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Authority NND 760050
By EK NARA Date 7/8RG 59
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for the consideration of the Swiss Member of the Commission a memorandum under date of March 5, 1948, discussion of which has been postponed at his request.

4. The nature of this problem is such that it cannot usefully be put before the Joint Commission for solution. The three Governments also have in mind that the Swiss Note of October 8, 1947, has raised issues which are the concern not only of the three Governments directly, but also of the authorities responsible in Germany and the Inter-Allied Reparation Agency.

In these circumstances, the three Governments propose the following programme as a means of resolving the anomalous insulation of the proceeds of German assets in Switzerland from European reconstruction, and from the attainment of the objectives common to the four Governments. This programme consists of two parts.

A. The three Governments, referring to the Swiss Note of October, 1947, accept, subject to the conditions set out in the immediately following paragraph (i), the offer "to continue to accelerate and to extend transformations already begun of assets into blocked accounts".

(1) Acceptance of this offer is conditioned upon the understanding that major holdings of Germans in Switzerland

will be

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will be forthwith liquidated through the process of "transformation". Minor and inconsequential transformations such as have already occurred have no effect, either present or future, upon the problem. It should therefore be understood that firm directions will be issued to the competent Swiss authorities immediately to liquidate in the first instance these properties on Joint Commission List No. 10 of the Swiss Compensation Office.

(ii) For the reasons stated above, and pursuant to the Resolution of the Inter-Allied Reparation Agency which is appended to this Note, the Government of Switzerland is requested to make immediately available to the three Governments for the purposes envisaged in the Accord the sum of 100,000,000 Swiss francs, as an advance against the total sum to be realized from German assets in Switzerland. The blocked accounts and other German properties in Switzerland will stand as security for this advance. The importance of an immediate advance, particularly in present circumstances of extraordinary inter-governmental economic cooperation and assistance, cannot be exaggerated.

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(iii) The three Governments also request, in the interest of the humanitarian objectives of the four Governments, that the Swiss Government give early and favorable consideration to the request contained in the Notes of the three Governments of February 13, 1948, that the sum of 20 million Swiss francs be now advanced to the three Governments for transfer to the International Refugee Organization. In this connection, the three Governments recall with gratification the traditional Swiss attitude on questions of relief, and the Swiss offer of June 10, 1947, to the Government of the United States to consider sympathetically any suggestion for making the sum of 50 million Swiss francs available for that purpose.

B. The three Governments are prepared, if this program is acceptable to the Swiss Government, to begin immediately discussions at the proper diplomatic level directed toward adjustment and settlement of problems relating to the expeditious execution of the Accord. In this connection the three Governments must again stress the present and practical necessity of utilizing all possible sources of funds in the interests of European rehabilitation - a necessity for which the three Governments are sure the Swiss Government has an equal regard.

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(i) The three Governments are prepared, on the basis of this program, to discuss the functions of the Joint Commission in the light of the objectives of the Accord.

(ii) Further, the custodial authorities of the three Governments will, individually, be willing to discuss with the Swiss Government such intercustodial problems as may exist between them and the Government of Switzerland.

This suggestion lies beyond the scope of the Accord, since the Accord was entered into on the understanding on the Allied side, which was stated at the time by Allied to Swiss officials, that intercustodial problems were not within the scope of the Accord. Nevertheless, the three Governments, individually, are prepared to discuss this problem as one in which it is understood that the Government of Switzerland takes a considerable interest.

5. In conclusion, the three Governments are convinced that the prompt resolution of problems arising out of or related to the Swiss-Allied Accord is of as great interest and indeed advantage to the Swiss Government as to any other. The interest of the Governments members of the Inter-Allied Reparation Agency is evidenced by the annex hereto, and the interest of the International

Refugee Organization

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Refugee Organization is obvious. Under the urgency of circumstances with which the Swiss Government, from its participation in the work of the Committee on European Economic Cooperation, is fully acquainted, a narrow and - in the opinion of the Allies and their legal advisers - mistaken construction of the Accord should not be the occasion for the complete withholding of the proceeds of German assets in Switzerland from the needs of the times. The difficulties in the way of establishing the rate of exchange for the reichsmark were recognized and fully discussed in Washington in May 1946. It was for that reason that no requirement other than of a uniform rate of exchange was stipulated in the Accord, and why settlement of such a rate was not - as the Swiss negotiators had at first suggested - established in the Accord as a condition precedent to liquidation and the distribution of the proceeds. It is clear that no immediate solution to the rate of exchange problem is attainable, although the three Governments emphasize that they fully stand by the obligation, guaranteed by their signature of the Accord, in regard to compensation of the German owners. It is equally clear that the present is a time of great stresses, when all available resources are being marshalled in a unique cooperative effort.

The three

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The three Governments would be reluctant to believe that the Government of Switzerland would fail to give favorable consideration to a programme designed to carry out the objectives to which Switzerland subscribed in 1946 and which are of even greater relevance now to the common welfare of Switzerland and that of other countries.

Department of State,

Washington, May 11, 1948.

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L/E: SJRubin:iar

5/11/48

Classified with:

LEP
Mr. Oliver

WE
Mr. O'Shaughnessey

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W.T.

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Form DS-302
(7-2-46)

DIVISION OF
COMMUNICATIONS AND RECORDS
TELEGRAPH BRANCH

DEPARTMENT OF STATE

[Signature]
ACTION COPY

INCOMING TELEGRAM
CONFIDENTIAL

5-M

Control 402

Rec'd July 1, 1948
8:39 p.m.

OFFICE OF
FINANCIAL & DEVELOPMENT POLICY

[Handwritten signature]
JUL 2 1948

FROM: Bern

TO: Secretary of State DEPARTMENT OF STATE

NO: 832 July 1, 5 p.m.

Allied members JC called on Stucki this morning at his request. He read memorandum stating Federal Council had decided make 20 million Swiss francs advance to IRO without waiving its legal positions under accord and requested method in which payment should be made and to whom. He indicated payment perhaps should be made one of Allied governments, who can receipt therefor on behalf IRO. Please instruct.

Stucki requested no publicity be given fact decision has been made to make advance and that IRO should not as yet be informed but entire matter should be kept as confidential for time being. Stucki made this request because otherwise he said payment would appear to be made as result Allied pressure evidenced by recent Mayhew statement House of Commons and IARA press release.

In informal discussion Stucki said Petitpierre letter May 20 was sent at request Swiss Finance Minister who is of opinion that if monetary reform in Germany cancels Swiss credit and if actual debiting of Swiss account cannot be done in Verrechnungskasse Article 1 (C) of Annex and accord could not be complied with. However, he asked for no further answer from Allies on this point.

Stucki stated that while Federal Council had not acted finally, Allied note May 11 will probably be rejected and Swiss will propose arbitration all questions. He listed following six points to be arbitrated and said there would probably be others:

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JUL 2 1948

DEPARTMENT OF STATE

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Answered by Rubin
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DIVISION OF OCCUPIED AREAS
COMMUNICATIONS AND RECORDS
TELEGRAPH BRANCH

Silva
OFFICE OF FINANCIAL AND ECONOMIC AFFAIRS
DEPARTMENT OF STATE
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JUL 13 1948

DEPARTMENT OF STATE

INCOMING TELEGRAM

JUL 13 1948

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DEPARTMENT OF STATE

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CORRECTED PAGE TWO
7-12-48 3 p.m.
CORRECTION UNDERSCORED

-2- #832, July 1, 5 p.m., from Bern, Control 402.

1. Is Switzerland required liquidate under accord prior settlement exchange rate question?
2. Swiss position on expose 49.
3. (Legality JEIA ?) black list.
4. Whether decisions of JC and SAR will be given external effect; i.e., if they declare a concern non-German should they be recognized by IARA countries in case of assets of such company outside of Switzerland?
5. Situation arising out of certification agreement with US whereby firms having 25% or more German interests are not subject to certification and right of US to vest assets such firms as enemy property.
6. Title of personal property owned abroad by companies in Switzerland liquidated under accord; i.e., will title of purchase of Swiss Company to such personal property outside Switzerland be recognized? Gave as example the US barges.

Stucki said there was division of opinion in Swiss Government but by majority of one Comite de Surveillance had decided continue present transformation spending arbitration rather than stop all transformations.

Stucki reiterated Swiss position taken in October 11, 1947 note that Swiss had right to participate in determining whether any exchange rate fixed in Germany was adequate compensation for Germans. He said present monetary reform in Germany did not solve exchange rate question as such rate would have to be considered by Switzerland to determine whether it afforded Germans proper compensation and if Switzerland thought it did not question of proper rate of exchange to afford compensation would be submitted arbitration. In light of above Swiss position particularly in regard to arbitration, prospects of proceeding toward objective of accord seem dim indeed.

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JUL 12 1948

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CONFIDENTIAL

-2- #833, July 1, 5 p.m., from Bern.

1. Is Switzerland required liquidate under accord prior settlement exchange rate question?
2. Swiss position on expose 49.
3. (Legality JEIA ?) black list.
4. Whether decisions of JC and SAR will be given external effect; i.e. if they declare a concern non-German should they be recognized by IARA countries in case of assets of such company outside of Switzerland?
5. Situation arising out of certification agreement with US whereby firms having 25% or more German interests are not subject to certification and right of US to vest assets such firms as enemy property.
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THE FOREIGN SERVICE
 OF THE
 UNITED STATES OF AMERICA

ACTION
 is assigned to

DIVISION OF OCCUPIED AREAS AMERICAN LEGATION
 ECONOMIC AFFAIRS

SECRET

File

Bern, July 1, 1948.

JUL 15 1948

DEPARTMENT OF STATE

No. 489.

Subject: Transmission of Legation's note dated July 1, 1948, to Federal Political Department requesting clarification of ownership of certain German war material.

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The American Minister at Bern has the honor to refer to the Legation's secret telegram No. 296 dated March 12, 1948, which stated that the firm of Werkzeugmaschinenfabrik Oerlikon Bührle & Co. of Zurich was holding in its warehouses anti-tank and anti-aircraft guns for which the former German Government had paid 14,700,000 Swiss francs, and that this property was considered by the Swiss Compensation Office to be property of the former German State rather than private German assets covered by the Allied-Swiss Accord.

Reference is also made to the Legation's confidential despatch No. 14967 dated March 25, 1947, in which it was stated that the Swiss Compensation Office had instructed Bührle & Co. not to dispose of the property without express authorization. At that time the Federal Political Department still had under consideration the question of ownership of the property.

Since the time - March 6, 1948 - when the Swiss Compensation Office notified the members of the Joint Commission that the property constituted assets of the former German Government, the Legation has had no confirmation of this view from the Federal Political Department. On the other hand, the Legation has received indications from reliable sources that Emil Bührle, head of the firm bearing his name, may have assumed that he now has power to dispose of the property, provided, of course, that he obtains the necessary license from the Federal Political Department. (So far as is known, the property has not been disposed of to date, and the following discussion is based on that assumption).

It therefore occurred to the Legation that although the Swiss Compensation Office has officially informed the members of the Joint Commission that the subject material constituted assets of the former German Government it would be advisable to get direct confirmation of this fact from the Swiss Government through the Federal Political Department. Such a

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(Page 2 of Despatch No. 489, dated July 1, 1948, from the American Legation at Bern, Switzerland)

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request for confirmation appeared to be justified by the fact that an examination of the Administrative Report of the German Interests Section of the Federal Political Department for the year 1947 (two copies of which were transmitted to the Department under cover of the Legation's despatch No. 201, dated March 17, 1948) did not reveal any mention of the subject material in the listing of the former German State assets existing in Switzerland.

In view of the need for clarification that this apparent omission seemed to require, and in view of the fact that there does appear to be some danger that the property might actually be disposed of in a way that would not be in the interests of the United States, the Legation has addressed a note to the Federal Political Department asking to be informed with regard to the present status of the property. A copy of this note, dated July 1, 1948, is enclosed herewith for the Department's information. A copy is also being sent to Berlin, together with a copy of this despatch, for the information of the United States Political Adviser for Germany.

The Legation has not yet received a reply to its note to the Federal Political Department dated February 10, 1948, requesting further consideration of the question of transfer of German State assets in Switzerland to the Allied Governments, and, as indicated in the Legation's confidential despatch No. 317 to the Department dated May 4, 1948, it is not likely that a reply will be made until the question of the future government of Germany is clarified. Nevertheless, even though it is unlikely that the Swiss Government will relinquish its custody of German State assets - including the material in question - to the Allied Governments in the near future, it would appear advisable to have it on record that the United States Government considered the subject material to be part of the assets of the former German Government to which the Governments of the United Kingdom, France, and the United States have laid claim. It is expected that the Federal Political Department will confirm that the property is considered by the Swiss Government as German State assets and is still subject to blocking decrees. In any case, it is believed that the Legation's note of July 1, 1948, will have the effect of putting the Swiss Government clearly on notice of our claim with regard to the subject material and making it less likely that the material would be disposed of without, at least, notice to the Legation. In addition to this, of course, a definite confirmation from the Federal Political Department of our understanding with regard to the ownership of the property would provide clarification of a matter which for the reasons mentioned above is surrounded by some doubt.

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(Page 3 of Despatch No. 489, dated July 1, 1948, from the American Legation at Bern, Switzerland)

It is agreed at the Legation, after discussions with the Office of the Military Attaché, that although the value of the subject material to the Allies is not inconsiderable, the main consideration is that it should not be sold to buyers who are not approved of by the United States.

Enclosure; *att.*
✓ Copy of note to FPD dated July 1, 1948.

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Original and hectograph to the Department.

Copy to USPOLAD, Berlin.

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(Enclosure to Despatch No. 489, dated July 1, 1948,
 from the American Legation, Bern, Switzerland)

No. 3063.

The Legation of the United States of America presents its compliments to the Federal Political Department and has the honor to refer to the matter of certain anti-tank and anti-aircraft guns and ammunition which are believed to be the property of the former German Government and are now stored in the warehouses of the Werkzeugmaschinenfabrik Oerlikon Bührle & Co. in Zurich.

The question of the disposition of this property, which has a value of approximately 14,700,000 francs, was first raised by the Legation with the Federal Political Department in a letter dated August 2, 1946, requesting confirmation, if the Swiss investigation of the facts so warranted, that this material had been blocked in accordance with the prevailing Swiss decrees. In response thereto, the Federal Political Department in a letter dated October 7, 1946, confirmed that the Swiss Compensation Office had declared the material to be subject to the provisions of the blocking decrees, and, furthermore, had informed Bührle & Co. that the latter could not dispose of the material without explicit authorization. It was stated, however, that the question of ownership of the property still had to be clarified.

By letter

To the

Federal Political Department,

Bern.

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By letter dated March 6, 1948, the Swiss Compensation Office notified the members of the Joint Commission that the material in question was not considered to be private German assets covered by the Allied-Swiss Accord, but rather as property of the former German Government.

An examination of the Administrative Report of the German Interests Section of the Federal Political Department for the year 1947, however, does not reveal any mention of the above property in the listing of the assets of the former German Government now in Switzerland. It would, therefore, be appreciated if the Federal Political Department would inform the Legation with regard to the present status of the material, and particularly with regard to the following points:

- (1) The ownership of the property;
- (2) The present force and effect of the blocking decrees as applied to the material by the Swiss Compensation Office.

The Legation of the United States of America avails itself of this occasion to renew to the Federal Political Department the assurance of its highest consideration.

Bern, July 1, 1948.

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA
DEPARTMENT OF STATE

ACTION
Assigned to

W.E. Rubin

1948 JUL 12 LEGAL ADVISER
NO. 490
B-312

AMERICAN LEGATION
Berne, July 1, 1948

CONFIDENTIAL

No. 490

DIVISION OF OCCUPIED SUBJECTS
ECONOMIC AFFAIRS
JUL 1 1948
DEPARTMENT OF STATE

Subject: Possibilities of Swiss advance under Article V of Annex to Washington Accord, and views of Minister Stucki on other matters related to the Accord.

The Minister has the honor to refer to the Legation's despatch No. 117, February 16, 1948, transmitting a copy of the note addressed by the Legation to the Federal Political Department requesting the Swiss Government to make available to the three Allied Governments the sum of twenty million Swiss francs under Article V of the Annex to the Washington Accord, and to transmit herewith a confidential memorandum of conversation on the subject between representatives of the International Refugee Organization, Geneva, and Minister Walter Stucki, Swiss Political Department, Berne.

It will be noted that Mr. Stucki in talking to the IRO representatives expresses what has seemingly become a fixed Swiss policy with respect to the Washington Accord and places the delay on implementing that agreement on the failure of the Allies to reply to various communications from the Swiss. His comment about the French note asking for the Swiss francs 20,000,000 advance also reveals the sensitiveness of the Swiss on the whole subject of the Washington Accord. It also shows their tendency to constantly take refuge behind a strict legal position.

The fact that the Swiss are now finding legal impediments to making the advance to IRO seems somewhat strange as they had previously offered to advance the entire fifty million Swiss francs provided for in Article V of the Annex by an aide memoire delivered to the Department on June 10, 1947. (Department's instruction No. 62, March 22, 1948). It must be assumed that the Swiss considered the legality of making such an advance before offering to do so. One reason why the Allies at the recent Paris conference deemed it advisable to request the advance sought by IARA was because the Swiss in offering to make an advance under Article V of the Annex had seemingly concluded that there were no legal obstacles to making advances.

It is questionable whether the remarks of Mr. Mayhew in the House of Commons on May 28, 1948 (London's A-1201, June 9, 1948) had the influence on the Swiss Federal Council attributed to them by Mr. Stucki. The comment in the Swiss press after the Mayhew statement was publicized was not extensive and died down after a few days. There seems to be as much newspaper criticism of the failure of the Swiss Government to keep the Swiss public informed of negotiations with

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By EIC NARA Date 7/10

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Despatch No. 490/July 1, 1948/Bern.

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respect to the Washington Accord as resentment at Mr. Mayhew's remarks. There is, however, no doubt truth in the statement that public castigation of Switzerland, such as in Mayhew's remarks and the IARA press releases (Legation's telegrams Nos. 774, June 16, 1948 and 809, June 21, 1948), does deter Swiss action because any steps they now take will appear to be caused by Allied pressure.

Stucki's statement about arbitration conforms to Foreign Minister Petitpierre's remarks in Parliament (Legation's No. 761, June 12, 1948) and the official communique issued thereafter (Legation's No. 774, June 16, 1948), and seems to nail down the fact that Switzerland will seek arbitration of all pending Washington Accord questions. This will no doubt be the reply to the Allies note of May 11, 1948. Such a course would abet the Swiss idea of delaying action, hoping for some amelioration of the Accord, and will at the same time strengthen their position vis-a-vis Germany whose retaliation they still fear. (Legation's despatch No. 478, June 29, 1948).

There is something peculiar about what Mr. Stucki says about Mayhew's apology to the Swiss Legation in London for his remarks in the House of Commons. According to London's telegram 2525, June 8, 1948, to the Department, repeated to Berne as 117, Mayhew defended the Allied position when he saw Escher of the Swiss Legation. In any event it is to be expected that the Swiss will continue to make unilateral approaches to the various Allies in order to destroy a common Allied front (Legation's No. 703, June 2, 1948).

The IRO representatives have now informed the Legation that Mr. W. Hallum Tuck, Executive Secretary of the International Refugee Organization, addressed a letter to Mr. Petitpierre on June 21, 1948 requesting favorable action on the Allied request for the twenty million Swiss francs advance to IRO as suggested by Mr. Stucki.

Enclosure: *att.*

✓ Copy of confidential memorandum of conversation.

NBKing/sn
850.3

Original and hectograph to Department
Copy to American Embassy, London.

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Enclosure to despatch No. 490, July 1, 1948, American Legation, Berne.

MEMORANDUM OF CONVERSATION

Together with Dr. Kullman (Swiss National), Chief of the Legal Division of IRO, I was received by Minister Stucki at 4 p.m. June 16, 1948.

At the outset of our conference I made it clear to the Minister that we were not approaching him with any demands; or on the basis of any relationship between PCIRO and Switzerland; and that we recognized that the only obligation with respect to the Washington Accord was a contractual one between the Government of Switzerland on the one hand and the Governments of U.S., U.K. and France. I said that we merely sought to explain to him the difficult position we are in as the beneficiaries under Article V of the Annex to the Washington Accord, relating to 50,000,000 Swiss francs.

Stucki expressed his satisfaction and appreciation at the approach which I took. He said that in the past he had discussed with four or five other individuals the subject of the 50,000,000 Swiss francs and that these persons were under the impression that there existed an obligation on the part of the Swiss Government to PCIRO or to the Voluntary Agencies to whom we would pay the funds. He then said that since we recognized the position of his Government, he was pleased to discuss the entire matter with us.

I then described the general reparations program for assistance to Nazi victims; how it originated under Article 8 and was further implemented by the Five Power Agreement; how we had moved ahead with the entire program as regards non-monetary gold; that we have received half the 25,000,000 dollar fund in the form of 50,000,000 Swedish kronor; and that we have now reached the point where our program will lapse unless we receive further funds which we understood would be forthcoming under the Washington Accord. I also said that we have been dealing with an unknown factor since we are not conversant with the negotiations between the Allies and the Government of Switzerland.

Stucki then said it probably would be helpful to us if he reviewed generally matters concerning the Washington Accord. He began by stating that he assumed we knew that under the Washington Accord Switzerland agreed to the liquidation of German assets only on condition that countervalue be paid to the Germans since, he said, "we are not a gang of bandits who will seize property without providing for adequate compensation".

He then said that shortly after signing the Washington Accord Switzerland had recommended to the three Allied Governments the establishment of a rate of exchange based upon the dollar rate to Marks (10 Marks = \$1). He said that after some time the Allies made a counter proposal to adopt another rate, based upon a Swiss-German Agreement of 1940 (I am not sure of the date). He mentioned the details of this rate (which I do not recall) and said that Switzerland could not accept this

proposal

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Page 2 of enclosure to Desp. 490/July 1, 1948/American Legation, Berne.

proposal since it would mean that the Reichsmark would be regarded as of greater value than the Swiss franc. I think (but I am not sure) that he meant this in relation to the value of Marks to the dollar.

He stated rather strongly that it was not any lack of desire on the part of Switzerland to liquidate German assets which had caused the delay and misunderstanding, but rather the laxity on the part of the Allied Governments in replying to suggestions of the Swiss on the exchange rate question. He said that under the Washington Agreements there is a greater advantage for Switzerland to liquidate than for the Allied Governments.

He then turned to the Washington Accord with respect to the 50,000,000 Swiss francs, stating that in June 1947 he offered to pay 50,000,000 Swiss francs to PCIRO if the three Allied Governments so requested. He added that at the time he thought one of the Allied Powers (I assume he meant UK) was not very interested in payment of the 50,000,000 francs, since he understood the payment would be made by the Allies to refugee agencies, one of whose policies was not in conformity with that Government's policy at that time. It was my impression that the Minister seemed to indicate that his knowledge of this factor may have influenced his decision to make the offer; but in any event he made it clear to us that the offer was a definite one to pay if requested; and he added that it has always been his intention to live up to that promise.

He then said that apparently the policy of one of the Governments had changed, because in February he received a note from the three Governments requesting a payment of 20,000,000 Swiss francs. I think he said the date was February 13, 1948. He said further that the American and British notes were in English and identical, and that the "tone" of the notes was appreciated; but that the French note upon translation was not identical with the other two, which he said raised doubt in his mind as to whether there was unanimity among the three Governments upon this question. He said the French note put the Federal Council up in arms since it spoke of "pretext" when he said he thought "narrow interpretation" was meant. (I am not sure of these particular quoted words, but I think that either these or similar expressions were referred to by Stucki). He said he investigated and found that there was no intent on the part of the French to cause any difficulty or to set down any unflattering innuendos, but rather that the French had used a poor translator in translating the American and English text into French.

He said that this delayed matters, and it was not until a later date that formal consideration of the note was taken up by the Federal Council. On the occasion of the formal consideration by the Council, he said that he fought very strongly for fulfillment of his promise to pay if requested to
do so,

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do so, but that stiff opposition came from the Finance Minister, who believed that the payment to PCIRO, since there were no funds available from liquidation of German assets, would have to come out of the Swiss public funds and therefore required individual legislative action by the Swiss Parliament.

He said that although there was merit to the Finance Minister's argument, he had managed to convince the Federal Council that such procedure would be unnecessary since the Federal Parliament had ratified the Washington Accord, and Article V relating to the 50,000,000 Swiss francs was part of the Accord.

He made it clear to us that he succeeded in convincing the Federal Council with two basic arguments: first, that he had made the promise to pay if requested to do so; and second, that he knew there was an urgent need for funds for refugee purposes.

He further stated that there was full agreement to make the payment.

He then told us that before he had time to set the machinery in motion for payment of the requested 20,000,000 Swiss francs Mr. Mayhew made some "inept remarks" in Parliament which put the Federal Council, the Swiss people, and the Swiss Press up in arms, and at that moment there was no question in his mind but that it would be very difficult to go through with the completion of the 20,000,000 payment.

I then said that I was not familiar with Mr. Mayhew's remarks, and I asked if the US Government in any way had associated itself with these remarks. He said that he was certain that the US had nothing to do with Mayhew's speech, which came in the Question Time in Parliament, but that Mr. Mayhew had left the impression that the Allies were disappointed at the laxity on the part of Switzerland, whereas in fact, he said, all delay etc. has been on the part of the Allies.

Stucki repeated again that Mayhew's remarks caused an uproar "all the way from the extreme Right to the extreme Left in the Federal Council". He said that if he moved forward with the payment of the 20,000,000 the public would think that it was due to Mayhew's remarks and other Press "blast". At this point he said he assumed that I had seen the newspapers that day relating to a statement of IARA and his reply. I said I had not, whereupon he told us that IARA published a Resolution which laid the blame on the Swiss for failing to implement the Washington Accord. He then repeated almost everything he had told us previously about the Washington Accord provisions on countervalue; and said that since he was so convinced that the Swiss position is unassailable and right, he decided they would seek arbitration, since the Washington Accord contained an arbitration clause.

At that

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By EIC NARA Date 2/16

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At that point Dr. Kullman said that he could not understand Mayhew's action since he knew Mayhew was a "nice fellow" who acted at one time as Chairman of the IGCR Executive Board when Kullmann was an official of IGCR. The Minister then said that he knew it was another Allied person who was behind Mayhew's "inept remarks". Stucki then picked up a paper from his desk and said that he had just received a telegram from the Swiss Minister in London. He read it to us. It stated that Mr. Mayhew had sent a personal note to a Mr. Escher (I think Stucki said he is Secretary of Chargé d'Affaires at the Swiss Legation), which appeared to be a personal apology for his remarks in Parliament and which also requested that the Swiss proceed with the 20,000,000 franc payment to PCIRO.

I then stated that I was not only unfamiliar with Mr. Mayhew's remarks, but that I had no knowledge of any recent request for the payment of the 20,000,000 francs other than the note of May, to which Stucki had previously referred. (It is clear from this telegram that Mayhew was not writing on behalf of the three governments, but included a reference to the 20,000,000 in a personal note to Escher.)

I then asked Stucki whether there is anything we might do to help clarify the situation as it relates to the 20,000,000 Swiss francs, particularly in view of Mayhew's renewed request in the personal note to Escher.

At that point, Dr. Kullman said that since he knew Mayhew as a former colleague, and since he was going to London very soon, he thought he would take advantage of the opportunity to speak to Mayhew in London. Stucki did not indicate that he was at all averse to Kullmann's speaking to Mayhew, but rather indicated the contrary by saying that perhaps it might "clear the air generally".

I then asked Stucki whether he thought the US was associated with the IARA development, and he said that he did not think so, since he had always had fine relationships with the US representatives in Berne.

I asked whether he thought there was hope for clarification of all the issues, and it was at that point that he said that he had held out hope of agreement when he received the note from the three Governments in May, since there appeared to be a desire on the part of the Allies to overcome the technical and legal difficulties and reach a practical solution. He said it was because he held out hope that when Mr. Mayhew's "inept remarks" were made and reported in the Swiss press, he gave instructions to the Swiss press not to get overexcited, since he felt it would greatly harm the continuation of negotiations. He then repeated, as he had previously, that he was so convinced of the Swiss position, that he will arbitrate; and he pointed

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out that Switzerland is a neighbour of Germany, and that since Germany will again be a factor in Europe Switzerland cannot afford to do anything which might lead the Germans - whom he described as presently unable to represent themselves - to be resentful of the action taken by the Swiss with regard to their property.

I told Stucki that we greatly appreciated his frank discussion of the whole problem, and reminded him that our concern was the 20,000,000 Swiss francs. I pointed out that the three Allied Governments, US, UK and France, who were parties to the Washington Accord, are also the principal members of IRO, and that in the past we had at our regular sessions publicly urged the Allied Governments to press for the collection of the Swiss francs. He said he considered this proper, and that so far as the Swiss were concerned he had no objection to pressure on the Allied Governments since he realized that we anxiously await the receipt of the funds.

I then expressed our deep disappointment over the unfortunate occurrences which had prevented his going ahead with the 20,000,000 payment, pointing out that neither PCIRO nor the refugees had any control over these events, and that as a result of these occurrences - unrelated to the 20,000,000 payment - the Nazi victims were unfortunately continuing to suffer.

Stucki then said that he fully recognizes the offer which he made in June 1947 to pay if requested; and he personally would like to see the payment made; and that he would therefore again try to have the payment put through despite the current atmosphere. He said that the next meeting of the Federal Council is on June 29, and that he will present the matter at that time. He also said that at this meeting he will have only one person backing him, so that he thought it would be useful if, upon my return to Geneva, I saw to it that Mr. Tuck sends a letter to Minister Petitpierre, taking the approach which I have adopted, and pointing out the urgent need for funds to assist the Nazi victims. He said he would use the letter at the meeting of the Council.

The conference with Stucki lasted from 4 p.m. to about 5:15 p.m.

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

ACTION
Assigned to

W E Rubin DE

JUL 12 1948
LEGAL ADVISER

AMERICAN LEGATION

Berne, July 1, 1948

CONFIDENTIAL

No. 490

DIVISION OF OCCUPIED
ECONOMIC AFFAIRS
JUL 10 1948
DEPARTMENT OF STATE

Subject: Possibilities of Swiss advance under Article V of Annex to Washington Accord, and views of Minister Stucki on other matters related to the Accord.

The Minister has the honor to refer to the Legation's despatch No. 117, February 16, 1948, transmitting a copy of the note addressed by the Legation to the Federal Political Department requesting the Swiss Government to make available to the three Allied Governments the sum of twenty million Swiss francs under Article V of the Annex to the Washington Accord, and to transmit herewith a confidential memorandum of conversation on the subject between representatives of the International Refugee Organization, Geneva, and Minister Walter Stucki, Swiss Political Department, Berne.

It will be noted that Mr. Stucki in talking to the IRO representatives expresses what has seemingly become a fixed Swiss policy with respect to the Washington Accord and places the delay on implementing that agreement on the failure of the Allies to reply to various communications from the Swiss. His comment about the French note asking for the Swiss francs 20,000,000 advance also reveals the sensitiveness of the Swiss on the whole subject of the Washington Accord. It also shows their tendency to constantly take refuge behind a strict legal position.

The fact that the Swiss are now finding legal impediments to making the advance to IRO seems somewhat strange as they had previously offered to advance the entire fifty million Swiss francs provided for in Article V of the Annex by an aide memoire delivered to the Department on June 10, 1947. (Department's instruction No. 62, March 22, 1948). It must be assumed that the Swiss considered the legality of making such an advance before offering to do so. One reason why the Allies at the recent Paris conference deemed it advisable to request the advance sought by IARA was because the Swiss in offering to make an advance under Article V of the Annex had seemingly concluded that there were no legal obstacles to making advances.

It is questionable whether the remarks of Mr. Mayhew in the House of Commons on May 28, 1948 (London's A-1201, June 9, 1948) had the influence on the Swiss Federal Council attributed to them by Mr. Stucki. The comment in the Swiss press after the Mayhew statement was publicized was not extensive and died down after a few days. There seems to be as much newspaper criticism of the failure of the Swiss Government to keep the Swiss public informed of negotiations with

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Despatch No. 490/July 1, 1948/Bern.

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respect to the Washington Accord as resentment at Mr. Mayhew's remarks. There is, however, no doubt truth in the statement that public castigation of Switzerland, such as in Mayhew's remarks and the IARA press releases (Legation's telegrams Nos. 774, June 16, 1948 and 809, June 21, 1948), does deter Swiss action because any steps they now take will appear to be caused by Allied pressure.

Stucki's statement about arbitration conforms to Foreign Minister Petitpierre's remarks in Parliament (Legation's No. 761, June 12, 1948) and the official communique issued thereafter (Legation's No. 774, June 16, 1948), and seems to nail down the fact that Switzerland will seek arbitration of all pending Washington Accord questions. This will no doubt be the reply to the Allies note of May 11, 1948. Such a course would abet the Swiss idea of delaying action, hoping for some amelioration of the Accord, and will at the same time strengthen their position vis-a-vis Germany whose retaliation they still fear. (Legation's despatch No. 478, June 29, 1948).

There is something peculiar about what Mr. Stucki says about Mayhew's apology to the Swiss Legation in London for his remarks in the House of Commons. According to London's telegram 2525, June 8, 1948, to the Department, repeated to Berne as 117, Mayhew defended the Allied position when he saw Escher of the Swiss Legation. In any event it is to be expected that the Swiss will continue to make unilateral approaches to the various Allies in order to destroy a common Allied front (Legation's No. 703, June 2, 1948).

The IRO representatives have now informed the Legation that Mr. W. Hallum Tuck, Executive Secretary of the International Refugee Organization, addressed a letter to Mr. Petitpierre on June 21, 1948 requesting favorable action on the Allied request for the twenty million Swiss francs advance to IRO as suggested by Mr. Stucki.

Enclosure: *att.*

✓ Copy of confidential memorandum of conversation.

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Original and hectograph to Department
Copy to American Embassy, London.

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Enclosure to despatch No. 490, July 1, 1948, American Legation, Berne.

MEMORANDUM OF CONVERSATION

Together with Dr. Kullman (Swiss National), Chief of the Legal Division of IRO, I was received by Minister Stucki at 4 p.m. June 16, 1948.

At the outset of our conference I made it clear to the Minister that we were not approaching him with any demands; or on the basis of any relationship between PCIRO and Switzerland; and "that we recognized that the only obligation with respect to the Washington Accord was a contractual one between the Government of Switzerland on the one hand and the Governments of U.S., U.K. and France." I said that we merely sought to explain to him the difficult position we are in as the beneficiaries under Article V of the Annex to the Washington Accord, relating to 50,000,000 Swiss francs.

Stucki expressed his satisfaction and appreciation at the approach which I took. He said that in the past he had discussed with four or five other individuals the subject of the 50,000,000 Swiss francs and that these persons were under the impression that there existed an obligation on the part of the Swiss Government to PCIRO or to the Voluntary Agencies to whom we would pay the funds. He then said that since we recognized the position of his Government, he was pleased to discuss the entire matter with us.

I then described the general reparations program for assistance to Nazi victims; how it originated under Article 8 and was further implemented by the Five Power Agreement; how we had moved ahead with the entire program as regards non-monetary gold; that we have received half the 25,000,000 dollar fund in the form of 50,000,000 Swedish kronor; and that we have now reached the point where our program will lapse unless we receive further funds which we understood would be forthcoming under the Washington Accord. I also said that we have been dealing with an unknown factor since we are not conversant with the negotiations between the Allies and the Government of Switzerland.

Stucki then said it probably would be helpful to us if he reviewed generally matters concerning the Washington Accord. He began by stating that he assumed we knew that under the Washington Accord Switzerland agreed to the liquidation of German assets only on condition that countervalue be paid to the Germans since, he said, "we are not a gang of bandits who will seize property without providing for adequate compensation".

He then said that shortly after signing the Washington Accord Switzerland had recommended to the three Allied Governments the establishment of a rate of exchange based upon the dollar rate to Marks (10 Marks = \$1). He said that after some time the Allies made a counter proposal to adopt another rate, based upon a Swiss-German Agreement of 1940 (I am not sure of the date). He mentioned the details of this rate (which I do not recall) and said that Switzerland could not accept this

proposal

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proposal since it would mean that the Reichsmark would be regarded as of greater value than the Swiss franc. I think (but I am not sure) that he meant this in relation to the value of Marks to the dollar.

He stated rather strongly that it was not any lack of desire on the part of Switzerland to liquidate German assets which had caused the delay and misunderstanding, but rather the laxity on the part of the Allied Governments in replying to suggestions of the Swiss on the exchange rate question. He said that under the Washington Agreements there is a greater advantage for Switzerland to liquidate than for the Allied Governments.

He then turned to the Washington Accord with respect to the 50,000,000 Swiss francs, stating that in June 1947 he offered to pay 50,000,000 Swiss francs to PCIRO if the three Allied Governments so requested. He added that at the time he thought one of the Allied Powers (I assume he meant UK) was not very interested in payment of the 50,000,000 francs, since he understood the payment would be made by the Allies to refugee agencies, one of whose policies was not in conformity with that Government's policy at that time. It was my impression that the Minister seemed to indicate that his knowledge of this factor may have influenced his decision to make the offer; but in any event he made it clear to us that the offer was a definite one to pay if requested; and he added that it has always been his intention to live up to that promise.

He then said that apparently the policy of one of the Governments had changed, because in February he received a note from the three Governments requesting a payment of 20,000,000 Swiss francs. I think he said the date was February 13, 1948. He said further that the American and British notes were in English and identical, and that the "tone" of the notes was appreciated; but that the French note upon translation was not identical with the other two, which he said raised doubt in his mind as to whether there was unanimity among the three Governments upon this question. He said the French note put the Federal Council up in arms since it spoke of "pretext" when he said he thought "narrow interpretation" was meant. (I am not sure of these particular quoted words, but I think that either these or similar expressions were referred to by Stucki). He said he investigated and found that there was no intent on the part of the French to cause any difficulty or to set down any unflattering innuendoes, but rather that the French had used a poor translator in translating the American and English text into French.

He said that this delayed matters, and it was not until a later date that formal consideration of the note was taken up by the Federal Council. On the occasion of the formal consideration by the Council, he said that he fought very strongly for fulfilment of his promise to pay if requested to

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do so, but that stiff opposition came from the Finance Minister, who believed that the payment to PCIRO, since there were no funds available from liquidation of German assets, would have to come out of the Swiss public funds and therefore required individual legislative action by the Swiss Parliament.

He said that although there was merit to the Finance Minister's argument, he had managed to convince the Federal Council that such procedure would be unnecessary since the Federal Parliament had ratified the Washington Accord, and Article V relating to the 50,000,000 Swiss francs was part of the Accord.

He made it clear to us that he succeeded in convincing the Federal Council with two basic arguments: first, that he had made the promise to pay if requested to do so; and second, that he knew there was an urgent need for funds for refugee purposes.

He further stated that there was full agreement to make the payment.

He then told us that before he had time to set the machinery in motion for payment of the requested 20,000,000 Swiss francs Mr. Mayhew made some "inept remarks" in Parliament which put the Federal Council, the Swiss people, and the Swiss Press up in arms, and at that moment there was no question in his mind but that it would be very difficult to go through with the completion of the 20,000,000 payment.

I then said that I was not familiar with Mr. Mayhew's remarks, and I asked if the US Government in any way had associated itself with these remarks. He said that he was certain that the US had nothing to do with Mayhew's speech, which came in the Question Time in Parliament, but that Mr. Mayhew had left the impression that the Allies were disappointed at the laxity on the part of Switzerland, whereas in fact, he said, all delay etc. has been on the part of the Allies.

Stucki repeated again that Mayhew's remarks caused an uproar "all the way from the extreme Right to the extreme Left in the Federal Council". He said that if he moved forward with the payment of the 20,000,000 the public would think that it was due to Mayhew's remarks and other Press "blast". At this point he said he assumed that I had seen the newspapers that day relating to a statement of IARA and his reply. I said I had not, whereupon he told us that IARA published a Resolution which laid the blame on the Swiss for failing to implement the Washington Accord. He then repeated almost everything he had told us previously about the Washington Accord provisions on countervalue; and said that since he was so convinced that the Swiss position is unassailable and right, he decided they would seek arbitration, since the Washington Accord contained an arbitration clause.

At that

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At that point Dr. Kullman said that he could not understand Mayhew's action since he knew Mayhew was a "nice fellow" who acted at one time as Chairman of the IGCR Executive Board when Kullmann was an official of IGCR. The Minister then said that he knew it was another Allied person who was behind Mayhew's "inept remarks". Stucki then picked up a paper from his desk and said that he had just received a telegram from the Swiss Minister in London. He read it to us. It stated that Mr. Mayhew had sent a personal note to a Mr. Escher (I think Stucki said he is Secretary of Chargé d'Affaires at the Swiss Legation), which appeared to be a personal apology for his remarks in Parliament and which also requested that the Swiss proceed with the 20,000,000 franc payment to PCIRO.

I then stated that I was not only unfamiliar with Mr. Mayhew's remarks, but that I had no knowledge of any recent request for the payment of the 20,000,000 francs other than the note of May, to which Stucki had previously referred. (It is clear from this telegram that Mayhew was not writing on behalf of the three governments, but included a reference to the 20,000,000 in a personal note to Escher.)

I then asked Stucki whether there is anything we might do to help clarify the situation as it relates to the 20,000,000 Swiss francs, particularly in view of Mayhew's renewed request in the personal note to Escher.

At that point, Dr. Kullman said that since he knew Mayhew as a former colleague, and since he was going to London very soon, he thought he would take advantage of the opportunity to speak to Mayhew in London. Stucki did not indicate that he was at all averse to Kullmann's speaking to Mayhew, but rather indicated the contrary by saying that perhaps it might "clear the air generally".

I then asked Stucki whether he thought the US was associated with the IARA development, and he said that he did not think so, since he had always had fine relationships with the US representatives in Berne.

I asked whether he thought there was hope for clarification of all the issues, and it was at that point that he said that he had held out hope of agreement when he received the note from the three Governments in May, since there appeared to be a desire on the part of the Allies to overcome the technical and legal difficulties and reach a practical solution. He said it was because he held out hope that when Mr. Mayhew's "inept remarks" were made and reported in the Swiss press, he gave instructions to the Swiss press not to get overexcited, since he felt it would greatly harm the continuation of negotiations. He then repeated, as he had previously, that he was so convinced of the Swiss position, that he will arbitrate; and he pointed

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I told Stucki that we greatly appreciated his frank discussion of the whole problem, and reminded him that our concern was the 20,000,000 Swiss francs. I pointed out that the three Allied Governments, US, UK and France, who were parties to the Washington Accord, are also the principal members of IRO, and that in the past we had at our regular sessions publicly urged the Allied Governments to press for the collection of the Swiss francs. He said he considered this proper, and that so far as the Swiss were concerned he had no objection to pressure on the Allied Governments since he realized that we anxiously await the receipt of the funds.

I then expressed our deep disappointment over the unfortunate occurrences which had prevented his going ahead with the 20,000,000 payment, pointing out that neither PCIRO nor the refugees had any control over these events, and that as a result of these occurrences - unrelated to the 20,000,000 payment - the Nazi victims were unfortunately continuing to suffer.

Stucki then said that he fully recognizes the offer which he made in June 1947 to pay if requested; and he personally would like to see the payment made; and that he would therefore again try to have the payment put through despite the current atmosphere. He said that the next meeting of the Federal Council is on June 29, and that he will present the matter at that time. He also said that at this meeting he will have only one person backing him, so that he thought it would be useful if, upon my return to Geneva, I saw to it that Mr. Tuck sends a letter to Minister Petitpierre, taking the approach which I have adopted, and pointing out the urgent need for funds to assist the Nazi victims. He said he would use the letter at the meeting of the Council.

The conference with Stucki lasted from 4 p.m. to about 5:15 p.m.

A. Schwarz

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 Authority NND 760050
 By EK NARA Date 7/8

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Form DS-302 (7-2-46)

DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE
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To Miss Hall
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Rec'd July 2, 1948
3:51 p.m.

FROM: Bern
 TO: Secretary of State
 NO: 849, July 2, 6 p.m.



DIVISION OF OCCUPIED AR.
 ECONOMIC AFFAIRS
 JUL 6 1948
 DEPARTMENT OF STATE

Political Department advises that federal laws re looted art objects have expired. Also that none of 116 cases in 1947 or 59 in 1948 of works of art to be exported from Switzerland to US submitted for certification of non-looted origin revealed evidence of looting or German ownership. Accordingly on August 1 Swiss will abolish certification procedure adopted pursuant to Legations request (Legation's A 174 April 9, 1947, repeated London and Paris.)

Repeated London and Paris by pouch.

VINCENT

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800.515/7-248

BERM

TELE 849

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By EK NARA Date 7/8

RG 59
Entry Dec-Files
1945-48
File 800.515/7-1-48
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Box 4247

INCOMING TELEGRAM

DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

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Rec'd July 2, 1948
3:51 p.m.

FROM: Bern
TO: Secretary of State
NO: 849, July 2, 6 p.m.

Political Department advises that federal laws re looted art objects have expired. Also that none of 116 cases in 1947 or 59 in 1948 of works of art to be exported from Switzerland to US submitted for certification of non-looted origin revealed evidence of looting or German ownership. Accordingly on August 1 Swiss will abolish certification procedure adopted pursuant to Legations request (Legation's A 174 April 9, 1947, repeated London and Paris.)

Repeated London and Paris by pouch.

VINCENT

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

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ADVISED
8-373
W. H. H.

AMERICAN LEGATION
Berne, July 2, 1948

CONFIDENTIAL

No. 491

DIVISION OF OCCUPIED AREAS
ECONOMIC AFFAIRS *254E*
JUL 15 1948
DEPARTMENT OF STATE

DEPP

Subject: Memorandum presented by Minister Stucki, Swiss Political Department, to Allied Members of Joint Commission with respect to twenty million Swiss francs advanced for IRO under Washington Accord.

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The Minister has the honor to refer to the Legation's telegram No. 832, July 1, 1948, and to transmit herewith a translation of the memorandum read to the Allied Members of the Joint Commission by Minister Walter Stucki yesterday. As mentioned in the reference telegram, the contents of this memorandum are confidential.

Enclosure: *att.*
Translation of memorandum presented by Minister Stucki to Allied Members of Joint Commission.

NBKing/sn
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Original and hectograph to Department.

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By EIC NARA Date 7/18

CONFIDENTIAL

Enclosure to Despatch No. 491, July 2, 1948, American Legation, Berne.

OK FPC
(TRANSLATION) *800.515/2.16.48*

1) In their notes of February 13 of this year, the diplomatic representatives of your three Governments at Berne asked the Federal Political Department if the Swiss Government, awaiting the settlement of the exchange rate question and in view of the urgency of humanitarian needs mentioned in Article V of the Annex to the Accord, could not make an advance of twenty million Swiss francs to the three Allied Governments which will be used for the rehabilitation and the reinstallation of non-repatriable victims of German action.

2) On April 29 I tried to contact you in order to arrange an interview, but you were absent from Berne at the time.

3) On May 7, upon return to Berne, you let me know that you thought it preferable to postpone the interview which I had proposed, because notes were being presented by your Governments to mine in the near future.

4) The aim of that contact, which then did not take place, was meant to inform you that the Federal Council had decided to comply with the demand to advance twenty million Swiss francs, however declining every juridical obligation.

On this occasion, I also wanted to discuss with you the fear of the Federal Administration to see the application of the Accord endangered by the currency reform in Germany or by complications which might arise because of the fact that the Verrechnungskasse is not situated in one of the three Western zones of Berlin. I had wished to discuss this question with you and advise the Federal Council of your replies.

EP 800.515/5-2448
5) Since then the Swiss Government was painfully surprised at the French text of the Allied note of May 11 in which was stated: "a poor interpretation of the Accord....cannot be used as a pretext....". It was also painfully surprised that it was subject of attack by the Under Secretary of State for Foreign Affairs at the British Parliament, as it was at the attacks by IARA.

The Swiss Government has thus lost hope of agreeing in a friendly way on the questions in suspense. It sees no other possibility than that of applying to an arbitral tribunal, because of the official reproaches which have been addressed to it. Under these conditions, it would not have been indicated that Switzerland would make an unilateral gesture and grant twenty million Swiss francs in advance demanded by the Allies.

6) However, the delegates of the International Organization for Refugees, while showing a lot of comprehension for the Swiss point of view, have given me a statement of the financial difficulties which the organization has to meet in fulfilling

its

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RG	59
Entry	Decentral File, 1945-49
File	800.515/7-148 to 800.515/7-548
Box	4247

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UNCLASSIFIED
Authority NND 760050
By EIC NARA Date 2/10

CONFIDENTIAL

Page 2 of enclosure to despatch No. 491, July 2, 1948,
American Legation, Berne.

its task in behalf of the Nezi victims. They have again asked with much insistence if Switzerland would reconsider the situation and if, in spite of the attacks, she could not grant the twenty million Swiss francs in question. Mr. Tuck has confirmed this demand by letter addressed to the Federal Political Department. The Federal Council considers that it would not be fair to have a humanitarian organization which so highly respects and the innocent Nazi victims suffer from the consequences of attacks which were unjustly made against Switzerland.

Thus the Federal Council has decided, not on account of the pressing measures which it is subject to, but in spite of them, to comply with the demand to advance twenty million Swiss francs, fully declaring that it is not forced by any juridical obligations to proceed in that way.

I would therefore appreciate your informing me how this payment of twenty million Swiss francs can be made.

7) Finally, I wish to draw your attention to the fact that the letter addressed to the Chiefs of Diplomatic Missions of the three Allied Governments signatory to the Accord on May 20 by the Chief of the Federal Political Department seems to have been misunderstood. This letter did not express in the first place Switzerland's fear that its obligations as foreseen by the Accord could be increased. The question was to know above all whether the Allies, in spite of the new situation in Germany, would be in any case able to guarantee that the Germans in Germany expropriated of their assets in Switzerland would be compensated with the counter value of their assets, which has to be fixed by one accord or arbitration.

Thus, the answer to the letter of May 20, mentioned above, did unfortunately not handle this very important question.

July 1, 1948

Translator: E. Graeb.

CONFIDENTIAL

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Entry	Decimal File, 1945-49
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Authority: NND 760050
By: EIC NARA Date: 2/16

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By EK WAPA Date 7/8

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MR 501, MA

LEGAL ADVISER
8-373
19 1948

AMERICAN LEGATION

Berne, July 2, 1948

DIVISION OF OCCUPIED AREAS
ECONOMIC AFFAIRS
JUL 15 1948
DEPARTMENT OF STATE

CONFIDENTIAL

No. 491

Subject: Memorandum presented by Minister Stucki, Swiss Political Department, to Allied Members of Joint Commission with respect to twenty million Swiss francs advance for IRO under Washington Accord.

DC/P

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The Minister has the honor to refer to the Legation's telegram No. 832, July 1, 1948, and to transmit herewith a translation of the memorandum read to the Allied Members of the Joint Commission by Minister Walter Stucki yesterday. As mentioned in the reference telegram, the contents of this memorandum are confidential.

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Enclosure: *att.*

Translation of memorandum presented by Minister Stucki to Allied Members of Joint Commission.

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Original and hectograph to Department.

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Enclosure to Despatch No. 491, July 2, 1948, American Legation, Berne.

DE W E PC (TRANSLATION)

800.515 / 2-1648

1) In their notes of February 13 of this year, the diplomatic representatives of your three Governments at Berne asked the Federal Political Department if the Swiss Government, awaiting the settlement of the exchange rate question and in view of the urgency of humanitarian needs mentioned in Article V of the Annex to the Accord, could not make an advance of twenty million Swiss francs to the three Allied Governments which will be used for the rehabilitation and the reinstatement of non-repatriable victims of German action.

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On this occasion, I also wanted to discuss with you the fear of the Federal Administration to see the application of the Accord endangered by the currency reform in Germany or by complications which might arise because of the fact that the Verrechnungskasse is not situated in one of the three Western zones of Berlin. I had wished to discuss this question with you and advise the Federal Council of your replies.

EP 800.515/5-2448
5) Since then the Swiss Government was painfully surprised at the French text of the Allied note of May 11 in which was stated: "a poor interpretation of the Accord...cannot be used as a pretext...". It was also painfully surprised that it was subject of attack by the Under Secretary of State for Foreign Affairs at the British Parliament, as it was at the attacks by IARA.

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6) However, the delegates of the International Organization for Refugees, while showing a lot of comprehension for the Swiss point of view, have given me a statement of the financial difficulties which the organization has to meet in fulfilling

its

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Authority NND 760050By EK NARA Date 7/8

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Page 2 of enclosure to despatch No. 491, July 2, 1948,
American Legation, Berne.

its task in behalf of the Nazi victims. They have again asked with much insistence if Switzerland would reconsider the situation and if, in spite of the attacks, she could not grant the twenty million Swiss francs in question. Mr. Tuck has confirmed this demand by letter addressed to the Federal Political Department. The Federal Council considers that it would not be fair to have a humanitarian organization which so highly respects and the innocent Nazi victims suffer from the consequences of attacks which were unjustly made against Switzerland.

Thus the Federal Council has decided, not on account of the pressing measures which it is subject to, but in spite of them, to comply with the demand to advance twenty million Swiss francs, fully declaring that it is not forced by any juridical obligations to proceed in that way.

I would therefore appreciate your informing me how this payment of twenty million Swiss francs can be made.

7) Finally, I wish to draw your attention to the fact that the letter addressed to the Chiefs of Diplomatic Missions of the three Allied Governments signatory to the Accord on May 20 by the Chief of the Federal Political Department seems to have been misunderstood. This letter did not express in the first place Switzerland's fear that its obligations as foreseen by the Accord could be increased. The question was to know above all whether the Allies, in spite of the new situation in Germany, would be in any case able to guarantee that the Germans in Germany expropriated of their assets in Switzerland would be compensated with the counter value of their assets, which has to be fixed by one accord or arbitration.

Thus, the answer to the letter of May 20, mentioned above, did unfortunately not handle this very important question.

July 1, 1948

Translator: E. Graeub.

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AMLEGATION,

JUL 2 1948

BERN.

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1. Leg authorized consult with Brit and French in Bern and work out arrangements for receipt of 20 million Swiss francs mutually acceptable to 3 Allied Missions. Arrangements may be made in any manner acceptable to Leg, provided arrangement provides for transfer of sum in Swiss francs to IRO ~~in~~ immediate future, re Legtel 833, July 1. In view urgent need PCIRO Leg may wish consult Stucki as to whether Tuck, Executive Director, PCIRO, may not be consulted immediately. Also Leg should stress both to Brit and French and Swiss necessity for prompt transfer of 20 million Swiss francs to PCIRO.

Leg further authorized convey to Swiss Govt appreciation this gesture on part of Swiss.

2. Dept will comment on Swiss position re arbitration when such position is finally formalized. At first glance it seems unlikely US will wish to submit to arbitration questions involved in at least points 4, 5, and 6 of reptel.

3. Dept communicating to Brit and French in Washington views in para 1, and emphasizing desirability giving discretion to Allied Missions, Bern, to work out immediately arrangements for receipt 20 million francs.

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DEPARTMENT OF STATE
OFFICE OF OCCUPIED AREAS
ECONOMIC AFFAIRS

American Legation
Bern, July 5, 1948

No. 506

JUL 26 1948

DEPARTMENT OF STATE

Subject: Transmittal of memorandum concerning meeting of Allied Members of the Joint Commission with Minister Stucki, July 1, 1948.

RECEIVED
DEPARTMENT OF STATE

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The American Minister at Bern has the honor to refer to the Legation's telegram No. 832, July 1, 1948 and the Legation's despatch No. 491, July 2, 1948 concerning the meeting of July 1, 1948 between the Allied members of the Joint Commission and Minister Walter Stucki of the Swiss Federal Political Department on the subject of an advance of Swiss francs 20,000,000 to the International Relief Organization under Article V of the Annex to the Washington Accord and other matters, and to transmit herewith a memorandum of that meeting which has been agreed to by the three Allied members.

In addition to the matters mentioned in the memorandum, the following matters were touched on in the meeting:

1) After the method of payment of the Swiss francs 20,000,000 is agreed upon, the Swiss Government will make public announcement of such payment. The Swiss may be expected to make a great fanfare about the matter, stating that notwithstanding Allied action, the Swiss are making the advance for humanitarian reasons in spite of Allied pressure. In the course of the meeting, Minister Stucki showed great resentment at the publicity recently directed toward Switzerland for its failure to comply with its obligations under the Accord. He referred to this matter several times during the course of the meeting. He also made the point that the decision to arbitrate had been dictated by the adverse publicity received by Switzerland since the delivery of the Allied note of May 11, 1948. This is, of course, improbable, but seems to have been seized upon by the Swiss as an excuse for adopting a strictly legal position.

2) With regard to Foreign Minister Petitpierre's letter of May 20, 1948 to the Chiefs of the Allied Missions at Bern, posing questions concerning the German monetary reform and the location of the Verrechnungskasse (Legation's despatch No. 378, May 24, 1948) and the Allied reply thereto (Legation's despatch No. 472, June 28, 1948) Minister Stucki said that Switzerland was not concerned about there being any increase in Swiss obligations under the Accord, for it was the Allies who had guaranteed 100% compensation of the Germans whose property was taken in Switzerland, and any failure to debit the 50% of the proceeds received by the Swiss in the Swiss account in

Germany

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Authority NND 740050
By EIC NARA Date 2/10

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Germany, would simply mean that the Allies would have to provide the whole compensation. The impression was given that Switzerland did fear the Allies might say in the future that because the Verrechnungskasse was in the Russian Zone, or for some other reason, they were unable to make the debit to the Swiss account, and therefore the Germans would not receive full compensation but only the 50% which the Allies were to provide. Swiss concern over the German-Swiss clearing account seems to be concern as to the eventual fate of the balance thereof after Washington Accord debits have been made, and the possibility of balancing of that account rather than the ability of the Allies to comply with Article 10 of the Accord (Legation's telegram 698, June 1, 1948; enclosure No. 2, Legation's despatch No. 492, June 28, 1948).

3) The possibility of accelerated transformations was raised by the Allied members at the meeting. Minister Stucki's reply was that a great part of the valuable German assets in Switzerland were involved in the inter-custodial problem and that firms could not be put up for sale when the buyer could not be sure of his title to assets outside of Switzerland. He also complained of the difficulty in obtaining a competent staff for the Swiss Compensation Office whereby its work might be accelerated.*

With respect to the memorandum presented by Minister Stucki in the course of the meeting of July 1, 1948 (Legation's despatch No. 491, July 2, 1948) the following comment might be made:

1) There was of course ample time and opportunity for Minister Stucki to have discussed matters involved in the German currency reform with the Allied members of the Commission (Minister Stucki's memorandum, paragraph 4) rather than putting the question in the form of a letter from the Swiss Foreign Minister to the Chiefs of the Allied Missions (Legation's despatch No. 378, May 24, 1948). In connection with the previous meeting proposed by Minister Stucki with the Allied members of the Joint Commission, it may be noted that he asked for such a meeting before April 29, 1948, and the Allied members of the Joint Commission agreed to see him at his convenience. He did not, however, arrange such a meeting until a time when the Allied members were absent from Bern at the Allied Paris meeting on the Accord.

Upon the

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*An official of the Swiss Compensation Office informally informed an officer of the Legation some time ago that a minimum of three to five years will be necessary to liquidate important German assets in Switzerland.

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Upon the members' return from this meeting, the British and United States members were willing to see Minister Stucki on May 7, 1948, which was prior to the delivery of the note of May 11, 1948, but the French member categorically refused to see him until after the note was delivered. No further invitation was extended by Minister Stucki until the meeting of July 1, 1948.

2) As mentioned above, the recent adverse publicity about the Accord (Minister Stucki's memorandum, paragraph 5) no doubt had some effect on the Swiss decision to arbitrate (Legation's despatch No. 490, July 1, 1948) but is more likely that it served as a convenient excuse to reject the Allied note.

3) The device referred to in paragraph 6 of Minister Stucki's memorandum whereby the International Relief Organization directly requested the Swiss francs 20,000,000 advance (Legation's despatch No. 490, July 1, 1948) seems to be for the purpose of maintaining the legal fiction that Switzerland did not agree to provide the 20,000,000 Swiss francs as a result of the Allied note of February 13, 1948 because of a direct approach by the International Relief Organization.

4) As to the Allied reply to Foreign Minister Petitpierre's letter of May 20, 1948 to the Chiefs of the Allied Missions at Berne being unsatisfactory (Minister Stucki's memorandum, paragraph 7), it is now obvious that any reply would have been unsatisfactory unless it guaranteed the Swiss credit in Germany in all events. This question has much larger implications than the Washington Accord (Legation's telegram 832, July 1, 1948; Legation's despatch No. 491, July 2, 1948). The questions raised in Minister Petitpierre's letter have existed since the time the Washington Accord was negotiated.

Enclosure: *att*
Memorandum of Meeting
held July 1, 1948

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NBKing/rlp
Original and hectograph to Department

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By EIC NADA DND 2/10

Enclosure to Despatch 506, July 5, 1948, American Legation, Bern

CONFIDENTIAL

MEMORANDUM OF MEETING

July 1, 1948

Participants: Minister Stucki, Federal Political Department,

and

Allied Members of the Joint Commission

Mr. Stucki read a memorandum to the Allied Members of the Joint Commission pursuant to instructions of the Federal Council. He stated that the memorandum and its contents were given in strict confidence. The memorandum states that Switzerland will pay the 20,000,000 Swiss francs asked for by IRO but requests that the matter be not made public at this time. It also mentions that the method of effecting the actual payment must be agreed upon by the Allies and Switzerland. (A copy of the memorandum is attached).

Mr. Stucki mentioned that Mr. Petitpierre's letter of May 20, 1948 to the Chief of the Allied Missions in Berne was prompted by the Swiss Finance Minister and that the two points the Finance Minister had in mind were: (a) if the German external debt (particularly the Swiss credit in Germany) were cancelled as a result of German monetary reform, and (b) if the actual physical debiting of the Swiss account in the Verrechnungskasse could not be done the provisions of Article 10 of the Annex of the Accord could not be accomplished. Mr. Stucki stated that he personally did not agree with this view. In the course of discussion, it was made clear that what Switzerland wanted from the Allies was an assurance that (a) monetary reform would not cancel the Swiss credit in Germany and (b) that actual debiting must be done in the Verrechnungskasse.

Mr. Stucki said that while the actual decision had not been taken by the Federal Council, undoubtedly Switzerland would reply to the Allied note of May 11 by requesting arbitration of all issues in dispute. He mentioned six questions which he said the Swiss would propose for arbitration, and said there would possibly be others. Those mentioned were the following:

- 1) Is Switzerland required to liquidate property under the Accord prior to the settlement of the exchange rate question?
- 2) The Swiss position in SCO exposé 49, i.e., when Switzerland liquidates a concern under the Accord, does that cleanse the company so that companies owned by the Swiss company outside Switzerland are non-German?
- 3) The JETIA

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Authority: NND 740050
By: EIC NARA Date: 2/10

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- 3) The JEIA Black List.
- 4) Whether decisions of the Joint Commission or the Swiss Authority of Review should be given external effect, e.g., when by decision of either of these bodies a company has been declared to be non-German, will that be recognized outside of Switzerland. He gave as an example the Union Reinsurance subsidiaries abroad.
- 5) The situation arising out of the certification agreement with the United States whereby firms having a 25% German interest are not subject to certification. Also the right of the United States to vest the assets of such firms as enemy property.
- 6) The status of personal property owned abroad by companies in Switzerland subject to the Accord, e.g., when a company is sold under the Accord will personal property owned by it abroad be exempted from seizure by other governments. He gave as an example the Rhenus barges.

Mr. Stucki was asked about the status of transformations during the time the above questions were being arbitrated. He said that there were two views on this subject in the Committee of Surveillance. One to stop everything pending arbitration, and the other to proceed with transformations as at the present time. The latter view prevailed by a 4/5 majority, he said.

It was mentioned to Mr. Stucki that now that a monetary reform had been accomplished in Trizone and that the foreign exchange rate of the new Deutschmark would shortly be fixed, that the entire exchange rate question would seem to be solved, at least for Trizone. Mr. Stucki reiterated the position taken by the Swiss in their October 11, 1947 note and said that Switzerland would be compelled to examine any rate of exchange that might be fixed between any German money and the Swiss franc, and if they could not accept the rate then they would submit the question of a proper rate of exchange to arbitration.

Mr. Stucki's attention was invited to the fact that the Accord provides for a uniform rate of exchange, and that as it was now a fact that Germany would have two currencies, one for the Trizone and one for the Russian Zone, it probably would never be possible to establish a uniform rate of exchange. Mr. Stucki indicated that the Swiss would not take a technical position on this point, but would separately examine the monetary reforms

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By EIC NARA Date 2/16

Page 3 to enclosure to Despatch 506, July 5, 1948,
American Legation, Bern.

CONFIDENTIAL

reforms in the Trizone and the Russian Zone to see
if they represented counter value. If, for example,
they were satisfied with the exchange rate in the
Trizone, liquidations could then proceed with property
liquidated there pending their approval of the rate
of exchange for the Russian Zone.

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

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AMERICAN LEGATION

DIVISION OF OCCUPIED AREAS
ECONOMIC AFFAIRS *File*
Berne, July 9, 1948 *dua*

JUL 20 1948

DEPARTMENT OF STATE

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DEPARTMENT OF STATE

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No. 511

1948 JUL 19 10 14

DC/FA
FACILITIES BRANCH

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Subject: Swiss communique concerning: 1. Decision to Arbitrate under Washington Accord, and 2. Advance of twenty million Swiss Francs to International Refugee Organization.

800.515/7-948

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The Minister has the honor to transmit herewith the following:

1. A communique issued by the Swiss Federal Political Department announcing the decision of the Swiss Federal Council to arbitrate disputed items under the Washington Accord.

2. A communique of the Swiss Federal Political Department announcing the fact that it has decided to make available under the terms of the Washington Accord the sum of twenty million Swiss francs for the benefit of the International Refugee Organization.

501.MA
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Enclosures: *att*

1. Communique announcing decision of Swiss Federal Council to arbitrate disputed items under Washington Accord.
2. Communique regarding advance of twenty million Swiss francs to International Refugee Organization.

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Authority <i>NND 160050</i>
By <i>EK</i> NARA Date <i>7/10</i>

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Enclosure No. 1 to Despatch No. 511, July 9, 1948, American Legation, Berne.

SWITZERLAND AND THE WASHINGTON ACCORD
APPEAL TO THE ARBITRAL TRIBUNAL

Berne, July 8, 1948. The Federal Political Department announces:

In the meeting of July 6 the Federal Council again occupied itself with the question of the execution of the Washington Accord. It stated that the Allied answers, received in the last days with respect to the execution of the Accord, do not give the necessary clearness on the questions involved.

Therefore, as a result of the unjust attacks from the Allies toward Switzerland, the Federal Council ordered the Political Department, in answer to the Allied notes of May 11, 1948, to again stress the Swiss viewpoint and in view of the existing differences to call on the Arbitral Tribunal agreed to under the Accord.

The Swiss answer was presented to the Diplomatic Missions of the three Allied countries on July 6.

Translator: E. Graeb

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Enclosure No. 2 to Despatch No. 511, July 9, 1948, American Legation, Berne.

AN ADVANCE TO THE IRO

Berne, July 8. The Federal Political Department announces:

With respect to the Washington Accord of May 25, 1946, Switzerland is obligated to let the three Allied Governments have advances up to the sum of fifty million Swiss francs from the results of the liquidation of the German assets. These advances will be charged to the Allied Governments out of the results of the liquidation. They are through the International Refugee Organization intended for the rehabilitation and resettlement of those victims of German action who are non-repatriable.

Following the text and the meaning of the agreement, the Allies can only claim an advance when the liquidation has enough funds to cover the corresponding sums. For well-known facts this is not as yet the case. Despite the foregoing, sometime ago the Allies asked the Federal Council to grant them an advance of twenty million Swiss francs. The Federal Council was ready to comply with that demand, however without recognizing the juridical basis thereof. But when the English House of Commons as well as the IARA made absolutely unjustified attacks because of pretended violation of the Accord made by Switzerland, the Federal Council felt all the less induced to make a friendly gesture, as this might have given the impression that this was being done on account of the pressure attempted.

The IRO has orally and in writing pointed out the urgent financial need for the fulfillment of their humanitarian tasks. The Federal Council has been convinced that the money is badly needed. It has therefore put the twenty million Swiss francs at their disposal. This happened not in consideration but in spite of the unjustified reproaches made by others.

Translator: E. Graeb

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The Secretary of State presents his compliments to His Excellency the Ambassador of Poland and has the honor to refer to the latter's visit to the Department of State on July 12, 1948, as well as to a memorandum of April 23, 1948 from the Polish Embassy concerning various questions currently being considered by the Governments of Poland and the United States. The Department has noted the Embassy's request that Poland be given a share of the non-monetary gold which was taken from inmates of concentration camps, a high percentage of whom were Poles.

In disposing of non-monetary gold found in its Zone of Occupation in Germany this Government is bound by Article 8 of the Final Act of the Paris Conference on Reparation of 1945 and by the Agreement and Instructions for the implementation of this Article which were adopted by the United States, France, the United Kingdom, Czechoslovakia and Yugoslavia at a conference in Paris in June 1946. The essence of these agreements is that the non-monetary gold found in Germany shall be made available to the Intergovernmental Committee on Refugees and its successors for the rehabilitation and resettlement of the

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of the non-repatriable victims of Nazi action.

As the Embassy is undoubtedly aware the plight and number of these victims who include former residents or citizens of Poland and who cannot claim the assistance of any Government receiving reparation from Germany is considerable. In the face of the substantial need, however, the funds made available through the disposition of non-monetary gold are so small as to be almost insignificant, and from a practical point of view, if no other, it would be unrealistic to attempt to allocate any portion thereof to Poland or other countries whose nationals were persecuted in Nazi concentration camps.

Insofar as the Polish request may be prompted by the desire to give some compensation to Polish victims of Nazism who are now resident in Poland, the Department desires to point out that Poland is in the same position as other European countries which likewise do not have access to the non-monetary gold fund for the purpose of compensating their own unfortunate concentration camp victims.

Department of State,

Washington, August 17, 1948

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cc - USPOLAD Berlin

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Mr. Fletcher

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INTERNATIONAL REFUGEE ORGANIZATION



ORGANISATION POUR LE

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Telephone : 2 80 00
Telegraphic address : INOREFUG GENEVE

Palais des Nations
GENEVE

REF. No:

DEC 28 1948
26 November, 1948.

Dear Mr. Warren,

I am enclosing a copy of a formal letter that I have today addressed to the Secretary of State.

The position is that, owing so far as one can see, to a misunderstanding regarding interpretation of the Washington Agreement of 19 and 25 May, 1946, the Swiss Office of Compensation is continuing to block the assets in Switzerland of certain persons who have been persecuted by the Nazis.

The Swiss Office of Compensation recognizes that the present situation is leading to unjustified hardship, but feels that only by new Governmental action can a more satisfactory result be reached.

It seems therefore necessary to ask the American Government to intervene in the matter, in order that steps may be taken to exempt assets belonging to victims of the Nazi régime from being blocked as liquidated, even if these persons still have their domicile in Germany and perhaps continue to be German subjects.

I should be grateful if you could pursue this matter to see that a satisfactory conclusion is obtained.

Sincerely yours,

Herbert Goldhamer
O/R Adviser on Refugees and Displaced Persons
DEC 8 1948

Mr. George Warren,
Adviser on Refugees and Displaced Persons,
Room 4219
New State,
Department of State,
WASHINGTON, D.C., U.S.A.

Office of Assistant Secretary of State, Department of State.

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INTERNATIONAL REFUGEE ORGANIZATION



ORGANISATION POUR LES

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Telephone: 2 80 00
Telegraphic address: INOREFUG GENEVE

DIVISION OF ECONOMIC PROPERTY POLICY

Palais des Nations GENEVE

3866

REF. No: 92/5/SWI

DEC 8 - 1948 November, 1948.

DEPARTMENT OF STATE

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Sir,

I have the honour to bring to your attention a difficulty which has arisen in connection with the interpretation of the Washington Agreement of 19 and 25 May, 1946, on the liquidation of German assets in Switzerland. This matter is one which concerns certain persons within the mandate of this Organization; I believe that this particular difficulty under which they labour could be avoided by appropriate action which might be taken by the Government of the United States.

In principle, subject to two exceptions, all assets in Switzerland of German citizens are blocked. The exceptions are first that persons domiciled outside Germany and denationalized by operation of the 11th German Ordinance of 21 November, 1941 may, on individual application, have their funds unblocked, and, secondly, that Germans not domiciled in Germany between 16 February, 1945 and 1 January, 1948, are to have their funds unblocked. The latter exception is made pursuant to a decree of the Swiss Federal Council dated 11 February, 1948.

Among the German assets that remain blocked are funds belonging to a number of Germans domiciled in Germany who had been exposed to severe persecution for racial or political reasons, and who had in many cases to spend many years in concentration camps. Many of these persons remain within the mandate of this Organization, and it is my hope that steps will be taken to remove the hardship caused to persons who have been persecuted, by the indiscriminate blocking of their assets along with those of their persecutors. They need their assets particularly to assist in their rehabilitation and in many cases to finance their emigration and settlement.

The position of the Swiss Government is, however, governed by the Washington Agreement of 19 and 25 May, 1946, according to which the Swiss Office of Compensation is to liquidate German assets in Switzerland. Before proceeding to liquidation, it has been arranged that all funds liable to subsequent liquidation shall be blocked, and among these are the funds of Germans domiciled in Germany, which persons include the persecuted persons mentioned above. The Swiss Government consider themselves bound by the Washington Agreement, and it is my understanding that the Control Committee for the execution of the Washington Agreement has ruled that it is not possible in the matter to make any distinction between Germans. It is in order to obtain another ruling on this point that the assistance of the Government of the United States is requested.

It should be noted that a distinction in the treatment of their assets as between Germans who have been persecuted and other Germans has been made in similar cases:

1. Article 3 of the law No. 5 of the Control Council (October 30 1944) has only vested in the Commission the rights, titles and interests belonging to a person of German nationality "who enjoyed full rights of German citizenship under Reich law at any time since 1 September 1939."

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Honorable George C. Marshall,
Secretary of State,
Department of State,
Washington, D. C., U. S. A.

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The assets belonging to persons who lost their nationality by individual denaturalization and also to those who being Jews and thus having lost the full rights of citizenship according to the law concerning citizenship of 1935 (Reichsbuergergesetz) remained therefore untouched.

2. United States legislation admits by the Amendment to the First War Power Act, 1941 (Public Law 671 of August 18, 1946) the unblocking of German assets in the United States "to an individual who, as a consequence of any law, decree or regulation of the nation of which he was then a citizen or subject, discriminating against political, racial or religious groups, has at no time between December 7, 1941, and the time when such law, decree or regulation was abrogated, enjoyed full rights of citizenship under the law of such nation."
3. In consequence of the Washington Agreement with Italy, the Italian Government has foreseen the possibility of unblocking of German assets in Italy belonging to "individuals having been deprived of life or deprived in a substantial manner of liberty according to any law, decree or regulation of any kind discriminating against political, racial or religious groups" (Decree Law of February 3, 1948).

In view of the above I find it hard to believe that the blocking and liquidation of the assets of persecuted persons was intended by the signatories of the Washington Agreement. I should therefore be grateful if you would represent this matter in the course of your negotiations with the Swiss Government about the execution of the Washington Agreement and if you could thus take the necessary steps to ensure that the assets of victims of German action are unblocked.

I have the honour to be, Sir,

Your obedient Servant,

William Hallam Tuck
 William Hallam Tuck
 Director-General

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Sir:

I refer to your letter dated November 26, 1948 concerning the property in Switzerland blocked as German belonging to persecutees of the Nazi regime.

The Department has long been aware of the difficulty involved in these cases and has taken the position that property of persecutees should be considered as an exception to the Swiss-Allied Accord and to the blocking decrees implementing that agreement.

Points 1, 2 and 3 of your letter are well taken, and emphasize the viewpoint of the Government of the United States. It is sincerely regretted that in certain specific claims the Swiss Compensation Office (which is the organization in the Swiss Government charged with the responsibility of administering

Mr. William Hallam Tuck,
Director-General,

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International Refugee Organization,
Geneva, Switzerland.

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of administering the laws of Switzerland concerning property blocked as German) has made unequivocal decisions denying the request of the persecutees.

At the present time it seems that the only procedure for a person who believes that he is in the category of a persecutee is to present his claim to the Swiss Compensation Office for consideration. If that claim is denied, appeal may then be made to the Swiss Authority of Review under Article III of the Annex to the Swiss-Allied Accord.

For your information, the United States Government hopes negotiations will begin soon with the Government of Switzerland on basic Swiss-Allied Accord matters, at which time the cause of persecutees will be re-examined, with a view toward obtaining a less strict interpretation of their status in Switzerland.

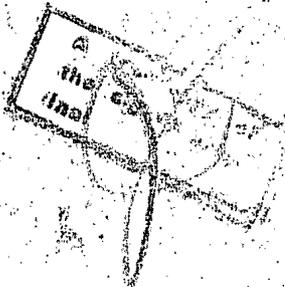
Very truly yours,

For the Secretary of State:

Charles F. Saltzman
Assistant Secretary
of State

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OF THE
UNITED STATES OF AMERICA

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CONFIDENTIAL
DIVISION OF ECONOMIC PROPERTY
POLICY

AMERICAN LEGATION
Berne, April 19, 1949 *DC/R*

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DEPARTMENT OF STATE

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pleted.

SUBJECT: Investigations in Switzerland by representatives of the Department of Justice and the Legation and Consulates concerning German property.

FOR DEPARTMENTAL DISTRIBUTION ONLY

The Minister has the honor to refer to previous communications concerning investigations in Switzerland by representatives of the Department of Justice and the Legation and Consulates concerning German property, and to transmit herewith a memorandum giving a résumé of the matter and the situation with respect thereto at the present time. No attempt has been made to discuss the merits or demerits of the positions of either the Department of Justice or the Government of Switzerland.

In connection with the comment in the memorandum on Swiss legislation (Section 10), it might be mentioned that the Swiss Government invoked Articles 271, 272, and 273 of the Swiss Penal Code in the VITIANU case. It will be recalled that M. Salvan Vitianu, an agent of the Rumanian Government, has been charged before the Swiss Federal Tribunal with investigating the financial activities of Rumanian citizens in Switzerland. His claim that he was an accredited diplomat engaged in diplomatic business was rejected by Switzerland.

Enclosure: *[Handwritten initials]*

Memorandum re Investigations in Switzerland by representatives of the United States concerning German assets.

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Enclosure to Despatch No. 198, April 19, 1949, American Legation, Berne.

MEMORANDUM

INVESTIGATIONS IN SWITZERLAND BY REPRESENTATIVES
OF THE UNITED STATES CONCERNING GERMAN ASSETS.

1. The situation prior to July 1946

During the war and the period of the "Safehaven" program immediately thereafter, the Legation and Consulates conducted numerous investigations concerning business enterprises and property suspected of being German-owned or controlled. For the most part this consisted of interviewing persons in Switzerland believed to be familiar with the matters under inquiry. These investigations covered German and non-German nationals as well as property situated both within and without Switzerland.

As early as June 1945 the Alien Property Custodian interested himself in procedures for conducting investigations in Switzerland relative to properties vested as enemy by the United States, properties suspected of enemy ownership but not yet vested, and the investigation of firms located in Switzerland and suspected of German ownership or control. 1/ A Special Representative of the Alien Property Custodian consulted the Legation in July 1945 on this subject.

2. Attempted investigations in the
I. G. Chemie case.

In July 1946 the Department of Justice sent a mission to Switzerland headed by Mr. Harry Leroy JONES, Chief of the Alien Property Section, to conduct an investigation of the I. G. Chemie case. While the Swiss contemplated making witnesses and documentary evidence available only through the medium of Swiss authorities, Justice hoped to have its attorneys and investigators conduct an independent investigation. Justice fully recognized that the proposed inquiry would not be subject to the procedures relating to the determination of German assets provided for in the Washington Accord which had been executed in May 1946. 2/ Justice was primarily concerned with obtaining evidence in possession of the Swiss and at the same time with a minimum disclosure of evidence in its possession. This investigation, as well as other APC matters, was considered by Justice to be its concern and not to fall within the framework of the Washington Accord. 3/

After considerable jockeying as to whether the United States or Switzerland should first disclose its evidence,
the

1/ Department's telegram No. 1940, June 1, 1945.

2/ Department's telegram No. 1566, July 17, 1946.

3/ Department's telegram No. 1641, August 2, 1946.

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American Legation, Berne.

the whole Chemie investigation collapsed when the Swiss Compensation Office flatly refused, not only to permit the Department of Justice to conduct any independent investigation, but to disclose any evidence in the possession of the Compensation Office for use by Justice in litigation in the United States. 4/

With the lapse of about a year Justice, with the Department's approval, decided to force the Swiss Compensation Office to disclose its evidence in the Chemie case under Article II, D of the Washington Accord Annex 5/ by means of a resolution of the Joint Commission requesting such evidence. 6/ After the appointment of Justice representatives as experts for the Commission and the exchange of some documents with the Compensation Office, this effort to obtain information also failed when the Swiss again insisted that Justice was obliged to produce its evidence in the first instance. 7/

In January 1948 Justice decided to again pursue the Chemie investigation through the Joint Commission and endeavor to obtain additional information from the Compensation Office. This attempt proved futile when the Compensation Office ignored requests therefor. 8/

3. Efforts to reach an agreement with the Swiss on a diplomatic level.

These continued attempts by Justice to obtain information through the Joint Commission were opposed by the Legation because of discussions that had in the meantime
taken

4/ Legation's despatch 14181, August 15, 1946; Legation's despatch 14195, August 20, 1946; Department's telegram No. 1797, August 28, 1946; Legation's despatch 14248, September 3, 1946; Legation's telegram No. 1526, September 10, 1946; Legation's despatch 14292, September 16, 1946.

5/ Article II, D of the Accord Annex is as follows: "The Compensation Office and the Joint Commission shall place at the disposal of each other all information and documentary evidence likely to facilitate the accomplishment of their tasks."

6/ Department's telegram No. 760, June 11, 1947; Department's telegram No. 956, July 16, 1947; Legation's telegram No. 699, July 25, 1947; Legation's telegram No. 702, July 26, 1947; Legation's telegram No. 954, September 28, 1947.

7/ Legation's despatch 15571, November 24, 1947; Legation's despatch 15611, December 17, 1947.

8/ Legation's telegram No. 116, February 4, 1948; Department's telegram No. 222, February 18, 1948; Legation's telegram No. 220, February 27, 1948; Legation's despatch 187, March 11, 1948.

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taken place in Washington between officers of the Legation, the Department, and Justice concerning the overall problem of investigations in Switzerland. Agreement had been reached in these discussions for a high level policy decision on the matter by the Secretary and the Attorney General. 9/ It was the Legation's view that no further action should be taken by Justice with respect to investigations in Switzerland until such a decision was reached by the Secretary and the Attorney General. 10/

The upshot of this was an agreement in August 1948 between officials of Justice and the Department, on the one side, and the Swiss Legation in Washington, on the other, for an exchange of notes to establish a procedure for investigations in Switzerland by Justice. The procedure agreed upon contemplated a commission of two members, one Swiss and one American, which would determine the action to be taken on requests made by Justice for investigations of specific cases in Switzerland. If deemed desirable by the Commission, persons in Switzerland would be invited to testify before it. Both parties made numerous reservations as to their rights under the Washington Accord and the United States Trading with the Enemy Act. 11/ On February 21, 1949 Justice informed the Department that this procedure had not been adopted and "that discussions with respect thereto have been tabled for the time being." 12/

4. Protest to Swiss Compensation Office
by Justice through local Swiss Counsel.

In connection with the investigations of property situated in the United States and suspected of being German-owned, Justice had on occasion obtained authorization from the individual or firm for Justice agents to examine records and documents in Switzerland. The Compensation Office refused to recognize such authorization if the Washington Accord was directly or indirectly involved. In the case of property situated in the United States or elsewhere held through Switzerland, the Compensation Office considered it subject to the Accord. The practical effect of the attitude of the Compensation Office was that all investigations in Switzerland to determine whether property was German or non-German became the exclusive concern of that Office except in case of letters
rogatory.

9/ Memorandum of Conversation, November 25, 1947 sent under cover of Department's transmittal slip dated November 26, 1947, signed Geo. W. Baker, OE.

10/ Legation's telegram No. 11, January 7, 1948; Legation's telegram No. 116, February 4, 1948.

11/ Department's A-208, August 19, 1948.

12/ Department's Instruction No. 42, March 5, 1949 concerning Melchers, Inc. et al.

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rogatory. In October 1947, 13/ Justice protested the Swiss view through its local counsel, Dr. Werner de STEIGER of Berne. The Compensation Office ignored the protest.

5. Cessation of investigations by the Legation and Consulates.

While all of the above was going on, the Department on October 31, 1947 directed the Legation and Consulates to cease conducting independent investigations concerning German assets in Switzerland, believing it preferable that such investigations proceed through the Swiss Compensation Office. 14/ This resulted from an aide-mémoire presented by the Swiss Legation in Washington with respect to an inquiry conducted by the Consulate General in Zurich as to the ownership of certain shares of a Swedish company.

In 1945, Trent A.G., Switzerland, had acquired an interest in A/B Nordiska Metallduksvaveriet, Sweden, owned by a resident of Germany. Legation Stockholm had doubts as to the bona fides of the transaction because of the relationship between the owner of the Swiss firm and the German owner of the Swedish firm and requested the Legation to investigate. The matter was referred to the Consulate General and an official and the owner of Trent A.G. were interviewed and documents submitted by them examined. 15/ The Swiss Legation in Washington protested this action of the Consulate in an aide-mémoire dated October 1, 1947 stating that such procedure was not in conformity with the Washington Accord, because under Section I, par. 4 and Section II of the Annex "investigations of persons and companies on Swiss territory are to be made through the Swiss Compensation Office in close cooperation with the Joint Commission and not direct by representatives of foreign countries." 16/

In compliance with the Department's instructions which followed the Swiss protest, the Legation informed the Department that it would conduct no independent investigations of any kind concerning German assets in Switzerland except through the medium of the Swiss Compensation Office and that even investigations in "extraordinary circumstances" would only be conducted upon express instructions from the Department. The Legation further stated that it would advise representatives of Justice who might call at the Legation that no investigations of any kind concerning German assets in Switzerland should be conducted by them in Switzerland except upon express instructions from the Department. 17/

6. Informal

13/ Legation's A-482, November 5, 1947.

14/ Department's Instruction No. 3997, October 31, 1947.

15/ Legation's A-194, November 17, 1947.

16/ Department's Instruction No. 3997, October 31, 1947.

17/ Legation's A-194, November 17, 1947.

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6. Informal "certifications" by the
Swiss Compensation Office.

Once investigations in Switzerland as to whether property was German or non-German became restricted to the Swiss Compensation Office, the Legation, in order to assist the Office of Alien Property, developed an informal "certification procedure." Cases of property situated in the United States claimed by Swiss nationals but suspected of being German-owned by Justice are submitted to the Compensation Office for investigation and certification as to true ownership. 18/ This procedure, which was accepted by the Office of Alien Property, 19/ has been used since the beginning of 1948 in several cases. 20/ Requests for certification are made direct to the Compensation Office by the Legation and not through the Secretariat of the Joint Commission.

This informal certification procedure is available only when the claimant to the property is a Swiss national. In cases of other nationality both the Swiss Federal Political Department and the Compensation Office have taken the position that they have no competence. 21/

7. Interrogation in Switzerland of non-
Swiss nationals with respect to property
outside Switzerland.

In early 1948 Justice desired to interview C. H. MUELLER, a German national resident in Switzerland, with respect to a transaction thought to have resulted in the cloaking of the shares of an American corporation for a German corporation. The Department approved the interview but suggested that advance notice be given the Swiss, and that in so doing it should be pointed out "that since question of German assets in Switzerland is not involved the interrogation does not come within the purview of the Accord, and this is not being referred to the Joint Commission [sic] by the U.S. Member." 22/

The

18/ Legation's A-493, November 17, 1947.

19/ Department's Instruction No. 6, January 23, 1948.

20/ Dr. Alfred Buchi (Legation's despatch 244, April 6, 1948);
Karl and Emma Locher (Legation's A-436, September 22, 1948);
F. Eugene Mertz (Legation's A-663, December 28, 1948);
Emilie Heymann (Legation's A-77, January 31, 1949).

21/ Legation's A-522, October 29, 1948.

22/ Department's A-36, February 9, 1948. See also Department's telegram No. 467, April 7, 1948 concerning interview of Dr. Paul Hollender to which Department saw no objection because no Swiss property or interest was involved. As the situation was identical with the proposed interview of Mueller, the Legation thought they should be handled in the same fashion. Legation's A-136, April 9, 1948.

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The matter was submitted by the Legation to the Swiss Federal Political Department in an aide-mémoire which clearly pointed out that the "inquiry in no way involves assets in Switzerland but solely those in the United States." 23/ The Swiss replied that if it was intended to submit Mueller to an examination the Swiss authorities would have to be invited to handle the matter themselves in the form of a "commission rogatory", but that the Legation would be free to delegate a representative who could be present at the interrogation. 24/ The Swiss considered the matter to involve the control and protection of persons in Switzerland (irrespective of nationality), and under Swiss law the nationality of the owners of the property involved was not believed to be pertinent. 25/

Justice objected to the Legation's handling of the proposed interrogation of Mueller, contending: (1) reference of the matter to the Swiss Government for approval was unnecessary, (2) Justice only desired to confer with Mueller informally, not to take his testimony, and (3) Swiss nationals, property or interests were not involved. 26/ The Legation pointed out that it had all along acted on the premise that the Washington Accord was not involved, that the matter had been referred to the Swiss because suggested by the Department, and that it had been clearly pointed out to the Swiss that neither Swiss nationals nor property was involved and that only an informal discussion with Mueller was envisaged. 27/

8. Interrogation before a Swiss official,
(Staatsanwaltschaft)

After the above efforts to obtain Swiss permission for even informal interviews in Switzerland with non-Swiss nationals with respect to non-Swiss property had failed, the Department on July 22, 1948 nevertheless asked the Legation to assist representatives of Justice in obtaining permission to examine the files of a Swiss corporation and and to interrogate one or two Swiss nationals. 28/ The Legation was given authority to pursue whatever course seemed most likely to succeed. 29/

When the Justice representatives arrived in Switzerland the matter was discussed with the Swiss Federal Political Department and the Swiss Federal Department of Justice and
Police.

23/ Legation's despatch 389, May 27, 1948. Enclosure No. 1.

24/ Id., Enclosure No. 2.

25/ Legation's A-223, May 28, 1948.

26/ Department's Instruction No. 176, July 3, 1948.

27/ Legation's A-307, July 16, 1948.

28/ Department's A-184, July 22, 1948.

29/ Department's telegram No. 1124, August 11, 1948.

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Police. As a result an informal procedure was developed whereby a memorandum would be prepared setting out the purpose of the inquiry, its pertinency, the facts concerning which information was sought, the person sought to be interrogated, and the questions to be propounded. This memorandum was then officially transmitted by the Legation to the Swiss Federal Department of Justice and Police requesting that the questions be propounded by a Swiss official (Staatsanwaltschaft). If agreeable to that Department the matter was to be referred to a Swiss official who would request the witness to appear voluntarily for questioning. If he did so (no compulsory process is contemplated) the Swiss official would put the questions, but an American official would be permitted to attend the interview, and suggest to the Swiss official conducting the interrogation such additional questions as might occur to him to be pertinent to the inquiry. A copy of the record of the interview would be made available to the American official. 30/

Justice availed itself of this procedure in only one case. 31/

9. Investigations conducted by Department of Justice Mission, Munich.

In the latter part of 1948 the Deputy Chief of the Justice Mission at Munich visited the Legation to give assurances that in the future that Mission proposed to cooperate with the Legation in every way in all matters requiring action in Switzerland and that previous instances of non-cooperation would not occur. 32/ Since that time a number of matters have been directly referred to the Legation by the Munich Justice Mission and the Legation has been of such assistance as has been possible under the circumstances. This has consisted of obtaining information from the Swiss Compensation Office in appropriate cases and supplying information and documents contained in the Legation's files. Requests to conduct independent investigations have been answered by stating that they require express approval of the Department. 33/

10. Rationale of the Swiss position.

The Swiss position stems primarily from legislation concerning commercial espionage. The key statute on this subject

30/ Legation's despatch No. 733, October 5, 1948.

31/ Interviewing of Dr. Gottfried WEISS with respect to American Hyasol Corporation, etc., Legation's A-596, December 3, 1948.

32/ Legation's A-549, November 8, 1948.

33/ See Section 5 above.

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subject is Article 273 of the Swiss Penal Code 34/, which punishes with imprisonment (in grave cases with penitentiary confinement) and/or fine both a person who gives and a person who receives a "manufacturing or business secret" in order to put it at the disposal of a foreign government, organization, or a private enterprise or their agents. The phrase "manufacturing and business secret" has been given a very wide interpretation by the Swiss Federal Supreme Court. Inasmuch as the obtaining of the information must be to the disadvantage of the Swiss economy 35/, the Swiss authorities interpret the statute as not necessarily prohibiting investigations by representatives of foreign governments, but as permissible only with the approval of the Swiss Government which may be granted administratively if not opposed to the Swiss national interest. 36/

A still broader prohibition on the giving of information is contained in Article 2 of Decree No. 2 of November 2, 1939 promulgated by the Swiss Federal Department of Public Economy concerning "Supervision of Imports and Exports" which prohibits "persons and firms residing within the Swiss customs area" from giving information to "foreign agents or their representatives." The information contemplated by this decree does not have to be secret but is all inclusive.

Related to the above is Article 272 of the Penal Code which makes it a penal offense for a person in the interest of a foreign authority "to the disadvantage of Switzerland, its people, or inhabitants," to engage in espionage with respect to the political activities of persons. This article likewise makes it an offense for a person to facilitate such activities, and, like Article 273, contemplates that the giving and the obtaining of the proscribed information must be to the disadvantage of Switzerland.

It will be seen that not only is the obtaining of information in Switzerland for the use of a foreign power prohibited in broad general terms, but the giving of such information is likewise prohibited. The result is that the Swiss Government holds that the interrogation of persons in Switzerland by the representatives of a foreign government makes the person interviewed liable to criminal prosecution should he agree to an interview without the permission of the Swiss authorities. 37/ It should be particularly noted that the Swiss legislation does not take into consideration the nationality of the person interviewed or whether or not

the

34/ Swiss Penal Code of December 31, 1937 (as revised to January 1, 1942), Chapter 13, "Crimes and Offenses Against the State and National Defense."

35/ Hafter, Schweizerisches Strafrecht (Berlin, 1943), Vol. II, p. 673.

36/ Legation's despatch 398, June 1, 1948, enclosure No. 1.

37/ Legation's despatch 733, October 5, 1948, enclosure No. 2.

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the information might or might not affect Swiss property. Whether or not the giving of the information is or is not detrimental to Swiss interests is reserved for the discretionary determination of the Swiss Government.

Another provision of Swiss law that bears on the matter is Article 271 of the Penal Code which punishes with imprisonment (in grave cases penitentiary confinement) a person who carries out on Swiss territory activities pertaining to an officer without Swiss permission. It will be seen that in this statute, as in Articles 272 and 273 above referred to, the proscribed activity may be carried out with permission of the Swiss authorities. The Swiss fail to make the distinction between an informal interview with the object of ascertaining information that might be directly or indirectly used in litigation in the United States and the formal taking of testimony for such purpose. (See Section 7 supra). The latter may be accomplished by Swiss officials (See Section 8 supra), hence the Swiss concept that unauthorized interrogations of persons in Switzerland by representatives of the United States usurp the functions of Swiss officials. 38/

In brief it may be said that the Swiss interpret their commercial and political espionage laws on a territorial basis covering persons (irrespective of nationality) and property physically situated in Switzerland. As interpreted by the Swiss their legislation controls all investigative activities in Switzerland of representatives of foreign governments. No such activities, even informal discussions, are, in the Swiss view, permissible without authority from the Swiss Government. 39/

11. SUMMARY

In the absence of a diplomatic agreement to the contrary, the present situation concerning investigations in Switzerland by representatives of the United States (including legation and consular personnel) with respect to German property (wherever situated), or property suspected of being German, is the following:

A. PROPERTY SUBJECT TO THE WASHINGTON ACCORD,
OR CLAIMED BY SWITZERLAND TO BE SUBJECT THERETO.

Investigation in Switzerland of property owned or controlled by "Germans in Germany" 40/ or suspected of being so owned or controlled is within the exclusive competence of

the

38/ Legation's despatch 733, October 5, 1948, enclosure No.2.

39/ Id., p. 8.

40/ Accord, Article I, 1; Annex, Article IV, B.

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the Swiss Compensation Office. 41/ This includes property owned by "Germans in Germany" which is physically situated outside Switzerland, but where ownership derails through Switzerland. 42/

Requests received by the Legation for investigation of such property are forwarded to the Swiss Compensation Office by the United States Member of the Joint Commission through the Commission Secretariat. 43/ Efforts to obtain evidence or information from the Compensation Office under Article II, D of the Accord Annex for use in establishing German ownership of property situated in the United States are futile (see Section 2 supra). 44/

B. PROPERTY SITUATED IN THE UNITED STATES WHICH IS CLAIMED BY A SWISS NATIONAL BUT SUSPECTED BY THE UNITED STATES OF BEING GERMAN-OWNED.

Investigation in Switzerland of the ownership of property situated in the United States, claimed by a Swiss national, but suspected of being German-owned will be conducted by the Swiss Compensation Office. The Compensation Office will not supply evidence or documents, but simply report the result of its investigation and informally "certify" ownership. 45/ This procedure is available when the property is not claimed by the Swiss to fall within the Washington Accord and thus not subject to the procedure described in A above. It can be utilized only when the claimant is a Swiss national.

Requests received by the Legation for investigation of cases within this category are referred directly to the Compensation Office, not through the Joint Commission Secretariat.

C. INVESTIGATIONS IN SWITZERLAND OF (A) PROPERTY NOT SUBJECT TO THE WASHINGTON ACCORD OR CLAIMED BY SWITZERLAND TO BE SUBJECT THERETO; (B) PROPERTY SITUATED OUTSIDE SWITZERLAND OTHER THAN UNVESTED PROPERTY SITUATED IN THE UNITED STATES CLAIMED BY A SWISS NATIONAL.

Investigation in Switzerland with respect to the ownership of property in all cases other than those described in paragraphs

41/ Accord, Article I, 1, 4; Annex, Article I, B; II, A, D, E.

42/ See Swiss position on the intercustodial question. Legation's despatch 165, March 2, 1948.

43/ Department's Instruction No. 3997, October 31, 1947.

44/ Also see Legation's despatch 100, February 11, 1948.

45/ Department's Instruction No. 6, January 23, 1948.

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paragraphs A and B above may be conducted by representatives of the United States only with the permission of the Swiss Government.

Requests for such investigations must be formally addressed by the Legation to the Swiss Department of Justice and Police, setting out the purpose of the inquiry, its pertinency, the facts concerning which information is sought, persons sought to be interrogated, and questions to be propounded. 46/ Requests for such investigations are only made on behalf of representatives of Justice or other United States governmental agencies upon express instructions from the Department due to the lack of Legation personnel. 47/ As such investigations require detailed knowledge of complicated questions of law and of fact, they can best be handled by trained investigators, to whom the Legation can render such assistance as is possible after Swiss permission is obtained.

Except as outlined above there are no other means available to the Legation for conducting investigations in Switzerland with respect to German-owned property, or property suspected of being German-owned.

46/ Legation's despatch 733, October 5, 1948, p. 8.

47/ Cf. Legation's A-368, August 25, 1948.

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