

(FAD=Foreign Affairs Dept.)

Swiss Repatriation

THE AMERICAN JEWISH COMMITTEE

MEMORANDUM

file

TO: John Slawson
FROM: Eugene Hevesi
SUBJECT: Swiss-Allied Agreement (and JTA release 9/25/52) (P.4)

October 2, 1952.

We have been working on the Swiss matter mentioned in the attached WJC item for four years. Isenbergh in Europe and, particularly, Rubin in Washington have been primarily dealing with the matter, notably with the JRO share in Jewish heirless assets in Switzerland, estimated at some 3 1/2 million dollars worth of Swiss francs. With regard to this item, which is of particular interest to the JDC and the JAFP, the new agreement provides that the Swiss government agrees to its application for the rehabilitation of Nazi victims "if such assets shall be found to exist in Switzerland." In spite of the fact that they signed the agreement, the British recently again indicated reluctance to have the full amount due to the JRO paid over to the two organizations, so that further State Department pressure on them is needed. Sy Rubin obtained assurances that a strong position is being taken by our authorities which may settle the issue satisfactorily.

In this situation, it did not seem advisable in August to publicize the thing as a final victory. The fact is, however, that in the last years Rubin has dealt with the matter exclusively in Washington, the only place where it could be handled effectively. The WJC release is just a repetition of their usual publicity tricks, camouflaged by the mention of the JDC as their "partner" in obtaining this result. As you may remember, Leavitt has left the matter entirely in Rubin's hands and the JDC has made no direct representations at all.

Zach knows, of course, about the agreement, but I doubt that he could do much about the last remaining difficulty caused by the British. Nevertheless, I am sending him a copy of this memorandum to alert him to the situation.

cc: Zach Shuster

338025

Am. Jew. Com.

YIVO RG 347.7
Am. Jew. Com. (R-41-46)
Box 47, File 8

(FAD=Foreign Affairs Dept.,)
Box 47 File 8

December 1, 1949

MEMORANDUM

To: Dr. Eugene Hevesi
From: Seymour J. Rubin
Subject: Allied Request for a Further Swiss Advance.

In response to your recent request for further information as to the status of this matter, I have ascertained that the proposed Aide-Memoires to the French and British Governments and instructions to the American Legation in Bern are at present circulating for clearances within the Department of State. It is my understanding that these documents follow almost exactly the language proposed in the draft prepared in this office.

I understand, however, that the French Government had previously indicated that its Embassy in Bern had already been instructed to cooperate with the British and American representatives in the preparation and presentation of the notes to be presented to the Government of Switzerland.

cc: Mr. Isenbergh
Mr. Wolfsohn

338026

RUBIN AND SCHWARTZ
ATTORNEYS AT LAW

YIVO RG 347.7
American Jewish Committee
(Foreign Affairs Dept. 41-46)
Box 47 File 8 PHONE: REPUBLIC 0504
CABLE ADDRESS: RUBINLEX

SEYMOUR J. RUBIN
ABBA P. SCHWARTZ

1822 JEFFERSON PLACE, N.W.
WASHINGTON 6, D.C.

November 15, 1949

MEMORANDUM

To: Mr. Max Isenbergh
From: Seymour J. Rubin
Subject: Swiss Advance

Re your memorandum of November 8, 1949 on the above subject, the Department of State has received a note from the British indicating their willingness to go along with the United States and France in making a new request to the Swiss.

The State Department has allowed me to see the text of the British note. Except for one feature mentioned hereinafter, the note is quite satisfactory. It indicates the willingness of the British to make an immediate approach to the Swiss; asks for State Department suggestions as to whether the tripartite approach should be coordinated by consultation between the governments or by consultation in Bern; and accepts the figure of approximately 17-1/2 million Swiss francs instead of 14 million as the figure which should be requested in view of the Portuguese devaluation.

The one respect in which the British note causes some difficulty is in connection with their suggestion that the United States join them in indicating to the IRO that the funds to be thus made available will be used only in rehabilitation and resettlement projects for which IRO would otherwise be responsible or in connection with projects in which the expense would be borne "by the authorities of those European countries which have afforded temporary asylum for refugees." This is an attempt by the British to reestablish a position which they have argued with IRO for some years and on which they have been defeated. What they are suggesting apparently is that reparation funds should go to diminish funds which would otherwise be available for refugee purposes. Abba Schwartz with whom I have discussed this matter has talked with Mr. Kingsley about it and will talk with George Warren about it; and both of us have discussed the matter with Ed Adams of the State Department. The Department will probably give some sort of conciliatory answer on this particular point to the British but will not recede from its position that the administration of the funds is the function of the IRO under the directives established in the Five Power Agreement; nor will the Department concede that schemes for rehabilitation and resettlement which have already been approved by the IRO should be subjected to any further scrutiny whatsoever. Since schemes totaling approximately \$14,000,000

Nov 15 1949

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in excess of what has been paid out until now ~~we~~ have been approved, this will mean that whatever concessions are made to the British point of view will be purely verbal and face-saving ones.

It is encouraging that the British do not make this suggestion a condition of their willingness to go along with the request to the Swiss. Nor, apparently, do they insist on the participation by the United States and France in their proposed suggestions to the IRO. Kingsley has assured us that he will administer the reparation funds in accordance with past procedures unless there should be some shift in position by the United States Government. In view of the position previously taken by George Warren and the Department, such a shift is highly unlikely.

For your confidential information, I have drafted a proposed Aide-Memoire to be delivered by the State Department to the British Embassy. I have suggested in it that the note to the Swiss be agreed by the Legations in Bern, rather than by the three governments; that it be based on the note which was delivered in February of 1948; that it, however, stress the urgency of the matter and refer to the fact that it was expected that the discussions between the four governments would reconvene in September of 1949 whereas there is no immediate prospect of such discussions taking place -- a fact which increases the urgency and necessity of a further advance. I have also stated that the United States is immediately instructing its representatives in Bern to get together with the British and French and that the note when agreed in Bern should be delivered at the highest levels possible.

After the note is delivered, it will undoubtedly be appropriate for the IRO to make representations to the Swiss Government in support of the Allied request. Abba has discussed this matter with Mr. Kingsley who has indicated his willingness to see Stucki on this matter.

You will recognize the desirability of keeping certain aspects of this memorandum strictly confidential. The AJC has played a major role in this entire matter, starting with our original suggestions that a new approach should be made to the Swiss. I have been admitted to intimate State Department discussions on this matter and, as I have indicated, have been allowed to read the British not to the Department - a somewhat unusual procedure. Also, although my draft Aide-Memoire will be merely in the nature of unsigned suggestions made to the Department, I have some confidence that it will be the basis for the Department's further action. I think that we have achieved a remarkable success in first persuading the United States that the representations should be made immediately instead of at the time of the further discussions in Bern; second, in getting the figure raised from 14 million to a figure in excess of 17-1/2 million Swiss francs; third, in having the United States repeatedly press the British for their concurrence in the face of an original British refusal; and fourth, in getting both the British and French to go along with the United States on this matter. All of this has required the most delicate manipulation - using that term in its non-invidious sense - of our excellent relations with the Department, with the IRO, etc. I think that the AJC can well be proud of the job which it has done on this particular project, but it is of the essence of our success in this connection with the matter that not too much publicity be given to such matters as our ability to sit in the inner councils of the Government.

cc: Mr. Wolfsohn
Dr. Hevesi

338028

YIVO RG 347.7
American Jewish Committee
Swiss United
(Frngn Affrs Dept. 41-46)
Box 47 File 8

November 15, 1949

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

In connection with your letter of November 11, I enclose herewith a copy of a letter which I have today sent to Butch Fisher. Although the letter addressed to me is both clear cut and contains no information that is considered confidential, I am not sure but that the State Department will not feel that it would be better not to have a press statement on its position in connection with negotiations which are yet to take place. The Department may well feel that while it is perfectly willing to tell us and on the basis of the statement to us to tell private individuals what its attitude is, it would not be particularly helpful to persons having cases at this juncture because the relevant fact is the agreement of the Allies and the Swiss and not merely the attitude of the United States acting by itself. Moreover, the Department might feel that the advance announcement of the position which it will take vis-a-vis the Swiss and the British and French might well not be received kindly by these other governments.

I am of two minds with respect to this matter. I am not sure that the government might not reasonably consider a press statement at this time not to be useful or desirable. However, I think there is sufficient merit on the other side so that the proposition ought to be put up to the Department.

Sincerely yours,

Seymour J. Rubin

Enclosure

cc: Mr. Wolfsohn
Mr. Isenbergh

338029

November 15, 1949

Mr. Adrian S. Fisher
The Legal Adviser
Department of State
Washington, D. C.

Dear Mr. Fisher:

I wish to thank you for your letter of November 8, 1949 and for the clear cut and unequivocal statement of the position of the United States Government with respect to this matter.

As you know, I have been interested in the question of whether persecutees were to be considered as "Germans in Germany" on the basis of the general interest in such matters of the American Jewish Committee, whom I represent in Washington. The Committee has indicated to me that it has in the past received communications from lawyers representing clients falling in the persecutee category. It is my understanding that such lawyers have been, from time to time, engaged in discussions with one or the other of the governments interested in this problem. The question arises as to whether it would not be appropriate to give some publicity to the statement of the United States position contained in your letter to me. Such publicity could be in the form of a press statement to be issued by officials of the American Jewish Committee, indicating the receipt of your letter of November 8 and setting out an appropriate portion of that letter. It would appear that an appropriate public statement of this sort might substantially assist private persons interested in this question.

Before any such statement is issued, however, both the American Jewish Committee and I personally would wish to have an indication that the Department of State has no objection. I should appreciate it, therefore, if you could give me your reaction to the above proposal.

Sincerely yours,

Seymour J. Rubin

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~~Mr. Solofsky~~
Mr. Isenbergh

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YIVO RG 347.7
Amercn Jewish Committee
(Frqn Affrs Dept. 41-46)
Box 47 File 8

Swiss Accord

November 10, 1949

MEMORANDUM

To: Dr. Eugene Hevesi
From: Seymour J. Rubin
Subject: Status of persecutees under the Swiss-United States Memorandum of Understanding on Intercustodial Questions.

I enclose herewith a copy of a letter received from the Department of State in connection with the above entitled subject. It will be noted that the Department of State indicates that it shares completely my view "that persons who were persecuted by the German Government should not be considered as 'Germans in Germany' for the purpose of the Allied-Swiss Accord and that an exception from seizure of such persons' property should be sought by the Allied Governments in the discussions with the Swiss."

It may be that the Committee will wish to convey this information to the private lawyers who have expressed an interest in the status of persecutees.

cc: Mr. Isenbergh
Mr. Wolfsohn

338031

DEPARTMENT OF STATE
Washington

In reply refer to
L/E

November 8, 1949

My dear Mr. Rubin:

Reference is made to your letter of October 7, 1949 concerning the Memorandum of Understanding between the United States and Switzerland on inter-custodial problems.

The Memorandum of Understanding between the United States and Switzerland is an ad referendum document which has not yet received the official approval of the Executive Branch of this Government or of the Swiss Government. The Department does not consider it appropriate at this stage to make the document available to the public. However, the Department has no objection, as has been stated to you by the Office of Alien Property, to discuss the application of the document to any case or class of cases.

As you know, the Department shares completely your view that persons who were persecuted by the German Government should not be considered as "Germans in Germany" for the purpose of the Allied-Swiss Accord and that an exception from seizure of such persons' property should be sought by the Allied Governments in the discussions with the Swiss. You may be assured that in the re-examination of the Memorandum preliminary to official approval, the Department will bear in mind the protection of persecutees.

As stated before, the Department will also be pleased to consider with you in detail the application of the provisions in the Memorandum to this class of persons.

Sincerely yours,

/s/Adrian S. Fisher
The Legal Adviser

Mr. Seymour J. Rubin
Rubin and Schwartz
Attorneys at Law
1322 Jefferson Place, N.W.
Washington, D. C.

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O
P
Y

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Swiss account

November 8, 1949

MEMORANDUM

To: Seymour Rubin
From: Max Isaenbergh

Subject: Swiss advance of 14 million francs.

Reviewing recent correspondence from you, I am reminded of the suggestion contained in your letter of October 25 "that it might be advisable . . . to drop in to see Goodchild in the foreign office in London". In view of the representation in London by Dr. Goldmann and by the Israeli Ambassador, and in view of Abba Schwartz's recent visit there, I wonder whether you think my going to London is still advisable. There are other fairly pressing items on the calendar (e.g. drafting the law for the French Zone and a resumption of work in Austria) which make me reluctant to go to London unless you feel a visit is clearly called for. If you do, I shall be grateful to have copies of any memoranda you have indicating what the state of affairs is at the moment and supporting the contention of immediate urgent need for the funds in question.

miss
Copy: Foreign Affairs

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AMERICAN JEWISH COMMITTEE

338033

Seymour Rubin

YIVO RG 347.7
American Jewish Committee
(Frgn Affrs Dept. 41-46)
Box 47 File 8

MEMORANDUM

Subject: German Assets in Portugal

You will recall that sometime ago Ambassador Elath and I met with the Portuguese Ambassador in Washington and requested that the Portuguese advance the 100 million escudos earmarked for the IRO under the Portuguese-Allied tentative Accord on German Assets. This agreement is not being implemented pending a solution of the "looted gold" problem.

Ambassador Elath and I explained the urgent need of the funds, pointed out that the payment of the 100 million escudos was a priority item, and urged that the Portuguese and the Allies join in making these funds immediately available to the IRO.

Ambassador Elath called me several days ago to inform me that the Portuguese Ambassador had called on him and that he had said that it was impossible for the Portuguese to agree to the advance. His reasons were the same as before; namely, that the Portuguese could not see their way to having any part of the agreement implemented until the gold issue was definitively settled.

I have a tentative appointment to see Mr. Lincoln MacVeigh, the American Ambassador to Portugal, here in Washington early in November. At that time I shall try to suggest to him and other State Department officials a means of arriving at a definitive settlement. It would appear that our chief chance of getting the funds quickly now lies in this direction rather than in further pressing for the advance.

Seymour J. Rubin
October 31, 1949.

338034

Switzerland - Accord

YIVO RG 347.7
American Jewish Committee
(Frng Affrs Dept. 41-46)
Box 47 File 8

October 3, 1949

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

Subject: German Assets in Portugal

As a result of several conversations with officers of the Department of State, I have learned:

1. The Portuguese have now rather indignantly rejected the Aide-Memoire presented to them by the British on behalf of the three Allied Governments asking for settlement of the "looted gold issue." As you will recall, an agreement on German assets was initialed in Lisbon some two years ago. This agreement provides for the payment of 100 million escudos, now, under devaluation, amounting to about \$3,400,000, to the IRO for distribution principally to the JDC and the Jewish Agency. Implementation of this agreement has been held up pending settlement of the gold problem.

2. The rejection of the latest Allied approach on the ground of extreme poverty of Portugal leaves the State Department with no very clear idea of where to go from here. In addition, the State Department has dispersed most of its personnel who have worked on this and similar problems with the result that a fixed policy is not likely to emerge sua sponte.

It is my intention to press vigorously once more for immediate implementation of the IRO commitment in the Portuguese-Allied Accord on German Assets. I believe that the hiatus which has been created at present may be usefully employed for the purpose of advancing the cause of this payment. It might be argued to the Portuguese that payment to the IRO affords a possibility of demonstrating that their rejection of the Allied gold note is in fact based on principle and on high standards of morality rather than on a crass desire to hang on to whatever foreign exchange assets they have. On the Allied side, it may be hoped that the hiatus will afford an opportunity for reexamination leading to the conclusion that something should be obtained at present in view of the obvious impossibility of obtaining a gold settlement.

Sincerely yours,

Seymour J. Rubin

338035

cc: Mr. Wolfsohn
Mr. Isenbergh

September 20, 1949

MEMORANDUM - Swiss-Allied Negotiations - IRO Prospects for an Advance.

To: Dr. Eugene Hevesi

From: Seymour J. Rubin

On Thursday, September 15, it was indicated to me by an officer of the Swiss Legation in Washington that he was somewhat optimistic about the prospects of a solution of the outstanding questions between the Swiss and the Allies, in which case he stated we might expect payment of the sum due under the Swiss-Allied Agreement to the International Refugee Organization. Yesterday I was informed by an officer of the Department of State that a "memorandum of understanding" exists between the Swiss and the United States with respect to the inter-custodial problems which have so far stood in the way of implementation of the Accord. It was indicated, however, that the memorandum of understanding does not include solution of the I. G. Chemie - General Aniline & Film case; but that nevertheless the State Department has some hopes of securing implementation of the Agreement.

It was further indicated that the next meeting between the Allied Governments and the Swiss might be expected some time in November or perhaps slightly later. Apparently the initiative to call the meeting now rests with the Swiss upon their examination of the results of the conferences which have been going on in Washington between Messrs. Ott and Weininger and the Department of Justice.

cc: Mr. Wolfsohn
Mr. Isenbergh

338036

Swiss Accord

YIVO RG 347.7
American Jewish Committee
(Fgn Affrs Dept 41-46)
Box 47 File 8

MEMORANDUM - Swiss-Allied Accord Negotiations

To: Dr. Eugene Hevesi
From: Seymour J. Rubin

At lunch today with Mr. DeRham of the Swiss Legation in Washington and Mr. David Schwartz of the Department of Justice, I got a fairly optimistic picture of the possibilities for settlement of the Swiss-Allied differences which have so far prevented implementation of the Accord.

It was indicated by Mr. Schwartz that Remington-Rand has filed successfully a petition to intervene in the pending suit between I. G. Chemie and the United States involving the disposition of General Aniline Film, the disposition of which company has been the major stumbling block in implementation of the Accord. The result of Remington-Rand's intervention and its argument that no settlement can be reached which involves a cash payment to I. G. Chemie without prior approval of Remington-Rand is, in Mr. Schwartz' opinion, to postpone possibilities for settlement of the case for a period of at least a year while the various issues involved in the Remington-Rand contentions are being litigated. Since a memorandum of understanding has been arrived at resolving a good many of the other issues, it is the opinion of both Mr. DeRham and Mr. Schwartz that implementation of the Accord on a tentative basis may very well be arrived at during the next meeting of the Swiss and the Allies. It seems very likely that, if this is the case, the Swiss will respond favorably to the proposed Allied request to be addressed to them for payment of some 1 1/2 million Swiss francs to IAG for eventual transfer, in the amount of 90%, to the JAC and the Jewish Agency.

I also took the occasion to ask Mr. DeRham about press reports to the effect that an Israeli Government spokesman had indicated that there had been a transfer of some German funds in Switzerland to Syria for the purchase of war material. DeRham and I agreed that any such transfer would, if it had been made, be in violation of Swiss blocking regulations; and he agreed to check on it and let me know what the answer was. His own feeling was that the report must have been incorrect.

cc: Mr. Wolfsohn
Mr. Isenbergh

September 20, 1949

338037

Swiss

YIVO RG 347.7
American Jewish Committee
(Frngn Affrs Dept. 41-46)
Box 47 File 8

September 19, 1949

Dr. Eugene Hevesi
The American Jewish Committee
306 Fourth Avenue
New York, New York

Dear Eugene:

This is merely to inform you that sources in both the State Department and the Swiss Legation here in Washington indicate that the projected Swiss-Allied conference on the Accord on German Assets is likely to take place in November of this year in Bern. The State Department indicates that it will continue to press for a further advance of approximately 3-1/2 million dollars from the Swiss Government.

I also understand that Dr. Goldson of the Jewish Agency for Palestine has talked with Mr. Hector McNeill about this matter and has obtained the promise of the British Government to join in an Allied request for the advance. Monsieur Lehmann of the Swiss Legation here has expressed to me privately his optimism with respect to such an advance being made by the Swiss if it is requested. I am not sure whether this optimism is a personal view of Lehmann's or is a reflection of what is likely to be the official Swiss position.

I enclose an extra carbon copy of this letter since you may wish to forward it to the JAC.

Sincerely yours,

Seymour J. Rubin

cc: Mr. Wolfsohn
Mr. Isenbergh

338038

Swiss Accord

(Frng Affrs Dept. 41-46)
Box 47 File 8

June 15, 1949

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

I had a lengthy conversation with Covey T. Oliver of the State Department Monday afternoon. Covey said that the matter of the advance to the IRO had been vigorously pressed by Mr. Thorp but that despite what Goodchild apparently told Joel Fisher, the British delegation was quite sticky throughout on this issue. The French, as you already know, agreed to support a request for \$3,500,000.

At one point in the preliminary stages of the discussions, Stucki said flatly that the Swiss Government would not consider an advance for any purpose until the Accord as a whole had been put into shape. As a result, although Covey says that he expressed it on Thorp several times, Thorp refused to make a direct request to Stucki for an advance on behalf of the IRO. This decision was apparently motivated by a feeling that such a request would not get anywhere in view of the explicit statement by Stucki, although it was not clear whether such a statement really had reference to an advance to the IRO. Thorp's attitude was apparently also influenced by British stickiness on this point.

I am continuing to do what I can on this matter in view of the September discussions and hope that it will be possible to work something out at that time.

Sincerely yours,

Seymour J. Rubin

cc: Mr. Wolfsohn
Mr. Isenbergh

338039

YIVO RG 347.7
American Jewish Committee
(Frn Affrs. Dept. 41-46)

Box 47 File 8

June 10, 1949

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York, New York

Dear Eugene:

The following is an excerpt from a speech by Representative Davenport appearing at page 7339, Congressional Record for June 2:

"Switzerland has paid only \$5,000,000 of its promised \$12,500,000 to the IRO. Switzerland is also holding a substantial amount of money belonging to people exterminated by the Nazis. All efforts to have Switzerland turn this money over to the IRO have failed.

Sincerely yours,

Seymour J. Rubin

cc: Mr. Wolfsohn
Mr. Isenbergh

338040

Swiss Account

June 8, 1949

Dear Mr. Braunschvig:

I enjoyed our discussion the other day very much, and we are all very grateful for the assistance you are so kindly extending to us.

Enclosed I am sending you Mr. Rubin's memorandum on the other problem in connection with which we asked your kind intervention, the problem of German Assets in Switzerland. I am also enclosing a copy of my own brief memorandum on the present status of the negotiations on this subject in Washington. In the light of the latter, Mr. Rubin's findings appear to be somewhat outdated. Nevertheless, you may feel that the intervention which you were so kind as to offer might be helpful in obtaining French support to the idea of the advance payment even without overall agreement with the Swiss.

My feeling is that the French may support this request to the extent of $3\frac{1}{2}$ instead of $7\frac{1}{2}$ million dollars, meaning that they would be for the subtraction of the 100 million escudos expected from the Portuguese.

By the way, Mr. Jerome J. Jacobson, counsel for the JDC in Paris, informs me that on the subject of the French zonal law Professor Cassin was kind enough to send a supporting letter to M. Parodi. Jacobson tried to obtain a copy of this letter from the Alliance and even from Prof. Cassin's private secretary. The latter told Jacobson that the letter was a personal communication from the Professor in his capacity as President of the Conseil d'Etat and that the secretary had no copy. I would appreciate your kindness in trying to obtain from Prof. Cassin some information as to how a copy of this letter can be placed at the disposal of Mr. Jacobson.

Thanking you in advance for whatever you may undertake in this matter, I am, with warm regards,

Sincerely yours,

Eugene Hevesi

Mr. Jules Braunschvig
c/o Mr. Marcel Franco
61 Broadway
New York 6, N.Y.

338041

EH:rs

June 6, 1949

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YIVO RG 347.7
American Jewish Committee
(Frng Affrs Dept. 41-46)
Box 47 File 8

Subject: German Assets in Switzerland

1. Under the Paris Reparation Agreement of January 1946, it was agreed that the sum of \$25,000,000 out of German assets in neutral countries should be paid to what was then the Intergovernmental Committee on Refugees for the "relief and rehabilitation of non-repatriable victims of German action." Under the supplementary Five Power Agreement also reached in Paris in 1946, it was agreed that the said \$25,000,000 would be distributed 90% to the Joint Distribution Committee and the Jewish Agency for Palestine and 10% to non-Jewish charitable organizations, the 90%-10% proportion having been established in recognition of the preponderance of Jewish victims of German action.
2. In the Swiss-Allied Accord of May 25, 1946, it was agreed that the Allies might request an advance of 50,000,000 Swiss francs for these refugee purposes. In the subsequent Swedish-Allied Accord of July 18, 1946 the sum of 50 million kroner was allocated for the same purpose. This amount was subsequently paid by the Swedish Government to the International Refugee Organization and has been distributed to the JDC and the JA. Subsequently an agreement on German assets was entered into with Portugal, which agreement has been initialed but has not been put into effect. Under this agreement the sum of 100,000,000 escudos was to accrue to the IRO for the purposes above mentioned.
3. It was anticipated at the time of the Paris Agreement that the escudos would be available in the immediate future. Had they been made available the total amounts due to make up the sum of \$25,000,000 would, of course, have been reduced by that amount, roughly \$4,000,000. However, the escudos have not as yet been forthcoming and it does not appear that they will be forthcoming in the immediate future.
4. In 1947 and 1948 the United States took up with the United Kingdom and France the question of asking the Swiss Government for an advance. It was necessary to ask for an advance because the Swiss-Allied Accord had not been implemented because of disagreement between the Allies and the Swiss on the rate of exchange upon which compensation of previous owners was to be based, etc. Eventually the request was presented to the Swiss Government but was limited to 20 million Swiss francs. This sum was turned over by the Government of Switzerland to the International Refugee Organization and in turn distributed according to the above pattern.
5. The United States Government has, on the occasion of the present negotiations between the Allies and the Swiss, been approached with a view toward obtaining the additional 30 million Swiss francs during the course of the present negotiations. A problem presented is that if the 30,000,000 Swiss francs were to be advanced and the 100 million escudos were then paid in, the International Refugee Organization would have received approximately \$29,000,000 rather than \$25,000,000. Nevertheless, it has been urged on the United States that the full 30 million Swiss francs should be requested, it being pointed out that the possibility of receiving the escudos was apparently slight and the possibility of receiving them in the near future was even more remote. The United States has acceded to this suggestion and at a meeting held last week Mr. Thorp, Assistant Secretary of State, presented this viewpoint of the United States to the British and French.

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6. The British and French have privately indicated sympathy but so far as can be learned are still awaiting the official reaction of their governments to the American proposal. It has been learned also that the Swiss Government has informally indicated sympathy to the possibility of an advance.

7. The matter is being handled by Mr. DePanafieu of the French Ministry of Foreign Affairs on the French side. It might well be helpful if influential persons in France could discuss this matter with the Ministry of Foreign Affairs and/or the Minister of Finance and obtain the support of the French Government to the request to the Swiss Government for an advance of 30 million Swiss francs. It has been indicated that the agency concerned may be willing to commit themselves to turn back any excess which might accrue by reason of the Portuguese escudos being unexpectedly made available, provided those escudos were made available within the reasonably near future and at a time that the escudos were a convertible currency.

8. Other problems which have been taken up during the current negotiations concern the question of whether Jewish "residents" of Germany are to be considered as "Germans in Germany" within the meaning of that phrase as used in the Swiss-Allied Accord. Until now, the American Government is the only government which has argued that persecutees should be exempt and their property should not be liquidated under the terms of the Accord.

TO: Simon Segal
FROM: Eugene Hevesi
SUBJECT: German assets in Switzerland

June 6, 1949

Mr. Rubin told me over the telephone that the Allied-Swiss negotiations are in a "state of advanced collapse," without fundamental conclusions reached. The main stumbling block is disposition over German assets held by Swiss banks in the U.S.

This does not mean final rupture, however, only the end of the current round within a week or so. For us, this is important because in case of a complete breakdown, there would be no basis left for continuing to talk about an "advance."

Mr. Rubin urged Mr. Covey Oliver to work immediately for Allied agreement on an advance (3½ million dollars) to the IRO even without overall agreement with the Swiss. He was assured of the strongest possible U.S. support. The French are prepared to help, and Mr. Rubin has found out from British sources that the British delegation may soon be authorized to join the U.S. and the French on this issue.

If this is borne out in practice, and the three Allies join in their pressure upon Mr. Stucky, the advance may be obtained now. Mr. Rubin is now working on getting a joint Allied suggestion to this effect formally filed with the Swiss.

EH:rs

cc: Paris
Dr. Gray
Judge Forman
Dr. Slavson

New York 6, N.Y.

338044

EH:rs

EH:rs

To: Dr. Eugene Hevesi

Date: June 6, 1949

From: Seymour J. Rubin

Subject: Swiss Negotiations

I was confidentially informed on June 3 that:

1. The heads of the delegations met June 2 and June 3 in an attempt to resolve the problems of the Accord. The discussions for the past week have consisted merely of lengthy speeches by Stucki, the Swiss representative, and formal responses by the other heads of delegations.

2. Thorp raised once more the question of the French and British attitude on the advance to the IWO. The French stated that they would go along with the request for an advance. The British said they did not as yet have instructions from London.

3. There was no indication in the information received by me whether the French would support a request for the full 30 million Swiss francs. My guess is that they won't, but will subtract the 100 million escudos.

4. In view of the above, it would be well to limit an approach to the French to a request for confirmation of their support and a request that they support the 30 million Swiss franc figure.

cc: Mr. Wolfsohn
Mr. Isenbergh

338045

DEPARTMENT OF STATE
Washington, D.C.

In reply refer to
EP

May 31, 1949

My dear Mr. Celler:

Reference is made to your letter addressed to Mr. Thorp concerning current negotiations which are now going on between the United States, the United Kingdom, France and Switzerland regarding the implementation of the Swiss-Allied Accord concerning the disposition of German assets in Switzerland.

Regarding the question of persecutees of the Nazi Regime, the Department presented its views to both the British and French Governments, supporting the United States policy as expressed in Public Law No. 671 of the 79th Congress, requesting that property of persecutees be considered by the Allies as an exception to the Swiss-Allied Accord, in order that a joint approach might be made to the Government of Switzerland on this matter. The Government of France has replied, opposing the exception of the property of persecutees, while the Government of Great Britain has as yet not replied. However, informal information indicates that the British prefer to consider each persecuttee case on an ad hoc basis. The Swiss Compensation Office, charged by the Accord with administrative responsibility over assets considered to be German, has denied requests for exception on the ground that the owners were persecutees.

Since the United States is one of the Three Trustees who are signatories to the Swiss-Allied Accord, acting on behalf of the nineteen nations who are represented on the Inter-Allied Reparation Agency at Brussels, no unilateral action can be taken in regard to any specific matter which develops during negotiations.

Instead, the wishes of the beneficiary nations and of the other two Trustee Nations must be carefully considered, and any action which results must be on the basis of a concerted decision by the interested governments.

Sincerely yours,

/s/ Ernest A. Gross
Assistant Secretary

The Honorable

Emanuel Celler

House of Representatives

338046

C
O
P
Y

MEMORANDUM

TO: Simon Segal May 26, 1949

FROM: Eugene Kavasi

SUBJECT: German assets in Switzerland X

Sy Rubin phoned us from Detroit with the information that his contacts in State told him that on Tuesday, May 24, Mr. Thorp made a very forceful and effective presentation of our claim for the settlement of this question. Both the British and French delegations seemed to be impressed, and while the British did raise a couple of questions, they emphasized that they were doing so merely in order to clear up the situation.

While no express decision was formulated, Sy's friends feel that the British and French will join the U.S. in pressing the Swiss for at least the 3½ million dollars. This does not mean that the advancement of 7½ million dollars from Swiss-held assets is entirely out of the question, but the likelihood is that the British and French will not give it the same forceful support as Mr. Thorp.

There is, of course, a chance that the overall negotiations would fail and, in fact, there is some doubt about their eventual outcome. Such a failure would automatically defeat our own objective, at least for the time being.

EM:rs

cc: Mr. Blaustein
Dr. Gray
Judge Foreman
Mr. Rock
Paris Office

338047

Swiss Accord

To: Dr. Eugene Hevesi

Date: May 20, 1949

From: Seymour J. Rubin

Subject: Swiss Negotiations

I had lunch yesterday with Messrs. Ott and Feininger of the Swiss Delegation, Mr. Ott being the head of the Swiss Compensation Office and Mr. Feininger being Director of the Swiss National Bank. To reduce a two hour conversation to a few short sentences, the following were the results of our discussion.

1. With respect to the advance to the IRO, both Mr. Ott and Mr. Feininger seemed favorably disposed, but said that the question was a major one which would have to wait until the arrival of Mr. Stucki. Ott and Feininger were both hopeful that the problems under the Accord could be worked out and they pointed out that if the problems were worked out there would almost immediately be available a substantial amount of Swiss francs which would in turn be available for an advance to the IRO. I asked whether it was not true that as a result of "transformations" which had already taken place there was at present an amount sufficient to take care of several times that of the requested advance of 30 million Swiss francs and they indicated that this was so. I had the impression that the Swiss would be favorably disposed to make available the remaining 30 million Swiss francs out of the first proceeds of liquidation, if an overall agreement is reached; but that they would resist a further advance in the absence of such overall agreement.

2. They indicated that they would have a very difficult problem if they tried to exempt the property of persecutees in Germany. "Everyone", said Mr. Ott, would immediately become a persecutee." I pointed out that there were objective tests which could be used on the question of whether a person had been persecuted as, for example, whether he had spent any time in a concentration camp. I pointed out that the objective tests of loss of certain citizenship rights could be used. This was admitted by the Swiss but they did not seem particularly disposed to change their fundamental thesis, even though the arguments made in support of that thesis were demonstrably false. Ott did indicate that they would exempt the property of persons who had left Germany and the property of persons who had fled to Hungary and had been forcibly brought back by the Germans; but they did not seem disposed to give favorable treatment to persecutees who were resident in Germany - whether or not in concentration camps - during the relevant period. Mr. Ott said that he did not believe the amount of such cases to be large or important.

3. They were not disposed to discuss the problem of hairless property, except to say that it was a difficult and complicated problem. They suggested the possibility of discussing it further during my anticipated trip to Switzerland. It was obvious that this was one of the problems which they hope to deal with only after the fundamental problems of the Accord were settled.

Overall they seemed reasonably optimistic about the progress being made with respect to the Accord, although they pointed out that fundamental problems are not as yet being handled. They indicated that the rate of exchange and the intercustodial matter are the two major problems. I find myself unable to share their optimism since I feel that the rate of exchange will prove to be a problem of the utmost difficulty for the Department of State and that the intercustodial problem is one which the Department of Justice will refuse to consider is involved in the Accord.

338048

- 2 -

I am keeping in daily touch with Joel Fisher and exchanging information with him and I shall attempt to keep you fully informed. I shall ask Joel to keep in touch with Joel Wolfsohn during the time that I am absent from Washington next week.

Incidentally, Ott and Feininger said that they expected negotiations to go on for another two to four weeks after the arrival of Mr. Stackl on May 21.

cc: Mr. Wolfsohn
Mr. Isenbergh
Mr. Leavitt

338049

YIVO RG 347.7
American Jewish Committee
(Frng Affrs Dept. 41-46)
Box 47 File 8

Swiss Account

To: Dr. Eugene Hevesi

Date: May 13, 1949

From: Seymour J. Rubin

Subject: German Assets Negotiations

1. I have had a number of further discussions with various officials of the Department of State and continue to be informed that the State Department will support the position which we have taken.

2. I had lunch with Messrs. DePanafieu and Vieille of the French delegation on Wednesday and was told that "we will try to help you get your money." I was unable to persuade DePanafieu to be more specific, but he made the above statement twice.

3. Joel Fischer had a talk with Mr. Goodchild, who apparently showed him his - that is Goodchild - instructions. These are to oppose the advance unless it is strongly pressed by the United States and thereafter to accede to the position of the United States.

4. Joel Fischer and I had a lengthy conversation Wednesday night on the same subject and more or less agreed to proceed in the manner in which things have been handled until now.

5. I talked with Milt King today and briefed him on the question of the advance.

6. I also talked again with Mr. Oliver of the State Department and told him confidentially about the British attitude. He was quite interested. He raised the question as to why the full 50 million Swiss francs had not been requested last year, which I attempted to explain the best I could in terms which would not prejudice the request for the full 7-1/2 million dollars at this time.

7. I am informed that the question of the advance has been discussed only briefly by the three Allied delegations and has been passed over for future discussion.

8. DePanafieu informed me that Mr. Stucki is not expected until sometime in the middle of next week.

cc: Mr. Wolfsohn
Mr. Isenbergh

338050

YIVO RG 347.7
American Jewish Committee
(Frng Affrs Dept. 41-46)
Box 47 File 8

Lewis Rosenfeld

To: Dr. Eugene Hevesi

Date: May 10, 1949

From: Seymour J. Rubin

Subject: German Assets Negotia-
tions - Switzerland

I had dinner with Nat B. King, Second Secretary, American Legation, Bern on Saturday, May 7. Mr. King reported that:

1. It was his opinion that negotiations would be delayed for some time in view of Mr. Stucki's "diplomatic illness." Mr. King also reported considerable comment in the Swiss press adverse to the entire Washington Accord.
2. Working parties have been set up to deal with various aspects of the negotiations. Mr. King was not certain who was on the working party with respect to the advance and other problems of interest to us. He will try to obtain this information sometime today.
3. The French have previously expressed their opposition to any further advance to the IRO. Whether they will pursue this line at this meeting is not known. In the British delegation, Mr. Legg of the British Legation in Bern is strongly opposed to any further advance to the IRO and Mr. Goodchild, the head of the delegation, has remained silent on this subject until now.

I have reported all of the above to Joel Fischer by telephone this morning and have concurred in his suggestion that it might be desirable to have the heads of the JDC and the AJC send a telegram to Mr. Thorp. I also suggested that a personal interview for this Thursday or Friday might be arranged. If all is going well, then the interview can be merely a brief one for the purpose of indicating interest and thanking the State Department for its sympathy, etc. If things are not going so well at that time, then the meeting may be a means of strengthening the position of Mr. Thorp.

I shall, of course, continue to report any developments.

cc: Mr. Wolfsohn
Mr. Isenbergh

338051

YIVO RG 347.7
American Jewish Committee
(Frn Affrs Detp. 41-46)
Box 47 File 8

Review Record

To: Dr. Eugene Hevesi

Date: May 9, 1949

From: Seymour J. Rubin

Subject: German Assets Negotiations - Switzerland

I had brief conversations with Messrs. Goodchild and Legg of the British delegation and Messrs. Viedie and DeFanasieu of the French delegation on May 5 and made tentative arrangements for seeing these people during the forthcoming week. I also talked again with Nat King of the American Legation in Bern and with Covey Oliver of the State Department.

The only news beyond that recorded in my memorandum of May 5 on this same subject is that Mr. King indicated that the topics of interest to us had not as yet been taken up in the tripartite discussions between the Allied negotiators. Mr. King intimated that discussions still center on the subject of compensation, rate of exchange, etc. Mr. King also expressed pessimism as to whether any solution would be arrived at in the course of the current discussions. I also discovered that the letter from Mr. Tuck, Director of the International Refugee Organization, had been in the hands of George Warren of the Department of State and that Mr. Warren was to bring it immediately to the attention of Mr. Thorp.

I have not received any indication from the State Department that the letter from Senator McGrath has been received, but I have no reason to doubt that it has been received.

I expect that the negotiations will slow down slightly because of the present illness of Mr. Stucki.

All of the above has been reported by telephone to Mr. Leavitt of the JWC, except I think the item with respect to the IRO which I forgot.

cc: Mr. Wolfsohn
Mr. Isenbergh

338052

*Paris
Leuberg*

Lewis Arnold

Yivo rg 347.7
American Jewish Committee
(Frgn Affrs Dept. 41-46)
Box 47 *MA 1e 8*

May 9, 1949

1848

TO: Mr. Jacob Blumstein
FROM: Eugene Hevesi
SUBJECT: The Jewish share in German assets in Switzerland

With regard to the possibility that you may be requested to participate, together with Mr. Edward M. Sarburg or Commander Linder some time Friday, May 13, in a delegation to discuss this subject with Mr. Willard Thorp, Assistant Secretary of State, I submit to you the following background information:

The existing preliminary Swiss-Allied accord provides for the possibility that 50 million Swiss Francs be paid by Switzerland to the IRO for distribution mainly to the Jewish Agency and the JIB, in accordance with the terms of the Paris Reparations Agreement of 1945, and the subsequent Paris Five Power Agreement.

So far, the Swiss have advanced 20 million Swiss Francs for this purpose to the IRO. In Washington, the U.S., British and French delegations stand ready to rediscuss the entire Allied-Swiss financial settlement in a final manner. The negotiations were scheduled to start today, but Mr. Stacky, the Swiss delegate, fell ill.

Mr. Rubin feels that under the circumstances Friday, May 13, is the strategic date for discussing with Mr. Thorp the question of U.S. and Allied support to the suggestion that the Swiss undertake the payment of the difference without further delay. Without doubt these negotiations offer the last opportunity for our pressing for payment of these vitally needed 7.5 million dollars worth of Swiss Francs.

The situation is complicated for us by the following circumstances:

1. In 1947, an agreement came about between the three Allies and Portugal, (negotiated by Mr. Rubin) under which 100,000,000 escudos (roughly \$4,000,000) are earmarked for the same refugee purposes. According to the State Department, this is a clear-cut commitment, and there is nothing discretionary about it for Lisbon. However, the Portuguese have been withholding payment ever since 1947, on the ground that the agreement provides that the proceeds of the liquidation of German assets there are to remain blocked, pending settlement on another issue — the question of German-looted gold in Portugal — for which there is no prospect for a settlement in the foreseeable future. This means that for a considerable time there is no hope for obtaining these 4 million dollars worth of escudos (which are convertible today but may not remain so very long.)

338053

2. Mr. Tuck, Director General of IRO has written a letter to Mr. Acheson in which he suggested that the Allies try to obtain from the Swiss payment only for the difference between the 7½ million dollars owed by the Swiss, and the 4 million dollars "expected" from Portugal. This would amount to only some 3½ million dollars worth of Francs.

Mr. Rubin has already confidentially sounded out Mr. Thorp and Mr. Oliver of State (the latter will be U.S. representative at the negotiations), and his impression is that vis-a-vis the other two Allies and the Swiss, they would be willing firmly to support the such less satisfactory solution suggested by Mr. Tuck, but that they may have to retreat with regard to the question of Swiss payment for the full 7½ million dollars.

The interview is considered urgent and necessary in order to make sure, first, that our government places the strongest possible pressure upon the British and French delegations, which may be opposed even to the more modest solution,- and, second, to try to obtain, if only possible, positive and firm American support to the more favorable solution that the Swiss advance the full 7½ million dollars now. The need for such funds is urgent now, while the UN move is still on, and the Swiss or the reparations pool would be reimbursed by the IRO as soon as the Portuguese come through with their payment.

Here

338054

YIVO RG 347.7
American Jewish Committee
(Frqn Affrs Dept. 41-46)
Box 47 File 8

To: Dr. Eugene Hevesi

Date: May 7, 1949

From: Seymour J. Rubin

Subject: Swiss Accord Negotiations

I talked with Messrs. Dulass, Smith and Oliver of the State Department today. Oliver still held out some hope, but Smith, his chief assistant, was very pessimistic. Oliver said that they (the U. S.) are continuing to try to rescue something for us. Thorp had been told by Stucki that there could be no interim payments if the overall negotiations failed. But it was impossible to tell whether Stucki was specifically ruling out refugee payments as well as payments to the Allied countries.

The negotiations are still shaky, but have not definitely collapsed. Perhaps the next few days will tell the tale re the overall negotiations. My prognostication is that, overall, the talks will collapse over the "intercustodial" issue, with the United States and Switzerland left to argue that out; and that there is still some slight chance, based on strong United States action, to rescue some portion of the refugee funds.

Joel Fisher of the JDC has been informed of the above.

cc: Mr. Wolfsohn
Mr. Isenbergh

338055

Swiss Accord

To: Dr. Eugene Hevesi

Date: May 5, 1949

From: Seymour J. Rubin

Subject: German Assets Negotiations - Switzerland

As I have previously indicated to you on the telephone, I have given the information contained herein to Mr. Leavitt of the Joint Distribution Committee. For the record, I am sending you this memorandum.

1. Pursuant to our appointment, I met with Mr. Covey T. Oliver, Chief, Division of Economic Property Policy, and Mr. Willard L. Thorp, Assistant Secretary for Economic Affairs, Department of State, at 9:30 A.M. on May 5, 1949. I took up with these gentlemen the question of a further advance out of German assets in Switzerland to complete the sum of 25 million dollars promised for refugee purposes under the Paris Reparation Agreement.

Mr. Thorp asked for a fill-in on the background of this problem and I briefly sketched for him the terms of the Swiss-Allied Accord relevant to this problem, the terms of the Swedish Accord and the action which had been taken under it, the advance of 20 million Swiss francs which had already been received, and the terms of the draft Allied-Portuguese Accord. I also pointed out that there were no further sources since the Spanish Accord had no provision for payments for refugee purposes and since there was now no possibility of agreements with Turkey and Greece.

2. Mr. Oliver referred to our previous conversations on this subject and stated that the official State Department position, which was being checked with Mr. Thorp later that morning, was to support the request for a further advance as part of the attempt to solve all of the current problems pending under the Accord. Mr. Oliver stated that he had looked further into the matter of the Portuguese Accord and had found that there was a flat commitment to make 100 million escudos available to the International Refugee Organization under the terms of that Accord and that it would be extremely difficult to take the position in the Swiss negotiations that any sum in excess of approximately 3-1/2 million dollars should be advanced since obtaining a larger sum would open up the possibility of an over-draft on behalf of the refugee organization.

3. I discussed this problem of an "over-draft" at some length with Messrs. Oliver and Thorp and made the suggestion that the first position of the United States should in any case be that the full 7-1/2 million dollars should be requested from the Swiss. I said that if problems with respect to the Portuguese Accord and a possible over-draft came up, it seemed to me that it would be entirely possible to work out some arrangement which would insure against more than 25 million dollars being paid over to the refugee organizations under the terms of the Paris Reparation Agreement. I indicated the possibility of an agreement that the escudos made available under the Portuguese Accord might, if received within a reasonable period of time, be accepted against a commitment to repay the necessary amount in Swiss francs to compensate for any over-draft.

338056

- 2 -

4. In the course of stressing the urgency of this matter, I indicated that these negotiations were perhaps the last chance to obtain these funds. Mr. Thorp alluded to the fact that even if an advance were not obtained presumably, unless negotiations broke down entirely, funds would become available in the future as property in Switzerland was liquidated. I indicated that this was a possibility but pointed out that it would be extremely desirable if funds could be made available quickly in view of the urgency of the refugee situation. I indicated that I had talked with officials of the organizations directly concerned with this matter and that it was possible that they would wish to have a meeting with Mr. Thorp or other officials in the Department to lay before the Department the details as to their operations and as to their necessities which I did not possess.

5. Messrs. Thorp and Oliver agreed with me that:

(a) The United States would press the British and French for a request directed to the Swiss for a further advance. It was intimated that the United States would suggest that the request be for 7-1/2 million dollars. My own feeling is that if there is much resistance from the British and French on either this amount or on the general question of an advance, the United States position may be that the request should be merely for 3-1/2 million dollars.

(b) The refugee situation was such that an attempt should be made to get an advance regardless of whether arrangements for a solution of other problems under the Accord called for a settlement taking a greater period of time. In this connection, Mr. Thorp alluded to the possibility that the other Allied delegations may say that no priority should be given to refugee payments over reparation payments, but he indicated that he would press for such a priority. Mr. Thorp also inquired whether the Paris Reparation Agreement had set 25 million dollars as a flat figure or whether that figure might be affected by the total amount of assets available. It was agreed between Mr. Oliver and myself that the 25 million dollars represented a flat figure and even if the amounts available from German assets in the neutral countries fell considerably short of what had been expected, the commitment to pay 25 million dollars still existed. In this connection, I pointed out to Mr. Thorp the desirability of discharging this commitment in order to get rid of at least one of the problems existing in connection with the German assets settlements.

6. It was my impression that neither Mr. Thorp nor Mr. Oliver has received the letter from Mr. Tusk of the International Refugee Organization which, I had been informed, had been sent from Geneva; nor had they received the letter from Senator McGrath which his office informed me was sent to Mr. Ahlson on May 4.

338057

7. Meetings with the British and French are to begin at 4:30 in the afternoon of May 5. Meetings with the Swiss may be postponed somewhat because Mr. Stucki, the head of the Swiss delegation, is ill with phlebitis and will be unable to attend for a few days. The Swiss Minister has suggested to Mr. Oliver that the delay in Mr. Stucki's arrival need not delay the actual beginning of the negotiations since "technical" matters could be taken up by the technical experts. Mr. Oliver's view is that there are very few technical problems, most of such problems being also problems of principle. It is my impression that the opening of the negotiations may be delayed somewhat beyond the May 10 date originally scheduled.

*Swiss Accord*American Jewish Committee
(Frngn Afrs Dept. 41-46)
Box 47 File 8

April 15, 1949

Mr. Eugene Hevesi
The American Jewish Committee
336 Fourth Avenue
New York, New York

Dear Eugene:

As I think I have previously informed you, a meeting was recently held between representatives of the United States, the United Kingdom and France on the subject of the Swiss-Allied Accord on German assets in Switzerland. The purpose was to prepare an Allied position for discussions which it was hoped could be held in Washington in the early part of May. My information is that the Allied position has been prepared by the "experts"; an invitation for a meeting in Washington has been formally extended to the Swiss; the Swiss have accepted the invitation; and a small delegation headed by Mr. Stucki will be in Washington around the tenth of May to begin discussions.

Unfortunately, the Allied personnel at the meeting in London have indicated, according to my best information, no great concern for refugee or similar problems. In connection, for example, with the problem of whether persecutees in Germany were "Germans in Germany" within the meaning of the Accord, the experts have left the matter completely open and have not recommended an Allied position vis-a-vis the Swiss. Nor have the recommendations of the "experts" dealt with the problem of a further advance of the 50 million Swiss francs, of which 20 million have already been paid, which might be claimed from the Swiss on behalf of the IRO and through the IRO for the JEC and the JA. Nor has any attention been given to the problem which is not directly involved in the Accord but was, nevertheless, taken up at the time of the original 1946 discussions; namely, the problem of hairless assets in Switzerland.

All of these problems are ones on which I intend to have full and frank discussions with Mr. Covey Oliver, with whom I have already discussed the problems, and who will be the negotiating head of the American team. Mr. Willard Thorp will be the nominal head of the United States delegation.

338059

Mr. Eugene Hevesi

-2-

April 15, 1949

I have been toying with the idea of exciting a little Congressional interest in this matter and shall probably send to you within the next week a draft or a report of my activities in this particular sphere. Whether I try to take steps in this direction will depend on the reaction and the guarantees which may be given to me by the people in the Department of State. If they are willing to say firmly that they will negotiate for the things in which we are interested, I think Congressional pressure might not be desirable. On the other hand, it may be useful to point out that there is some public interest in these matters which have been in the past dealt with principally by "experts".

As you can see, this is by way of being an interim report and I shall report more fully later.

Sincerely yours,

Seymour J. Rubin

cc: Mr. Wolfsohn
Mr. Isenbergh

338060

TO: Mr. Eugene Hevesi

DATE: March 23, 1949

FROM: Seymour J. Rubin

SUBJECT: Allied-Swiss Accord on
German Assets

You will recall that I have been following fairly closely developments with respect to the agreement between the Allies and the Swiss on the subject of German assets in Switzerland. The IRO received an advance of twenty million Swiss francs and has some possibility of receiving a considerable and perhaps equal further amount out of the proceeds of the German assets. An American delegation has recently been, and still is, in London discussing Allied problems preparatory to a meeting in Washington with the Swiss.

I have just learned that substantial agreement has been reached between the Allied delegations in London and that the meeting in Washington is tentatively scheduled for May 1, 1949.

You will understand that this information is strictly confidential.

cc: *M. Lankford*
J. Wolfson

338061

RUBIN AND SCHWARTZ
ATTORNEYS AT LAW

SEYMOUR J. RUBIN
ABBA P. SCHWARTZ

YIVO RG 347.7
American Jewish Committee
(Frng Affrs Dept. 41-46)

MAR 15 1949

PHONE: REPUBLIC 0504

CABLE ADDRESS: RUBINLEX

Box 47 File 8

1822 JEFFERSON PLACE, N.W.

WASHINGTON 6, D.C.

11 March, 1949

Mr. Max Isenbergh
The American Jewish Committee
30 Rue la Boetie
Paris 8, France

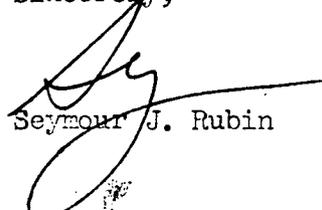
Dear Moose:

Edwin Adams of the State Department is leaving today for London where a meeting will take place with the British and French on the subject of the next step vis a vis the Swiss and the Swiss-Allied Accord.

As you know, the Swiss, sometime ago, advanced 20 million Swiss francs to IRO which was distributed mainly to the Jewish Agency and the Joint Distribution Committee in accordance with the terms of the Paris Reparations Agreement and the subsequent Paris Five Power Agreement. The Swiss-Allied Accord provides for the possibility of 50 million francs being paid to IRO for these purposes. It is my understanding that the meetings in London are preliminary to new and over-all discussions which are to take place in Washington with the Swiss sometime in the not too distant future. It would, as you have undoubtedly perceived before now, be of extreme interest if we could persuade the Allies to request a further advance for the IRO and/or if we could get the Swiss to offer such an advance.

Although I think that the people meeting in London on the U.S. side will probably not have authority to agree to make such a request in the impending negotiations, and although it would be bad form for you to indicate that you know too much about these impending negotiations, I nonetheless think that it might be helpful if you were to go over to London for a few days and to speak with Adams and with Burr-Smith who will be heading the two-man American delegation. You might also have a talk with Francis McCombe who will probably be in charge of the British delegation and who is an old pal and associate of mine. It is possible that Panafieu will head the French delegation and he too was associated with me during the Portuguese negotiations and in subsequent conferences in Paris. I can leave it up to you to feel your way around in the situation, to infiltrate and to pick up such information as may be available, and drop such seeds as may have some chance of producing future fruit. Meanwhile, I will talk with the Swiss here and let you know if anything develops.

Sincerely,


Seymour J. Rubin

cc: Dr. Hevesi
Mr. Wolfsohn

338062

YIVO Documents

YIVO stands for Yiddish Scientific Institute

YIVO RG 347.7

American Jewish Committee

Initials in description of source of documents:

EXO = unknown

FAD = Foreign Affairs Department

GEN = General

Mr. *Sentburgh*

YIVO 263477
AM Jew. Com
(Rm 41-46)
Box 47/Files

Heirless property

Swiss (FAD=Foreign Affairs
Dept.)
Box 47 File 5

November 16, 1948

Mr. Eli Rock
The American Jewish Joint
Distribution Committee, Inc.,
270 Madison Avenue
New York, 16, N. Y.

Dear Eli:

I had a lengthy lunch yesterday with Mr. Guy de Rham, of the Swiss Legation, and Mr. Stanley Metzger, of the Department of State, with respect to the problem of tracing heirless assets in the United States held through the medium of Swiss banks. I need not burden you with the details, but the upshot of the conversation was that de Rham indicated that the Swiss banks, if approached through the Swiss Government, might very well be willing to help in connection with this problem. He stated, however, that they had studied the heirless property problem at considerable length in connection with the letters exchanged at the time of the 1946 Accord on German external assets, and that it was a very difficult problem to handle in the absence of some specific information. He suggested, as I had suspected that he would, the possibility of giving to the Swiss Government and to the Swiss banks a list of names which they then could check against their records. I told him that I was not sure of the practicability of getting them any very highly refined list of names of possible depositors, but agreed to explore this question further. He was also quite clear in suggesting that such a list should not merely be a list of all persons who had been exterminated in Europe during the war, but should bear some greater relation to possible deposits through Switzerland.

I shall probably be talking about this matter again with de Rham or with Fuchs, the Counselor of the Swiss Legation here, and shall keep you advised.

Sincerely,

Seymour J. Rubin

cc: Mr. Eugene Hevea

338063

LEGATION DE SUISSE
Washington 8, D. C.

Swiss Delegation

Washington, D.C., May 25, 1946

Gentlemen:

At the moment of the signature of the Accord of today relating to German property in Switzerland, I confirm to you that my Government will examine sympathetically the question of seeking means whereby they might put at the disposal of the three Allied Governments, for the purposes of relief and rehabilitation, the proceeds of property found in Switzerland which belonged to victims of recent acts of violence of the late Government of Germany, who have died without heirs.

Sincerely yours,

/s/ Stucki

To the Chiefs of the Allied Delegations

Washington, D. C.

C
O
P
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338064

*Restitution
Switzerland*

Memorandum on assets in Switzerland Belonging to Jewish Refugees

At the end of the war, Switzerland blocked all German-owned assets in her territory by a decree promulgated on February 16, 1945, and amended on April 27 and July 3 of that year. Negotiations for the disposal of these assets are now taking place between the Allied authorities and the Swiss government. The Allied authorities seek to seize these assets and apply them to the reparations account; the Swiss claim that German-owned assets in Switzerland are in fact insufficient to meet the debts due them from Germany, and wish to apply all such assets in their possession primarily to the satisfaction of such debts. Conferences in regard to this problem are at present taking place in Washington between a Swiss delegation, headed by Dr. Walter Stucki, and representatives of the United States, headed by Randolph Paul. The British and French governments are also represented in these conversations by their financial missions in Washington.

Among the assets which have been blocked by the Swiss government are those of many refugees from political, racial, or religious persecution. These persons, most of whom were considered "stateless" by the Swiss government prior to Hitler's collapse, have nevertheless been treated as German nationals in the blocking of assets. As "stateless" persons they were subjected to special police surveillance and various other types of discrimination, and the Swiss police have full records as to their identities. There is hence no legitimate reason for failing to distinguish between them and persons who were in fact nationals of the Third Reich.

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In fact, however, the Swiss government originally agreed to exempt only those who had been individually expatriated by the Nazis. Those who were expatriated by the decree of November 25, 1941, or other general laws, were not exempted. In the middle of December, 1945, however, the Swiss authorities sent out new instructions -- which they did not make public -- abolishing the distinction between persons who had been expatriated individually and those who had lost their German citizenship under the general decree of November 25, 1941. This was not an amendment to the decree, but merely a change in administrative regulations, and Jewish organizations in Switzerland were informed of it orally by the Swiss authorities.

Thus the present status is that the decree blocking German assets makes no distinction between those who were actually German citizens during the war, and those who had fled Hitler's Reich and been deprived of their citizenship. The administrative regulations provide, however, that the assets of the latter are to be released upon presentation of proper proof of their status.

In the case of persons expatriated individually this proof consists of a copy of the decree of expatriation or evidence of its publication in the official gazette of the German Reich or the State of Prussia. In the case of persons expatriated under the decree of November 25, 1941, it consists of correspondence with the German authorities, a passport stamped with the "J", or other proof of Jewish origin or residence abroad at the time of the aforementioned decree of expatriation.

We are informed by the Federation of Jews from Central Europe that they know of no case where assets have actually been unblocked under these provisions. Our major problem, therefore, appears to be one of

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persuading the Swiss to speed up their administrative machinery in this respect. We might perhaps point out to them that in most cases it is not necessary for them to wait for the presentation of the proofs referred to above, since their own police records contain ample record of the status of most of the individuals involved.

It would, of course, be desirable to have the property of refugees from Nazi persecution exempted from blocking and vesting as a matter of law and not merely of administrative regulation. It might also be wise, therefore, to bring this aspect of the question to the attention of the Swiss. The presence of the Swiss delegation headed by Mr. Stucki may afford an opportunity for communicating our views on these matters to the Swiss authorities. It may also be desirable to request the American authorities to indicate to the Swiss -- if possible jointly with the British and French -- that this country has no interest in the assets in Switzerland owned by bona fide refugees, and will interpose no obstacles to the release of such assets. In the special case of refugees now resident in the United States, whose assets are blocked in Switzerland, it might be possible to request the United States authorities to make representations on their behalf.

March 18, 1946

338067

Swiss Account

July 22

Dear Eugene,

I apologize for the stationery. It happens to be all that a stranger can find out on the tops of the desks here in the evening.

I write principally to tell you the following:

a) I talked to officials of the International Red Cross about their activities in Egypt re the release of 50 detained Jews there. I was told that they had placed the matter in the hands of my friend Max Wolf, who was then in the Near East. The day before yesterday I talked with him by phone. He said that he thought that he had arranged for the release of 50 Jews from the detention camp at Gaza, but that he was awaiting final confirmation (he is now in Geneva) and that he would telegraph me when he got it. Today I got a cable saying that he still could not give me final confirmation. I assume that I will get it when he does.
Please let Joel know about the above.

b) After our talk with Von Steiger, Swiss Minister of Justice, I went to Zurich to talk to some bankers. One of them told me the Swiss had just concluded an agreement with the Poles under which they (the Swiss) agreed to ~~turn~~ turn over to the Polish Government heirless property of Polish origin. This, if true, is a serious blow to our efforts, and means that Von Steiger was either a knave or uninformed in our talks with him. After discussing the situation here with Max and Jerry Jacobson, I called Minister Vincent at the U.S. Legation in Bern, and asked him to find out about the report. He said he'd put one of his people on it. I wrote a confirming letter immediately, and shall call on Monday to see what the story is.

I plan to return on the DeGrasse, sailing Aug 11. See you in the not too far distant future. All the best to all,

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LETTER TO NEUTRAL POWERS RE "HEIRLESS FUNDS"

Division of World

1. The Paris Conference on Reparation stipulated in Article 8 of the Final Act that: "In recognition of the fact that large numbers of persons have suffered heavily at the hands of the Nazis and now stand in dire need of aid to promote their rehabilitation but will be unable to claim the assistance of any Government receiving reparation from Germany, the Governments of the United States of America, France, the United Kingdom, Czechoslovakia and Yugoslavia, in consultation with the Inter-Governmental Committee on Refugees, shall as soon as possible work out in common agreement a plan" for the assistance of these non-repatriable victims of German action.

2. During the Five-Power Conference on Reparation for Non-Repatriables just concluded in Paris, the designated countries in consultation with the Inter-Governmental Committee on Refugees have worked out a plan and signed an Agreement dated the 14th of June, copy of which is attached. The Paris Conference on Reparation, cognizant of the serious plight of the non-repatriable victims of German action, provided that "A share of reparation consisting of all the non-monetary gold found by the Allied Armed Forces in Germany and in addition a sum not exceeding 25 million dollars shall be allocated for the rehabilitation and resettlement of non-repatriable victims of German action."

3. The Paris Conference on Reparation, aware of the Nazi policy of racial extermination took note of the existence of considerable assets in neutral countries belonging to the victims of German action who died without heirs.

4. Although it is recognized that "heirless funds" are not strictly a reparation matter since many individuals who died without heirs were not German nationals, the Paris Conference on Reparation nevertheless charged the Five-Power Conference on Reparation for Non-Repatriables to request the neutral countries to make such assets available for the rehabilitation and resettlement of non-repatriable victims of German action. The "heirless funds" having arisen out of a violation of every canon of morality and international law, it appeared proper to the Paris Conference on Reparation that the neutral countries be requested to make these funds available to help succor non-repatriable victims of German action who, of all the victims of Hitlerite aggression, were most in need of the assistance of sympathetic governments.

5. In accordance with the obligations placed upon it by the Paris Conference on Reparation, the French Government in the name of all the signatory powers to the Paris Conference on Reparation, formally requests the neutral Powers to make available for the rehabilitation and resettlement of non-repatriable victims of German action all assets in their countries of victims of German action who died without heirs, in accordance with the following general plan:

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A. To take all necessary action as quickly as possible to identify, collect and liquidate all "heirless funds." The Five-Power Conference on Reparation for Non-Repatriables recognizes that serious legal, administrative and fiscal obstacles may stand in the way of expeditious action, but it requests the neutral Powers to take all necessary steps including special legislation to accomplish the stated action. Since "heirless funds" arose out of a condition unique in international affairs, this request for an exceptional solution is justified.

B. Because the overwhelming part of the "heirless funds" were the property of Jewish victims of German action including regimes under Nazi influence the above mentioned Agreement of the 14th of June stipulated that ninety-five percent of the proceeds should be made available directly and jointly to the American Jewish Joint Distribution Committee and the Jewish Agency of Palestine, organizations best fitted to use these funds for the rehabilitation and resettlement of Jewish victims of German action as soon as the Director of the Inter-Governmental Committee on Refugees or the Director General of the successor organization certifies that the designated organizations have presented practicable programs for rehabilitation and resettlement in terms of the above mentioned Agreement. It further stipulated that five percent of the proceeds which it presumes to be a liberal estimate of that portion of "heirless funds" belonging to non-Jewish victims of German action be made available to the Inter-Governmental Committee on Refugees for the rehabilitation and resettlement of non-Jewish victims of German action, including regimes under Nazi influence.

C. The Signatories to the above mentioned Agreement have designated the Governments of the United States, France, and the United Kingdom to act on their behalf on all further aspects of this problem in any future negotiations with the neutral countries.

6. In making the foregoing request, the French Government confidently relies on the sense of justice and morality of the neutral Powers to act energetically and sympathetically with respect to the identification, collection, liquidation and distribution of "heirless funds" and thereby to associate themselves with the Powers signatory to the Paris Conference on Reparation in assisting the Non-Repatriable victims of German action to rehabilitate themselves and to find new and permanent homes.

Note on the Proceedings in Berne Concerning Heirless and Unclaimed
Jewish Assets in Switzerland.

YIVO RG 347.7
American Jewish Committee
(FrnAffrs Dept. 41-46)
Box 47, File 5

On occasion of my staying in Geneva, I met Mr. Isenbergh of the American Jewish Committee on July 2, at the meeting of the Ad Hoc Committee for the issuance of death certificates for missing persons. On that occasion, I agreed with him, that the four international Jewish organisations, i.e. the Joint Distribution Committee, the Jewish Agency, the American Jewish Committee and the World Jewish Congress, should ask for an official interview with the Swiss Department of Justice in the matter of heirless and unclaimed Jewish assets in Switzerland. A joint letter was written by the organisations from Paris to Minister von Steiger, the chief of the Department for Justice in Berne, asking for an interview on July 8, to which a reply in the affirmative was received.

On July 7, on my return from Vienna, I met in Berne Mr. Isenbergh and ^{Seymour} Mr. ~~Seymour~~ Rubin from the American Jewish Committee and in the morning of the 8th, Mr. Jacobson of the Joint Distribution Committee, and in the early afternoon, Mr. Adler-Rudel from the Jewish Agency. We discussed a joint approach to Minister von Steiger for the meeting at 3 o'clock in the afternoon of July 8.

Mr. Isenbergh and Mr. Rubin first wanted to appeal to the Swiss government to form a successor organisation on the basis of the American draft, at present before the American Congress. I pointed out, that the Swiss might agree to a Swiss governmental rehabilitation fund to be administered on the advice of the international Jewish organisations, together with the Schweizerische Israelitische Gemeindebund. I further explained, that the difficulties for Switzerland are of a very different kind than in other countries. Firstly, in the case of Switzerland, only assets of foreigners are concerned, who had never a residence in Switzerland. In consequence, Switzerland would have carefully to consider, whether those assets could fall to Switzerland, or to the countries of origin, the more so, as Poland and Czechoslovakia claimed those assets already three years ago. Secondly, no reliable information exists, whether heirless and unclaimed Jewish assets are really deposited in Switzerland to a considerable extent. A considerable part of the Jewish deposits might not be heirless, but only unknown to legal successors. The Swiss government will therefore insist on a preparatory step in order to collect information, inspite of the principle of bank secrecy, which forms a legal obligation in Switzerland. Thirdly, the Swiss government could not agree to an administrative decree, but would have to introduce a law. Fourthly, if the Swiss government should agree to the formation of a Swiss governmental fund for Jewish rehabilitation, they would not keep the assets for themselves later.

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After a debate, it was resolved that Mr. Isenbergh should present the problem in general terms and that after the reply of Minister von Steiger would have been received, Dr. Bienenfeld should discuss the details.

As to the participation of the Schweizerischer Israelitischer Gemeindebund, Prof. Guggenheim and Mr. Brunschwig explained to me already in Geneva before the letter to Minister von Steiger was written, that they did not want to participate, since they did already all what they could. In fact, I am sorry to state, that, in the meeting with Minister von Steiger, it appeared, that none of the laws concerning Jewish heirless properties in other countries, had been submitted to the Swiss authorities although the material had been sent many months ago.

On July 8, at 3 o'clock, the meeting with Minister von Steiger took place. There were present: Minister von Steiger, further Mr. Alexander, the official in charge in the Department of Justice dealing with the matter, Mr. Burkhard, on behalf of the Political Department and one representative of the Swiss Financial Department, further Mr. Isenbergh, Mr. Rubin, Mr. Adler-Rudel, Mr. Jacobson and I myself. Minister von Steiger opened the meeting and explained first, that the Swiss Department for Justice was concerned with the matter only in so far, as it was asked by the Political Department, which was the competent department, to investigate the problem and to give an expert opinion. Minister von Steiger mentioned, that they had before them for their assistance three experts opinions of three Jewish organisations. He wanted to state at the beginning that the Swiss government was aware of the seriousness of the problem and he would go into details later as to the difficulties. He asked for an explanation on our side.

Mr. Isenbergh then stated that the principle according to which Jewish heirless and unclaimed assets should be used for Jewish relief and rehabilitation and resettlement, was agreed to already in several countries. He referred to the Greek law, to the Italian law, to the Triest law and to the laws and decrees in the American, French and British zones of Germany. He further referred to the resolution of the Reparation Conference in Paris in December 1945 and the subsequent resolution of June 1946, according to which it was recommended to the neutral governments to hand over 95% of the heirless and unclaimed assets within their territories to the Jews for rehabilitation and resettlement. Eventually he mentioned the undertaking of the Dutch government to hand over heirless and unclaimed Jewish assets to a special Jewish organisation for the same purpose, and the draft law at present before the American Congress and already in the last session accepted by the House of Representatives. Mr. Isenbergh therefore appealed to the Swiss government to see

the urgency of the problem and to act in the same spirit as the governments mentioned. Minister von Steiger replied, that the Department of Justice had already prepared a full report to the Political Department, which report would have been already submitted, if not the application for the present meeting had been received. He is therefore anxious to send to the Political Department the observations of the international organisations present in order to complete the case and to arrive at positive measures. He asked Mr. Alexander, the official in charge to give a report as to the measures contemplated and as to the contents of the draft report of the Department of Justice to the Political Department.

Mr. Alexander then gave a summary of this report in preparation.

a. In the first place it should be ascertained, whether and to which extent heirless and unclaimed properties are in existence. To this effect, every banker or private person, holding assets of foreigners not residing in Switzerland, where no communication was received since May 9, 1945, would be under obligation to register those assets with a Swiss public office, probably the "Schweizerische Verrechnungsstelle", within three months after the legal measure would have come into force.

b. After that it would be necessary to secure the assets against any future change, by blocking them.

c. Some measures would have to be taken to locate legal successors, who were not aware of the existence of those deposits and assets.

d. The problem of certificates of death would have to be solved. Switzerland was not entitled to issue death certificates for missing foreigners, who never resided in Switzerland. It would, however, be possible to apply according to Swiss law, the provisions dealing with a limited declaration of permanent absence (beschränkte Verschollenheitsklärung) so that this declaration would be sufficient to deal with the assets of the missing persons situated in Switzerland.

e. A further point would be to investigate the problem, whether Switzerland or the countries of origin are entitled to acquire the assets of the missing person.

f. All these questions must be solved by law. Administrative decrees ~~without a resolution of the Swiss parliament~~ could not be introduced even if the measures contemplated were connected with the war. The authority of the Swiss government to issue such decrees without a ~~resolution~~ *decision* of parliament,

were restricted by December 31, 1945 to matters of defense or of an outstanding economic emergency. Since both reasons did not apply for the assets of missing persons, a law must be ~~passed~~^{passed} by the Swiss parliament and in view of the Swiss provisions for a referendum, ~~the law could not be resolved by parliament~~^{the law could not come into force} before three months would have passed.

In case that this government would take over the assets concerned, they would use it for Jewish rehabilitation. It would be useful if, in this meeting, suggestions would be made, as to the form of administration. Minister von Steiger then asked Dr. Bienenfeld to make his observations to the report of Mr. Alexander. Dr. Bienenfeld pointed out:

a. the most important point was, in his submission, the problem, whether Switzerland or the countries of origin were entitled to heirless or unclaimed assets in Switzerland of foreigners who never resided in Switzerland. There were two legal systems in force in different countries: The territorial system, according to which heirless and unclaimed properties fall to the crown of the countries where the properties are situated and the national principle according to which those assets fall to the crown of the governments of which the missing person was a national. Most countries, as for instance all Anglo-American countries, but also European countries as Austria, Jugoslavia, Poland or Hungary, followed the territorial principle, although Poland now apparently changed her attitude. In the Swiss civil code, however, the national principle is laid down in Art.757 of the Swiss civil code. This article, however, cannot be applied in the case ~~at~~ question for three reasons:

1. Art. 757, according to its contents, obviously applies only to Swiss nationals. As to foreigners, no provision is in force. At the time, when the Swiss civil code was introduced, it was impossible to foresee a mass catastrophe concerning foreigners, who never resided in Switzerland, but had their assets entrusted to Swiss banks, bankers and trustee companies. Consequently, there is a real gap in the law, which has to be filled in, not in analogy with Art.757, but following the rule of Art.1 of the Swiss civil code, according to which the judge or any other legal authority must decide a case not settled in the code in a reasonable way, as if they themselves were the law givers.

2. Even more important was the second reason for rejecting claims of the governments of origin. The intentions or the last wills of the missing persons are not known; however, the Swiss authorities and everybody know exactly, that all the missing persons, who deposited flight money in Switzerland for an emergency, foresaw the dangerous situation in their countries of origin, which was later realised. Their intention cannot be doubted, that the assets concerned should never fall in the hands of their governments; moreover, the Swiss authorities recognised their

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desire by favouring the deposits of those assets with Swiss banks and bankers by taxation laws and other measures. It would be against good faith, now to surrender those assets against the intention of the former owners to the countries of persecution.

3. It would be against public order to surrender heirless assets to governments, whose predecessors had created the heirless properties by murdering the owners.

b. As to the certificates of death, Dr. Bienenfeld suggested, that another procedure could save the issuance of death certificates at all. It would be in the authority of the Swiss government to declare assets ~~and~~ forfeited, where no communication was received since May 9, 1945 and to use them for Jewish resettlement and rehabilitation. The rights of the owner himself and of his nearest relatives could be preserved by permitting them to claim assets within two years after they were handed over to a Swiss fund with the purpose of Jewish rehabilitation and resettlement. Mr. Jacobson of the Joint Distribution Committee here interposed, by drawing the attention to the international convention on the issuance of declarations of death for missing persons. If this convention would come into force, the issuance of death certificates would be facilitated to an extent as to solve the whole problem.

Dr. Bienenfeld therefore summarized in respect of this question, that three methods appear possible: The beschränkte Verschollenheitserklärung, suggested by Mr. Alexander, the forfeiting of assets after a registration order would have been made and the issuance of death certificates according to the suggestion of Jacobson.

Dr. Bienenfeld concluded by stating, that in the view of all organisations, Switzerland and not the countries of origin had to take over the heirless and unclaimed assets of Jewish victims, through a Swiss public rehabilitation fund, which would be administered on the advice of Jewish international organisations under the control of the Swiss government and would be used in the first case for the support of Jewish refugees in need, still residing in Switzerland and in the second place for Jewish rehabilitation and resettlement in general. All organisations had no doubt, that the Swiss government would not take over the assets for their own purposes, but would use them for the purposes mentioned. Minister von Steiger interposed by stating that Switzerland would not keep the assets for themselves.

^{Seymour}
Mr. ~~Seymour~~ Rubin then discussed the problem of the bank secrecy and pointed out, that this principle was repeatedly set aside in other cases as for instance

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in respect of German assets and that therefore the principle of bank secrecy should not stand in the way of solving the problem.

Minister von Steiger and Mr. Alexander declared it for self-evident, that bank secrecy could not be preserved in cases which would fall under the future law and that a provision in this law would state this explicitly.

After the meeting had lasted one hour and a half, Minister von Steiger summarized the situation as follows: His department would expect the submission of all the laws and legislative measures in other countries, especially mentioned by Mr. Isenbergh. They would further be obliged for a summary of the reasons given by Dr. Bienenfeld, why countries of origin could not claim the assets and thirdly, he would expect a general statement as to the details of administration of the fund to be formed.

The general impression was, among all participants, at the meeting, that the Swiss government or at least the Department of Justice wanted to solve the whole problem in a righteous way.

After the meeting it was agreed by the four organisations, that Mr. Isenbergh should prepare a document, submitting and discussing the laws and legislative measures in other countries and that Dr. Bienenfeld should draft another letter as to the two last requests of Minister von Steiger. The drafts of those letters would be exchanged first between Mr. Isenbergh and Dr. Bienenfeld and then sent to the other organisations for approval and joint signature.

YIVO Documents

YIVO stands for Yiddish Scientific Institute

YIVO RG 347.7

American Jewish Committee

Initials in description of source of documents:

EXO = unknown

FAD = Foreign Affairs Department

GEN = General

YIVO 16 347.7
Ann. Jew. Com (RAN 41-46)
Box 47, File 6

(FAD = Foreign Affairs Dept
Box 47 File 6

Swiss heirless
assets

December 23, 1949

Dear Mr. Roseme:

We learned last night that the Swiss Nationalrat, by a vote of 98 to 33, approved the Swiss-Polish Accord. Formally, it lies within the power of the executive branch of the Swiss Government not to carry out the Accord, but I understand that this procedure has in fact almost never been followed.

To complete your files, I am enclosing a copy of my report on my most recent activities in Switzerland. While the outlook is very dismal, it is not entirely impossible that this material will have more than historical interest. The indicated next steps appear to be: (1) an attempt to confine the Polish disposition to Polish assets and to seek a better disposition of non-Polish heirless assets in Switzerland, (2) an attempt to find some method of persuading the Swiss that they ought to make a cash settlement in return for the use of heirless assets of Polish origin for their own bargaining purposes.

In the circumstances, it is impossible to have any optimism, but we cannot permit ourselves to stop trying.

An earlier communication from you states that you did not find among the papers I sent you a copy of the published version of the Swiss-Polish Accord. Since I do not have an extra copy in my files, I hope that in re-examining the papers you will discover the Accord set forth in a cutting from a Swiss newspaper which I sent to you. As to the message of transmittal of the Accord to the Swiss Parliament, I regret that I do not have a copy of that to send you.

I hope that the New Year will afford us more encouraging topics for our correspondence.

Sincerely,

Max Isenbergh
Counsel for European Operations

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Mr. S. Roseme
Ministry of Foreign Affairs
State of Israel
Hakirva



LEGATION OF THE
UNITED STATES OF AMERICA

Bern, Switzerland
December 23, 1949

Mr. Max Isenbergh,
Counsel for European Operations,
The American Jewish Committee,
30, rue La Boetie,
Paris 8, France.

Dear Mr. Isenbergh:

In accordance with the understanding reached with you on your last visit, I wanted to let you know that the Minister had made an approach to the Swiss Government with regard to heirless assets in Switzerland, particularly those of Polish nationals who had been victims of Nazi persecution.

The presentation of our note by the Minister followed closely an approach by the French Ambassador. I understand that our démarches were in turn followed by an approach by the British Legation.

Unfortunately, these steps were not enough to prevent the ratification of the Polish-Swiss Agreement of June 25, 1949. This took place yesterday in the National Council by a vote of 96 to 18.

It appears that in the debate on the agreement, reference was made by two deputies to the secrecy of the clause relating to the disposition of Polish heirless assets. Mr. Petitpierre, the Chief of the Federal Political Department, stated in reply that the clause in question was not secret and had in fact been the subject of an exchange of letters between two parliamentary commissions which might just as well have been published. As for the handing over of the Polish heirless assets to the Government of Poland, Mr. Petitpierre stated that this was quite in accordance with the procedure generally followed in Switzerland with regard to the disposition of heirless assets.

Naturally, we regret this outcome of the affair, but I hope you will agree that everything that could be done has been done and that the steps taken by the Swiss in respect to Polish heirless assets are not necessarily precedent-setting with regard to the heirless assets of persons other than Poles who have been the victims of Nazi aggression.

Very truly yours,

FOR THE MINISTER:

Charles H. Owsley
Charles H. Owsley,
Secretary of Legation.

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C O P Y

THE AMERICAN JEWISH COMMITTEE
386 FOURTH AVENUE NEW YORK 16, N. Y.

YIVO RG 347.7
American Jewish Committee
(Fgn Affrs Dept. 41-46)
Box 47 File 6

PARIS OFFICE

30, rue La Boétie

Paris VIII

TO: Foreign Affairs Department DATE: December 16, 1949
FROM: Max Isenbergh SUBJECT: Heirless Assets - Switzerland

Confidential

Upon my return from Austria on December 9, I learned that the Swiss Jewish Community had issued a communique disclosing the proposed Swiss-Polish arrangements and that Michael Hoffman's story had appeared in the New York Times. Jerome Jacobson, who had left Vienna several days before I had, informed me that he had been in touch with New York and Washington by telephone and cable, and that the Four Organizations had agreed that it would be desirable for me to go to Switzerland for two major purposes: (1) to encourage the Swiss Jewish Community to get members of the Swiss Parliament to oppose ratification of the Swiss-Polish Accord; (2) to accelerate the protest of IRO to the Swiss against the Accord, as promised by Mr. Kingsley when we saw him in Paris on November 22. It was understood that I should make no direct approach to any Swiss officials or political figures, and I meticulously adhered to the restriction.

In Berne (December 12), I spoke first to Mr. Raas, the AJC correspondent, and to Mr. George Brunschvig, president of the Federation of Swiss Jewish Communities. From them I learned that the Standerrat (the Swiss Senate) had approved the Accord on December 6 or 7, and that the Nationalrat (the House of Representatives) would probably consider it in the next few days. Mr. Brunschvig said that the approval by the Standerrat of a Government measure tends to take place pro forma and that it is only at the Nationalrat that there would be any serious possibility of objection in any case. In this particular case, he had no real hope that the Accord would be blocked.

When I urged him to seek political support for our position in the Nationalrat by direct approach to delegates and through Swiss bankers (on the ground that the Accord would be prejudicial to the Swiss banking reputation), he said that the Community had already done its utmost in this respect and would continue its efforts until the last moment.

I also learned from Dr. Brunschvig that the only discussion of the Accord in the Standerrat had been prompted by a question of Senator Kloti (Socialist, Zurich) who had asked for a full disclosure of the contents of the Accord. Mr. Petitpierre, on behalf of the Government, stated that the contents were public information.

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since the Accord had been published. In view of the fact that the published version of the Accord does not disclose the proposed disposition of heirless assets at all, this answer was unresponsive, but Mr. Kleti seems to have pursued the question no further.

By telephone conversation with Mr. James P. Rice, AJDC representative in Geneva, I learned that he had discussed the question with the American Minister, Mr. James Carter Vincent, on December 9. Since I had previously seen Mr. Vincent twice on this matter, and since only a weekend had passed since Mr. Rice's demarche, I thought it prudent not to go to see him, but I did speak to Mr. Morris Hughes, the Counsellor of the Legation, and Mr. Charles Owsley, Legal Advisor. Neither had previously heard of the Standerrat's approval of the Accord, which I emphasized as a reason for getting out the Legation's letter without delay. They assured me that a draft letter from the French Legation had been prepared and approved, and that on the next day (December 13) it would be sent. The American Legation, they added, would either formally associate itself with the French note (the French having been the official spokesmen under the Five-Power Agreement of 1946) or would send a separate note. I gathered that the communication would refer to the letter sent in 1946 by the French on behalf of the five signatories of the 1946 agreement and to Mr. Stucki's letter of May, 1946, in which he stated to the Chiefs of the Allied Delegations that Switzerland would "sympathetically" seek to comply with the request of the Allies that heirless property be used for rehabilitation and resettlement of surviving victims of Nazi action; also, that it would re-emphasize the moral basis for such a disposition. They also stated that the British had indicated that their Foreign Office was going to make representations to the Swiss on the same subject, but could not predict how soon.

In Geneva (December 13), Mr. Rice of AJDC arranged a meeting with William Cox, General Consul of IRO. Mr. Cox explained that Mr. Kingsley had been in the hospital since shortly after his return to Geneva and that his contemplated intervention with the Swiss had therefore been impossible. In view of the need for immediate action, a letter to the Swiss for Mr. Kingsley's signature had been decided upon and was being prepared by Mr. Hacking, a member of the IRO staff. Mr. Cox and Mr. Earl Simrell, Mr. Kingsley's assistant, whom I met later, both thought it would be desirable for me to see Mr. Hacking and let him know that the Swiss Senate had already voted on the Accord and that the House was likely to do so very soon.

Mr. Hacking turned out to be hostile to the project. He said that he had not understood he was to prepare a letter, and that he would advise against sending one. He even interpreted the Five-Power Agreement as denying IRO any standing in such a matter. I presented opposing arguments to him which he resisted. Mr. Simrell insisted that Mr. Kingsley had directed that a letter be prepared. Mr. Hacking said that under those circumstances he would prepare one.

When I later told Mr. Simrell that I was troubled by Mr. Hacking's apparent lack of sympathy to the project, he indicated that Mr. Kingsley's and his own attitude was quite different, and that he himself was troubled by the fact that the drafting of the letter was in the hands of a person hostile to the objective. He suggested that since I was familiar with the question I might draft a proposed letter which

Mr. Simrell would present to Mr. Kingsley for signature. I did so that evening and copies were delivered by Mr. Rice to Mr. Simrell and Mr. Cox the next morning, after my departure for St. Gallen.

In the further attempt to get political support for our position, I went to see Mr. Jaquest Salmonovitz, head of the Compagnie General de Surveillance; Professor Paul Guggenheim, legal adviser to the Jewish Community; Jean Brunschvig, Secretary of the Jewish Community. The upshot of these visits was that the Community was doing all that it could in this direction and would continue to. In the course of my visit with Prof. Guggenheim, he discussed with me a proposed response to a letter which Mr. Petitpierre had sent to Dr. George Brunschvig following a discussion of the Polish-Swiss Accord. Mr. Petitpierre argued that Swiss law supported the proposed disposition of heirless assets and emphasized the reservations of Czechoslovakia and Yugoslavia in connection with the Five-Power letter of 1946. Neither of these points is very persuasive, and Prof. Guggenheim was prepared to send a thoroughly responsive answer.

In St. Gallen (December 14) I saw Mr. Saly Mayer whose splendid activities in association with AJDC during the war and afterward are well known. Mr. Mayer and I thoroughly explored the question, and he agreed to seek further political support for our position. He stated that in his view it was regrettable that we had not initially presented our position through the Federal Refugee Office, an association of organizations in Switzerland concerned with relief and rehabilitation. He said that this Office, including representatives of Catholic and Evangelical organizations as well as Jewish, would have had the advantage of putting our representations on a non-sectarian basis. Although it was late, he said that he would attempt to enlist the assistance of this body.

Before leaving Switzerland, I checked again on the communications we were hoping for. The communication from the French and American authorities had still not been sent, nor had IRO's, but it was expected that they would be on their way on December 15. Mr. Rice of AJDC, thoroughly cooperative throughout, has undertaken to keep me posted on developments.

C o p y

AJDC
270, Madison Avenue
New York

December 14, 1949.

Letter N° 3096.

To: AJDC PARIS - Attention Mr. Jerome J. Jacobson

From: AJDC NEW YORK

Re: Swiss-Polish Heirless Property Deal

With further reference to my letter N° 3093 of December 13, 1949 on the above subject, I have just learned that the instructions which the State Department plans to send to the legation in Bern will leave a certain amount of discretion in the legation as to the precise form of the representations to the Swiss. As I understand it, the Department will emphasize to the legation the importance of not permitting the representations on this question in any way to prejudice the reparations request and in fact the legation may even be given freedom to make no representations at all if it feels that prejudice to the reparations would be inevitable. For these reasons and for the further reason that we expect the instructions to go out from Washington within a day or two, the people here feel that contact should be made at once with the US Legation in Bern on this question. Whether or not instructions from Washington have arrived, it is our feeling that we should lay the groundwork for the matter with the legation and exert every effort to insure that representations will in fact be made.

In addition, at the request of Moe Leavitt, Sy Rubin may attempt with the next day or two, to approach the Swiss Embassy in Washington on this entire matter. The idea will be that Sy, speaking in behalf of the Jewish organizations, will first call the attention of the various friends at the Embassy to the inherent injustice and immorality of the Swiss-Polish accord. At the same time, he will point out to them that the Jewish organizations have no desire to embarrass the Swiss and that in fact they have attempted in this country to prevent any public attacks on the subject. In this vein he will request the Swiss once again to postpone action on the Polish accord and to postpone its implementation. In the light of this approach, it will now be more important than ever that no further public attacks against the Swiss be made, and to the extent that we can prevent any further attacks we should exert our every effort. I have cleared the matter with both Hevesi and Robinson and would suggest that these instructions be transmitted to the representatives of the Congress and the Committee as soon as possible.

(While all of this may present a somewhat inconsistent picture, in our approach on this subject, I really feel that this combination of first blasting away and then coming in on a friendly note often does achieve a desirable effect).

signed Eli Rock

338082

Box 47 Genève, December 14, 1949.

CONFIDENTIAL

To: Mr. Jerome Jacobson - AJDC - Paris
From: Mr. James P. Rice - AJDC - Geneva
Re: Heirless Jewish assets in Switzerland

I should like to bring up to date a report of my activities in connection with the above mentioned problem since the beginning of this month. In accordance with your suggestion, I had discussed this problem with Mr. Alvin Roseman, special U.S. representative for international agencies in Geneva, who referred the matter to the Legation in Bern, and subsequently paved the way for an interview with the U.S. Minister, Mr. John Carter Vincent, while Mr. Vincent was in Geneva, last week.

My interview with Mr. Vincent took place at the U.S. Consulate on December 9. Mr. Michael Hacking of the IMO was also present because Mr. Vincent had indicated to me that Hacking had requested an interview to discuss the question of Polish heirless assets in Switzerland, and he thought it would be a matter of economy of time if he saw us both together provided that I had no objection. It seemed to me that there was more to be gained than to be lost by this combination interview, and I have therefore agreed to it.

Mr. Vincent was very well acquainted with the back ground of the problem, although he did ask for clarification on some of the details. Our conversation began with comments on Mr. Hoffman's article in the New York Times of December 7, which had just arrived in Geneva. Mr. Vincent thought that Hoffman had done a good job of reporting, but he expressed his concern about the implication in the article that Switzerland should give up this tentative agreement with Poland, in order to avoid unfavorable publicity. Mr. Vincent felt that the Swiss reacted unfavourably to this type of pressure, and that usually more was accomplished by negotiating quietly behind the scene. He asked for some further explanation for the law of 1891, which I gave him on the basis of what you had told me.

Mr. Vincent also wanted to know who were the "eminent jurists" whom the Jewish organizations had consulted about the 1891 law. I told him about Dr. Bienenfeld and also about the fact that Dr. Brunschvig and Dr. Guggenheim, who were both Swiss lawyers had not even been told about this law at the time of their interview with Mr. Petitpierre, nor had their experts been able to come across such a law.

Mr. Vincent wanted to know whether we could give him any more information about the amount of money which was involved. I pointed out that no one knew this exactly, because of the policy of secrecy in Swiss bank accounts, but we were firmly convinced that the official Swiss estimates were far too low.

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Mr. Vincent told us that he was going to send a note to the Swiss Government on this whole question on Monday December 12. This note was to be coordinated with a similar one which was to be sent by the French Legation. Mr. Vincent said he had instructions about such a note for some time, but had not taken any action as he hoped to coordinate this with the French and the British. Only recently the French had agreed to proceed similarly. As for the British, Mr. Vincent understood they planned to handle this through the Foreign Office in London. He regretted very much that the British were not acting through their Bern Legation, and wondered if Hacking had any information as to the reason for this. Hacking said he did not know, but would try to find out. He expressed the opinion that the British attitude might be coloured by their attitude on the State of Israel, and Mr. Vincent indicated that this had been in the back of his mind also as a possible explanation of the British position.

Mr. Vincent suggested that I communicate with him or the Legation Legal Advisor, Mr. Charles H. Owsley, on Monday December 12, in order to check whether the French and U.S. notices had been sent.

There followed some brief discussion about the possibility of further payment from the Swiss on account of German assets. Mr. Vincent claimed that he had not received any instruction from Washington about requesting further payment. He was interested to know about the amounts involved and he gave him a brief explanation about the original payment of 20,000⁰⁰⁰ Swiss francs, the balance due of 30,000⁰⁰⁰ of which it seems that part was to be requested from the Swiss and part from Portugal.

I might add that my general impression of Mr. Vincent was very favourable. He seems to be an alert, interested, and sympathetic person, and certainly made it clear that he was available to us when ever we might wish to consult him.

Following this interview, I discussed briefly with Hacking the action which IMO might take. Hacking maintained the same kind of attitude which he has had since I first brought the subject to him, earlier this month. In his opinion (and apparently Dr. Kullman's), this matter should be handled through a personal discussion between Kullman and Hacking on the one hand, and Mr. Stucki on the other. He did not agree that a note should be sent and felt that the very fact that the U.S. and the other Allies were to take action made it unadvisable for IMO to send a note because he felt the question of heirless assets was the direct responsibility of the Allies. However, he agreed to consider my suggestion about the note and would let me know about it when I spoke to him on Monday to report what I was told by the U.S. Legation about their action.

On Monday afternoon, I spoke with Mr. Charles Owsley, who said that the note had not yet been sent, but he thought it would go out in a day or two. He had not yet had an opportunity to speak with Mr. Vincent since the latter's return from Geneva.

In the meantime, I spoke with Max Isenbergh who had arrived in Bern for a conference with Dr. Brunschvig. Isenbergh had spoken to the Conselor of the Legation, Mr. Hugues, who told him that the note was being prepared, and should go out by Tuesday, December 13, at the latest.

Mr. Isenbergh came to Geneva on Tuesday for further discussion with members of the Jewish Community in this city. He will undoubtedly report to you indetail about the result of this discussion, but for the most part the attitude of the various members of the Jewish Community in Bern and Geneva is that they cannot take any further action, they have done everything possible and hope that some of the members of the Swiss Parliament to whom they have already talked about the problem, will bring up the question of heirless assets when the Swiss-Polish Trade Agreement is voted upon. In the meantime, Isenbergh had heard from Dr. Brunachvig that the Upper House of the Swiss Parliament had already passed on the agreement with practically no questions.

In Geneva, I arranged a luncheon meeting for Mr. Isenbergh and myself, and Bill Cox. I might point out that since December 5, when Bill returned to Geneva from the States, I have been in touch with him about this question through his unofficial contacts with Mr. Kingsley while the latter has been ill. He told me that Mr. Kingsley definitely wanted a note to be sent over his signature, especially since his illness prevented him making a personal demarche at Bern. Bill also made clear that he has no official responsibility for this area of IRO operations, and has participated in it more or less on the basis of doing us a favour. Nevertheless, in our luncheon conference, in view of the urgency, he agreed to follow up further and arranged for Mr. Isenbergh to see Mr. Semerell, Mr. Kingsley's special assistant. As a result of this conference, Mr. Semerell agreed to accept for consideration the draft of a note to be drawn up by Mr. Isenbergh. Mr. Isenbergh wrote the note the evening of December 13 and on the morning of December 14, it was typed on plain paper in my office, and I gave a copy to Bill Cox and Mr. Semerell, emphasizing once again the urgency of immediate action. Mr. Semerell informed me that he was to receive a suggested note from Mr. Hacking and he asked Bill Cox to try to draw up a final draft combining the two notes for Mr. Kingsley's signature.

I should point out that in addition to the awkwardness of having official contact with Hacking and unofficial contacts with Cox and Semerell, we have been further handicapped because this week the IRO staff is occupied with meetings with their missions' chiefs here in Geneva.

On Wednesday afternoon, Dec. 14, Mr. Owsley informed me that he was in touch with the French Legation and he hoped by Dec. 16 the note (or notes) would be ready. He emphasized that the French were actually taking the lead in this matter, and there was now some possibility that the British Legation would also participate. Mr. Owsley asked if the Swiss Jewish Community was trying to interest members of the Swiss Parliament in the problem and I explained the situation to him. He asked that we maintain complete discretion about our advance knowledge of the plan of the Allies to send notes, in order to avoid having the Swiss hear about it in advance from non official sources. I told him we had been and would continue to be discreet.

As of this writing, IMO still has not sent the note. Kingsley is studying Isenbergh's draft and also has one now from Hacking. There is some hope that the note would be ready tomorrow - if Kingsley has been feeling well enough and has had the time to do it.

I'll keep pressing.

James F. Rice

cc: Mr. M.W. Beckelman
Mr. S. Mayer
Mr. M. Isenbergh - American Jewish Committee ✓
Dr. Liban - World Jewish Congress
Mr. S. Adler-Rudel - JAFF

Swiss - Poland

(Ergn Affrs Dept. 41-46)
Box 47 File 6

December 13, 1949

Dr. Eugene Novesi
The American Jewish Committee
356 Fourth Avenue
New York, New York

Dear Eugene:

Dr. Robinson of the World Jewish Congress met me in my office at about 10:00 A.M. yesterday morning and we had a long talk. Subsequently we visited the State Department and had a discussion with Mr. Theodore Achilles, Chief of the Western European Division, and Mr. Edwin Adams of his staff.

I had previously indicated to Eli Rock that I thought it would be wise for Dr. Robinson and myself to get together for a considerable period before our visit to the Department. This turned out to be a wise move. As a result of our discussion, although I am not sure that we completely agreed on what would be wise, we coordinated our lines so that no dissension between the various groups was indicated in the meeting at the Department.

I expressed to Robinson my skepticism as to the desirability of making representations at this particular time. I pointed out that I had been extremely active in the entire matter of the heirless assets, particularly vis-a-vis the Swiss-Polish Agreement and that in no sense did I condone the action of the Swiss. I simply felt that it was unwise to make strong representations to them either by means of a press campaign or through the medium of the American Government at a time when the American Government was itself pressing for an advance based on the supposedly humanitarian impulses of the Swiss. Robinson argued chiefly that nothing was ever gained by appeasement, that the cat was out of the bag in any case because of the press stories which had already appeared, and that it was most important to contain the precedent which would probably be set by the ratification of the Swiss-Polish Agreement. He indicated skepticism as to whether anything we could do at this stage would prevent the Swiss from ratifying the agreement, but said that it was most important that this case not become an example of a general practice.

When we met with State Department officials, we were able to reach agreement along this latter line of policy. I reviewed briefly the background of the situation bringing the case up to the present and then asked Dr. Robinson to express the viewpoint of the organizations. He did so and stressed the desirability of representations partially to prevent ratification of the agreement and partially to diminish its harmfulness as a precedent. He also pointed out that the Department had previously sent out instructions on the matter and that, in any case, the Swiss had been apprised of the views of the organizations by means of the press articles which had already appeared.

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- 2 -

Achilles pointed out that it was difficult for one government to oppose the ratification by a second government of an agreement which the second government had negotiated with a third government, and said that he doubted whether such representations would be effective. He also said that they might have a deleterious effect on the negotiations with respect to the proposed advance. After considerable discussion, I suggested that the Department might inquire from the Legation at Bern as to what had happened on the previous instructions and suggest the possibility of the Legation taking the matter up with the Swiss once more if the Legation does not believe that it would injure the chances with respect to the proposed advance.

We summed up about 3/4 of an hour of discussion by agreeing on this mode of approach. It was obvious that the State Department was not particularly eager to move forward again on this particular problem and its lack of enthusiasm was not diminished by reason of the matter of the advance. I believe, however, that the Department will take the action which was indicated, although whether any results will occur before the question of ratifications comes up is to my mind doubtful. Adams is to inform me when action has been taken.

Sincerely yours,

Seymour J. Habin

cc: Mr. Isenbergh

338088

December 6, 1949

MEMORANDUM

To: Dr. Eugene Hevesi
From: Seymour J. Rubin
Subject: Possible Press Statements about Swiss-Polish Agreement on Heirless Assets.

After your telephone call of today during which you read to me the text of Jerry Jacobsen's cable from Paris, I consulted with Mr. Theodore Achilles, Director of the Office of Western European Affairs, Department of State, and Mr. Willard Thorp, Assistant Secretary of State for Economic Affairs.

1. I explained the entire situation to Mr. Achilles, who is the policy officer of the Department responsible for relations with Switzerland. I reminded him of the fact that the Department had favored the obtaining of the heirless assets in Switzerland by organizations representative of refugees and displaced persons, and that the Department had in fact instructed the Legation in Bern to protest against the Swiss-Polish Agreement. I said that our information was that the agreement was coming up for ratification in ten days or two weeks and that the organizations which had worked on this matter were highly indignant at what was obviously double dealing on the part of the Swiss. I indicated that the Swiss-Polish Agreement was thought possibly to jeopardize the status of all other heirless property in Switzerland and that the organizations concerned were considering the possibility of press statements in Paris and/or New York with the objective of dissuading the Swiss Parliament from ratifying the agreement.

Mr. Achilles said that he was sorry that the agreement had been reached, although he did not think that the Department could issue further instructions to protest against it. He said, however, that it was his best advice that press statements or a press campaign not be undertaken. He said that he was convinced that a press campaign by various American organizations would have merely the effect of making the Swiss more recalcitrant and that, if anything was necessary to guaranty that the agreement would be ratified, a press statement or press campaign would be it. He emphasized the existence of legal difficulties, even in connection with the previous American instructions to make a protest. He said that in his opinion the best approach was to renew efforts through the Swiss-Jewish community and agreed with my suggestion that perhaps members of that community might approach bankers on the theory that the Swiss-Polish Agreement constituted a rift in the protection which Switzerland has traditionally given to foreign private depositors.

I emphasized that I could not guaranty that the organizations concerned would follow the advice of the State Department in this matter. Mr. Achilles said that he realized this, but that he hoped very much that the organizations would not give way to what he conceded to be their justifiable feelings. He reiterated that a press statement, in his opinion, would have the effect of insuring Swiss approval of the Swiss-Polish Agreement.

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2. I subsequently talked with Mr. Willard Thorp and told him that, although I understood that his office was no longer directly responsible for the Swiss Accord, we would like to have his advice in view of the friendly and helpful attitude which he had taken in the past. After asking a few questions on the technical aspects of the matter, Mr. Thorp asked for word as to the progress of the proposed further request for 17 million Swiss francs. I told him what the status of that matter was and he thereupon said that it was his feeling that statements criticizing the Swiss with respect to the heirless property situation and attributable to Jewish organizations would put that request in very substantial danger. He indicated that, while of course he was not certain that the request would be honored when it was made, he was fairly optimistic on that score. He said that he would be extremely pessimistic about it if the Swiss were publicly attacked at this time by any of the Jewish organizations which had been connected with the matter of the request. He indicated that a press attack on the Swiss in connection with heirless property might also have adverse repercussions vis-a-vis the British and French, although he was not so strong about this. He added in closing that he doubted whether a press statement or press campaign would have any favorable effect in connection with the Swiss-Polish Agreement and that he thought that it would severely jeopardize the possible success of the request for a further advance of 17 million Swiss francs.

cc: Mr. Isenbergh

J U N A
Pressestelle des Schweiz.
Israel. Gemeindefundes

Zürich, den 1. Dezember 1949.
Lavaterstr. 37.

Nr. 49/8

Erblose Vermögen.
=====

I

Am 21. Dezember 1945 haben die Alliierten Mächte ein Abkommen über die deutschen Reparationen abgeschlossen. Art. 8 sieht vor, ein Teil der deutschen Leistungen solle Flüchtlingszwecken gewidmet werden. Zu diesen zweckgebundenen Reparationsleistungen gehören auch die erblosen Vermögen von nationalsozialistischen Opfern.

Bei dieser Gelegenheit wurde vereinbart, die Regierungen der neutralen Staaten seien ebenfalls zu ersuchen, die in ihrem Gebiet befindlichen erblosen Vermögen der nationalsozialistischen Opfer entsprechenden Zwecken zuzuwenden. Anlässlich des Abschlusses der Verhandlungen von Washington erklärte Minister Stucki in einem Schreiben vom Mai 1946, die Eidgenossenschaft wurde mit Sympathie diesen Vorschlag prüfen.

Der Schweizerische Israelitische Gemeindebund hat angesichts seines Interesses für die Finanzierung der Flüchtlingsfürsorge eine Sachverständigenkommission beauftragt, die mit der Lösung der Rechtsfragen zusammenhängenden Probleme zu untersuchen. Die Kommission kam zu dem Ergebnis, die schweizerische Gesetzgebung sei hinsichtlich der zur Diskussion stehenden Frage lückenhaft. Das Bundesrecht regelt in der Tat nur die Frage der in der Schweiz gelegenen erblosen Vermögen schweizerischer Staatsangehöriger. Das Problem der in der Schweiz liegenden erblosen Vermögen ausländischer, im Ausland sich befindlicher Staatsangehöriger ist jedenfalls weder im Rahmen der schweizerischen Gesetzgebung geregelt, noch Gegenstand einer konstanten Rechtsprechung.

Mangels einer völkerrechtlichen Verpflichtung ist die Schweiz in der Lage, selbst gesetzgeberisch vorzugehen und Rechtssätze zu erzeugen, welche die in der Schweiz liegenden erblosen Vermögen der Opfer der nationalsozialistischen Verfolgung erfasst und sie den überlebenden vermögenslosen Flüchtlingen zuführt. Es wäre auf jeden Fall entgegen aller Sittlichkeit und Gerechtigkeit, wenn ein Staat sich an den Vermögen von Menschen bereichern wollte, die aus Gründen der Religion, der Rasse, oder der politischen Ideen ausgerottet worden sind. Besonders bedenklich würde es sein, wenn derartige Mittel jenen Staaten zugewendet würden, die selbst für die Verfolgung verantwortlich oder mitverantwortlich sind. Die Schweiz könnte es wohl auch nicht zulassen, dass die Kantone oder Gemeinden sich bei dieser Gelegenheit bereicherten, oder dass die hinterlassenen Vermögen endgültig von jenen Personen erworben würden, die sie augenblicklich verwalten.

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II.

Das Eidgenössische Politische Departement erhielt den Bericht der Expertenkommission des Gemeindebundes am 8. Dezember 1947. Es stellte ihn dem Eidgenössischen Justiz- und Polizeidepartement zu.

Am 25. Juni 1949 ist jedoch zwischen der Schweiz und Polen ein Vertrag unterzeichnet worden, der eine nicht in der Botschaft des Bundesrates veröffentlichte Bestimmung enthält, wonach die erblosen Vermögen von polnischen Staatsangehörigen in der Schweiz, die in Polen wohnhaft gewesen waren, der polnischen Regierung ausgeliefert werden sollten. Auf diese Weise werden bedeutende Summen den Opfern der nationalsozialistischen Verfolgung entzogen.

Der Beschluss der Schweiz, der von präjudizieller Bedeutung ist, veranlasste den Schweizerischen Israelitischen Gemeindebund, den Chef des Eidgenössischen Politischen Departementes um eine Audienz nachzusuchen. Am 4. November 1949 empfing Bundesrat Petitpierre als Vertreter des Gemeindebundes dessen Präsidenten, Dr. Georges Brunschwig, sowie Prof. Paul Guggenheim. Die Delegierten des Gemeindebundes brachten in der Unterredung eine Reihe von rechtlichen und moralischen Gesichtspunkten zum Ausdruck, die zugunsten der Widmung der erblosen Vermögen an die Überlebenden der Verfolgung sprachen, sowie jene Argumente, die gegen die Lösung gemäss der erwähnten Klausel des Vertrages mit Polen ins Feld geführt werden können. Sie stellten fest, die Schweiz sei in rechtlicher Beziehung hinsichtlich der Widmung der erblosen Vermögen frei, kein Rechtssatz des positiven Landes- oder Völkerrechts regle die Frage in der einen oder andern Weise. Es bestehe daher kein zwingender Grund, erblose Vermögen dem Staate der Staatsangehörigkeit des Erblassers zu überlassen. Für die Schweiz entstehe andererseits ein moralischer Schaden, wenn sie die Vermögen der polnischen Opfer nicht humanitären Zwecken widme. Indem die Schweiz dem Heimatstaate der ehemaligen Eigentümer der erblosen Vermögen Rechte auf dasselbe zuerkenne, schaffe sie einen Präzedenzfall, der mit den Massnahmen aller andern Staaten, die sich mit dieser Angelegenheit befasst haben, im Widerspruch stehen.

III.

Man kann in der Tat nicht annehmen, es sei der Wille der Schweiz, des Landes des Roten Kreuzes und der Schweizerische, aus den nationalsozialistischen Verfolgungen direkte und indirekte Vorteile ziehen zu wollen. Einzig eine klare und eindeutige Gesetzgebung, die die erblosen Vermögen den überlebenden Opfern der nationalsozialistischen Verfolgungen widmet, vermag jedoch dem Abkommen mit Polen den Charakter eines Ausnahmerechtssatzes zu geben.

Besonders bedenklich wäre es, wenn nach dem polnischen Vorbilde Verträge mit andern Staaten zustande kämen, in denen die erblosen Vermögen ebenfalls den Heimatstaaten der Erblasser und nicht sozialen Zwecken zugewendet würden. Derartige Bestimmungen entsprächen zweifellos auch nicht dem vermutlichen Willen der Erblasser.

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Es ist daher zu hoffen, dass bald in der Angelegenheit der erblosen Vermögen eine Regelung erfolgen wird, entsprechend den Grundsätzen der Sittlichkeit und der Humanität, die stets von der Schweiz geachtet worden sind.

November 22, 1949

Memorandum for Mr. Kingsley

Swiss Heirless Assets - Main Features

- 1) "Constitutional" background. Article 8 of the Final Act of the Paris Conference on Reparation (December 21, 1945) provides that the governments of neutral countries shall be requested to make available for rehabilitation and resettlement the assets in such countries of victims of Nazi action who have died leaving no heirs. The Final Act also provides that the administration of any such assets thus made available shall be by the IHO. Early in 1946 the United States, the United Kingdom, France, Yugoslavia and Czechoslovakia (the latter two making certain reservations) joined in a letter to the neutral powers requesting adherence to this principle.
- 2) Representations to the Swiss Government. From time to time memoranda on heirless assets have been addressed to the Swiss Government by organizations concerned with aiding victims of persecution, but until recently it was the related questions of non-monetary gold and German assets which received most attention and with respect to which concrete dispositions were made.
- 3) Recent efforts to activate the question. On July 8, 1949, representatives of the American Jewish Committee, the American Joint Distribution Committee, the Jewish Agency for Palestine, and the World Jewish Congress met with the Swiss Federal Minister of Justice and Police, Dr. Eduard von Steiger, to discuss the question of heirless assets. Dr. von Steiger indicated that the question was being carefully considered by the Swiss Government and requested the submission of certain explanatory memoranda which were subsequently supplied.
- 4) The Polish-Swiss Accord. Shortly after the meeting of July 8, it was learned that in the course of negotiating an accord on the question of nationalization of Swiss property in Poland the Swiss delegation had agreed, in June 1949, to transfer heirless assets in Switzerland of Polish origin to an account for the benefit of the Polish Government. The Accord to which this arrangement is related is to be submitted to the Swiss Parliament for approval, probably in December, but it is noteworthy that neither the text of the Accord nor the message transmitting it to the Swiss Parliament discloses the arrangements contemplated with respect to Polish heirless assets. Although Minister von Steiger had indicated that heirless assets in Switzerland could not be disposed of without legislation, the Political Department justifies the disposition of the question vis a vis Poland by means of an unrevealed exchange of letters on the ground that this is merely an administrative matter not involving any interests of the Swiss. It is

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believed that consummation of the Swiss-Polish agreement on heirless assets would be fatal to realization of the objective embodied in the Final Act of the Paris Conference. Although the Swiss authorities have apparently sought to avoid publicity on this issue, it seems highly unlikely that other countries will not learn about it, since it came to the attention of representatives of private organizations. Hence, it would be extremely difficult for the Swiss to resist demands by other countries for treatment at least as favorable as that accorded Poland.

5) Subsequent discussions with Swiss authorities. The writer, representing the Four Organizations mentioned above, met with Dr. Felix Schnyder of the Swiss Political Department on October 15. Dr. Schnyder indicated that in his opinion the proposed Polish-Swiss arrangements would be ratified. The writer pointed out that the Swiss Parliament had received no explanation of the heirless property aspects of the Accord, and that if they clearly understood that the Accord entailed the inequity of Switzerland's using the assets of the worst victims of persecution as a quid pro quo for a deal with Poland, they might be unwilling to approve. The Swiss are jealous of their reputation as bankers. This reputation could only suffer if the following were publicly disclosed: 1) the assets in question were originally entrusted to the Swiss for safe-keeping, and particularly to put them beyond the reach of the government of the countries in which they originated; 2) Swiss secrecy laws and tax provisions aimed at encouraging such a practice; 3) by returning the assets to Poland, the Swiss would be doing the last thing in the world their murdered clients would have wanted; 4) by returning them to Poland, they are plainly appropriating the assets of the worst victims of persecution for their own use, since they are using them to buy a bargain from the Poles.

Dr. Schnyder indicated that the Swiss sympathize with the humanitarian objectives of Article 8 of the Final Act, but stated they had not been able to resist the pressure of the Poles who made the proposed disposition of heirless assets a condition of settling the nationalization issue. The writer reiterated that this statement of the problem was a bald confirmation of the use of heirless assets belonging to victims of persecution by the Swiss for their own purposes. Dr. Schnyder suggested that in the absence of publicity on the Polish heirless assets, it might be possible to make a general disposition of the remaining heirless assets in Switzerland along the lines of Article 8 of the Final Act, but he stated that if the arrangements with Poland were publicly discussed, Switzerland would defend them and hence would be unable subsequently to take a different position vis a vis the heirless assets of non-Polish origin. The writer expressed his belief that consummation of the Polish-Swiss arrangements would be fatal to the achievement of a disposition along other lines in the case of the remaining heirless assets and therefore repeated his conclusion that blocking of the proposed Polish-Swiss arrangements is crucial.

6) Position of IRO. Because of IRO's special responsibility under Article 8 of the Final Act, it would seem to be the logical organism to urge acceptance of the policy of the Final Act by the Swiss. It is hoped that IRO will vigorously protest against the proposed Swiss-Polish Accord and will press for a comprehensive disposition of all heirless assets in Switzerland in accordance with the Final Act.

Md.

Paris
November 22, 1949

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COPY

THE AMERICAN JEWISH COMMITTEE
386 FOURTH AVENUE NEW YORK 16, N. Y.

YIVO ARG 347.7
American Jewish Committee
(FRgn Affrs Dept. 41-46)
Box 47 File 6

November 7, 1949

PARIS OFFICE

30, rue La Boétie
Paris VIII

MEMORANDUM

To: Foreign Affairs
From: Max Isenbergh

U R G E N T

Subject: Heirless Assets - Switzerland

The recent Polish-Swiss Accord will not, I am informed, be passed upon by the Swiss Parliament until some time in December. As you know, neither the text of the Accord nor the accompanying message to Parliament discloses that a side agreement has been made providing for return of heirless assets of Polish origin to Poland.

The Swiss officials I spoke to say there is no chance of blocking Parliamentary approval in any case, and they may be right. They further argue that if the heirless assets issue is publicly disclosed, the Swiss Government will defend the disposition vis a vis Poland and will, as a practical matter, be committed to treat all other heirless assets the same way. If it is not disclosed, they assert that they will find it possible to dispose of the remainder of heirless assets as we urge (i.e. for rehabilitation and resettlement of surviving victims of persecution) and indicate their intention to make such a disposition.

My feeling is that while knowledge of the Swiss Polish arrangements could be suppressed to some extent, it could not be kept from other interested countries who would be in a strong position to demand of the Swiss treatment at least as favorable as that granted to Poland. On this view, blocking of the Swiss-Polish Accord is decisive, if any of the heirless assets in Switzerland are to be salvaged.

Exposure of the essential aspects of the Swiss-Polish deal on heirless property in the press or the threat of such exposure would seem to afford the only chance of getting the Swiss Parliament to reject it. The Swiss are jealous of their reputation as bankers. This reputation could not gain if publicity were given to the facts that (1) these assets were originally entrusted to the Swiss for safekeeping, and particularly to put them beyond the reach of the governments of the countries in which they originated; (2) Swiss secrecy laws and tax provisions aimed at encouraging such a practice; (3) by returning these assets to Poland, the Swiss are doing the last thing in the world their clients would have wanted; (4) by returning them to Poland, they are using the assets of victims of persecution for their own benefit, since they are using these assets to buy a bargain from the Poles on other issues. (In effect they are using these assets to pay off their own nationals whose property was nationalized by Poland and to get other trade benefits from Poland).

The Swiss-Jewish Community has asked us to refrain from publicizing this affair. Their spokesman tells me that they have an appointment with Foreign Minister Petitpierre and that they are going to threaten him with publicity if action to block the accord is not taken within a week or ten days after the appointment. Hence, for the immediate present, we are committed to silence, but after the expiration of the appropriate interval, there is a further consideration which calls for careful treatment.

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Dr. Schwartz of the Joint Distribution Committee is strongly opposed to publicity of the issue by Jewish organizations. He says that there are many other issues at stake with the Swiss and that an explosion of this issue might jeopardize Jewish interests in a satisfactory disposition of the other issues, without any assurance of producing good results.

In a discussion of the problem with Dr. Schwartz, who had previously discussed it with Mr. Adler-Rudel (JAFF) as I had in Geneva, we agreed that one way out of the dilemma would be to ask the IRO to take up the question officially with the Swiss. With respect to German assets in Switzerland, the IRO has treated with the Swiss to get the share of the \$25,000,000 sought from neutral countries under Article 8 of the Final Act of the Paris Conference on Reparation. The framework of the Final Act and subsequent communications to the Swiss at least permits the IRO to press the Swiss on the question of heirless assets as well. Dr. Schwartz thinks that the IRO could be prevailed upon to take up the question with the Swiss and that IRO as presently constituted would vigorously press for the disposition we want.

IRO's assuming this role would have the double advantage of giving the project the support of an official international organism, and of putting the threat or actual use of publicity into the hands of that organism rather than leaving it in the hands of private Jewish organizations. The fact that IRO would presumably allocate whatever it may receive as it has allocated the proceeds of German assets, i.e. 90% or 95% to Jewish rehabilitation and resettlement (via JDC and JAFF) and 5% or 10% to non-Jewish, is not a disadvantage. On the contrary, it may gain some allies for the project.

From the discussion here I can report that Dr. Schwartz and Mr. Jacobson (JDC), Mr. Adler-Rudel (JAFF), Dr. Bienenfeld (World Jewish Congress), and I all favor the approach of turning now to IRO. The purpose of this memorandum is to get the prompt approval of the Four Organizations in New York for our proceeding to take up the question with Mr. Kingsley in Geneva. Please bring the question before the Four Organization immediately and let us know the reaction. We shall apprise the Swiss Jewish Community so that no action at cross-purposes will be taken.

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MESSAGE

du

**Conseil fédéral à l'Assemblée fédérale relatif aux accords
conclus entre la Confédération suisse et la République de Pologne
au sujet de l'échange des marchandises, du règlement des paiements,
ainsi que de l'indemnisation des intérêts suisses en Pologne**

(Du _____ 1949)

Monsieur le Président et Messieurs,

Un accord entre la Confédération suisse et la République de Pologne concernant l'échange des marchandises et le règlement des paiements et un accord entre la Confédération suisse et la République de Pologne concernant l'indemnisation des intérêts suisses en Pologne ont été signés le 25 juin 1949 sous réserve de ratification. Nous avons l'honneur de les soumettre à votre approbation avec les explications que voici:

Les négociations qui ont abouti à la conclusion de ces accords avaient pour but de régler tous les problèmes économiques et financiers en suspens entre la Suisse et la Pologne, mais avant tout la question de l'indemnité à verser pour les intérêts suisses atteints par les mesures polonaises de nationalisation. La solution intervenue pouvant être mieux appréciée si on l'examine à la lumière du développement des relations économiques entre les deux pays, nous vous donnons à ce sujet un aperçu circonstancié.

I. LA PÉRIODE D'AVANT-GUERRE

Les relations économiques entre la Suisse et la Pologne offraient avant la guerre une image semblable à celle de nos rapports avec d'autres pays de l'Europe de l'Est et du Sud-Est. Le trafic des marchandises fut repris sans délai après la première guerre mondiale avec la Pologne ressuscitée. Il se développa rapidement; la statistique commerciale en témoigne. Au cours de l'année 1920 déjà, l'exportation s'éleva à 24,3 millions de francs. Elle monta en 1924 à 30,5 millions de francs pour atteindre ensuite 33,3 en 1927, 48,8 en 1928 et 43,3 millions de francs en 1929. Ces chiffres, compte

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tenu des prix des marchandises à cette époque, représentent des valeurs considérables. En 1928, l'exportation en Pologne correspondait à 2,3 pour cent du total des exportations suisses. L'intérêt des deux États à un échange de marchandises intensif a trouvé son expression dans la conclusion de différents arrangements. Une convention de commerce fut signée le 26 juin 1922; les premiers accords avec droits consolidés suivirent, le 3 février 1934.

Les années 1930 et suivantes marquèrent un tournant. La Pologne introduisit, en relation avec la crise économique mondiale, la réglementation en matière de devises; cela contraignit la Suisse à prendre certaines mesures et rendit nécessaire la conclusion de divers accords concernant l'échange des marchandises et le règlement des paiements. Le trafic des marchandises baissa fortement. L'exportation tomba, en 1932, à 12,5 millions de francs pour ne remonter que plus tard, en 1937, à 15,6 et, en 1938, à 22,5 millions. Toutefois, même pendant ces années de crise, la Pologne participa dans une proportion relativement importante à l'ensemble de l'exportation suisse; cette participation fut en moyenne de 1,5 pour cent.

Mais les chiffres de la statistique commerciale, à eux seuls, ne sauraient mettre en évidence toute l'importance des relations économiques entre la Suisse et la Pologne, car ils ne peuvent exprimer les contributions financières considérables qui ont été accordées du côté suisse pour le développement de l'économie polonaise. Des créanciers privés ont souscrit de très gros montants à des emprunts publics; diverses entreprises suisses fondèrent en Pologne leurs propres maisons ou contribuèrent à l'érection de maisons par de grosses participations financières. C'est dans l'industrie des machines, des produits alimentaires, de la chimie, des textiles et de leurs branches annexes, comme en grande partie dans l'industrie de l'électricité, que le capital suisse était surtout engagé. Dans de nombreux cas, il s'agissait de l'extension d'« investissements » qui avaient déjà été effectués avant la première guerre mondiale, notamment dans les régions qui appartenaient alors à la Russie.

Au moment où, en automne 1939, la guerre éclata, les relations économiques avec la Pologne furent complètement interrompues. Ce n'est qu'au début de l'année 1946 qu'elles purent être renouées. Du point de vue juridique, ce ne fut qu'une reprise d'un trafic momentanément interrompu, car il n'y eut, en fait, jamais de rupture dans les relations politiques entre la Suisse et la Pologne, les arrangements conclus avant la guerre, en particulier la convention de commerce du 26 juin 1922, étant demeurés en vigueur. Mais, en pratique, les relations renouées l'ont été avec un Etat différencié fort, sur le plan économique avant tout, de la Pologne d'avant-guerre. Le territoire polonais s'est déplacé de l'Est vers l'Ouest, et ce changement de frontières amena un accroissement des possibilités économiques de la Pologne, les régions occidentales nouvellement incorporées étant fort développées du point de vue industriel. De vastes régions

de la Pologne d'aujourd'hui ont toutefois énormément souffert de la guerre; le nombre des habitants est tombé de 35 à 24 millions. Ce ne sont cependant pas seulement les profondes modifications territoriales et les destructions importantes dues à la guerre qui ont modifié la structure économique de la Pologne; c'est aussi la transformation de son économie en une stricte économie planifiée dans laquelle l'influence étatique est prépondérante.

La richesse de la Pologne réside avant tout dans ses vastes gisements de charbon; ce sont eux qui lui ont permis de devenir le principal exportateur de charbon de l'Europe. En outre, l'industrie lourde et l'industrie des textiles ont leur importance, et l'on ne saurait oublier l'agriculture, qui, de tout temps florissante, constitue une branche importante de l'exportation polonaise.

II. LES RELATIONS COMMERCIALES AU COURS DE CES DERNIÈRES ANNÉES

C'est au début de l'année 1946 qu'ont commencé les premières négociations d'après-guerre. La Pologne en attendait une aide financière importante pour sa reconstruction. Elle était en mesure d'offrir en contre-partie du charbon, pour lequel elle cherchait précisément des débouchés sûrs. Or, à cette époque, des livraisons de charbon étaient encore essentielles pour la Suisse.

L'accord conclu le 4 mars 1946 donnait à la Pologne la possibilité, au cours des cinq années suivantes, de livrer du charbon jusqu'à concurrence du quart des besoins suisses. Un contrat d'achat fut immédiatement conclu pour un million de tonnes; cependant que la Pologne avait la possibilité de placer sans délai des commandes en Suisse pour une valeur de 40 millions de francs en chiffres ronds, représentant la contre-valeur de ce charbon. Les exportateurs suisses devaient compter avec des délais d'attente considérables pour le paiement des échéances de leurs livraisons; mais ils étaient prêts à les accepter étant donné qu'on leur accordait la garantie des risques à l'exportation. La Suisse entendait par ce système d'avances aller au-devant des besoins polonais sans qu'il en résultât une charge financière directe pour la Confédération. Pour faciliter le reste du trafic, la Suisse octroya une avance de clearing de 5 millions de francs; en outre, une certaine quote-part fut ménagée en devises libres.

Les premières difficultés surmontées, le trafic prit un cours satisfaisant. Le charbon, il est vrai, par manque de wagons, ne pouvait pas être entièrement livré dans les délais. Mais la Pologne n'en arriva pas moins à occuper rapidement la deuxième place parmi les fournisseurs de charbon de la Suisse; la situation tout à fait spéciale qui régnait momentanément sur le marché du charbon ne fut pas étrangère à cet état de choses. Le reste du trafic des marchandises se développait lentement. En revanche, le système des avances adopté ne put déployer tous ses effets, car la Pologne différait

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trop longtemps le placement des commandes prévues dans le cadre de ces 40 millions de francs et les concentrait sur des marchandises nécessitant des délais de livraison particulièrement longs. Les ressources à disposition du clearing suffisaient dès lors à faire face immédiatement à tous les paiements, si bien qu'il n'y eut pas ces délais d'attente escomptés et qui avaient été envisagés par la Suisse comme une concession. Il y avait même au clearing des disponibilités qui ne pouvaient pas être utilisées immédiatement.

Au cours des négociations de mai-juin 1947, une nouvelle tranche, limitée à 60 millions de francs, fut octroyée à la Pologne pour des commandes de biens dits d'investissement; en outre, on prévint dans une certaine mesure le paiement de marchandises étrangères par la voie du clearing. On tendait ainsi à éviter le blocage de moyens de paiement. De plus, la Suisse se déclara prête à faire virer tous les 6 mois les sommes du compte B qui dépasseraient le montant d'un million de francs — compte qui fut créé pour les transferts financiers — sur le compte du trafic des paiements des marchandises, ceci à titre provisoire et en tant que les moyens en question ne pouvaient pas être utilisés pour les paiements prévus.

Si le placement de commandes en Suisse n'avait pas continué à souffrir de retards du côté polonais, ces allègements auraient dû permettre un fonctionnement satisfaisant de l'accord. Malgré ces facilités, les autorités polonaises voulurent, peu de temps après, changer à nouveau le système adopté. Elles demandèrent l'ouverture de nouvelles négociations. Au mois de novembre de la même année, à leur requête, le système particulier des avances fut abandonné. La Pologne exprima le désir de pouvoir disposer plus librement des ressources du clearing. Cette proposition fut écartée, car la Pologne n'avait pas rempli ses obligations à l'égard des transferts financiers et de l'indemnisation pour les mesures de nationalisation. Elle mit alors comme condition à ses nouvelles livraisons de charbon, encore nécessaires à la Suisse à cette époque, l'octroi d'une marge de devises beaucoup plus grande. La Suisse, dans les circonstances données, fut contrainte d'accepter.

Conclus en décembre 1947, ces arrangements, bien qu'ils représentaient pour la Pologne une solution avantageuse, ne produisirent pas non plus les effets escomptés, car, au printemps 1948, plus tôt qu'on ne l'avait prévu, la situation sur le marché du charbon en Suisse évolua d'une manière décisive. Les charbons polonais ne furent plus acceptés aux conditions offertes, car les consommateurs recevaient à nouveau des charbons d'autres provenances dans les qualités désirées et à des prix plus avantageux. L'importation des charbons polonais diminua fortement, de sorte que la Pologne ne put guère faire usage du droit qui lui avait été largement concédé de disposer de devises libres. Les ressources du clearing, à peu de choses près, durent être utilisées entièrement pour remplir les obli-

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gations polonaises envers les fournisseurs suisses. La banque nationale polonaise fut même parfois contrainte, pour faire face à ces obligations, d'alimenter le clearing au moyen de devises libres.

Le trafic avec la Pologne, comme ces explications l'ont montré, était caractérisé par l'apparition continuelle de nouvelles difficultés. Néanmoins, le résultat acquis jusqu'à ce jour peut être considéré comme satisfaisant si l'on s'en tient exclusivement au trafic des marchandises. La Suisse obtint, à l'époque la plus difficile, des livraisons de charbon considérables qui contribuèrent d'une manière décisive à l'amélioration de son approvisionnement. La Pologne, au cours de ces dernières années, a effectué des achats et placé des commandes en Suisse pour près de 200 millions de francs en remplissant les obligations financières qui en découlaient.

Au début des négociations qui ont abouti à la conclusion des arrangements soumis aujourd'hui à votre approbation, les deux pays avaient effectivement atteint, dans le domaine du trafic des marchandises, la situation à laquelle ils avaient tendu au cours des négociations de ces dernières années. Les disponibilités du clearing ne restaient pas inactives, et la Pologne, en raison même de sa capacité de livraison, put placer en Suisse un maximum de commandes. La majeure partie de celles-ci, toutefois, ne portaient que sur des marchandises indispensables au relèvement économique du pays; cette situation, compréhensible vu les ravages causés par la guerre, fut admise par la Suisse à titre de contribution à la reconstruction de la Pologne. Dans ces conditions, les négociateurs suisses devaient surtout chercher à obtenir une meilleure répartition des commandes polonaises entre les diverses catégories de marchandises entrant en ligne de compte.

La question du placement des charbons polonais en Suisse requiert actuellement une attention spéciale. Les livraisons de charbon qui, au cours des années écoulées, représentaient en valeur plus des $\frac{2}{3}$ de l'exportation polonaise à destination de la Suisse, forment la base des échanges des marchandises entre les deux pays. Le fléchissement constaté ces derniers temps a dès lors une importance lourde de conséquences pour l'avenir du trafic des marchandises.

III. LES POURPARLERS ANTÉRIEURS SUR LE PROBLÈME DES NATIONALISATIONS ET LES AUTRES QUESTIONS DU PASSÉ

Dans toutes les négociations engagées ces dernières années, l'attention des délégations polonaises a été constamment attirée sur l'importance des autres problèmes, c'est-à-dire sur la question de l'indemnisation pour les mesures polonaises de nationalisation, pour l'expropriation des biens-fonds à Varsovie et pour la réforme agraire, sur le problème des biens

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délaissés par les rapatriés, comme aussi sur celui de la reprise du service des intérêts des dettes d'Etat polonaises et du règlement des obligations réciproques, résultant du trafic des marchandises et des paiements de la période d'avant-guerre. Quelques assurances purent être obtenues. Mais une réglementation définitive ne fut pas possible, notamment parce que les mesures prises en Pologne s'aggravèrent encore avec le temps et que la situation ne s'est guère clarifiée que récemment.

Au cours des premières négociations déjà, au printemps 1946, furent discutés les effets exercés sur les entreprises suisses par la loi polonaise du 30 janvier 1946 sur les nationalisations. Le gouvernement polonais accorda la clause de la nation la plus favorisée et les intéressés suisses reçurent le droit de visiter leurs entreprises en Pologne, de demander tous les renseignements nécessaires et de remettre aux offices polonais compétents des propositions et des requêtes. Ces assurances furent confirmées en particulier au cours des négociations de l'automne 1946, consacrées exclusivement au problème des nationalisations, qui aboutirent, le 18 octobre 1946, à la signature d'un premier protocole; les intéressés suisses eurent la possibilité de traiter directement avec les autorités polonaises en vue d'obtenir, dans les cas particuliers, des solutions satisfaisantes. Mais il se révéla bientôt que ces pourparlers entre les intéressés suisses isolés et les autorités polonaises se heurtaient à des difficultés insurmontables. On réexamina cette question au cours des négociations de mai-juin 1947. Des dispositions appropriées furent consignées dans un deuxième protocole, le 10 juin 1947. La suite a toutefois prouvé que des arrangements destinés à assurer aux intéressés suisses le maintien de leur activité économique en Pologne n'étaient pas possibles et que des pourparlers directs entre eux et les autorités polonaises au sujet de l'indemnité à leur verser ne pouvaient aboutir à un résultat.

La Pologne proposa alors une réglementation prévoyant une indemnité globale. Après d'inutiles efforts en vue de conclure des arrangements individuels, les intéressés suisses acquirent la certitude que seule cette voie pouvait effectivement conduire dans un avenir rapproché à une solution du problème et à un résultat en quelque sorte acceptable. Le point de départ pour de telles négociations était toutefois défavorable, la Pologne pouvant se référer aux accords très avantageux qu'elle avait conclus avec d'autres Etats. Ces accords prévoyaient des crédits en contre-partie de l'indemnité garantie et donnaient à la Pologne la possibilité de remplir ses obligations sous forme de livraisons supplémentaires de charbon qui ne devaient commencer qu'en 1951. Les autorités polonaises partageaient en conséquence de l'idée qu'un accord de même nature devait être conclu avec la Suisse. Abstraction faite du droit des intéressés suisses à une indemnité appropriée, la Suisse ne pouvait, dans les négociations, que tabler sur l'intérêt évident de la Pologne à maintenir avec la Suisse un trafic des marchandises avantageux. Dans ces circonstances, il se révéla néces-

saire de traiter ensemble ces deux problèmes: celui de l'indemnité de nationalisation et celui de la réglementation du trafic futur des marchandises. La délégation suisse, au début déjà des négociations du mois de décembre de l'année écoulée, avait laissé entendre que des arrangements sur le futur trafic des marchandises ne seraient possibles que si le problème des nationalisations et les autres questions du passé pouvaient être réglés en même temps.

IV. CONTENU DES NOUVEAUX ARRANGEMENTS

Les négociations, qui, non sans d'assez longues interruptions, durèrent plus d'une demi-année, aboutirent finalement au résultat suivant:

Le gouvernement polonais s'engage à verser une indemnité globale de 53,5 millions de francs, qui doit être payée jusqu'à la fin de l'année 1963. Ce montant global est partagé dans l'accord en deux sommes: 1 million de francs pour l'indemnité à payer pour les biens dits « délaissés », le solde, soit 52,5 millions, pour une répartition entre tous les autres intéressés suisses.

Seuls seront indemnisés par le montant d'un million prévu pour les biens délaissés les intéressés suisses qui ne peuvent effectivement plus faire valoir leurs droits de propriété. En revanche, la situation des propriétaires suisses qui n'auront pas perdu la possession directe ou indirecte de leurs biens ne sera pas modifiée. Il s'agit avant tout, sauf en ce qui concerne Varsovie, de maisons d'habitation et de terrains à bâtir. Pour ce qui concerne les autres cas rentrant dans cette catégorie spéciale des biens délaissés, on a précisé dans une liste récapitulative les laiteries, fromageries, exploitations de caractère artisanal, industriel ou agricole dont les propriétaires sont encore en possession directe ou indirecte. Le gouvernement polonais a donné l'assurance que les intéressés suisses se trouvant dans ces cas auront la possibilité de faire valoir leurs droits et d'obtenir le transfert des loyers et des fermages échus. Il leur est loisible de confier la gestion de leurs biens à un mandataire, qui peut être une autorité consulaire suisse. S'ils peuvent réaliser leurs propriétés, ils ont le droit de transférer le produit de la vente. Les autorités polonaises compétentes examineront avec bienveillance les demandes de visas d'entrée des intéressés qui désirent se rendre en Pologne pour y liquider leurs biens.

Le paiement de l'indemnité globale de 53,5 millions de francs sera effectué par le prélèvement d'une quote-part sur les paiements effectués auprès de la banque nationale pour toutes les livraisons en Suisse de marchandises polonaises et pour toutes les autres prestations polonaises, à ceci près que la quote-part sur les paiements d'importation de charbon augmentera progressivement en fonction des quantités livrées. Si, au cours d'une année contractuelle, les paiements atteignent 62,5 millions de

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francs et les livraisons de charbon 325 000 tonnes, cette quote-part sera d'environ 4 millions de francs.

La répartition de l'indemnité est l'affaire du gouvernement suisse. Dès l'entrée en vigueur de l'accord, les intéressés ne pourront plus faire valoir leurs prétentions; leurs droits seront éteints après le paiement intégral de l'indemnité globale contractuelle. C'est là un corollaire du système de l'indemnité globale.

Seules les concessions suisses suivantes ont permis d'arriver à cette réglementation: l'avance de clearing de 5 millions de francs octroyée à la Pologne dans le premier accord sur les marchandises, en 1946 déjà, a été augmentée à 7,5 millions de francs; elle sera mise à contribution s'il n'y a pas assez de disponibilités au clearing pour remplir toutes les obligations polonaises. Des intérêts sont dus sur cette avance, qui doit être remboursée dans le délai d'une année après l'expiration de l'accord concernant l'échange des marchandises et le règlement des paiements. L'ampleur de cette marge de clearing correspond au volume de l'importation suisse de provenance polonaise qui varia au cours de ces dernières années entre 60 et 80 millions de francs.

En outre, un crédit de 12,5 millions de francs a été accordé pour faciliter le placement de nouvelles commandes intéressantes pour des marchandises livrables à long terme, dans une proportion estimée provisoirement à 50 millions de francs. Des intérêts sont également dus sur ce crédit, dont la moitié doit être remboursée à la fin de la quatrième année et le solde à la fin de la cinquième année contractuelle. Le placement de ces nouvelles commandes dites d'investissement n'aura pas d'incidence l'année prochaine sur le trafic courant des marchandises, puisque les acomptes pour des affaires à long terme pourront être effectués au moyen de ce crédit.

Le gouvernement polonais s'est porté garant de toutes les obligations de la banque nationale polonaise résultant de l'usage de ces facilités d'ordre financier; il se porte garant, en outre, du paiement de ces commandes dites d'investissement jusqu'à concurrence de 50 millions de francs.

Pour le surplus, le nouvel accord concernant l'échange des marchandises et le règlement des paiements n'apporte rien de nouveau. Le trafic des paiements est en principe maintenu sur les mêmes bases. L'accord a été conclu pour une durée de 5 ans. Ensuite il peut être dénoncé par avis donné 6 mois d'avance. On avait attaché, du côté polonais, beaucoup de prix à la conclusion d'un accord à long terme. Il fut possible d'accéder à ce désir puisque les obligations découlant pour la Pologne de l'accord sur les nationalisations appelaient un règlement de longue durée du trafic des marchandises et des paiements. Il ne semble guère que cette longue durée de validité doive susciter des difficultés puisque les listes de marchandises seront renouvelées d'année en année. Les premières listes sont valables jusqu'au 30 juin 1950. La liste des importations polonaises envisagées ne contient pas de contin-

gents qui pourraient avoir des répercussions fâcheuses pour l'économie suisse. La liste de l'exportation suisse tient encore mieux compte de toutes les branches d'exportation entrant en considération. On n'a toutefois pas encore atteint la répartition que la Suisse eût désirée. Des efforts devront être continués dans ce sens au cours des prochaines années.

Les accords conclus ne pourront fonctionner d'une manière satisfaisante que s'il est possible d'importer en Suisse une moyenne annuelle légèrement supérieure à 300 000 tonnes de charbon polonais. La livraison de ces 300 000 tonnes n'est pas un problème de quantité pour la Pologne. La seule question qui se pose est de savoir si les charbons polonais pourront affronter, quant aux prix et à la qualité, la très forte concurrence d'autres pays. Comme les livraisons de charbon ont, pour la Pologne plus que pour tout autre pays, une importance capitale, l'assurance déjà donnée dans l'accord du 4 mars 1946 à l'égard des permis d'importation a été reprise sous une forme quelque peu modifiée. La Suisse s'est engagée à délivrer des licences d'importation pour les charbons polonais jusqu'à concurrence du quart de l'importation suisse dans les qualités que l'industrie polonaise est à même d'exporter. Le contingent de 325 000 tonnes prévu dans la première liste d'importation correspond à la quantité qui est à la base du calcul relatif au paiement de l'indemnité de nationalisation, échelonné sur une période de 13 ans. Comme 566 000 tonnes ont été importées de Pologne dans l'année 1947 et 377 000 tonnes dans l'année 1948, il semble que l'on pourra atteindre, au cours de ces prochaines années, une importation annuelle de 325 000 tonnes. Toutefois, les circonstances se sont modifiées. Les besoins en charbon ont marqué un fléchissement très général ces derniers temps, et la concurrence d'autres pays, qui ne se faisait pas encore sentir en 1947, est intervenue fortement. La Pologne devra dès lors veiller à ce que ses charbons puissent soutenir la concurrence sur le marché suisse. Ce n'est pas seulement pour être à même de remplir les obligations que lui impose l'accord sur les nationalisations que la Pologne a tout intérêt à trouver en Suisse, pour ses charbons, des débouchés aussi étendus que possible. C'est aussi et avant tout parce que seule une alimentation suffisante du clearing lui permettra de se procurer les moyens nécessaires au paiement de ses importantes commandes dites d'investissement, essentielles à sa reconstruction.

Les accords, dont, conformément à l'usage, seuls les arrangements principaux ont été publiés, règlent encore une série d'autres problèmes d'importance restreinte. Rappelons-en brièvement les principaux.

Les arrangements d'avant-guerre relatifs au règlement des paiements commerciaux et financiers ont été abrogés dans un protocole de liquidation. En même temps ont été créées les conditions techniques nécessaires à la liquidation des créances arriérées. Il ne s'agit pas, en l'occurrence, de grosses sommes.

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Les dispositions relatives au transfert des avoirs de rapatriés sont restées dans leurs grandes lignes inchangées par rapport à l'ancien accord. Le gouvernement polonais a garanti aux citoyens suisses la clause de la nation la plus favorisée dans la question des dommages de guerre.

Les accords que nous soumettons à votre approbation doivent entrer définitivement en vigueur 15 jours après l'échange des instruments de ratification; il était indispensable de les mettre en vigueur à titre provisoire avec effet au 1^{er} juillet 1949, sinon le trafic des marchandises, qui avait déjà souffert de la longue durée des négociations et de l'incertitude qui planait sur leur issue, eût marqué encore une nouvelle réduction. On a pris soin toutefois, par certaines dispositions transitoires, de ne pas créer, avant la ratification, des situations lourdes de conséquences et irrémédiables. L'utilisation du crédit de 12,5 millions de francs est limitée, jusqu'à l'entrée en vigueur définitive, à 7,5 millions de francs; le nouveau programme de commandes de 50 millions de francs ne doit être exécuté, jusqu'au 1^{er} décembre 1949, que jusqu'à concurrence de 30 millions de francs.

V. APPRÉCIATION DES RÉSULTATS ACQUIS

Les arrangements conclus représentent un compromis. Dès le début, la Pologne a reconnu son obligation de verser une indemnité pour les intérêts suisses touchés par des mesures de nationalisation ou d'autres mesures analogues. Ces obligations furent toutefois liées, au commencement des négociations, à diverses conditions restrictives. Seules devaient donner lieu à une indemnité les immobilisations qui, d'après la conception des autorités polonaises d'aujourd'hui, étaient effectivement utiles à l'économie polonaise. En outre, la délégation polonaise demandait qu'on réduisît de 40 pour cent la valeur d'estimation de la propriété suisse lésée, conformément à la diminution, due à la guerre, de la fortune nationale polonaise. Le paiement ne devait avoir lieu qu'à partir du 1^{er} janvier 1951, étant donné que la Pologne n'était pas en mesure de l'effectuer plus tôt. Elle offrit une certaine quantité de charbon en guise de paiement, arguant que c'était pour elle la seule possibilité de faire face à de telles obligations. Là-dessus se greffa la condition que ces livraisons devaient être supplémentaires, c'est-à-dire qu'elles devaient s'ajouter aux livraisons normales de charbon qui servent à alimenter le trafic courant des marchandises. En outre, des crédits furent demandés jusqu'à concurrence de l'indemnité de nationalisation, sous prétexte qu'il était naturel qu'un débiteur en difficulté sans sa faute fût aidé par ses créanciers, afin d'être à même, plus tard, de remplir ses obligations.

De telles conditions étaient inacceptables pour la Suisse. Sur la base des principes reconnus du droit des gens, une indemnité intégrale fut

demandée pour les intérêts suisses lésés. Elle devait être versée, d'après le point de vue suisse, dès qu'auraient été prises les mesures appropriées et par paiements en francs suisses en Suisse. Puisqu'on devait d'avance considérer comme impossible un paiement en devises convertibles, on fut prêt, du côté suisse, et dès le début, à accepter l'indemnité sous forme d'une quote-part des paiements effectués au clearing. D'après le point de vue suisse, cette quote-part aurait dû être calculée de telle manière que le versement de l'indemnité contractuelle pût être opéré en l'espace de 10 ans au plus.

Ainsi, au début des négociations, les points de vues étaient fort différents. Mais ce n'est pas seulement le rapprochement de ces opinions opposées qui demanda de longues conversations. On vit, au cours des négociations, que le plus gros obstacle était l'estimation de la propriété suisse atteinte par les mesures polonaises. La Pologne avait intérêt à fixer cette estimation aussi bas que possible. Mais ce n'était pas la seule cause de ces difficultés. Il était en effet extraordinairement compliqué de trouver des critères qui permissent une estimation objective des intérêts en jeu, car le passage à l'Etat polonais des biens expropriés ne s'est pas fait dans une période économique tranquille qui eût rendu plus aisée une telle estimation. Par suite des modifications territoriales et de la transformation intégrale de l'économie polonaise, la valeur de tous les biens a été considérablement modifiée, et d'une manière fort différente suivant le cas. Il n'était pas possible de se fonder purement et simplement sur la valeur d'avant-guerre, et l'appréciation de la valeur que ces objets ont pour l'Etat polonais dans les circonstances actuelles était extrêmement difficile. Dans un pays où les frais d'une entreprise sont déterminés dans une large mesure par l'Etat qui fixe les salaires et les prix des matières premières, où l'activité économique est influencée d'une manière décisive par des prescriptions étatiques et où le bénéfice en affaires est limité au niveau voulu par l'Etat grâce à la fixation des prix de vente et par d'autres mesures encore plus énergiques, les règles valables en Suisse pour l'estimation de la valeur d'une entreprise ne sont applicables que d'une manière restreinte. Le rapprochement des différences d'estimation ne fut à la fin possible que par des concessions mutuelles au sujet du montant contesté.

L'indemnité globale finalement fixée ne correspond pas à la valeur totale des intérêts suisses lésés. Il est difficile d'estimer l'étendue des préjudices, d'autant plus que la somme des prétentions que les intéressés suisses ont fait valoir au début était beaucoup trop élevée; ils ne connaissaient pas exactement l'ampleur des dommages de guerre, et d'autres éléments qui avaient une incidence sur la valeur des entreprises ne pouvaient pas être appréciés d'emblée. La délégation suisse est restée en étroit contact, au cours des négociations, avec les principaux intéressés suisses; ceux-ci acquirent la conviction qu'ils n'auraient pas été à même, eu égard aux circonstances, d'obtenir le résultat actuel par des pourparlers indivi-

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duels; c'est pourquoi la délégation suisse a accepté le montant de l'indemnité globale finalement décidé. Les pertes subies sont grandes. Mais il faut tenir compte du fait qu'elles sont néanmoins, directement ou indirectement, une conséquence de la guerre dont la Pologne a souffert peut-être plus que tout autre pays. Les intéressés suisses lésés n'ignorent pas que seules les concessions importantes que la Suisse a faites à d'autres égards, notamment en octroyant les crédits mentionnés, ont permis la conclusion de ces arrangements. L'avantage des négociations réside dans le fait qu'il a été possible ainsi de trouver une voie permettant de régler tous les problèmes économiques encore en suspens entre la Suisse et la Pologne. Les nouveaux arrangements constituent le point de départ d'un heureux développement — possible malgré la structure économique différente des deux Etats — des relations économiques entre la Suisse et la Pologne.

VI. COMMENTAIRES RELATIFS AUX DIFFÉRENTES DISPOSITIONS DES ACCORDS

1. Accord concernant l'échange des marchandises et le règlement des paiements

Les trois premiers articles règlent comme de coutume la procédure relative à l'échange des marchandises. Les listes de marchandises doivent être établies chaque fois pour la durée d'une année. Les dispositions relatives à l'octroi des licences d'importation et d'exportation correspondent à la réglementation usuelle.

L'article 4 contient le catalogue des paiements qui peuvent être effectués par le clearing. Il s'inspire de la nomenclature valable dans les relations avec d'autres Etats.

Il ressort des articles 5 et 6 que les comptes de clearing sont tenus, comme jusqu'à ce jour, en francs suisses seulement.

Dans le cadre du compte A, mentionné à l'article 7, un sous-compte P est créé pour le règlement des nouvelles commandes dites d'investissement d'un volume de 50 millions de francs, compte sur lequel le crédit mentionné de 12,5 millions de francs peut être versé en cas de besoin.

L'article 8 complète les dispositions des articles 5 et 6 sur le fonctionnement du clearing.

Les diverses dispositions mentionnées sous chiffre III aux articles 10 à 13 n'appellent pas de commentaires. L'accord est applicable à la principauté de Liechtenstein en vertu du traité d'union douanière du 29 mars 1923.

2. Accord sur indemnisation des intérêts suisses en Pologne

La technique de l'arrangement correspond, dans ses grandes lignes, au système de l'accord sur les nationalisations conclu entre la Suisse et la Yougoslavie le 27 septembre 1948. Pour la nature de l'indemnité globale, les conditions juridiques et les effets de la réglementation intervenue, nous référons par conséquent aux commentaires détaillés contenus sous chiffre IV du message du 29 octobre 1948 concernant un traité de commerce, un accord sur l'échange des marchandises et le règlement des paiements, et un accord sur les nationalisations entre la Suisse et la Yougoslavie. Les différents articles de l'accord sur les nationalisations appellent les remarques suivantes.

L'article 1 définit les intérêts suisses faisant l'objet de l'indemnité globale de 52,5 millions de francs. L'engagement pris par le gouvernement polonais de ne pas autoriser les entreprises polonaises publiques à utiliser les brevets, les marques de fabrique et de commerce et les raisons sociales d'entreprises suisses sans leur consentement, a été précisé, en complément du chiffre 1, dans un protocole non publié. Les biens-fonds suisses situés à Varsovie, expropriés par la municipalité, sont également compris dans l'indemnité globale. Il est possible de faire valoir, conformément à la réglementation prévue par le protocole de liquidation, les prétentions suisses contre des banques qui n'ont pas été nationalisées.

L'article 2 précise qu'après le paiement intégral de l'indemnité, toutes prétentions seront considérées comme définitivement réglées et que dès l'entrée en vigueur de l'accord déjà, les intéressés ne pourront plus les faire valoir par quelque moyen que ce soit. Les prétentions dont il s'agit ont été notées dans une liste récapitulative (qui n'a pas été publiée), sans que cette énumération nominative ait un caractère limitatif. L'Etat polonais, de son côté, ne pourra pas non plus faire valoir d'éventuelles prétentions contre des intéressés suisses indemnisés, car la somme convenue doit être considérée comme une indemnité nette.

L'article 3 détermine l'indemnité globale d'un million de francs, fixée pour les biens dits délaissés, en définissant les objets pour lesquels l'indemnité est due ou pas.

Une énumération nominative précise exactement les exploitations suisses qui ne peuvent réclamer l'indemnité.

L'article 4 accorde aux propriétaires suisses qui n'habitent pas la Pologne le droit de confier la gestion de leurs biens à un mandataire. Les autorités consulaires suisses en Pologne peuvent également remplir les fonctions d'un mandataire.

L'article 5 garantit le transfert en Suisse des sommes provenant de liquidations ultérieures.

L'article 6 dispose, de la même manière que l'article 2, que toutes les prétentions seront considérées comme définitivement réglées après le

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paiement intégral de l'indemnité et qu'il ne sera plus possible de les faire valoir dès l'entrée en vigueur de l'accord.

L'article 7 contient le principe du paiement de l'indemnité globale jusqu'à fin 1963. Comme ce paiement a lieu grâce à la quote-part prélevée, ainsi qu'on le sait, sur les versements effectués au clearing, la durée nécessaire au règlement de l'indemnité globale dépend en définitive de l'ampleur du trafic des marchandises.

La répartition de l'indemnité globale, conformément à l'article 8, est l'affaire exclusive du gouvernement suisse. Les gouvernements suisse et polonais ne peuvent pas être rendus responsables des pertes subies; cela tient à la nature même de la réglementation prévue.

L'article 9 définit, conformément aux règles du droit des gens, les qualités que doit remplir un ayant droit.

L'article 10 précise que les anciens propriétaires suisses sont libérés des obligations qui grevaient des objets touchés par des mesures polonaises, car il a été tenu compte de ces charges lors de l'estimation de l'objet.

Conformément à l'article 11, le gouvernement polonais est tenu de prêter son aide juridique et de fournir les informations que peut rendre nécessaires la répartition de l'indemnité globale.

L'article 12, relatif à l'obligation du gouvernement polonais de faciliter l'ouverture de successions, est surtout important pour les biens dits délaissés.

L'article 13 déclare que les prétentions suisses résultant de mesures polonaises postérieures à la signature de cet accord ne sont pas touchées par ses dispositions.

Selon l'article 14, l'accord sur les nationalisations étend également ses effets à la principauté de Liechtenstein, conformément au traité d'union douanière du 29 mars 1923.

Nous fondant sur les explications qui précèdent, nous vous proposons d'approuver les deux accords conclus avec la Pologne. Comme cela ressort de notre exposé, les deux arrangements forment un tout, de telle manière qu'ils doivent être approuvés ou rejetés en bloc.

Veuillez agréer, Monsieur le Président et Messieurs, les assurances de notre haute considération.

Berne, le 1949.

Au nom du Conseil fédéral suisse:

Le président de la Confédération,

Le chancelier de la Confédération,

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(Projet)

ARRÊTÉ FÉDÉRAL

approuvant

**les accords conclus entre la Confédération suisse
et la République de Pologne au sujet de l'échange des marchandises,
du règlement des paiements, ainsi que de l'indemnisation
des intérêts suisses en Pologne**

L'Assemblée fédérale de la Confédération suisse,

vu le message du Conseil fédéral du 1949

arrête :

Article premier

Sont approuvés les accords conclus le 25 juin 1949 entre la Confédération suisse et la République de Pologne au sujet de l'échange des marchandises et le règlement des paiements, ainsi que l'indemnisation des intérêts suisses en Pologne.

Art. 2

Le Conseil fédéral est chargé de l'exécution du présent arrêté.

Il est autorisé à édicter les prescriptions que pourrait nécessiter l'application de ces accords.

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JRSO EXECUTIVE COMMITTEE MEETING

Thursday, September 22, 1949

Present were: Mr. Moses A. Leavitt, JDC - Presiding
Dr. Nehemiah Robinson, WJC
Dr. Herman Gray, AJC
Mr. Maurice M. Boukstein, JAFF
Dr. Nathan Stein, Council for the Protection of German Jews
Mr. Eli Rock, JDC, Assistant Secretary

Attending: Dr. Eugene Hevesi, AJC
Mr. Seymour J. Rubin, AJC
Mr. Herman Muller, American Federation of Jews from Central Europe

The following items were discussed by the meeting:

1) Request re German-Jewish pensioners in Israel. Sometime ago the JRSO was approached by the law firm of Barnett Janner & Davis in London, representing the interests of former employees of German Jewish communities, now residing in Israel. It was alleged by this group that since JRSO was the successor in interest to the former Jewish communities in the American Zone, JRSO should pay the pensions of the former employees of Jewish Communities, who have such pension claim against the former communities, and who are now residing abroad. This question had been referred to Mr. Ferencz for his opinion, and the latter had suggested that our reply to the firm of Barnett Janner & Davis follow one of these two approaches. a) We might point out that the present German Jewish communities allege that they are identical with the communities existing prior to 1938, and that they might therefore be expected to assume these pension payments; and b) we might suggest that these claims be filed under the General Claims Law. It was recognized, of course, that suggestion a) could only apply to cases where the Jewish community had in fact been reorganized after the war.

It was the feeling of the Committee that it would be necessary to obtain further information from Mr. Ferencz before action could be taken on this request. Specifically they wish to know: a) Who in fact is responsible for these pensions? b) Even assuming the present Gemeinden are the legal successors of the old ones, can they be charged with having assumed these obligations? c) Is it clear that the JRSO as possible successor to the communities is not liable? d) What of those communities that have in fact disappeared? e) Is it clear that such pension claims can be filed under the General Claims Law, and where and how would they be filed? Dr. Stein pointed out that the procedures differed in the various localities in Germany, and that a rather comprehensive study would be required. It was the decision of the meeting that Mr. Ferencz would be requested to look into the problem in the light of the above questions, and at the same time the firm of Barnett Janner & Davis would be asked to submit a list of the communities of the American Zone of Germany from which their various clients emigrated, so as to facilitate Mr. Ferencz's investigations.

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2) Gemeinde property question. In connection with this problem, the group was apprised of the fact that negotiations were still deadlocked. Further discussions are scheduled and Mr. Ferencz will forward reports and proposals whenever they are ready. Mr. Muller read to the meeting the declaration adopted recently by the Interessenvertretung Israelitischer Kultusgemeinden in the U.S. Zone, in which the organization formally declares that the present Jewish communities in the U.S. Zone are identical with those in existence prior to 1938.

3) Berlin Restitution. The Committee was requested, in this connection, to give formal ratification to the application by Mr. Ferencz to the Military authorities for the recognition of JRSO under the Berlin restitution law. Upon motion duly made, seconded and carried, the said application was ratified by the Committee.

4) Banking arrangements for JRSO Funds. Mr. Leavitt presented to the Committee the various background factors pertinent to this problem. He pointed out that the first phase of JRSO operations, namely the filing and processing of claims with all related operations, was well under way and could be expected to be completed sometime in the not too distant future. As regards the second phase of operations, namely the administration and handling of JRSO property in Germany, the JRSO, with the agreement of the operating agents, had concluded an agreement with the Deutsche Waren Treuhand Gesellschaft, a very reputable German firm. This firm will administer all JRSO property in Germany against the payment by JRSO of all costs, plus a fee not to exceed an amount equal to that of the costs. The operating agents, in approving this agreement, felt that this would make for the greatest possible efficiency in the handling of JRSO assets in Germany.

The third phase of JRSO operations, still in the future, but ready for preliminary consideration, involves the eventual transfer of JRSO funds out of the country. In this connection Mr. Leavitt reported on discussions which had taken place between JRSO members overseas, Mr. Eric Warburg, and the operating agents of JRSO. It appears that this particular problem offers two different aspects. On the one hand, there will be a need for top level discussions between JRSO and the U.S. authorities, State Department, or McCloy, regarding the principle of transfer of funds by the JRSO. This approach to the authorities could be made in two different ways. A request could be made initially for a relatively small amount, thereby creating a precedent, or a one-time request could be made when a large fund has accumulated and it has become clear how much money will be available. The actual procedure of transfer could be through the purchase of merchandise, or possibly through arrangements with American firms who require Deutsche Mark. In connection with mechanics of handling and transferring the funds, it was felt in the discussions between the operating agents, JRSO, and Mr. Warburg, that it might be desirable to set up a special organization, entirely owned and controlled by JRSO, and staffed with prominent and highly competent individuals, largely on a volunteer basis, whose job it would be to study the various possibilities for transfer and investment available and arrange for the most advantageous channels. This organization would operate on a completely non-profit basis.

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It had been further pointed out by Mr. Ferencz that the large bulk of restituted property is that of the individual claimants, and that the latter were also in need of a reliable organization to assist them with the transfer of their property since otherwise they might fall into the hands of unscrupulous elements. As a matter of fact, one "Wiedergutmachungs Bank" has already appeared in Germany, whose reputation is in question. It was Mr. Ferencz's suggestion that the proposed bank to be created by JRSO also handle the funds of the individual claimants. In this connection, however, it was the strong feeling of the operating agents that it was neither feasible nor advisable to include the funds of individuals in this project. In the first place, the interests of JRSO and of the individual claimants were by no means identical, nor could JRSO assume the responsibility for the handling of individual funds. However, the operating agents are considering setting up an institution, as described above, to handle the transfer and investment of JRSO funds.

Since the question does not require immediate action, it was the general opinion of the group that the proper course of action is being followed and it was understood that further developments on the question would be reported back to the Committee from time to time.

5) Individual Claims Program -- General Claims Law. At a previous meeting in June 1949, the JRSO Executive Committee had voted to extend the work of the JRSO Legal Aid Department to cover individual claims under the General Claims Law. It now appeared that it was not very desirable for JRSO to take over this function. A large number of rival organizations had sprung up in various countries, some motivated by profit, others on a non-profit basis, all of which were prepared to assist individuals with their claims under the General Claims Law. In view of the resulting confusion, and in view of the comments received from Mr. Ferencz, it was the decision of the Committee to reverse its previous action and to withhold assistance to individual claimants under the General Claims Law.

It appeared, however, that there would be a number of people without means who would definitely require assistance and should receive it. It was pointed out that the United Service for New Americans was considering this problem at present. It was suggested therefore that this problem be further explored by the four organizations, together with the representatives of the American Federation of Jews from Central Europe, in order to work out some kind of program of assistance to individual claimants under the General Claims Law.

Eli Rock
Assistant Secretary

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Notes on Meeting #49/10 of the Four Organizations held Thursday, September 22, 1949 at 12:00 noon at the JDC Office

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Present:	American Jewish Committee:	Prof. Herman Gray
		Dr. Eugene Hevesi
		Mr. Seymour Rubin
	American Joint Distribution Com.	Mr. Eli Rock
	Jewish Agency for Palestine	Mr. Maurice M. Boukstein
	World Jewish Congress	Dr. Nehemiah Robinson

The following items were discussed by the meeting:

1) Swiss Heirless Property. In connection with the recent discussions in Switzerland between the Swiss Authorities and the European representatives of the four organizations, and particularly in connection with the "deal" between the Swiss and the Poles regarding the turn-back to Poland of heirless Jewish assets in Switzerland, it was the strong feeling of Dr. Robinson that some further protests should be entered against the Swiss action. Mr. Rubin pointed out that the State Department had very recently sent a formal protest to the Swiss under the Five Power Agreement, and that attempts to get the British and the French to join such a protest would serve no useful purpose. It was then suggested by Dr. Robinson that an attempt be made to get the International Reparations Fund to protest to the Swiss, and in this connection the individual member countries of the fund should be contacted. It was agreed that the Congress and the Committee would get together for the purpose of making such representations in Europe. It was also suggested that Dr. Schwartz of the JDC be requested to speak personally with Stucki to see if something might not be done to head off the implementation of the Swiss-Polish agreement, or at least to prevent this agreement from serving as a precedent for similar action vis-a-vis other Eastern European countries; it was felt that Dr. Schwartz, because of past relations with Mr. Stucki, might be in a particularly advantageous position to make such an approach.

2) General Claims Law--Assistance to Individual Claimants. In this connection, it was recognized by all present that some over-all program should be arranged for assistance to individual claimants who will not be in a position to afford outside help and who at the same time should be protected from falling into the hands of unscrupulous elements working in this field. However, because of the problem of cost and because of the need for having a staff in Germany which would process the claims on the spot (the JRSO has indicated that it cannot become involved in this matter) none of the organizations present were in any position to commit themselves to participation in such a program. It was finally agreed that the United Restitution Office (URO) which is affiliated with the American Federation of Jews from Central Europe, should be encouraged to approach the United Service for New Americans with a view to forming a joint program between the two organizations. The matter was left with the Federation (whose representatives were present for this part of the meeting) agreeing to discuss the total problem with its officers, as well as with its affiliates in other countries. It is possible that the URO may consider using its world-wide organization for this program, and in any event, the Federation will report back to the group as to the URO's future plans and as to assistance programs which already exist for this purpose in other countries.

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3) Austrian Restitution. In view of the continuing unsatisfactory state of the heirless property question in Austria, it was agreed by the group that this whole matter should again be taken up in Washington. Prior to doing so, however, it was felt that the American delegation to the Austrian Peace Treaty Conference (about to be held in New York) should be contacted by the organizations. The plan is to arrange such a step within the near future, following which further steps will be agreed upon.

4) French Zone Restitution Legislation. In this connection, as well as in connection with the Equalization of Burdens problem, there is a real difficulty in approaching the State Department in Washington at this time owing to the almost complete disorganization currently existing in the Division of German and Austrian Affairs. Although Mr. Murphy is still in office, his pending departure, as well as the failure as yet to appoint a successor, leaves the Division in a situation where virtually no decisions are being reached. It was agreed that Mr. Rubin would check with the Department to ascertain what had become of the letter from Ambassador Bruce, and following his report on this aspect, some sort of representations to the Department would be attempted, with an eye a) to giving the Paris Embassy the green light for representations by Bruce to the French, and b) to having the Department instruct McCloy regarding possible pressure on French High Commissioner Poncet in Germany.

5) Equalization of Burdens Law - Germany. On this score it was felt that no steps can be taken until the situation in the State Department's Division of Austrian and German Affairs has changed. In the meanwhile, it was suggested that McCloy's office in Germany be contacted and "sounded out" as to the possibilities, from that side, of obtaining the necessary broadening in the definition of "United Nations nationals" under the present law.

6) Berlin Indemnification Situation. It was agreed that Mr. Ferencz would be requested immediately to submit a report as to the present indemnification situation in the western sectors of Berlin. It was the feeling of the group that some steps should be initiated as soon as possible by the four organizations for the enactment of legislation in these sectors.

Eli Rock

C O P Y

26 Août 1949

Monsieur le Ministre,

Peu après notre entrevue avec vous le 8 juillet, nous avons été informés des accords projetés entre la Suisse et la Pologne concernant les échanges de marchandises, le règlement des paiements ainsi que l'indemnisation des intérêts suisses en Pologne. Nous avons également appris que les discussions relatives à ces accords aborderaient la question des biens en déshérence ou non réclamés d'origine polonaise qui se trouvent actuellement en Suisse. D'après nos informations, on envisagerait la possibilité de transférer ces biens à un compte au profit du Gouvernement Polonais.

Pour les raisons que nous vous avons exposées verbalement et par écrit une telle disposition des biens d'origine polonaise en déshérence ou non réclamés serait incompatible avec les principes de justice et d'équité dont nous nous permettons de suggérer respectueusement qu'ils devraient, en l'occurrence, être dominants. Nous espérons sincèrement que les informations qui nous sont parvenues sont inexactes et, qu'en tous cas, la décision définitive demeure encore en suspens.

S'il vous était possible de nous communiquer quelques précisions à ce sujet, nous vous en serions vivement reconnaissants. Nous apprécierions grandement aussi de pouvoir discuter cette question à nouveau avec vous ou tout autre personnalité qui serait maintenant compétente à ce sujet.

L'American Joint Distribution Committee, le Congrès Juif Mondial, l'Agence Juive pour la Palestine et l'American Jewish Committee, au nom desquels j'écris, vous prient de croire, Monsieur le Ministre, à leur très respectueuse considération.

Max Isenbergh
Counsel for European Operations

S.E.M. Eduard von Steiger
Chef du Département Fédéral
de Justice et de Police
Berne (Suisse)

338111

YIVO RG 347.7
American Jewish Committee
(Foreign Affairs Dept. 41-46)
Box 47 File 6

*Swiss
account*

July 20, 1949

Mr. James Byrne
American Legation
Bern, Switzerland

Dear Jim,

In a conference with the Minister about ten days ago, it was reported by Mr. Jacobson of the Joint Distribution Committee and Mr. Isenbergh and myself, representing the American Jewish Committee, that we, together with representatives of other organizations, had had a conference with Minister Von Steiger of the Swiss Ministry of Justice re so-called heirless assets in Switzerland. Our recommendations were based on the Five Power Conference of 1946, held in Paris, in which the United States was a leading participant. I enclose a copy of the letter of the Government of France, as representative of the Conference, to Switzerland, among other neutrals. Our position was that heirless assets in Switzerland should be turned over to a successor organization, to be used for the benefit of surviving members of communities whose exterminated members had been the owners of these assets. The Swiss representatives seemed sympathetic.

Recently, I have been informed by Swiss banking circles that the recent agreement between Switzerland and Poland calling for compensation for Swiss properties nationalized by Poland includes a portion dealing with heirless assets. According to this source, accounts in Swiss banks which have been inactive for five years since the end of the war are to be gathered together and placed in an account in the Swiss National Bank, to which account Poland will have title. This applies, of course, only to accounts known to have originally been owned by Polish nationals.

If the agreement reported does exist, it will necessitate reconsideration of the position of the interested organizations. It will also be of interest to the United States, in view of the Five Power Agreement mentioned above.

In my telephone conversation with the Minister today, he was kind enough to say he would ask you to look into this and to let me know the results. I have burdened you with this letter in order to give you a picture of the background. I need hardly say that the interested American organizations will greatly appreciate your help.

I hope that I can add a word of congratulation on your latest offspring. Please give my regards to Mrs. Byrne.

338112

Sincerely,

Seymour J. Rubin

COPY

THE AMERICAN JEWISH COMMITTEE
386 FOURTH AVENUE NEW YORK 16, N. Y.

YIVO RG 347.7
American Jewish Committee
(Fgn Affrs Dept. 41-46)
Box 47 File 6

PARIS OFFICE

30, rue La Boétie

Paris VIII

13 July 1949

MEMORANDUM

To: Foreign Affairs Department

Subject: Heirless and Unclaimed
Assets - Switzerland

From: Max Isenberg

Pursuant to arrangements made by the Paris office in conjunction with the World Jewish Congress, a delegation representing the four organizations was received by Dr. Eduard von Steiger, Swiss Minister of Justice and Police, in Bern on July 6, 1949 from 3 to 4:30 P.M. In addition to the Minister and Dr. Alexander, the Minister's expert on the subject, the Political Department and the Foreign Office were represented by Messrs. Burekhardt and Moyer. Our delegation was composed of: Mr. Adler-Rudel, representing the Jewish Agency for Palestine; Mr. Jacobson, representing the Joint Distribution Committee; Dr. Mienenfeld representing the World Jewish Congress; and Mr. Rubin and myself, representing the AJC.

I opened the discussion, after expressing the gratitude of the organizations for the audience, with a rather full outline of measures taken with respect to heirless and unclaimed property in other countries. I indicated also the moral basis of the position the organizations had been pressing in all countries where the problem exists and expressed the hope that Switzerland would be in a position to make an appropriate disposition soon.

Minister von Steiger replied by stating that in principle this was a question for the Foreign Office. He added that the Foreign Office had recently referred the question to the Department of Justice for study and recommendations, because of the apparent complexity of the legal issues involved. He stated that he was glad to discuss the question with us and that the recommendations of the Department of Justice to the Foreign Office would be made in the light of our discussion. Emphasizing that the government had not yet come to any official conclusion on the question, he said that Dr. Alexander who had been studying it for the Department would outline his tentative views. Before Dr. Alexander took the floor, Minister von Steiger requested that we submit to him a dossier of materials on the disposition of heirless and unclaimed property in other countries.

Dr. Alexander stated that before any other action is taken with respect to heirless and unclaimed property in Switzerland, a preparatory registration measure would be essential. This would call for all persons who are not residents of Switzerland

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and who own accounts there and who have not communicated with the person or institution holding the account since May 5, 1945, to register the account with a central bureau within a specified brief period. Where communications have been made to the holder of the account by heirs or legal successors of the owners, such registration would not be required. [We did not pause for discussing such details as distinguishing a bona fide heir or legal successor from one who is not, for this purpose.] Holders of such accounts who have not received communications would themselves also be required to register their holdings. Dr. Alexander stated that there was no other method of determining the dimensions of the problem. He pointed out also that it cannot be presumed that all unclaimed property is heirless, it being likely that many heirs know only that their predecessors in interest had an account in Switzerland but are ignorant of its whereabouts.

Dr. Alexander suggested that the competent organization to receive registrations would probably be the Swiss Compensation Office. He thought that the Compensation Office would have to assume four functions: (1) make investigations, (2) acquire possession of the property, (3) trace heirs or other successors in interest, (4) work out some arrangement for declarations of death or their equivalent. He said that the last function would involve the greatest difficulty because it is uncertain under Swiss law whether the Swiss Government is competent to issue an effective death certificate or whether it must rely upon the home country of the deceased to supply it.

Another serious problem which suggested itself is the possibility that under Swiss law the home country rather than Switzerland would be ultimately entitled to the property. Dr. Alexander stated that it was premature to attempt to solve the more difficult problems at this time, and that the first problem calling for action would be to contrive a registration measure which would reveal what amounts were involved. He pointed out that while such a measure might be embodied in a resolution of the Swiss Parliament rather than a law, parliamentary action would in any event be indispensable. At this point Minister von Steiger pointed out that the procedure for a resolution is in all essential respects the same as that for a law, i.e., in either case the measure would be subject to a referendum if a large enough number of Swiss citizens called for one. Hence, promulgation of this measure alone would require several months. Minister von Steiger added, however, that his Department will submit its views to the Political Department of the Foreign Office without any further substantial delay.

Dr. Bienenfeld then discussed the issue of whether Switzerland or the country of origin should be entitled to the property. In concluding that it should be Switzerland, he pointed out (1) that the owners' intentions were clearly to place the property outside the reach of their own governments, (2) that it would be immoral to permit the successor to the government which had persecuted the owner to be the beneficiary of the persecution, and (3) that the law of Switzerland supported application of the territorial rather than the national principle in these cases. In connection with the latter point, he argued that the provision of the Swiss code which appears to favor the national principle obviously applies only to residents of Switzerland, and that since the Swiss code had not anticipated the problems arising from a program of mass extermination, there was a gap in the law. Under such circumstances Article I of the Swiss code would apply, which would permit the judge to act as if he were lawgiver and therefore to resolve this problem as morality and justice require.

In connection with the problem of death certificates, Dr. Bienenfeld maintained that if the Swiss Government should require a death certificate from the country of origin, it would delay the whole program and in the case of the iron curtain countries defeat it entirely. He therefore suggested that a technique of forfeiture be utilized, i.e., that if the owner of the account or his bona fide heir or legal successor failed to register in accordance with the registration measure outlined by Dr. Alexander, his account should be deemed forfeited and that it be handed over to the Swiss Government which in turn would make it available for a program of relief, rehabilitation and resettlement of surviving victims of persecution.

Mr. Jacobson pointed out the possibilities of an alternate treatment of the declaration of death problem, the recent convention on declaration of death submitted to the United Nations by a special ad hoc committee of the Economic and Social Council. Among other things this convention would permit tribunals of the country in which the property is located to issue death certificates for the owners. Hence, by either ratifying the convention or by accepting its principles as a precedent of international law, Switzerland might be able to see its way clear to issue death certificates as needed in this situation.

I pointed out that other countries had found ways of dealing with the problem of declaration of death in connection with non-residents, e.g. Holland, and had done so without legislation. I expressed the hope, therefore, that Switzerland might be able to find a suitable precedent in the action of other countries.

Minister von Steiger stated that while it might have been possible for the Swiss Government to deal with the problem of declaration of death without legislation while the Government still had extraordinary wartime powers, he was convinced that at present it would not be feasible to proceed by executive order and that we should have to assume that parliamentary action is indispensable.

Mr. Burckhardt stated that the Foreign Office had not yet come to any conclusions about the question and confirmed that because of the involved legal issues, they were prepared to lean heavily upon the views of the Ministry of Justice. He asked that materials on disposition of heirless and unclaimed property in other countries be made available to the Foreign Office as well.

Minister von Steiger referred to three expert opinions which had thus far been submitted to the Swiss Government: the first by a group of six Swiss law professors selected by the Swiss Jewish community [I understand that JDC bore the cost of this project]; the second by the League of Victims of the Axis; the third by the Central Organization for Assistance of Refugees.

Mr. Rubin, referring to the United States-Swiss negotiations in connection with Japanese and German assets, pointed out that the secrecy laws of the Swiss need not be an obstacle to achieving an effective program for disposition of heirless and unclaimed property. The Minister pointed out that the exceptions made to the secrecy laws in 1945 were made pursuant to special war powers which no longer can be feasibly invoked. Mr. Rubin stated that he was not arguing that legislation would not be necessary, but merely that in the consideration of the problem the force of other precedents could be drawn upon.

Dr. Bienenfeld requested the opportunity to submit the views of the four organizations on certain of the legal points which had been raised at the meeting, and

Minister von Steiger said he would gladly receive them. I pointed out that all of the organizations represented maintained European offices and that we desired to remain in close touch with the Swiss Ministries handling these questions. I stated that we would be available for consultation and that we wanted to be of assistance in any way possible. Minister von Steiger stated that should occasion for consultation or discussion arise, he would communicate with the organizations through me.

After the meeting, Mr. Rubin, Mr. Jacobson and I paid our respects to Minister John Carter Vincent of the United States Legation. Mr. Vincent was not familiar with the problem, but responded to it with most impressive receptiveness. He expressed his willingness to help as required, and Mr. Jacobson and I said that we would keep him posted and asked for his support when developments warranted it.

Copy: Seymour Rubin

338116

July 11, 1949

To: Dr. Joseph J. Schwartz
Mr. M.W. Beckelman

From: Jerome J. Jacobson

Re: Four Organizations Meeting with the Swiss Federal Minister of Justice
and Police van Steiger concerning Jewish heirless assets in Switzerland.

Through the arrangements of the American Jewish Committee and the World Jewish Congress a meeting was held on July 8, 1949, between 3 - 4.30 p.m. with the Swiss Minister of Justice and Police. Present were: Dr. Edward van Steiger, Minister; Dr. Alexander, legal specialist of the Ministry of Justice; a representative of the Political Department of the Swiss Ministry of Foreign Affairs; a representative of the Swiss Ministry of Foreign Affairs; Messrs. Max Isenbergh and Seymour Rubin for the American Jewish Committee; Mr. Adler-Rudel for the Jewish Agency for Palestine; Dr. Bienenfeld for the World Jewish Congress, and the writer for AJDC.

Mr. Isenbergh opened the discussion by outlining the actions taken by other governments for the disposition of heirless and unclaimed assets of the victims of Nazi persecution. He referred specifically to the legislation in the U.S. Zone of Germany; the British Zone of Germany; the French Zone of Germany; the assurances of the Dutch Government in Holland; the Foundation established for Jewish heirless assets in Greece; the provisions of the Italian Treaty; the Five Power Agreement of 1946; the discussions with and promises made by the Austrian Government; the provisions of treaties with the satellite nations dealing with heirless properties; and the proposed legislation in the United States to make available the frozen assets of German Jews and others to a successor organization. In general, he suggested that the Swiss Government ought to take action which would make available the heirless and unclaimed flight capital in Switzerland of Nazi victims of persecution to a successor organization to be used for the relief, rehabilitation and resettlement of the surviving victims of the same class to which the property originally belonged.

The Minister replied by saying that in principle this is a problem for the Swiss Foreign Office and not for the Swiss Department of Justice. However, it is not a new problem and the Swiss Foreign Office in considering it was unable to cope with the complex legal questions involved. Accordingly, the Political Affairs Section of the Ministry of Foreign Affairs had requested the Department of Justice to study the entire question and to make recommendations to the Foreign Office. The Minister further stated that a specialist of his Department, Dr. Alexander, has made a careful examination of the problem and has prepared a report. However, the Ministry of Justice has not yet submitted its report to the Ministry of Foreign Affairs and welcomes this opportunity to receive the views of the Jewish organizations. The Minister stated that on the basis of the discussions of this meeting he will submit his report to the Political Department of the Ministry of Foreign Affairs and will also submit a report of these conversations. He requested Mr. Isenbergh to furnish the documentary material relating to the legislative action

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taken in the various countries to which Mr. Isenbergh referred. The Minister went on to say that he could not state the views of another department, namely the Ministry of Foreign Affairs, but that he is pleased to give the views of his Ministry and called upon his specialist, Dr. Alexander, to summarize their findings. Dr. Alexander then reported the following:

(1) Before any fund for the disposition of heirless or unclaimed property is established or before any parliamentary law establishing such a fund can be undertaken, the Ministry of Justice believes that a preparatory measure is necessary. Such preparatory measure would require that all persons not resident in Switzerland who have assets in Switzerland and from whom no communications regarding their assets have been received since May 5, 1945, would be required to register with the Swiss Government, except that no registration shall be required in cases where heirs have already applied. Moreover, under the same preparatory measure all banks and trust companies in Switzerland will be required to report their dormant accounts within this category to the Swiss Government.

In connection with this point Dr. Alexander emphasized that there is no clear information as to the amount of heirless and unclaimed assets in Switzerland and that the estimates submitted vary considerably. Moreover, he stated that the Government could not assume that all the dormant assets were heirless, since there may be heirs who do not know of the existence of the assets.

(2) Dr. Alexander stated that the competent organization to receive this information would be the Swiss Compensation Fund which would have to be empowered to make investigations, to secure the property, and to trace for survivors in interest to the dormant assets. In this connection he stated that the Ministry of Justice felt that some procedure on declaration of death will have to be instituted.

(3) Dr. Alexander stated that the most difficult problem confronting the Ministry was over the matter of a declaration of death. He said that there was doubt in the Ministry of Justice as to whether a declaration of permanent absence or death could be issued by the Swiss Government in connection with a non-resident foreigner or whether such instrument had to be issued by the government of residence or nationality.

(4) Dr. Alexander further stated that the Ministry was also concerned over what rules of inheritance should be applied to this heirless and unclaimed property. They seem to incline to the decision that the rules of inheritance of the homeland of the deceased must be followed. He stated that the Department of Justice was also concerned with the problem as to whether the government of the owner's homeland would be entitled to claim the property in the event that the owner was deceased and heirless.

(5) Dr. Alexander stated that in any event it was premature to come to any conclusions with respects to points 3 and 4, and that the immediate problem requiring action is contained in points 1 and 2. He said that even for the preparatory measures outlined for points 1 and 2 it would require a resolution of the Federal Government passed by the parliament, and that this would undergo the same procedure as for the passage of a law.

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Moreover, the Minister stated that under Swiss law this resolution would be subject to referendum, so that after its passage some time must elapse during which a portion of the public may petition for a referendum, and if a petition is submitted the whole question would have to be submitted to popular vote.

Dr. Bienenfeld then made the following remarks: He expressed appreciation for this meeting and pointed out that the representatives of the Jewish organizations appeared on behalf of the large Jewish organizations of the world, and that our views were in accord with the views of the Swiss Jewish community. On the question of the right of the State of origin or homeland to claim heirless or unclaimed property, Dr. Bienenfeld said that we strongly oppose any assertion of such claim for the following reasons:

- (1) It would be contrary to the intention of the owner of the property, since his very reason for bringing these assets to Switzerland was that he did not want his property to fall into the hands of his government and sought to put it beyond the reach of his government. He had in fact entrusted his property to Switzerland for these purposes, and Switzerland in turn had encouraged and received this property in full understanding and sympathy with the intention.
- (2) Governments whose predecessors were in fact responsible for the destruction and heirlessness of the owners of the property cannot in any morality or equity claim the property as the fruits of their predecessor's action.
- (3) As to the legal consideration, Dr. Bienenfeld recognized that two different legal principles might be applied, namely the territorial principle, i.e. the authority of the government to act with respect to property found within its territory, and the nationality principle under which a government gives recognition to the authority over property of the nation whose citizen or subject was the owner. We believe that the territorial principle is applicable and that property heirless or unclaimed in Switzerland would belong to the Swiss Government. However, it is our feeling that the Swiss Government would not be seeking to enrich itself unjustly by taking ownership of this property, and we therefore feel that the Swiss Government will turn over the property for the use and purposes which other governments have observed, as outlined by Mr. Isenbergh.

In further support of this argument Dr. Bienenfeld referred to the Swiss Civil Code under which there is some reference to the nationality principle. In this connection Dr. Bienenfeld pointed out that the nationality principle was employed in Switzerland only for Swiss nationals and that the Swiss Civil Code had never anticipated a problem under which Switzerland would be the haven for a large amount of flight capital whose owners and heirs were exterminated elsewhere en masse. In view of this gap in the law Dr. Bienenfeld argued that Section 1 of the Swiss Code, which provided a general rule for determining reasonable intention in the event of any deficiency in the Code, should apply; and that under this Section the Swiss Government had a right to lay claim to this property to the exclusion of other governments claiming through the nationality of the owner.

338119

On the problem of death certificates Dr. Bienenfeld stated that if the Swiss Government should require the production of death certificates from abroad, such certificates would be virtually impossible to obtain from countries such as Russia, Poland, Rumania, etc. Instead, Dr. Bienenfeld recommended, that the requirement of such certificates should be bypassed through the technique of having the funds

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vest in a trust fund or foundation in the event that the owner or heirs fail to register, and that the trust fund or foundation be liable to claims for some period, such as a year or two after the property has vested due to non-registration. Thereafter the property would be forfeited.

In connection with this latter problem the writer referred to a new precedent found in the United Nations Economic and Social Council Ad Hoc Committee report of June, 1949, in which a convention on declaration of death was submitted to the U.N. which among other things would place the jurisdiction for issuing death certificates in the tribunal of the situs of property of the missing person. Thus, Switzerland could in ratifying the new convention find complete authority for issuing death certificates for missing persons if their property is in Switzerland. Moreover, even if Switzerland did not ratify the convention it could recognize the principle of international law established in the convention and could independently legislate along the same lines and nonetheless find itself in harmony with international law.

Moreover, Mr. Isenbergh suggested that as in the case of Holland, Switzerland could legislate for a limited declaration of death or continued absence relating solely to the property dormant or unclaimed within its boundary.

Dr. Bienenfeld enquired of the Minister whether a law was necessary in view of the fact that the Government might resort to a war measure decree which requires executive action since these problems are related to war problems.

The Minister of Justice replied that in December, 1945, the Parliament had drastically reduced the area of war measure actions which the Government could take, and that as a result of the careful examination of this question by the Ministry they have concluded that they cannot proceed by administrative or executive action any longer and that it is necessary to resort to parliamentary action as outlined.

The Minister of Justice called on the representative of the Political Department of the Ministry of Foreign Affairs who stated that his Ministry has not taken any stand on the question as yet because they viewed it as a complicated legal problem and therefore require the opinion of the Ministry of Justice as a basis for establishing their views. He stated that the documents referring to foreign legislation were not in the hands of his Ministry either and requested that they be furnished.

The Minister of Justice also added that in connection with its study of this question of heirless assets it had received three expert opinions, all of which were carefully reviewed, namely the expert opinion arranged for by JDC, another one from the Axis League for Victims, and a third one from the Central Organization for Assistance of Refugees.

Mr. Rubin stated that in his familiarity with U.S. - Swiss negotiations he was aware of the problem of Banking Secrecy in Switzerland. In his experience two precedents already existed, namely with respect to the reports of Japanese and German assets in Switzerland which were obtained by the Swiss Government in 1945 through decrees. Mr. Rubin suggested that these examples already serve as precedents for obtaining a partial exception from the Banking Secrecy laws in the special case of heirless assets belonging to victims of persecution.

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The Minister of Justice replied saying he was familiar with the two decrees mentioned by Mr. Rubin since he had participated in their drafting and issuance. The decrees referred to were issued in 1945 prior to the parliamentary restrictions imposed in December 1945, and that it was no longer possible to make exceptions to the Banking Secrecy laws by executive or administrative decree. The Government was now obliged to obtain legislative action. Mr. Rubin responded by saying he had not intended to suggest the manner in which an exception should be made in the Secrecy laws but merely to suggest that exceptions already exist as a precedent for the action sought.

Dr. Bienenfeld requested an opportunity to submit our views on the legal points raised in a written memorandum, which the Minister of Justice stated he would welcome.

The meeting was then concluded.

The following action is to be taken:

- (1) Dr. Bienenfeld is to prepare a draft setting forth our legal recommendations which will be cleared with Isenbergh and myself before submission.
- (2) Isenbergh is to prepare a dossier of all pertinent legislative action taken in other countries.

It is clear from this meeting that the Swiss Government has been giving a good deal of study and thought to the question of disposal of heirless and unclaimed assets belonging to persecutees, and it seems equally clear that they do not have the intention of claiming these for themselves. They are seriously trying to find a legal basis for disposal while at the same time keeping within precedents of international law and probably avoiding any claims from "curtain" countries. On the other hand, the Swiss will certainly avoid creating legal precedents and will drag their heels until other nations have established the precedents.

In view of the cumbersome legislative process, action on this matter will obviously proceed slowly, but I feel from the discussions that it will be possible to keep this matter moving. It should be noted that at no point in the discussion was any reference made by the Government to IRO's function nor was the question of the competence of the Jewish organizations raised as a barrier. There seemed to be genuine welcome by the Minister of an opportunity to discuss this problem with the Jewish organizations, and he was both friendly and frank throughout the meeting. The immediate problem obviously is to procure legislation which encompasses the first point in Dr. Alexander's remarks. Once this is done there is a basis of knowing how much is involved in Switzerland and who are the possible claimants.

Moreover, at that stage I think for a variety of reasons the JDC interest in the problem will be much larger. We could doubtless claim at that point a beneficial interest in the view of the Reparations Agreement, and we would probably have to keep a larger administrative interest in the entire question. The probability is that heirless assets in Switzerland would exceed those in the U.S. Zone of Germany and at the same time present the advantage of being in hard convertible currency.

338121

YIVO RG 347.7
AJC (FAD 41-46)
Box 47 File 6

I would appreciate your views as to whether I should report this meeting to
INC or just let the matter ride. My own recommendation is that we do not
report it.

Jerome J. Jacobson

33J/hf

338122

Seymour J. Rubin

(Frng Affrs Dept. 41-46)
Box 47 File 6

To: Dr. Eugene Hevesi

Date: May 11, 1949

From: Seymour J. Rubin

Subject: Swiss Negotiations

I had a lengthy conversation with a Department of State official on May 9th in the course of which it was indicated that a satisfactory solution was not being reached on the problem of assets in Switzerland belonging to persecutees who were or are resident in Germany. I had previously pressed the position that the property of such persons should be returned on the ground that such persons were not "Germans in Germany" within the meaning of the Accord.

However, although the United States delegation apparently suggested such a position, the British and French resisted and the Allied position was tentatively scheduled along the lines that the Swiss would be requested to unblock the property of persecutees upon individual applications in cases of demonstrated need and only to the extent necessary for the relief of such need. This is, of course, completely unsatisfactory and I did not have much hope that the position would be improved despite the statement that this was only a tentative agreement and that the American delegation could reopen it if it were so desired.

As a result, I spoke with Representative Celler, who was the sponsor of Public Law 671, 79th Congress, under which property in the United States of persecutees was made subject to return to such persecutees upon a showing merely of their status as persecutees. I pointed out to Representative Celler the inconsistency between the legislation which he sponsored and which was now the national policy of the United States and the position being taken in the discussions with the Swiss; and I persuaded him to write a letter to the Department of this subject.

I believe that the letter itself is self-explanatory. I enclose a copy as an attachment to this memorandum.

Enclosure

cc: Mr. Wolfsohn
Mr. Isenbergh

338123

Mr. Willard L. Thorp
Assistant Secretary for Economic Affairs
Department of State
Washington, D. C.

Dear Mr. Thorp:

The N. Y. Times of May 9, 1947 carries a lengthy dispatch from Switzerland with respect to the negotiations which are now going on between the United States, the United Kingdom, France and Switzerland on the subject of German assets in Switzerland.

The N. Y. Times' story indicates that the question of compensation of the German owners is one of the primary problems involved in these discussions. It is implied that one reason for this problem being of importance is the fact that some of the so-called German owners are persecutees who were or may still be resident in Germany.

I wish to call to your attention the fact that Public Law 671, 79th Congress, established the policy for the United States that property of persecutees would not be used for reparation or similar purposes. That law provides for return of property "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."

The policy behind Public Law 671 was that, despite the large and justifiable claims of American nationals and of the United States for reparations, the assets of persons who were the first and

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most serious victims of Nazism should not be used to satisfy such claims. It appears to me that this policy is even stronger with respect to assets in Switzerland of persecutees when one considers that the proceeds of such assets will be used 50% to satisfy Swiss commercial and similar claims against Germany.

It is my understanding that the Department of State has previously taken the position that the assets in Switzerland of persecutees should be returned to such persons and should not be liquidated under the Swiss-Allied Accord. I hope that, in view of the clearly expressed policy of the United States as contained in the legislation above quoted, the United States will insist on this interpretation of the agreement in any discussions with the British, French or Swiss delegations.

I should appreciate being kept informed of developments.

Sincerely yours,

338125

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YIVO RG 347.7
American Jewish Committee
(Frng Affrs Dept. 41-46)
Box 47 File 6

Eli Rock

Moses A. Leavitt

April 29th, 1949

Conference in Dr. Rosenbluth's office - confiscated Dutch assets in Switzerland.

Pursuant to your instructions, I met this morning, at their offices, with Dr. Rosenbluth (representative of the Israeli Department of Treasury in New York) and a Mr. Green, apparently his assistant. The three of us in turn heard out a Mr. Van Leuwen, a Dutch-Jewish business man temporarily in this country. The results of the conference were:

Mr. Van Leuwen addressed us in behalf of a Mr. H. Salomons of The Hague, formerly Dutch Consul in Zurich. The "story" is that the said Mr. Salomons approached the Swiss authorities in 1946 - at the time he was no longer Consul - with reference to remaining Dutch assets which the Germans had confiscated in Holland and deposited in Switzerland. Apparently the aim was to persuade the Swiss to turn over to the Dutch further assets beyond those which the Swiss were obligated to return to the Dutch and other governments under the agreement reached at the Washington conference of March 1946. Mr. Salomons claims that he was informally representing the Dutch Department of Treasury rather than the Foreign Ministry and that his whole approach to the Swiss was on an informal basis. He has reported further that some progress was made in these approaches but that they eventually failed of success in measure because of conflict between the two Dutch departments. In any event, it seems that he later continued his discussions in a private capacity and succeeded in getting some Swiss officials, who would not consider returning any further sums to the Dutch government, to look favorably upon a proposition whereby some 250 million Swiss Francs would be turned over for Jewish purposes. (Apparently, this was induced by a sense of "conscience" on the part of the Swiss and also by a fear that their continued refusal might result in an unfavorable press campaign being launched against them.) At this stage Mr. Salomons seeks funds to return to Switzerland for a continuation of his discussions and also requests that he be brought over to this country in order to attend the forthcoming conference in Washington between a Swiss delegation and the U.S. State Department. Incidentally, he proposes also, in the event of "successful recovery", that the 250 million Swiss Francs be distributed among various Israeli organizations and institutions and that a fee of 1% of the total be paid over to him for his efforts. (May I emphasize that the above is the version given to us by Mr. Van Leuwen and set forth in various written reports by Mr. Salomons.)

In response to the above, Dr. Rosenbluth pointed out that he had no authority to act on the matter and that if Mr. Salomons has any propositions to make to the Israeli Government, he should present them to Mr. Horwitz, the Undersecretary of the Israeli Treasury Department now in London. (I should mention also that the proposition of Messrs. Salomons and Van Leuwen was being submitted solely to the Israeli government.) Accordingly, Mr. Van Leuwen agreed to wire Salomons to that effect, and Dr. Rosenbluth stated that he would get in touch with Horwitz's office and request them to contact Mr. Salomons. 338126

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During the course of the conference, and after Mr. Van Leuwen had left, I sketched in for Dr. Rosenbluth (some of it he already knew, of course) and Mr. Green the background of the various reparations conferences and the distribution of assets among the JDC and Jewish Agency. I mentioned also the efforts which were now being made to recover heirless property in various countries. Although Mr. Van Leuwen had been completely vague as to whether any of the confiscated Dutch assets still remaining in Swiss hands were Jewish in origin (he stated only that it was generally accepted that an unknown and probably unidentifiable proportion was Jewish), I nevertheless pointed out to Dr. Rosenbluth and Mr. Green that, whether or not these alleged assets in Switzerland were technically subject to the reparations-distribution machinery previously set up, this machinery should be used in this instance and that in fact it had already been used in other situations which did not come strictly within the scope of the Paris Reparations Conference agreement. While we all thought that the Van Leuwen-Salomons story sounded rather fantastic, we felt that the information should be passed on to Europe for whatever action they might wish to take at this stage. Dr. Rosenbluth indicated that in his communication to Horwitz he would urge them to contact JDC Paris, and I in turn indicated that I would pass the information on directly to Jerry Jacobson.

ER:AU

cc.JJJ
JHF

February 1, 1949

Dr. Eugene Hevesi
The American Jewish Committee
386 Fourth Avenue
New York 16, N. Y.

Dear Eugene:

In the course of discussions with some of the people at State, I have discovered, somewhat to my amazement, that the problem of the status of persecutees in Germany under the Swiss Allied Accord on German Assets has never been resolved.

The Agreement of 1946 between the United States, United Kingdom and France on the one side and Switzerland on the other side, provided for the control by the Swiss and eventual liquidation, with the proceeds to go mainly to reparations but partially for the relief of displaced persons, of the property in Switzerland of "Germans in Germany". In view of the provisions of the Paris Reparation Agreement and of the Washington Accord itself, it was never believed by any of the Allied negotiators, and in fact the thought never crossed their minds, that the term "Germans in Germany" would apply to religious, racial or political persecutees within Germany, particularly those who had lost their German nationality under the discriminatory German laws. Nevertheless the Swiss Government, I believe primarily for the purpose of providing an excuse for not implementing the Accord, took the position that the Accord literally construed meant that the Swiss Compensation Office would have to block and liquidate the property in Switzerland of such "Germans in Germany" as German Jews, concentration camp internees, etc. The United States Government has taken a strong position in opposition to this view in the Joint Commission, established in Bern which was to supervise the administration of the Accord, but the question still remains unresolved.

I had thought that the problem had been settled favorably some time ago. I now intend to pursue this matter vigorously here in Washington and to find out the details of the position taken by the Swiss, which I consider not only not of justice, but also on the basis of my personal knowledge as to what was intended, to be a thorough perversion of the terms and the intent of the Washington Accord. I am informed confidentially that negotiations are under way between the Allies and the Swiss, looking toward a conference to be held some time within the next three months at which an attempt will be made to settle all problems growing out of the Accord. The other night

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I informally met with Mr. John Carter Vincent, United States Minister to Switzerland, and had a long talk with him about the general problems of the Accord and the attempt which will be made to solve them shortly. I intend to follow this matter very closely and may, if I think it tactically desirable, call upon the Swiss Minister here, Mr. Bruggmann, whom I know very well and tell him of the Committee's interest in this problem.

This letter is more in the nature of an informational report than anything else, both to you and to Moose. I shall of course keep you informed as to any steps I may take and any suggestions which I may have with respect to action, particularly action which the Paris office might take.

Sincerely,

Seymour J. Rubin

cc: Mr. Isenbergh

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YIVO Documents

YIVO stands for Yiddish Scientific Institute

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American Jewish Committee

Initials in description of source of documents:

EXO = unknown

FAD = Foreign Affairs Department

GEN = General