to make such a promise, it should be made with the full understanding that we might eventually be faced with the necessity of making no settlement rather than a settlement at a lower figure. It was on this understanding that I initialed the telegram.

Separation 800.55/9-22-47



WE:WBDunham:ca

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Authority NND 760050
By EK NARA Date 7/8

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INCOMING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

Return to FN 2015

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FN/PTT/10.9
DIVISION OF FINANCIAL AFFAIRS*

CONFIDENTIAL
AIRGRAM

To file

OCT 3 1947

DEPARTMENT OF STATE

271
FROM: American Embassy
Lisbon, Portugal
DATE: September 23, 1947
OCT 3 1947
10:02 AM

OFFICE OF FINANCIAL AND DEVELOPMENT
OCT 3 1947
DEPARTMENT OF STATE
file

Secretary of State,
Washington, D.C.
A-266, September 23, 1947.

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Unfortunately word "Expert" September 10 note to WINFORAFF was carryover from earlier note which suggested Washington gold meeting (See London Telegrams to Department 5005, September 16, 5074, September 19, and 4605, August 25).

As presently used and I believe understood by all concerned term "expert" is limited to personnel armed with documentary proof establishing origin, proof of looting and tracing gold to Portugal.

We do not know at this time what the Portuguese attitude will be or whether experts will be called upon during negotiations but allowing for all eventualities we may have to submit proof which the Portuguese at the new high level could use for formulating a face-saving yet juridical answer allowing for restitution of that part of the gold Portugal would be willing to give up. It is believed that if the Portuguese are going to restore any gold the high level group, headed by Caeiro da Matta, Minister of Foreign Affairs, will decide on the amount they feel disposed to restore and then work back to find some legal justification for making such a recommendation to Salazar. This means that once it is decided at the next high level to restore any gold the Portuguese may be willing to make an offer probably a small amount, and then will doubtless work out the quantity on the basis of degrees of identification (See Gold Subcommittee Report of March 24, paragraph 2.)

On Valdie's recommendation we have not presented complete case--only gold markings and weights were compared but proof of individual acts of looting were not submitted. The Portuguese

have stated that they do not

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NOV 18 1947
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Authority NND 760050
By EK NARA Date 7/8

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4235CONFIDENTIAL

A-266 From Lisbon

- 2 -

Oct. 3, 1947

have stated that they do not want one penny which does not really belong to them and they maintain they will not compromise for the sake of settling a claim. Evidence of looting at present in possession of Safehaven representatives here is not adequate. It is therefore important that delegates of category Vaidie-Schmidt should attend armed with complete documentation and prepared to lead Allied Delegation on this point should this be necessary. London please inform McCombe.

Dr. Salazar who is out of Lisbon on vacation has only nominally taken over portfolio foreign affairs during absence of Cassiro da Matta in Paris (London Tel 4605). This therefore, changes nothing since Salazar is maintaining no contact whatsoever with diplomatic corps.

Sent to Department as A-266. Copy to Amembassy, Paris.

Repeated to London as EMBTEL 34.

WILEY

JDManley/sar/jdc

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DECLASSIFIED
 Authority NND 700050
 By EK NARA Date 7/8

RG 59
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DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE INCOMING TELEGRAM

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Control 2106

Rec'd October 7, 1947
6:05 p.m.

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FROM: Lisbon
TO: Secretary of State
NO: 807, October 7, 6 p.m.

OFFICE OF FINANCIAL AND DEVELOPMENT POLICY
TO FN
OCT 8 1947
DEPARTMENT OF STATE

Embassy's A-291, October 8, quotes translation full text Foreign Office reply to Embassy SAFEHAVEN Gold Note September 10 (Embassy dispatch 160, September 11).

In opinion British, French, ourselves, Portuguese reply unsatisfactory and inconsistent with views expressed by Minister Foreign Affairs September 10 when identical notes were delivered to him personally (despatch 106).

Portuguese reply tends recast negotiations back to discussion legal technicalities rather than approach question from practical standpoint with view to negotiating amount gold or equivalent to be restored.

Reference therein to Portuguese memo September 24, 1946, inaccurate since it was answered briefly in writing by Allies September 25, 1946 (despatch 1129, October 1, 1946) believed that British, French will not authorize representatives enter discussions on basis set forth Portuguese reply.

SAFEHAVEN staff British Embassy suggesting British Ambassador make personal inquiry Minister Foreign Affairs and ascertain whether Portuguese note is merely for record or what.

Sent Department 807, London 37, Paris 76.

Cable drafted

WILEY

DEPARTMENT OF FINANCIAL AFFAIRS
FN file
OCT 8 1947
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DEPARTMENT OF STATE
CW 1947

RSP:WR

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800.515/10-747

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Authority NND 760050
By EK NARA Date 7/8

RG 59
Entry Dec-Files
1945-49
File 800.515/10-847
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STF

INCOMING AIRGRAM

DEPARTMENT OF STATE DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

AIRGRAM 1534

DIVISION OF FINANCIAL AFFAIRS

FROM: American Embassy
Lisbon, Portugal

OCT 15 1947

DATE: October 8, 1947

REC'D: Oct. 14, 1947
11:54 a.m.

DEPARTMENT OF STATE

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Secretary of State,
Washington.

Office of
Financial & Development Policy
10-15-47
to FH file
Department of State

file 277
11/8/50

A-291, October 8.

Following is full text translation of the reply received from the Foreign Office answering Embassy's Safehaven Gold Note No. 87 dated September 10, (copy of which was transmitted as enclosure No. 2 with Embassy's despatch No. 160, September 11.) (Texts and translations of correspondence mentioned in latest note not previously forwarded to Department will follow).

"1. The Portuguese Government presents its compliments to the Embassy of the United States of America and has the honor to acknowledge the receipt of the Note Verbale of September 10, last, regarding the gold received from Germany by the Bank of Portugal during the war, and the continuation of the discussions which took place regarding this subject in Lisbon towards the end of last year between allied delegations and a Portuguese delegation, parallel with the negotiations regarding the agreement on the treatment of German property in Portugal.

"2. The Portuguese Government does not believe that it may be charged with a dilatory attitude as to the solution of the problem, or contrary to the principles of resolution VI of Bretton Woods to which it gave its adherence; it rather believes that the Portuguese delegation endeavored to facilitate as much as it could the clarification of the question which depends on the appreciation by the allied delegations of the criterion set forth in the Portuguese memorandum of September 24, 1946, providing a detailed exposition of the principles in the light of which, according to the standpoint of that delegation, the problem was to be viewed and discussed.

"This discussion of principles - and the agreement which would naturally result therefrom - has not yet taken place, because on the 25th of the same month the allied delegations suggested that it be postponed to some opportune moment and that meanwhile a subcommittee be constituted which, by comparing the data the latter possessed with those of the Bank of Portugal, should carry out the identification of

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800.515/10-847

Nov 11 1947
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Authority NND 700050By EK WAPA Date 7/8

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A-291, October 8

"Later, on the 27th, the Portuguese delegation, although expressing its preference for a method of work giving first place to the definition of the principles which would govern the desired solution, agreed, however, within the best spirit of compromise and cooperation, to an immediate meeting of the proposed subcommittee. The subcommittee was to verify, by comparing the data from one and the other sides, whether any or all of the bars indicated on the lists produced by the allied delegations were in the possession of the Bank of Portugal, but the Portuguese delegation pointed out, as it could not fail to do, that the immediate meeting of the subcommittee in no way implied any renunciation of the principles laid down in its memorandum of September 24, which were maintained entirely.

"3. The subcommittee on gold worked arduously and submitted in March its report in which, without prejudice to the positions taken by the delegations regarding the governing principles of the subject in harmony with the memoranda and notes exchanged, it compared the data in the possession of both parties in respect of the gold acquired by Portugal from Germany between January 1, 1939, and October 1945, setting forth in detail the identification data that were found.

"This work represents no more than the identification of the bars mentioned in the lists of the allied delegations, and the Portuguese delegation is still awaiting the promised appreciation of the principles exposed in its memorandum of September 24, 1946, since the work of the subcommittee did not and could not result in a classification of the gold as covered by resolution VI of Bretton Woods nor in a definition of the terms in which, once the theft had been proved, return thereof should be made.

"On the basis of the foregoing, the Portuguese Government has the honor to give its agreement to the continuation in Lisbon of the discussions regarding this gold, and to submit that they be resumed in the present month of October on a day to be fixed by the allied delegations. It is thought that the discussion should cover the points of view set forth in the memorandum of September 24, 1946, and, once an agreement has been reached regarding them, that it be applied to the gold identified through the work of the subcommittee.

"5. The establishment of an agreement regarding the regime of German property in Portugal resulted from the work of the Allied and Portuguese delegations in the course of the year 1946 and beginning of 1947. The Portuguese Government considers that its terms have been fixed and hence that any discussion regarding the subjects covered thereby is closed, but recalls that the execution thereof was left dependent upon the agreement to be made on the problem of the gold.

Thus, the

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Authority NND 760050By EK NARA Date 7/8

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A-201, October 8

"Thus the Portuguese Government does not consider that the provisions of that agreement have been altered in any way, but it cannot disregard the dependency established in respect of its execution, since the resolution which may be reached as to the question of the gold may lead, for the said Government, to claims against Germany which will have to be satisfied within the terms of the aforesaid agreement."

"Lisbon, October 4, 1947."

WILEY

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By <u>EK</u> NARA Date <u>7/8</u>	File <u>800.515/10-747</u>
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To: N C/R

To be returned to Mr. Fletcher
Room 113, Old State Building

Encl. in Post bag.

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800.515/10-847

Enclosure No. 2 to Safehaven Despatch No. 202, October 8, 1947
Lisbon, Portugal

MEMORANDUM OF THE PORTUGUESE DELEGATION ON
THE GOLD ACQUIRED BY THE BANK OF PORTUGAL
FROM GERMANY

The Portuguese Delegation having studied the provisions of the Memorandum on looted gold that accompanied the draft Memorandum of the Accord presented by the Allied Delegations in justification and explanation of the second part of Clause D of such draft has the honor to set forth the reasons why it cannot accept the terms in which the problems are set forth in that document.

I

The problem set forth by the Memorandum to which this is a reply is merely one aspect of the general problem of the property looted by the Germans in occupied countries referred to in No. 2(a), (2) of Resolution VI of Bretton Woods and to which the Portuguese Government on March 22, 1945, thereupon having formally adhered to that Resolution and to the Declaration on Gold of February 1944, already gave an adequate solution.

Actually Decree Law No. 34:455, published on that date, determined:

- a) - the nullification of juridical transactions that had as their object movable things imported into the country and those which have been proved to be looted by acts of military occupation and confiscation from those whom, under existing legislation in the respective territories on the date of the declaration of war, must be considered legitimate owners - Article 1;
- b) - Holders in good faith will be protected by existing Portuguese laws, notably by the provisions contained in Article 534 and 1046 of the Portuguese Civil Code, sole paragraph article 1 and sole paragraph 2;
- c) - That the contesting of the possession of movable assets under the conditions of the mentioned Articles 1 and 2, with the understanding that they are indubitably in the possession of the apparent proprietor, will be made before the juridical tribunals and by means admitted in Portuguese legal procedure, giving consular agents in occupied countries legal standing as representatives in the interests of the legitimate owners in order to initiate respective actions at law or third party embargo - Article 3, sub-paragraph 1 and 2.

EW 800.515/10-847

A little later in Decree Law 34:600 in the Preamble of which the Portuguese State declared its adherence to the principles established in Resolution VI of the B. W. Conference and in the Gold Declaration of 1944, it was determined that

things covered

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Authority NND 760050
By EK NARA Date 7/8

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- 2 -

Enclosure No. 2 to Safehaven Despatch No. 202, October 8, 1947
Lisbon, Portugal

things covered by the nullification established in the said Decree Law 34:455 would be inalienable and non-transferable.

That is to say, the Portuguese State in harmony with the international position which it assumed:

1) - Established expressly and concretely the nullification of the above-mentioned acts which were also repugnant to the Portuguese juridical system, with the inherent resolve for the benefit of the interested parties, whose Government could not appear on their behalf, gives indispensable guarantee of application by competent courts of the rules of law that protect the possessors in good faith.

2) - Makes provision for ensuring that the things connected with the aforementioned acts (looting) subject to consideration should not be side-tracked or lost.

Moreover, Portuguese legislation already contains provisions destined to assure freezing of the assets originating in the acts of military occupation and confiscation practiced by Germany and to their restitution to the legitimate owners, such established practice being entirely applicable also to gold.

Nevertheless, until now, none of the interested countries have taken recourse to that legal process, asking the competent tribunals to define their property rights with respect to any quantities of gold and its consequent return.

The Portuguese Delegates could content themselves with recalling to the Allied Delegates that there was this adequate legal means to discover looted gold and effect its restitution to the legitimate owners. Even more so, as the property rights of the State are not in question, but those of a private undertaking, namely, the Bank of Portugal, which could not dispose of it under the Accord in question.

However, this Delegation could not neglect to examine, in the light of the applicable legal principles and the international obligations assumed by the Portuguese Government, the case set forth in the "Memorandum" of the Allied Delegation.

II

In that document it was sought to establish as legitimate the presumption that all gold sold by Germany to neutral countries after 1942 was looted, and consequently that the buyers were obligated to restore all gold thus acquired.

Fundamental to the above referred presumption are the two following facts.

1) - The disproportion

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Enclosure No. 2 to Safehaven Despatch No. 202, October 8, 1947
Lisbon, Portugal

- 1) - The disproportion between the amount of the gold reserve of the Reichsbank as indicated by its balance sheet before the war and the quantities of gold disposed of by Germany in payment to foreign countries during the war;
- 2) - The known fact that Germany took possession of the gold of occupied countries and utilized it in furthering its war policies, as brought out in the example of the gold of the Bank of Belgium handed to the Germans by the Bank of France when it was in their safekeeping.

It is then attempted to conclude from the disproportion between the gold reserve which the Reichsbank had before the war, according to its balance sheets, and the quantities of such metal sold abroad during the war, and from the known fact of the illegitimate manner by which Germany expropriated gold belonging to occupied countries, that all gold sold after a certain date (1942) must be considered as looted gold and as such restored pure and simply to its legitimate owners.

This Delegation takes it upon itself to observe that the steps just referred to cannot be considered as sufficient to demonstrate not even the probability that such gold was looted. In order to get any such conclusion from a comparison between gold stocks and gold sales it would be necessary to take into account:

- a) - The actual stock of gold of the Reichsbank and not the amount contained in the balance sheet - it being known as it is as a rule, that only a part of that gold reserve appears as such in the balance of banks of issue;
- b) - The quantities of gold possessed, possibly by the State itself and in the possession of private individuals which certainly was mobilized by the State for the conduct of its financial wartime policy;
- c) - The gold of Austria and Czechoslovakia which Germany had at its disposal in consequence of the annexation which was internationally recognized and which is to be taken as legitimate;
- d) - The actual quantities of gold looted during German occupation of various countries;
- e) - The totality and distribution of the sales of gold made by Germany during the war;
- f) - The quantities possibly existing or at the disposition of Germany at the time of the cessation of hostilities.

The simple

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Enclosure No. 2 to Safehaven Despatch No. 202, October 8, 1947
Lisbon, Portugal

The simple recital of these requirements is sufficient to show how far this is from demonstrating the probability above referred to and to show that the central banks which did business with the Reichsbank would never be able, by reading the figures of the Reichsbank balance sheet, to foresee or to admit, that all or part of the gold which they might receive from their respective current operations might originate in gold looted or subject to any form of illegitimate appropriation practiced by Germany.

III

Whatever might be the impression that might now be deemed to rise from calculating the figures of the referred to balance sheets, one could never by this means arrive at the presumption proposed or set forth in the "Memorandum" and which considers as illegitimately acquired by the bank of Portugal the gold received as a necessary consequence of its entirely regular foreign trade.

The operations of foreign trade, in the liquidation of which the gold referred to in the "Memorandum" was received, were effected by Portugal in a completely legitimate manner by reason of its condition as a neutral country. Further: The most important and valuable exports to Germany not only were made with the full knowledge of the Allied Nations, as they were effected within the terms of the agreements entered into with the Allies - and as a consequence of which - and this the Portuguese Government does not regret, Germany certainly was not favored either in quantity or in the conditions of payment because it is clear if such had happened the question would not now arise.

It was necessarily known to the Allied Governments that the liquidation of such operations would require the importation and acquisition of some quantities of gold and as a consequence this delegation does not understand how, the transactions having been done by means and in accordance with practices uniformly followed among banks of issue the Memorandum could comment - since such is the doctrine contained therein - consider such operations as illegitimate.

Neither the Allied warning of January 1943 with respect to assets looted by Germany nor the publication of the Gold Declaration of February 1944 alters in any manner the situation presented for consideration. That warning referring as it does in a general manner to movable property - in the enumeration of which gold is not mentioned - cannot be considered neither in letter nor in spirit as relating to gold subject to regular transactions between banks of issue for the liquidation of its operations, nor is there any rule of international law which would obligate neutral countries to suspend its transactions with Germany; it constitutes merely a warning about the existence of acts of illegitimate appropriation done by

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Lisbon, Portugal

Germans, entirely unaccompanied by any of the elements of information necessary to enable interested parties to choose means of abstaining, in the normal following of its operations from accepting the articles which might possibly be related to those acts, or without the details which would reveal their illicit origin.

The deliveries of gold to the Bank of Portugal were made through the intermediary of the Swiss National Bank and, as has already been stated, according to rules in use between banks of issue, and there was nothing - nor is there anything yet - which would lead to the conclusion, or even to the presumption, that the gold in question had been looted.

Knowledge is only now given that the looted gold had been remelted and stamped with pre-war Reichsbank's markings which would be of itself, if such were lacking, proof of the complete good faith of the acquirer since, not knowing of the improper use of such markings, it would have the effect of precisely eliminating the hypotheses that the gold on which they were stamped might be looted. Certainly it will be recognized that, inasmuch as the Bank of Portugal had legitimate relations with the Reichsbank, it could not - on whatever pretext - refuse gold under those circumstances.

Only in February 1944 was the "Gold Declaration" published, which by its own terms professed to be a new document and to amplify both in context and form the warning of 1943. Two fundamental differences between the two documents are apparent: not only does the 1944 declaration contrary to that of 1943 make a special reference to gold - which implies that the transactions between central banks were not considered as covered in the 1943 warning - but also, for the first time, the adoption of measures for the purpose of suspending in the future all transactions, direct or indirect, with Germany were contemplated. This clearly indicates that, only in 1944, was it decided to adopt the radical measure of bringing about a complete suspension of gold transactions with Germany. Such measures, as is evident in the text, hardly apply to operations prior to the date of the declaration since the declaration states:

"It further declares that it will be the policy of the United States Treasury not to buy any gold presently located outside of the territorial limits of the United States from any country which has not broken relations with the Axis etc"

The gold declaration can only be considered as international law binding Portugal from the date of its adherence which was given in May 1945. However, the Bank of Portugal does not possess any gold acquired after February 1944.

It must be concluded, then, that all the operations carried on by the Bank of Portugal with the Reichsbank with respect to

gold acquired

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Enclosure No. 2 to Safehaven Despatch No. 202, October 8, 1947
 Lisbon, Portugal

gold acquired during the war were entirely legitimate. And further, there does not, as the "Memorandum" in question alleges, arise a problem of responsibility for acts illegitimate under international law, the only case in which the presumption of bad faith is justified and which this Delegation could not refrain from refuting, and the request for the pure and simple restitution of the gold acquired.

IV

The restitution of any quantity of gold acquired by the Bank of Portugal from the Reichsbank must, in view of the preceding, be viewed in the light of the special provisions of Decree Law No. 34:455 and the other applicable principles of law, depend:

- on the identification of the article whose ownership is contested;
- on the demonstration of the property right of the claimant;
- on the good faith or the proof of bad faith of the acquisition made by the possessor.

The good faith with which the Bank of Portugal acquired and possessed gold sold by the Reichsbank having been demonstrated, a demonstration which was unnecessary on the general principles that good faith is always presumed, and the relevancy of the general considerations on the availability and sale of gold in order to prove the ownership by third party, it must also be concluded that the first condition has not been realized.

The identification of gold bars can only be made by weight and fineness of the above and by the marks placed upon them. Because of the special nature of this merchandise remelting and substitution of marks implies the modification of the real identity of the thing. Thus, the affirmation that the bars acquired were "made" with looted gold, does not permit one to identify them as such. Only if it is proved - which burden falls entirely on the claimant - that all or some of the bars in the possession of the Bank of Portugal were in the form and with the marks with which they were received looted from the legitimate possessors, would the Bank of Portugal be obligated to restore them and even then, only provided there is indemnification in full, given incontestable good faith and the legal manner of its possession.

It will then be necessary, in order to verify if the Bank of Portugal possesses gold which is the property of third parties, to indicate the weight, fineness, and marks of the bars which it is alleged have been looted in order that it may be determined if any such gold is now in its coffers and moreover, thus to establish the proof of looting and of the right of the claimant.

The evaluation

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Enclosure No. 2 to Safehaven Despatch No. 202, October 8, 1947
Lisbon, Portugal

The evaluation of the evidence and definition of legal rights is the competence of the courts whose intervention can be resorted to under the provisions of Decree Law No. 34:455.

V

The Portuguese Government - in accordance with its policy of collaboration of which it has already given more than sufficient proof - is however disposed, for its part, to facilitate insofar as it can the clarification of the question being raised, which, interests the Bank of Portugal - a private entity distinct from the State, which exercises functions of public interest precisely means by reason of which the gold came into its possession. Therefore, in accordance with the request of the Delegations, it is disposed to agree to the establishment of a special committee for the clarification of the facts. Given the probability of suit against it, it is evident that the best interest of the Bank of Portugal would be to leave to whomever would bring charges against it all of the difficulties inherent in the burden of its respective proofs. Nevertheless, considering the position of the Bank in view of the public nature of its functions and of the national interests represented by the State, the Portuguese Government accepts the establishment of the suggested special committee, which by its intermediary will be able by means of examining the exact markings, numbers, and other identifying symbols of the bars claimed by the occupied countries as well as the facts on which these countries base their allegation of looting, satisfy themselves that such bars are in the possession of the Bank of Portugal and as to the method by which they were acquired by it.

The results of the work of the special committee in question will not, however, have the value of the necessary judicial decision, in that the State cannot substitute itself in defining the rights of private entities nor sit in judgment with authority with respect to evidence brought forth or elements of proof accepted by the Bank. However, they will be able to facilitate and accelerate, in a substantial manner, the just solution that all certainly desire with respect to the question. In this manner the Portuguese Government will attempt, in logical consequence of the position assumed by it in order to give satisfaction to the principles of Bretton Woods and the declaration of the United Nations with respect to gold, to obtain a means more expeditious and practical for the clarification of the essential facts without harming the rights of third parties which are defined by the law of the country.

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*Portuguese
Negotiations*

Ernest J. Ganger

October 23, 1947

OE - Mr. Baker

DIVISION OF OCCUPIED AREAS
ECONOMIC AFFAIRS
OCT 24 1947

This memorandum was prepared prior to the meeting with
Dorr and Treasury of October 22. It may still be useful as a
resume of views which I believe were generally adopted at
the meeting.

SJR
Seymour J. Rubin

cc: Le/E - Mr. Surrey
FN - Mr. McGuire
Mr. Fletcher

Le/E:SJRubin:PJ

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October 23, 1947

OE - Mr. Baker

Subject: Portuguese Gold Negotiations

In connection with our brief discussions on the above subject, and also in connection with a phone conversation between myself and Mr. McGuire of FN, I should like to set out the following opinion with respect to the matter of the Portuguese gold negotiations:

These discussions have now gone on for more than a year. During that time a considerable body of information has been developed but there has been no indication that the Portuguese are ready to yield on their fundamental position that they are bona fide purchasers of the gold in question, even were it conceded that the gold was "looted". It is possible, however, that the present Portuguese willingness to sit down and discuss this matter, particularly in the light of the oral presentation, which I understand was made at the time that the British-American-French gold note was presented, indicates some willingness to arrive at a compromise on this question. Any undue optimism on this score should be tempered by a realization of the deteriorating position of the Portuguese economy and Portugal's evident desire to retain its gold reserves to the fullest extent possible.

I believe that the US, UK and France, as trustees, have had the sole burden of negotiating with the Portuguese for a long enough time so that they should within a reasonable period of time arrive at a definite agreement, or at a definite conclusion with respect to an agreement. I believe that it would be desirable to send someone to Portugal, on a rather high level, to carry on the gold discussions which the Portuguese have indicated a willingness to resume. At the time that such a person is designated, a telegram should be sent to Lisbon stating that an officer of this Government, able to deal with policy, will arrive for the discussions and that he will be prepared to discuss the fundamental question of principle rather than the details which already are well enough known to both sides. It might also be indicated to the Portuguese that such a designated American representative will be available for a period of not more than three weeks or a month. Such a period should be enough, provided any sort of reasonable cooperation from the Portuguese to arrive at a determination whether Portugal will yield any gold or not is forthcoming. If a reasonable settlement can be worked out with

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the Portuguese then the American representative, together with the British and the French, should conclude an agreement with the Portuguese, which agreement should be reported to IARA in the same manner as were the agreements with Sweden and Switzerland. If, on the other hand, agreement is impossible, either because the Portuguese refuse to withdraw from their previous position at all, or because they offer an amount which is too low to be acceptable, then the position of the American Government should be that a report on the German assets and the gold negotiations with Portugal should be filed with the Inter-Allied Reparation Agency. Such a report should refer to the allegations and responsibilities undertaken by the three Allied governments as a consequence of the Paris Reparation Agreement, should describe in some detail the lengthy negotiations with the Portuguese and should describe the German assets settlement and the status of the gold negotiations. The report should point out that both the Allies and the Portuguese have until now taken the position that the German assets settlement would not be put into effect until such time as a settlement was reached on the subject of looted gold. The facilities of the three Allied governments should be offered to IARA in order to transmit to the Portuguese Government any comments or resolutions which IARA may care to enact on this subject. It should, however, be made clear that, so far as this Government is concerned, consideration will, under these circumstances, have to be given to a new manner of negotiating with the Portuguese, in view of the failure to effect a settlement by the methods heretofore pursued. It should further be made clear that IARA and the IARA governments will have to share the responsibility for such new method of dealing with this problem as may be recommended by the IARA Assembly.

The one loose end with respect to which I have no present recommendation is the question of the Gold Declaration to which, of course, the United States was an original and moving member. If a gold settlement is not worked out with Portugal, under present declarations of policy, the United States will be compelled to continue indefinitely its policy of non-acquisition of gold from Portugal. This is a matter which would need the careful consideration of this government and, particularly, the consideration and recommendation of the Treasury Department.

Seymour J. Rubin



cc: Le/E - Mr. Surrey
 FN - Mr. McGuire
 Mr. Fletcher

Le/E:SJRubin:PJ

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American Embassy
Lisbon, Portugal

No. 267

No. 267 **JAN 12 1948**

November 18, 1947

Read.
Rev. 28

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Gold Negotiations
Draft Accord on Gold, November 17, 1947

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With reference to the Embassy's telegram 946, November 17, 1947, concerning the third meeting, the Ambassador has the honor to transmit herewith the draft accord on gold which will be delivered to the Portuguese Delegation at the fourth meeting scheduled for November 18, 1947.

ARMY
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COM
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Enclosure:

Draft Accord on Gold, dated November 17, 1947

JDHanley:anz
Original and Hectograph to Department
cc--American Embassy, London
American Embassy, Paris

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Enclosure to Safahaven Dispatch No. 267, November 18, 1947
Lisbon, Portugal.

ACCORD ON LOOTED GOLD

Whereas Delegations representing the Governments of the United States of America, France, and the United Kingdom of Great Britain and Northern Ireland, on the one hand, (hereinafter referred to as "the allies") and the Republic of Portugal on the other hand, have met in Lisbon and there has been an exchange of views, and an expert examination of facts, bearing upon the subject of the restitution of the looted property, consisting of monetary gold of the countries occupied by Germany, in the recent war which is claimed to have been taken by Germany from these occupied countries by force and fraud, without payment and without Justice;

And whereas pursuant to Resolution VI of the Conference of the United Nations held at Bretton Woods, inter alia, restitution should be made to the countries occupied by Germany of their looted gold removed or taken by open looting, plunder, forced transfers and duress, as well as by subtle and complex devices, as that Resolution expressly records;

And whereas the Portuguese Government, faithful to its policy of collaboration in the rehabilitation of the countries despoiled and denuded in their resources by German action during the recent war, in which Portugal was neutral, and mindful of its adherence to the cited Resolution VI of the Conference of Bretton Woods, to the principles and justice of which it unreservedly subscribes, but without admission of any liability even if the whole or any part of the gold amounting to 43,829 kilos fine gold established by the Report of the Gold Sub-Committee of experts of the delegations as having been received by the Bank of Portugal from Germany were looted gold, is willing, as the measure of restitution which might be required and in pursuance of Justice, to come to the following accord with the Allies:

1. The Government of the Republic of Portugal will deliver to the Allies on demand in gold in New York a total amount of 38,331 kilogrammes of fine gold.
2. The gold received by the Allied Governments from the Government of the Republic of Portugal under the terms of the foregoing Article shall be distributed to the countries despoiled of their monetary gold.
3. In consideration of this Accord the Allied Governments undertake to hold the Government of the Republic of Portugal harmless from any claims to looted monetary gold deriving from transfers by the Bank of Portugal to third countries of gold acquired by the Bank of Portugal from Germany during the period January 1, 1939, to October 31, 1945.
4. This measure of restitution shall be accepted, as they hereby acknowledge, by the Allies and the Governments of

the occupied

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Enclosure to Safehaven Despatch No. 267, November 18, 1947
Lisbon, Portugal.

the occupied countries and their banks of issue, for all the purposes of resolution VI of the Conference of Bretton Woods as a complete and final discharge of any claims against Portugal in respect of looted monetary gold.

5. Any claims on the Government of the Republic of Portugal by Governments of the occupied countries or their banks of issue for the restitution of looted gold or ven to have been acquired by Portugal and not covered by the report of the Sub-Committee on Gold, dated March 10, 1947, shall be considered barred if not presented before December 31, 1948.

6. In entering into this Accord, the Government of the Republic of Portugal sets on record that the Bank of Portugal acted in propriety, innocence and good faith and without blameworthiness, being deceived by German practices of loot and fraud of gigantic proportions, the effects of which have been felt in many other countries besides Portugal; Therefore the Republic of Portugal reserves all rights and claims it or the Bank of Portugal may have against the Reichsbank or the future German Government.

7. The undersigned, representatives of the Government of the United States of America, France, and the United Kingdom of Great Britain and Northern Ireland stated that they are also acting on behalf of the Governments of Albania, Australia, Belgium, Canada, Denmark, Egypt, Greece, India, Luxembourg, Norway, New Zealand, Netherlands, Czechoslovakia, Union of South Africa, and Yugoslavia, and insofar as it is material, the banks of issue of those countries.

Lisbon, November 17, 1947

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EMBASSY OF THE
UNITED STATES OF AMERICA

LISBON, PORTUGAL

No. 314 **DEC 30 1947**

of Fletcher file
DEPARTMENT OF STATE

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REFERENCE: No. 4
DATE: December 9, 1947

SAFEHAVEN REPORT

SUBJECT: Gold Negotiations
(Meeting of Allies, December 4, 1947)

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With reference to Embassy's A-376, December 5, 1947, the Ambassador has the honor to transmit herewith as Enclosure No. 1, a copy of the Minutes taken at the meeting called by the British Ambassador on December 4, 1947, to consider the next step to be taken in view of the stalemate reached during the recent subcommittee meetings and the Portuguese Delegation's apparent lack of a desire to compromise. It will be noted that Mr. McCombe made the statement (page 8, Enclosure No. 1) that the United States and England agreed that 15 million dollars would be the minimum gold settlement figure which could be accepted. This statement was not corrected during the meeting because it did not appear opportune. After the meeting Mr. Schwartz informed Ambassador Wiley that in view of the current developments, Washington would consider a figure between 10 and 15 million dollars. Mr. Vaidie, French Representative, at a later date informed Mr. Schwartz informally that he thought his Government would be willing to consider a figure of 12 million dollars.

The enclosed Minutes and A-376 reveal that the Allies agreed to ask for a plenary session so as to officially record Portugal's gold offer and then to request that the negotiations be postponed until early next year. A plan developed was for the Chiefs of Mission to arrange personal conversations with the Minister of Foreign Affairs during the interval while the Allies' gold technicians visit Madrid.

In response to a telephonic request that the next plenary session be held December 5, 1947, the Portuguese Chief Delegate replied in effect that another meeting would serve no purpose and there was nothing more to discuss. See Embassy's A-375, December 9, 1947, and Enclosure No. 2, transmitted herewith, which sets forth the substance of the telephone conversation mentioned.

Enclosure No. 3 is a copy of Mr. McCombe's letter of December 5, 1947, to the Chief of the Portuguese Delegation which totally disregards the Portuguese refusal to reopen the negotiations with a plenary session and suggests that because the Portuguese have not specified a date for resuming the negotiations that the next plenary session be held some time early in January.

Before the delivery of Mr. McCombe's letter mentioned above, Mr. Schwartz saw Dr. Brandao and Mr. Kasper saw Dr. Araujo unofficially (A-375). It seems reasonable at this time to assume that the negotiations will be resumed at a plenary session as suggested in Mr. McCombe's letter to Col. Fernandes.

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Encl. Saf haven Despatch No. 314, December 9, 1947, Lisbon, Portugal

Enclosures:

AK

1. Copy of the Minutes of Allied Meeting Called by British Ambassador on December 4, 1947
2. Substance of Telephone Conversation Between Mr. McCombe and Col. Fernandes
3. Copy of Mr. McCombe's Letter of December 5, 1947, to Col. Fernandes.

JDHanley:HRKasper:RSchwartz:ear
 Original and hectograph to Department
 cc--American Embassy, London
 American Embassy, Paris
 American Embassy, Madrid

[Handwritten signature]

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Enclosure No. 1 to Safehaven Despatch No. 314, December 9, 1947
Lisbon, Portugal

NOTES OF ALLIED MEETING HELD AT BRITISH EMBASSY ON
DECEMBER 4, 1947

Present: H.B.M. Ambassador (In the Chair)

H.E. The Ambassador of the United States

Mr. Marcel Vaidie (Head of the French Delegation)

Mr. Robert Schwartz (Head of the American Delegation)

Mr. Herman R. Kasper (Member of the American Delegation)

Mr. F. W. McCombe (Head of the British Delegation)

Mr. L. H. Dismore (Member of the British Delegation)

Sir Nigel Ronald explained that the purpose of the meeting was to consider what should be done in the face of the development that had taken place in the conversations between the technicians. It now appeared that the Portuguese were being even more recalcitrant than we feared and to be falling back more and more upon legalistic and narrow pretexts. Before those conversations on gold started, they (the three heads of Missions) had informally drawn the attention of the Portuguese Government to the high desirability of dealing with this matter from the wider angle of the general political context into which it fitted, and not sticking too closely to the technical, juridical and legalistic points which had tended to hold up agreement hitherto.

He understood from Mr. McCombe that until yesterday they had been jogging along in the old way, but at their last meeting the Portuguese drew out a number of new hair-splitting and legalistic arguments. Mr. McCombe had represented to him that they had really now reached a position in which some fairly strong representations should be made to the Foreign Minister, if not to the Prime Minister himself, if we were to ensure that the situation did not reach a point at which it might have very highly undesirable political repercussions. He therefore proposed to ask Mr. Wiley whether, on what Mr. Schwartz had told him, he thought they should take the discussions away from the technical plane. He would also like to know the opinion of J. du Sault and M. Vaidie on that point.

Mr. Wiley said he felt there was a great divergence between what the Foreign Minister had told them and what was now being said by the Portuguese at the technical level. If his memory were correct the Foreign Minister talked about reimbursement, but he used the words "partial reimbursement," whereas on the technical level they were talking about complete reimbursement, which was a very different thing. There was also the question of the time limit and he wondered whether a few days more would make much difference. He understood that there was a question to be worked out in Madrid which required the presence of some of them, and in addition Mr. Schwartz had to go back to Washington at an early date. They had therefore to consider whether to go ahead quickly in Lisbon or allow their delegates to go to Madrid and wait a

week or

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Enclosure No. 1 to Safehaven Despatch No. 314, December 9, 1947
Lisbon, Portugal

week or two before taking further steps. From his point of view he did not think the element of urgency was sufficient to preclude a little delay and it might even be a good idea to let the Portuguese think the matter over a bit further.

Mr. Schwartz said that from the indications of the previous day's meeting the Portuguese were entrenched in their position and it would take something big to jog them out of it. He was not sure that it would be a good thing to play our last card, or almost our last card at this time. It might be a good thing to give the Portuguese time to reflect and to loosen up a little before they did that and also to allow the Allied Delegates to consider additional points of pressure.

M. Vaidie said he did not think the position of the Portuguese would change with time, but, on the contrary, that time would permit them to find new arguments. The importance of the war was receding and taking decisions on matters arising from the war was becoming more and more difficult as time went on. He thought they must envisage their policy in an objective and realistic manner. They had exhausted their reasoning on the matter--Mr. McCombe, Mr. Schwartz after Mr. Rubin, and himself after M. de Panafieu, had done everything possible to put the facts to the Portuguese. They were now at the end of their arguments and he did not see what else the Allied Delegates could do to convince them. In his view there were two things to do:

- (1) To find out what the Portuguese intended to do with regard to the liquidation of German assets, on which they had a conditional Accord signed on 21 February 1947. He thought they would be in a ridiculous position vis-a-vis IARA and the Governments whom they represented if the latter could accuse them of having signed a conditional Accord with the Portuguese and it was clear that the Portuguese always had in mind that they would never give effect to it. He therefore considered that they should take provisional measures so far as the liquidation of German assets was concerned and asked that the liquidation should take place, the proceeds being paid provisionally into a blocked account.
- (2) The question of gold depended no longer upon the technical position: it had now become a political matter.

Sir Nigel: What form of action would you recommend now? Would you recommend that we three go straight away to Dr. Caeiro da Matta and make representations to him as a suite to those we have already made, or would you proceed in some other way?

M. Vaidie said he had a feeling that M. Caeiro da Matta would receive them very well as Ambassadors and would at once say: "Yes, I will do everything possible" but he would give

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them no definite reply. It would mean that they would continue to struggle within the folds of an eider-down quilt--something soft and yielding, but hampering all possibility of action. He thought they should make the Portuguese understand that by their present attitude they would involve themselves in difficulties--difficulties which the Allies were reluctant to make for them but which they would be obliged to create. They would be obliged to establish that the gold of the Bank of Portugal was suspect and in consequence other Banks of Issue would make difficulties about accepting settlements made with gold from the Bank of Portugal. In any event, this would be so insofar as the Banks of Issue of the eighteen countries were concerned. This might give the Portuguese food for reflection, and make them take the matter more seriously.

Sir Nigel agreed that the first question was how to impress upon the Portuguese that the matter is really serious. Was the best way to have another meeting of the same composition as the last and there let it be said: "From what the Portuguese representative said at the last meeting the three Allied Delegations have the following thought--that the Portuguese do not appreciate just how serious this matter is. It appears to the Allied Delegations that such and such consequences may ensue if the Portuguese continue in their present attitude.

"Mr. Wylie, however, thinks this ought not to be attempted at the present moment, but that we should tell the Portuguese we have urgent business in Madrid, that Mr. Schwartz has to return to America, that we should suspend things for a fortnight or so and that perhaps during that time the Portuguese will ponder the matter. When we meet again we may perhaps make more progress than we have yet done.

"The other course is that we should go to see M. Caeiro da Matta and say to him, "We are very uneasy indeed about the position reached in these conversations and we wonder whether the Portuguese authorities have fully in mind the various consequences which may ensue from Portugal sticking to her present attitude. The first immediate step will be that the Allied Delegations will have to go to IARA and say to them: "It is perfectly true that Sweden gave us 100 percent satisfaction and Switzerland 60 percent; it is also true that Portugal offered us 10 percent satisfaction but even on that they tended to waver.

"If we have to go to IARA, Portugal must help us to state her case for her and explain why Portugal could only offer 10 percent, she must at least help us to become *avocatus diaboli* in this matter at IARA.

"It is pretty certain that somebody will argue that nonfulfillment of the obligations accruing to Portugal under Resolution VI will render Portugal ineligible for membership of the Bank and the Fund, and membership of the International Trade Organization may be linked up with that of the Bank and the Fund. It is still not clear whether nonmembership of the United Nations will

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debar countries from membership of the Bank and Fund, and Portugal, by her action is putting herself outside the pale. Does she wish to do that?

"She is, of course, far the best judge of her own interests but in all candor we feel it is right that we should put to her what the probable consequences of her attitude will be.

"It may of course be that both steps will become necessary. It may be desirable that we have a meeting by which to disengage ourselves. If you make no progress then we go to Caeiro da Matta and even to Salazar. We shall then, in the interval, have had an opportunity of consulting our Governments and asking whether they approve of the steps we propose if the détente is not broken."

Mr. Wiley: I think your thoughts, as you develop them are admirable. Let there be another meeting on the technical level; let this Madrid business be taken in hand and then at the opportune moment proceed exactly on the lines you have suggested.

Sir Nigel said he had meant to add his view that it was bad tactics in dealing with the Portuguese to use anything that savoured of a threat, if it could possibly be avoided. M. Vaidie's suggested reference to the action of Central Banks savoured a little of menace.

M. Vaidie: But if you have bonds stolen from you and you have the numbers of them what do you do? You go to the Banks and enter an opposition to them. That is not a menace but a conservatory measure. What will happen if you do nothing? They will be able to sell this gold to private persons and tell you that it is no longer in their possession.

Mr. Wiley said there were many places where they could get rid of the gold.

Sir Nigel said he would like to hear what M. du Sault and M. Vaidie thought about the question of procedure. Would they favor a meeting of the same composition as the last to produce some sort of *mis-au-point* and then adjourn to enable business in Madrid to be completed.

M. Vaidie: I think this would be wise.

Sir Nigel: Then, at the end of that period, would you contemplate further serious representations to the Portuguese Government if the delegations still do not look like getting anywhere?

M. Vaidie: Yes.

Sir Nigel: What sort of representations had you in mind? Such as I suggested or something different?

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M. Vaidie: I have

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Mr. Vaidie: I have not had the opportunity of speaking to M. du Sault on this subject and at the moment I can only give you my personal impression. But I think that what you proposed a little while ago is just and perfectly reasonable and it would be the best method of urging that a decision be taken.

Mr. McCombe: We must try to leave it that the next step is with them so that we can ask them what that next step is going to be. We can make a final appeal at a plenary meeting and ask them at least to tell us what they would like us to say on their behalf at IARA.

Mr. Schwartz suggested that the Portuguese might like to prepare a statement of their case.

Mr. McCombe said he would prefer not to ask them to prepare a statement. It would be a document of 150 pages which nobody would understand if they read it.

Mr. Wiley said he thought the Foreign Minister was on our side.

Mr. McCombe said he thought he was impressed by the Swedish case.

Mr. Wiley: There is a great tendency to describe the Foreign Minister as a gentleman who says "Yes," but my experience of him has been that he will generally say "I will see what I can do," and he has worked in a very competent way to smooth things out for me. He is a man of comprehension and is different from most of the other Portuguese in that he has had something like 15 years experience of European conferences and affairs. He is a European. I think one of the most important things is to have the problem presented to the Foreign Minister fully and discreetly. When three Ambassadors march in together that is a fairly big gesture. It is a little threatening, perhaps, and I think the time has possibly come when one could do a little discreet pick-and-shovel work with the Foreign Minister, by saying "Here is the way the thing looks to me and why don't you go to work on it?" No one can express himself more to the point in an intimate conversation of this kind than the British Ambassador and I suggest that we might find a convenient moment for an off the record talk with the Foreign Minister.

Sir Nigel suggested that M. du Sault, Mr. Wiley and himself should take such opportunities as might occur to express their views on the matter.

Mr. Wiley said he would go so far as to tell the Foreign Minister that the Portuguese technical delegates did not represent his point of view. The Minister had spoken about "partial indemnification" and had said that he was going to "accompany the conversations"--he would not participate in them, but "accompany" them. He had not been doing very much accompaniment.

Sir Nigel

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Lisbon, Portugal

Sir Nigel said he hoped M. du Sault would take a leading part in these private talks with M. Caeiro da Matta. France was one of the leading powers concerned and if the French Minister were to tell him that the feeling in France on the matter was of a certain kind he would be speaking with authority. That would be of enormous importance to M. Caeiro da Matta.

M. Vaidie said the USA and Great Britain had no personal interest in the affair whereas France got a determined percentage of the gold. He thought those countries were in a rather stronger position who could say "We have no personal interest" and as they were all three the representatives of the beneficiary countries he thought their position as such was rather stronger than if one of them stressed a personal interest.

Sir Nigel said he thought they needed a combination of both, certainly.

Mr. Schwartz agreed that it was undesirable to make a threat, but said the Portuguese might be told that if they did not take the opportunity to reach agreement now, it would be more difficult to do so at a later date when the three Allied Governments would have had to return their assignment to IARA. Portugal now had her chance, with sympathetic Allied Delegations to reach a decision. They might also refer to favorable press releases on the theme of "Portugal has honored her adherence to Bretton Woods" etc.

Mr. McCombe: We have stressed that, but on the mentality of the people with whom we have been discussing the matter, it is absolutely wasted. They don't see it at all.

Sir Nigel: I see fairly clearly what M. du Sault and Mr. Wiley and I may say during the interval, but I am not quite clear what the three Allied Delegations will say at the meeting to make a mis-au-point tomorrow or whenever it is called. They are going to say, generally speaking, that we have come to a dead end, we all know what the probable consequences will be but rather than leave the matter in this impossible position surely we should reflect further on it. On what lines are we going to ask them to reflect on the matter?

Mr. McCombe: It does not come well from us to ask them to reflect on the political aspects. I had in mind to say that we are now faced with the position where we have an accord on the liquidation of German assets which, because we are not able to come to any agreement on the gold, remains continuously inoperative. That may lead to an accusation against Portugal that this was engineered--that Portugal knew she would not give way on the gold and therefore the lack of a settlement on gold could always be an obstacle to the settlement on German assets, so that Portugal could keep those assets for herself or protect German interests, as they thought fit.

Sir Nigel said all that would have to be worked into the sort of defense that the three Allies would have to make before IARA.

Mr. McCombe:

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Mr. McCombe: We could ask them "if this position arises what are we to say to IARA?"

Mr. Wiley: The whole basis of this matter is I think Bretton Woods, because historically the basis is not very sound. On the question of legality the principle has always been "to the victor the spoils," and Germany was the victor at that time. The Portuguese had sent to Germany metals, sardines, olive oil and so forth and they had not got a bad conscience in the matter. The Louvre in Paris is filled with spoils of war, every museum in Vienna is filled with Hapsburg spoils and we have got to approach this matter from a very realistic point of view, on the basis of our assessment of how much we are going to get. What do we want to get? Is it five, ten, fifteen or twenty million dollars?

Mr. McCombe: I think we all have a figure in our minds. Speaking for Mr. Schwartz and myself \$15,000,000 would be the minimum figure. (Note: At the close of the meeting Mr. Schwartz spoke to Ambassador Wiley alone and expressed the view that there is a possibility that a figure between 10 and 15 million dollars might be accepted by the three Allied Delegations and quite possibly by Washington; therefore Mr. McCombe's remark concerning the "minimum figure" should not be taken as final.)

M. Vaidie: I am in agreement.

Sir Nigel said they would then be able to tell IARA that Sweden had paid 100 percent, Switzerland 60 percent and Portugal would in effect be making a restitution of 33 1/3 percent, which was a defensible position. Less than that we could not defend.

Mr. Wiley: I think we are in agreement that there should be one more meeting on the technical level, at which no threats of any kind should be made. These gentlemen will then go to Madrid and the French Minister and you and I will seek every opportunity for off the record conversations with Caeiro da Matta, and if I have the occasion to see Salazar I will talk to him too. But I think we have got to give Caeiro da Matta a little time to reflect. Nothing here is accomplished very rapidly. I find if you want to get results here you have got to make an investment of patience.

Sir Nigel asked Mr. Schwartz as the person who had to go further than anyone else, how long an interval he contemplated.

Mr. Schwartz said he could not say definitely. If they could finish in Madrid in 10 days or a fortnight it might be possible to consider a time limit in Lisbon. He had received a personal letter from Washington that owing to changes in his offices he was expected back before the end of the year.

Sir Nigel said he felt that tactically it would be wise at tomorrow's meeting to fix as definite a date for a resumption as they could. He doubted if the Foreign Minister could get anywhere at all in under three weeks and he was not sure that it would not be better to give him a month.

Mr. Schwartz

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Mr. Schwartz said that if they allowed more than three weeks the Christmas and New Year holidays would intervene which would be a logical reason for the delay.

M. Vaidie: I think there is in any case one point to which Dr. Salazar would be sensitive. We arrived here in September 1946. We passed seven months in making an Accord for the liquidation of German assets in Portugal. This was signed on 21st February 1947. It was understood that this Accord would not be valid until there was an accord on the gold question, yet when we arrive at this question of gold, they make an offer which is worth zero. We can therefore tell Dr. Salazar that British, French, and American delegates have been here since September 1946, that everything we have done is conditional and yet, on that condition, you make us a ridiculous offer which implies that there can be no agreement. We all have some idea of the manner of proceeding in Portugal. They have been leading us by the nose and I don't think Dr. Salazar could be otherwise than influenced by such a resume of the matter.

Sir Nigel said that when Dr. Salazar moved he did so quickly.

Mr. Wiley: He never takes a decision immediately. He always says "Je vais m'en réfléchir."

Sir Nigel said that on the only occasion when he had to ask Dr. Salazar to do something in a hurry he completely surprized him by saying that he had done it two days before.

Mr. Wiley suggested that they should ask for an adjournment until the middle of January.

Mr. McCombe suggested that this should be done at a plenary meeting and not at informal talks with Colonel Fernandes and Dr. Brandao.

Sir Nigel asked M. Vaidie to communicate to M. du Sault what they had discussed and how far they had gone that evening. If M. du Sault had any modifications to make perhaps he would communicate them to the delegates before the plenary meeting.

Mr. Schwartz suggested that a meeting of the Allied Delegates be held at 11:30 the following morning.

This was agreed.

Sir Nigel said he would like to go to see M. du Sault in order that they might compare notes on what they should say at the conversations with Caeiro da Matta or Salazar.

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Enclosure No. 2 to Safehaven Despatch No. 314, December 9, 1947
Lisbon, Portugal

Telephone Conversation

At the conclusion of the meeting of which the (preliminary) record is annexed, I telephoned to Colonel Fernandes and told him that as the last plenary session closed with an exchange of drafts of an Accord on gold suggested on each side as a solution, which had not been discussed in plenary session, and since the off-the-record discussions had not produced any results, I thought, and my colleagues agreed, that the position could not be left there, and that we therefore suggested a short plenary session if possible today (Friday, December 5). Colonel Fernandes expressed some surprise but I pressed him to concur that matters could not be left in an untidy and unfinished state, and he then agreed to consider my request and to call me in the morning. This morning at 11 a.m. Colonel Fernandes telephoned, and said that he and Dr. Brandao saw no purpose in such a meeting, and that as the three Heads of the Allied Delegations had stated in the private discussions that they could not accept the solution proposed by the Portuguese Delegation, there was nothing further to discuss.

In parenthesis I should record that Dr. Brandao stated at the last informal meeting that since we had stated (in an equally informal bout de papier) that we would not admit that the Bank of Portugal had bought on the open market, the Portuguese Government was relieved of its obligation to continue discussions. He did not further explain this, and it is in fact true that the Allied representatives did, for purposes of argument and to draw from the Portuguese representatives any possible opening for some compromise, say more than once that the Portuguese Draft Accord and particularly the figure of 3 tons of gold, was unacceptable. The point about "open market" now rests upon the dogmatic and unsupported statement on the Portuguese side that all transactions between central banks are, "notoriously" open market "transactions," an expression used for the first time on the 3rd December by Dr. Brandao without the possibility of argument with a representative of the Bank of Portugal or even any indication that it originated with him or had his support for all transactions, domestic and international. For example, a sale of gold en depot to the central bank holding it en depot is a transaction between central banks, but it is difficult to imagine how it should be described as an open market transaction.

I told Colonel Fernandes that I must consult my colleagues. He then told me that he would not be in his office until Monday as he had just been vaccinated.

In consultation with my French and U. S. colleagues I have now drafted a letter in which, ignoring the rebuff, and pursuing the tactic of assuming the discussions to be merely adjourned, in order to permit Heads of Missions to make soundings, we have suggested that we will return to the charge in the New Year.

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Enclosure No. 3 to Safehaven Despatch No. 314, December 9, 1947
Lisbon, Portugal

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December 5th, 1947.

Dear Colonel Fernandes,

Since our last plenary session, when draft suggestions for an accord on looted gold were exchanged, there have been discussions off the record but without producing any fresh proposals which on either side might be reported at a plenary session.

No date for the next plenary session having been suggested on the part of the Portuguese Delegation, and it being imperative in my case personally and for each of my principal colleagues that we should individually be absent from Lisbon for short periods, I beg leave, on their behalf and my own, to defer the next plenary session until some time early in January when we can again be in Lisbon. This will take into account the Christmas vacations.

Our respective delegations will of course be available if there are any questions on the part of the Portuguese Delegation arising upon the records of fact in relation to the looted gold which have been furnished to your Delegation, and upon which we have not heard your conclusions.

Very sincerely yours,

/s/ F. W. McCombe

For the Allied Delegations.

Exmo. Sr.
Colonel T. Wylie Fernandes, C.B.E., M.C.,
Chief of the Portuguese Delegation,
Lisbon.

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EMBASSY OF THE
UNITED STATES OF AMERICA

LISBON, PORTUGAL
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No. 328

REFERENCE No. 328

DATE December 16, 1947

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at Fletcher's
DEPARTMENT OF STATE

SAFEHAVEN REPORT

SUBJECT Gold Negotiations
(Meetings Arranged by United States Delegation)

With reference to Embassy's telegram No. 1001, of December 13, 1947, concerning the Portuguese looted gold negotiations, the Ambassador has the honor to transmit herewith as Enclosure No. 1, a copy of a memorandum dated December 11, 1947, on the subject of the gold negotiations by Mr. Robert Schwartz of the United States Treasury Department. The memorandum reveals that the American Delegation formulated a new policy with which to approach the Portuguese along with a revised set of figures which it was believed might serve as a basis for reaching a settlement with Portugal on the amount of looted gold to be surrendered. The approach called for an unofficial meeting with the Portuguese Chief Delegate, Col. Fernandes who represented the Minister of Foreign Affairs and Dr. Brandao who represented the Minister of Finance. The plan set forth in Enclosure No. 1, which received the prior approval of the Ambassador, was discussed with the British Ambassador and French Minister in the absence of their Chiefs of Delegation and approval of the general plan and figures were given. It being understood by all three missions that the figures were approximate and subject to final approval by the respective Allied Governments.

There is attached as Enclosure No. 2, a copy of a memorandum by Attache J. D. Hanley dated December 12, 1947, which describes in some detail the interview he had with M. Jean du Sault, the French Minister at the time the new program was explained to him. The memorandum reveals that Minister du Sault reported that during a recent meeting which he had with the Portuguese Minister of Foreign Affairs he was told that while the Portuguese feel that their position is a sound legal one which would be sustained in a court of law, the Portuguese are also conscious of the fact that there are certain political factors which must receive consideration and that new instructions are to be given to the Portuguese Delegates as soon as they are approved by Dr. Salazar.

As a matter of additional information (Embassy's telegram 1001, December 13) an unofficial luncheon and meeting was arranged by Messrs. Schwartz and Hanley for Friday, December 12, at which time Col. Fernandes and Dr. Brandao were afforded the opportunity to express their views "off the record." The result of the exchange of views may be summarized as follows:

The Portuguese desire to reach a gold settlement without further delay.

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Safehaven Despatch No. 328, December 16, 1947, Lisbon, Portugal

The Portuguese desire to put the Accord of February 21, 1947, into force as soon as practicable.

The Portuguese interpretation of the Accord should allow acceptance of the new solution outlined in Enclosure No. 1 provided it is modified to allow for partial participation in dividing the proceeds to be obtained from the colonies and the sums of money over and above the specific amounts mentioned in the Accord.

During the rather frank discussion which followed the luncheon it developed that the Portuguese Government has evidently decided that approximately 4 tons of gold can be surrendered without receiving full indemnification. Col. Fernandes and Dr. Brandao both confirmed this point but added that they would have to make that recommendation to their respective Departments for final approval. It was also evident that the Portuguese believe that they might locate more German assets for the purpose of liquidation provided Portugal shares in the proceeds. It was further indicated that should the Portuguese estimated additional share be sufficiently large, both Col. Fernandes and Dr. Brandao would be willing to recommend the restoration of an additional amount of gold ranging from approximately 6 to 11 tons so that our minimum figure of 15 tons will be reached.

The Portuguese are presently restudying their figures and it is hoped that the Portuguese offer of settlement will be officially submitted at the next plenary session. However, it is quite possible that one or more unofficial small meetings will be held for the purpose of drafting both the terms of the offer to be submitted by the Portuguese and the form of the letters to be exchanged between the Portuguese Delegation and the Allies. It is definitely understood that each Delegation is endeavoring to find an Accord which seems to them to be a reasonable solution and one which each side would be willing to submit to their respective Governments for final acceptance and approval.

An agreement on looted gold along lines indicated above may necessitate a change of one paragraph of the Accord of February 21 so that an exchange of letters on gold settlement will not contradict the Safehaven Accord.

Enclosures: *att.*

1. Copy of Memorandum by Mr. Schwartz, dated December 11, 1947, on Subject of Gold Negotiations.
2. Copy of Memorandum by Mr. Hanley, dated December 12, 1947, on Subject of Interview with Jean du Sault, French Minister.

JDHanley:HRKasper:RSchwartz:ear
Original and hectograph to Department
cc--American Embassy, London
American Embassy, Paris
American Embassy, Madrid

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Enclosure No. 1 to Despatch No. 328, December 16, 1947,
Lisbon, PortugalCOPY

December 11, 1947

MEMORANDUM

To: The Ambassador
From: R. J. Schwartz

In view of our conversation this morning, and at your suggestion, the following factors are presented for your consideration.

As you know, the discussions on looted gold with the Portuguese Technical Delegation have reached an impasse and, as agreed at a meeting with Ambassador Ronald, the Allied Technical Delegations have proposed in a letter to the Portuguese that the next plenary session be held sometime early in January. To my knowledge, no reply has as yet been received from this letter.

In reviewing the current status, it now appears that an informal talk with Colonel Fernandes and Dr. Araujo this afternoon or tomorrow might be the basis for some agreement. The nature of the proposed informal discussion would be that a further division of the German Assets to be liquidated in Portugal and in the Colonies could be divided in such a fashion as to give the Portuguese a large enough share for them to consider the restitution of looted gold.

The figures cited here are very definitely approximations but were used as a basis for the Accord signed with the Portuguese on German Assets.

The total estimated available proceeds of the liquidation of the German Assets is 30 million dollars. The Accord provides for the distribution of the German Assets as follows: 4 million dollars to the International Refugee Organization; 4 million dollars to be divided half and half between the Portuguese and the Allies; 10.4 million dollars to be divided half and half between the Portuguese and the Allies. These two divisions between the Portuguese and the Allies would net the Portuguese Government approximately 7 million dollars, which they estimate would cover claims against the German Assets. The balance of the proceeds from the German Assets, approximately 12 million dollars, was to go entirely to the Allies. This balance of 12 million dollars (which is a high estimate of the remaining assets) could be divided in some proportion, either 50-50 or in some other formula perhaps as great as 100 percent to the Portuguese if restitution of looted gold is set at a minimum of 17 million dollars (15 tons). The Portuguese would net an amount in excess of that presently estimated by the Accord, and it is proposed that this amount be used as the basis of the restitution to the Allies of the looted gold. Although it is not expected that there would be sufficient proceeds to be divided to allow for complete "indemnification" for as high as 15 million dollars, or even 12 million dollars, the further division of proceeds resulting

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Lisbon, Portugal

from the liquidation of German Assets could be the basis for exploratory talks. Our further thinking is that an exchange of letters could agree that the Portuguese would get a minimum of, say, 7 million dollars from the proceeds and would agree to make a restitution of a minimum of, for example, 12 million dollars in gold.

Ambassador Ronald has agreed to the consideration of this concept and a cable has been sent to Mr. McCombe, Chief of the U-K Delegation, asking his consent before any informal meeting is requested with the Portuguese. The matter will be taken up this afternoon with the French Minister and it is rather certain that his approval will be obtained. Since I have not bid farewell to the Portuguese Delegation, an opportunity is available for me to call and either extend a luncheon invitation or ask for a brief meeting. It is not clear at this time who would accompany me on such a meeting. Should anything arise from this, it is my intention to delay departure from Lisbon for a few days in order to push further developments and, if any success appears apparent, to suggest the British recall Mr. McCombe to Lisbon.

It is, as discussed with you this morning, my view and clearly also the view of the British Ambassador, as related to me this morning, that any such approach made to the Portuguese would not only be informal but would be based upon an understanding that such a proposal has not been presented to the respective Allied Governments, that there is no guarantee that such a proposal will be accepted by the Allies, that should the Portuguese look favorably upon this suggestion, we would then present it to our Governments. It would be further explained that the only basis for this suggestion is the fact that the Allied Delegations, and especially before my departure to Washington, wanted to be sure that every possible channel had been thoroughly explored.

The proposal above would be an incentive to the Portuguese to liquidate the maximum of German Assets and would result, as any agreement on looted gold would, in a decided advantage to us. We, of course, recognize that the Accord on German Assets will not be effective unless and until an accord on looted gold is reached.

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Enclosure No. 2 to Despatch No. 328, December 16, 1947
Lisbon, PortugalCOPYMEMORANDUM

December 12, 1947

To: Ambassador Wiley

From: Mr. Hanley

Subject: Regarding Conversation With French Minister on Gold

In accordance with the decision reached during the conversations Mr. Schwartz and I had with you Thursday morning, December 11, I called on Minister du Sault yesterday afternoon at 5 o'clock. Minister du Sault informed me that he had just seen the Minister of Foreign Affairs (Caeiro da Matta) and was endeavoring to reach you and the British Ambassador by telephone to relate the substance of the conversation he had with Caeiro da Matta. He asked me to give you the information.

In reply to Minister du Sault's description of the unsatisfactory results to date on the gold negotiations, Caeiro da Matta stated that he would give two answers to the question presented;

- (a) As a professor of law, Caeiro da Matta regards the Portuguese position sound and one which would be sustained in a court of law.
- (b) As the Minister of Foreign Affairs, Caeiro da Matta realizes that there are certain political factors which should be considered and he will see Dr. Salazar and the Minister of Finance, possibly the same day, at which time the political factors will be thoroughly discussed. Caeiro da Matta added that following the discussion with Dr. Salazar and the Minister of Finance, fresh instructions will be issued to Col. Fernandes and Dr. Brandao.

Minister du Sault also stated that he informed Caeiro da Matta that he was not acting on instructions from Paris but was discussing the question of gold because some report must be made very soon to the 18 nations participating in the reparations, and that no reasonable proposal having been presented which he and his British and American colleagues could recommend as a possible solution, he was taking the opportunity of mentioning the subject personally to the Minister of Foreign Affairs.

According to Minister du Sault, Caeiro da Matta appeared to be sincerely interested in the unsettled gold question and mentioned one other rather significant point that being Portugal's lack of participation in both the World Bank and the International Monetary Fund.

In ending my interview, Minister du Sault approved the plan outlined in Mr. Schwartz' memorandum to you of December 11 even though he did not understand all the specific figures

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Enclosure No. 2 to Despatch No. 328, December 16, 1947
Lisbon, Portugal

which I put to him. Minister du Sault was well informed on the terms of the Accord signed February 21 and seemed to grasp the general theory of the approach which will be made by Mr. Schwartz and me at the luncheon given for Col. Fernandes and Dr. Brandao on Friday.

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Classification approved: GMB

No. 494

To the
Officer in Charge of the American Mission,
Lisbon.

The Acting Secretary of State refers to the Embassy's Safehaven Reports No. 176 of September 22 and no. 187 of September 30 concerning the account of Manfred Katz which has been blocked under Portuguese Decree Law 34,600.

There is quoted herewith for the information of the Officer in Charge a letter that has been received by the Department of State from the Treasury Department.

"Treasury files disclose an application submitted by Leo Katz on June 10, 1946 'to receive from the private banking firm, Pancada, Moraes and Company of Lisbon, Portugal, the sum of Five Thousand American dollars and 196,461.60 Escudos.' It was stated in the application that the funds were placed in the bank by Manfred Katz, brother of the applicant, and had been received by him as a result of the sale of a farm known as Metairie de Salzes which was located at Toulouse, Hte. Garonne, France. This farm was represented as belonging to the applicant between 1936 and 1944 and was managed by Manfred during that period of time. According to the applicant, Manfred was in Barcelona, Spain from 1944 to 1945 and in Madrid from 1945 to 1946.

"In support of his application, Leo Katz submitted photostatic copies of letters from the Portuguese bank, a statement of the account, and two documents executed by Manfred Katz authorizing the applicant to deal with the bank account.

jk
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"Replying

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"Replying to Treasury questions concerning the proposed transfer, Leo Katz advised that he wished the funds transferred to his bank in Los Angeles (Bank of America, 6333 Hollywood Blvd., Hollywood, California). The firm, according to Leo, was sold without Treasury license by Manfred who had a power of attorney to dispose of it. Leo further stated that he had lost track of his brother, Manfred, between February 1942 and the Fall of 1945. He said he saw his brother and parents in May 1946. He said, also, that he did not know how the dollars in the Pancada, Moraes account were acquired by Manfred. A copy of the power of attorney allegedly sent to Manfred early in 1941 was submitted with the foregoing information.

"Apparently in response to questions addressed to him by Leo, Manfred advised that he had sold the French estate in June 1941, 'one day before the laws (against Jewish holdings)' and not in 1944 as stated by Leo. He wrote that he purchased the dollars, which he described as 'declared dollars', from a Victor Carmona.

"On the basis of the information supplied, a Treasury license was granted permitting 'transmittal of a letter of instructions to Pancada, Moraes and Company requesting the transfer of the sum of \$5,000 and the further sum of Portuguese Escudos 196,461.60 from an account maintained on its books in the name of Mr. Manfred Katz and the remittance of the sum of \$5,000 and the equivalent sum in U.S. dollars of Portuguese Escudos 196,461.60 to the Hollywood Main Office, Bank of America, N.T. and S.A., Hollywood, California, for credit to an account on its books in the name of Leo Katz.' This license, which has been extended several times, expires December 31, 1947.

"In view of the aforementioned despatches recently received from Lisbon dealing with the background and activities of Manfred Katz and indicating that his assets are blocked as German under Portuguese Decree Law 34600, Treasury is revoking the license granted to Leo Katz. No further action will be taken by this Office until a decision has been reached in Portugal with respect to the funds in the name of Manfred Katz."

A copy of this instruction is being transmitted to the American Embassy at Paris and to the U.S. Political Adviser at Berlin.

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A true copy of the signed original

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

Admiral
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[Signature]
[Signature]

Lisbon August 8 1949

No. 213

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SUBJECT: De-blocking of German Assets earmarked for Refugee Purposes; Visit of Mr. Seymour Rubin to Lisbon and Embassy Assistance.

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THE HONORABLE
THE SECRETARY OF STATE
WASHINGTON

DIVISION OF ECONOMIC PROPERTY
POLICE
AUG 11 1949
DEPARTMENT OF STATE

SIR:

I have the honor to refer to the Department's unclassified airgram instruction No. 111 of June 16 1949, regarding a proposed visit to Lisbon on the part of Mr. Seymour RUBIN representing certain US organizations interested in refugee problems, and to report that Mr. Rubin duly arrived here on August 1st, and was given the Embassy's assistance in accordance with the Department's wishes.

Mr. Rubin called on me and explained that the purpose of his visit was to obtain, if possible, the release by the Portuguese Government to the IRO of all or part of a substantial fund, realized from the sale of German assets and earmarked for refugee sufferers from Nazi persecution but now blocked in this country pending settlement of the "looted gold" issue between Portugal and some of the Allied Nations. He said that while he did not speak for the IRO in this matter, he did represent the relief and welfare organizations through which 90 percent of such funds as might be turned over to the IRO would be distributed. He named in this connection both the Jewish Agency for Palestine and the American Jewish Committee.

Before Mr. Rubin arrived, and having in mind the Department's instruction and its interest in this matter, I arranged for him to be received by Colonel J. Wiley FERNANDES, of the Ministry for Foreign Affairs, who I was told was already somewhat cognizant of the background. I also spoke to Dr. Antonio FARIA, Acting Director-General of the Ministry, who alerted Colonel Fernandes but seemed somewhat reluctant to enter into the question himself. In fact, Dr. Faria indicated that he saw little hope of Mr. Rubin's desires being met pending settlement of the looted gold issue, on which he said Portugal "has been very badly treated." Nevertheless, despite his reluctance, I was able later to bring him and Mr. Rubin together, as recorded below, so that the latter might explain to higher authority a case which seemed to me to present broad aspects worthy of consideration on other than mere technical grounds.

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Despatch No. 213

August 8, 1949

American Embassy

Lisbon, Portugal

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The following paragraphs, drawn up with the aid of Mr. Rubin and Mr. J. Daniel Hanley, who has long taken care of the details of the German assets problem for this Embassy, give the gist of the conversations above mentioned, at which Mr. Hanley was also present, and indicate as far as would seem possible, the prospects of success as they stood on Mr. Rubin's departure on Friday, August 5.

At the time the appointment with Colonel Fernandes was made, a brief explanation was given of the purpose of Mr. Rubin's visit. At the interview which took place on August 3rd, Colonel Fernandes gave the impression of being prepared to listen sympathetically but not to give much encouragement to the proposition suggested by Mr. Rubin that the 100 million escudos fund earmarked for refugee purposes be released at this time. He explained that after Dr. Faria had alerted him regarding Mr. Rubin's visit he had spoken to the Minister of Finance regarding the possibility of releasing blocked German assets for the use of refugee organizations, and that the view of the Minister, at least tentatively and prior to the meeting was in the negative.

Colonel Fernandes explained that while he did not believe that the Minister of Finance would change his view as to urgency of refugee needs and the separability of the refugee issue, the arguments and reasons given by Mr. Rubin would be relayed to the Minister for such reconsideration as he might be willing to give the matter. Speaking more generally, he blamed the Allies for delay and failure to reach a solution on the gold issue, and indicated that that issue is the only obstacle preventing the immediate and full implementation of the Accord initialled February 21, 1947. According to him, the Portuguese Government is unlikely to consider the distribution of any German assets whatever until this question is finally settled, since it takes the position that such assets will be used in the first instance to repay it for any gold which it may have to deliver under the settlement. He also spoke of the "foolishness" of the Allied demand for gold at a time when Portugal was asking Marshall Plan aid. He expressed sympathy but no definite view regarding the humanitarian features of Mr. Rubin's appeal. Finally, he opined that a written communication to the Ministry for Foreign Affairs, if presented at this time, would be delivered to Dr. Salazar for consideration because he is temporarily occupying the position of Foreign Minister during the absence of Dr. Caeiro da Mata.

On the next day, August 4, I introduced Mr. Rubin to Dr. Faria, Acting Director-General of the Foreign Office, and explained briefly the purpose of his visit. Dr. Faria began by stating that the position of the Portuguese Government had already been expressed by Colonel Fernandes during the interview above recorded. He indicated, however, that although not conversant with the technical details, he would be willing to listen to further exposition of the subject. Mr. Rubin then outlined his appeal as contained in full in

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Despatch No. 213

August 8, 1949

American Embassy

Lisbon, Portugal

the Aide Memoire which he left with Dr. Faria, and of which a copy is enclosed with this despatch. Dr. Faria listened carefully. In reply, he reiterated the principle that the agreement could not be implemented until the gold question is settled, but he seemed impressed by the fact that the Swiss Government has made an advance of 20 million Swiss francs despite disagreement on implementation of the Swiss Allied Accord, and also by the possibility that the refugee funds, if released, might be used within the limits of the Portuguese economy and without straining foreign exchange reserves. In this connection he showed some interest in the utilization of similar funds turned over to IRO by the Swedish Government under the Swedish Allied Accord. Finally he concluded by saying that he would have to discuss the matter once more with the Minister of Finance, and, on being asked by Mr. Hanley whether it would come up to Dr. Salazar, said he thought not. I then spoke up and stressed the view that, since the first 100 million was expressly set aside by common consent for humanitarian purposes, it would seem that it could and should be applied to those purposes when needed, and not subjected to the same blockade as the remainder. However, Dr. Faria merely replied that for the moment he could only take the attitude already expressed. The formal interview then ended, but I remained behind for a moment to urge that the Portuguese Government take a broad view of this matter, and to suggest strongly that it might be one which Dr. Salazar would be willing to consider on policy grounds. In this brief interchange, Dr. Faria said he felt Portugal could not afford to do anything which might weaken her position on the gold question, and I replied that I could not see how any such results would arise in the circumstances, but suggested that Portugal might cover herself additionally, if she so desired, by stating that in acting in accord with the expressed intention of all parties to the agreement, she was doing so without prejudice to her position on any questions under dispute.

Respectfully yours

Enclosure 

Aide Memoire dated

August 4, 1949

Copy to:

American Embassy, London
American Embassy, Paris

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By WDP NARA Date 8/10/00

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Enclosure to Despatch No. 213, dated August 8, 1949, from the American Embassy, Lisbon, Portugal.

COPY

STATE MEMOIRE

Mr. Seymour J. Rubin, of Washington, D. C., had the honor to be received today by His Excellency Dr. Antonio de Faria, Acting Director General of the Ministry of Foreign Affairs. Mr. Rubin was authorized to speak on behalf of the Jewish Agency for Palestine, an organization which would be a principal beneficiary of allocations to be made by the International Refugee Organization from the proceeds of German assets in Portugal. This organization is concerned with resettlement of refugees in Palestine. Mr. Rubin also had the honor to represent the American Jewish Committee, an American organization of forty years' standing which is deeply interested in refugee matters.

Mr. Rubin was introduced by the American Ambassador.

Mr. Rubin recalled that Article v(I) of the agreement on German assets, initialled in February, 1947, provided that the sum of 100,000,000 escudos was "in the first place" to be distributed "for assistance to non-patriotic victims of German aggression". Thus, both the Allied Governments and the Government of Portugal had agreed, for humanitarian reasons, that priority assistance should be given to those who had been so victimized by Nazi Germany as to become homeless refugees. Moreover, the sum so to be allocated was so described as to indicate that it was separated in the agreement itself from any issues connected with distribution of further proceeds.

At the present time, the needs of those organizations which were ministering to the needs of refugees were extremely great. The needs of refugees and the humanitarian tasks of providing for their maintenance and resettlement are present and pressing problems, on the immediate solution of which avoidance of further human suffering depends. The organizations serving these refugee needs had hoped that the sum of 100,000,000 escudos would be put at their disposal shortly after the initiation of the negotiations in 1946. Although those organizations of course realized the matters of concern to the interested Governments and until now prevented full implementation of the agreement, they could only hope that on a matter such as this, where agreement that assistance was necessary had been reached, and where the needs were great and present, a method could be worked out of making these funds immediately available to the International Refugee Organization for use in this great task.

Mr. Rubin pointed out that liquid funds, arising out of the sale of German assets, already existed in blocked accounts. All that was necessary at this time was to transfer title to the accounts up to the designated amount, no drain on the Portuguese economy and no diversion of Portuguese funds or funds which might otherwise be available to Portugal was thus involved. On the contrary, it was entirely possible that the judicious expenditure of these funds for relief and other supplies might be of benefit to the economy of Portugal.

It was,

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Enclosure to Despatch No. 213
Dated August 3, 1949
American Embassy, Lisbon

It was reiterated that the organizations on whose behalf this appeal was presented could not and did not have views in connection with the general problems of the negotiations between the Allied Nations and the Government of Portugal. The essential basis of the appeal was clear: agreement had been reached that the first funds available should in any case be used to the amount of 100,000,000 escudos for the relief of victims of German aggression. The necessary funds were in existence and a simple order transferring them out of the blocked accounts in which they now stood into an account in the name of the International Refugee Organization was all that was now necessary. The present needs of refugees were great and unlike certain other types of claims could not be postponed without occasioning great human suffering. It was hoped that the Government of Portugal, in containing its recognition of the special and urgent status given to refugee needs under the agreement of February, 1947, and in view of the separability of that question from other matters which might still be under discussion, would offer to allow the transfer of these funds to be effected.

It was also mentioned that the Government of Switzerland had recognized the separateness and the urgency of the refugee problem in making voluntarily available the sum of 20,000,000 Swiss francs during 1946, despite the fact that disagreements then existed and still exist as to implementation of the Swiss Allied Accord on German assets. This fact is cited only in connection with the universal recognition of the need for extraordinary measures for solution of refugee problems. The organizations interested in refugee problems can only hope that the Government of Portugal, in recognition of the humanitarian considerations involved, would take analogous action.

Finally, Mr. Rubin stated that the agreement already reached on the priority of refugee funds and the separateness of that problem, the simplicity of the remedy, and the availability of the funds, together with the urgency of the present refugee needs and the well-known humanitarian aims, policies and practices of the Portuguese Government had combined to bring about this appeal at this time. He urgently hoped that the Government of Portugal would on the basis of the special considerations here mentioned indicate its approval for the transfer of the sum stated to the account of the International Refugee Organization, for re-transfer to the benefitting agencies.

Mr. Rubin thanked His Excellency for his courtesy in receiving him, expressed his willingness to return to Portugal for any further discussions, and expressed his hope, on behalf of the organizations mentioned, for any early and favorable reply. He suggested transmission of such reply through the facilities kindly extended by the Embassy of the United States of America.

Lisbon, August 4, 1949

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STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : OE - Mr. Baker

DATE: August 29, 1947.

FROM : FN - Mr. Fletcher

SUBJECT: Portuguese Negotiation on Looted Gold

In FN opinion there is no useful purpose served by submitting the attached memorandum Distribution of additional looted gold by means of implementation of Portuguese External Assets Accord to Mr. Ness. The description of the background situation against which OE's recommendation was made is not up to date. The Tripartite Gold Commission in Brussels has already suggested preliminary distribution of the gold available and the Department has tentatively approved such distribution. There is no connection between the decision to distribute presently available gold in the near future and the completion of an agreement with the Portuguese on looted gold except that if a satisfactory agreement could be reached in time before the preliminary distribution takes place, the quota of the various claimant countries, including France (ultimate receiver of the Belgian share) would be seven to twelve per cent higher.

This Division is already in contact with both the Treasury as to establishment of a reasonable settlement figure and with the geographical desk of the Department as to timing and procedure. In the first instance FN agrees with Treasury's tentative position that no less than forty million dollars worth of looted gold which has been actually identified could be considered without running the risk of justified reproaches by the smaller claimant nations. In order to get from the Portuguese a settlement at this figure, high pressure will have to be put on the Portuguese Government. WE states that the pending negotiations on certain essential security issues referred to in OE's memorandum are of such nature that no pressure can be put on the Portuguese Government on the gold issue before the security negotiations are completed. Therefore, both the WE Division and our ambassador in Lisbon, while most sympathetic to our aim of recovery of as much looted gold as possible, strongly recommend the reopening of the gold negotiations only after completion of the pending negotiations.

Mr. Dunham, who has just returned from Lisbon, summarizes the situation by saying that without pressure no gold settlement can be reached with the Portuguese. No pressure can be put on the Portuguese by the U.S. Government before completion of the security negotiations. A unilateral French approach to the Portuguese Government

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would have no effect. How much pressure we will be able to put on once the pending negotiations are completed will depend upon the outcome of these negotiations.

cc:Le/E

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