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Entry 69A4707File POLICY TOWARD
Vol. 2 (HON) 7195Box 84*Gen. my. Post War
Treatment (Muss)*Information

February 27, 1945

Secretary Morgenthau

Mr. Coe

Subject: Developments in German Policy.

Two bits of important information have just come in from Taylor in London:

1. It was decided at Yalta to set up a separate commission in London on the question of dismembering German territory. This, plus the decision to set up a reparations commission in Moscow, leads some British officials to believe that the European Advisory Commission will soon be wound up.

2. Winant did not put J.C.S. 1067 (revised) into the European Advisory Commission, because it did not square with a two-page document on American Government policy toward Germany which was shown him by the American delegates to Yalta who passed through London. Taylor thinks that this document provided for extensive control machinery of the German economy.

You might want to ask Yost to get you a copy of this important document, which we in the Treasury have not yet seen.

2/27 - Or. to Sec. by lr.

FC:rl 2/27/45

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Entry 69A4707File POLICY TOWARDBox 84*Miscellaneous
Terms of
Surrender
or
Occupation
Policy*

Memorandum from Mr. O'Connell, General Counsel of the
Treasury Department, to the Secretary of the Treasury

January 30, 1945

In connection with recent discussions regarding certain post-hostilities German problems of concern to the Treasury Department, as, for example, currency matters, exchange control, ownership of foreign exchange assets, control of banks, and control of financial transactions in general, I have, at your suggestion, made an examination of the broad question of the legal authority which the United Nations will have to act with respect to Germany after her military defeat. This memorandum is addressed to that broad legal question rather than to specific questions which may arise. I am confident, however, that the approach suggested to this broad issue will furnish a basis for answering specific problems with which the Treasury will undoubtedly be concerned.

It is, of course, impossible at this time to analyze in detail all of the situations that may exist or to solve the host of legal problems that will arise with respect to the nature of Allied occupation of Germany, the rights and duties of the occupants, the punishment of war criminals, etc. The resolution of these questions will be greatly assisted, however, by the formulation of a sound and practical general approach to international legal problems and by ascertaining the authority of the United Nations to carry out their legitimate war aims.

I. General Approach to Problems of International Law

In evaluating any problem of international law for the purpose of determining whether a particular course of conduct is consistent with the recognized principles of international law, it is necessary to consider

- (1) The nature and sources of international law;
- (2) The applicability of existing rules to new or unusual conditions; and
- (3) The principles to be applied in the absence of a specific rule of international law.

An orderly analysis is essential when new and unusual situations arise as is likely to be the case when Germany has been defeated.

(1) The nature and sources of international law.

The rules of international law are not a fully developed, integrated legal system such as that which governs the conduct of individuals within our own borders.

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Domestic law, stemming as it does from one paramount authority, is a relatively homogeneous, tightly-knit, comprehensive system of rules which have universal application within a given jurisdiction. International law, on the other hand, is not derived from any supreme recognized authority but has a number of different sources each having a limited scope.

The sources of international law are formal agreements between nations, courses of conduct recognized as good usage by nations, general principles of law and justice, treatises on international law, and domestic and international judicial decisions.^{1/} These sources have been recognized by the Supreme Court of the United States^{2/} and have been prescribed as the bases for decisions by the Permanent Court of International Justice.^{3/}

The principles of international law have been reduced to specific rules only to a limited extent. The incompleteness and inadequacy of international law are particularly apparent in the rules of warfare, which constitute one branch of international law.^{4/}

The backwardness in the growth of rules of warfare is due in part at least to the fact that, unlike trade and commerce, the incidence of war is not gradual and continuous but sudden and sporadic. Thus, although some specific rules have been the subject of agreements to cover special problems which arose out of particular wars, by and large, the existing specific rules governing warfare fail to cover many important areas. In addition, there are numerous loopholes with respect to those areas which are covered in a general way. The inadequacy of the rules of warfare with reference to the problems of the First World War is vividly described by Garner in his book "International Law and the World War."^{5/}

"In the first place, the war demonstrated in a striking manner that many of the rules which had been agreed upon by the body of States for the conduct of war were inadequate, illogical or inapplicable to the somewhat peculiar and novel

- ^{1/} Moore, International Law Digest, Vol. I, section 1; Hackworth, Digest of International Law, Vol. I, sections 3-7; Taylor, International Public Law (1901), section 30; Lauterpacht, Oppenheim's International Law, Vol. I, sections 15-19; Wheaton's International Law, 6th English Ed., pp. 10-23.
- ^{2/} Hilton v. Guyot, 159 U.S. 113, 163; The Paquete Havana, 175 U.S. 677, 700; Thirty Hogshead of Sugar v. Boyle (1815) 9 Cranch U.S. 191, 198; The Scotia (1871) 14 Wall. U.S. 170, 187.
- ^{3/} Wilson, International Law, (3d ed.) p. 11; S. S. Lotus, Per.Ct. Int. Jus., Judgment 9, Sept. 7, 1927, Sec. A, No. 10 (II Hudson, World Court Reports 1935, 20, 33, 35); Chorzow Factory, Per. Ct. Int. Judgment 13, Sept. 13, 1928, Sec. A, No. 17 (I Hudson, World Court Reports, 1934, 646, 663).
- ^{4/} Spaight, War Rights on Land (1911) p. 11.
- ^{5/} Garner, International Law and the World War, Vol. II, p. 452; see also Lauterpacht, Oppenheim's International Law, preface to the 5th edition, IX.

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conditions under which they had to be applied during the late war. In the second place, the war brought out the fact that the existing rules did not by any means cover the whole field; that they were wholly silent in regard to the employment of various agencies and instrumentalities for waging war, and that they did not deal at all with certain conditions and circumstances which were unforeseen at the time the rules were formulated."

Because of the substantial difference in the nature and sources of international law as compared with the nature and sources of domestic law, customary techniques used in interpreting and applying domestic law may be inappropriate and even dangerous when adapted to such limited rules as have been formulated in the field of warfare. A proper approach in applying an existing rule entails a careful examination of its origin to see whether it was intended to cover the immediate situation, whether the result makes sense in the light of present-day realities, and whether the end accomplished is consistent with justice and morality. Moreover, new situations will undoubtedly arise and it cannot be assumed that there will always be an applicable rule of warfare in existence.

(2) The applicability of existing rules of international law.

In view of the fact that treaties are framed in response to particular needs arising out of known practices, their contents must be construed in the light of their origin. Similarly, rules derived from accepted courses of conduct must be considered with reference to the fundamental reasons underlying their adoption and the types of warfare existing when nations observed them.

Extreme caution must be exercised in the application of an existing rule of warfare to new and unusual situations in order to avoid applying it in a manner inconsistent with or contrary to its underlying purpose. Rules originate and continue in effect because they meet with the approval of a large body of opinion in the society of nations. If the application of a rule to a new type of problem would not meet with the same approval, then the application of the rule would be improper.

The specific rules which have existed for some time with respect to the treatment of non-combatants are an illustration in point.^{6/} These rules, which were sound in connection with previous wars and which may still be helpful in some respects in the present war, would become absurd if strictly applied to such actions as the bombing of industrial objectives, even though such action necessarily results in death and

^{6/} The Hague Conventions of 1899 (II) and 1907 (IV) Respecting the Laws and Customs of War on Land, Annex, Arts. 3, 22, 23, 24, 25, 26, 27, 28, 36 Stat. 2277.

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injury to non-combatants. In modern warfare, the destruction of industrial installations serves to shorten hostilities and probably accomplishes a net saving of lives. Accordingly, the United Nations have accepted this treatment of non-combatants as a proper course of conduct, and it has, in effect, become a rule of warfare.^{7/}

Not only may existing rules become inappropriate to certain situations because of general changes in methods of warfare, but they may be completely silent with respect to whole series of new problems, such as those arising out of developments in the techniques of warfare. For example, World War I witnessed for the first time air warfare, with respect to which there were obviously no previous rules in existence.^{8/} Similarly, technical developments during this war have revealed other inadequacies in the body of the rules of warfare. When inadequacies become apparent, they should be recognized as such and the difficulties that flow from them should not be resolved by attempting to bring new cases within established principles in a manner which perverts the purpose of the existing rules of warfare.

Finally, in seeking to solve any particular problem by recourse to rules of international law, it is essential to bear in mind that even when there are existing rules of warfare in a particular field, they are not and should not be considered as a comprehensive body of rules governing all situations that may arise in that particular field. It must be recognized that only a small area is covered by the specific rules and that in most cases it will be necessary to refer to the general principles of international law rather than the specific rules which evolved from those principles to cover special situations.^{9/}

(3) The principles to be applied in the absence of a governing rule of international law.

It is apparent from the preceding discussion that cases are very likely to occur where the well-recognized principles of international law can not be applied logically and justly. In such situations the United States and the other United Nations will be confronted with the difficult problem of adopting courses of conduct which will be considered legal and proper by society as a whole.

To determine a legal and proper course of conduct under such circumstances requires an understanding of the basic philosophy of international law which prevails today. For many years there was a heated debate between proponents of the "natural law" theory and those who favored the concept of positivism. Recently, however, this conflict has been resolved. The events of the first World War led most writers

^{7/} See Spaight, Airpower and War Rights (1924), Chapters VIII-XI.

^{8/} Id., pp. 196-198.

^{9/} This principle was recognized in the Preamble to the Hague Regulations 36 Stat. 2277. See also Spaight, War Rights on Land, (1911), p.11.

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on the subject of international law to agree that ordinary rules of justice and general principles of law can properly supplement existing rules of warfare. In other words, the absence of a crystallized rule of warfare does not mean that there are no criteria upon which a belligerent's actions should be based. On the contrary, it must act with respect to other nations in accordance with those principles of justice that guide its internal actions. Lauterpacht states in Oppenheim's International Law, at page 100 (5th ed., vol. I):

"It is now generally admitted that, in the absence of rules of law based on the practice of States, International Law may be fittingly supplemented and fertilized by recourse to rules of justice and to general principles of law, it being immaterial whether these rules are defined as a Law of Nature in the sense used by Grotius, or a modern Law of Nature with a variable content, or as flowing from the 'initial hypothesis' of International Law, or from the fundamental assumption of the social nature of States as members of the international community, or, in short, from reason." (Underscoring supplied)

Lauterpacht continues by pointing out that far from being pure theory this is:

"a frequent feature of the practice of states, especially as evidenced in arbitration conventions, and of judicial and arbitral decisions. In adopting Article 38 of the Statutes of the Permanent Court of International Justice the signatory States have sanctioned that practice." (Underscoring supplied)

The similarity of this approach to the philosophy which characterized the development of the common law is striking. Making this analogy Brierly, in his book "The Law of Nations," states:

"Thus where we might say that we attempt to embody social justice in law, giving to that term whatever interpretation is current in the thought of our time, a medieval thinker might have said that positive law ought to conform to the higher law of nature * * * Even a slight acquaintance with the working of the English common law shows it perpetually appealing to reason as the justification of its decisions, asking what is a reasonable time, or what is a reasonable price, or what a reasonable man would do in given circumstances. * * *"^{10/}

^{10/} Quoted in Hackworth, Digest of International Law, Vol. I, p. 8.

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One of the chief contributions of natural law is a principle which is recognized and acted upon as fully today as it ever was. That principle is 11/

"the existence of purpose in law, reminding us that law is not a meaningless set of arbitrary principles to be mechanically applied by courts, but that it exists for certain ends, though those ends have to be differently formulated in different times and places." (Underscoring supplied)

International arbitral tribunals have recognized that this is the proper practice and have acted accordingly.^{12/} For example, the tribunal established by the United States and Great Britain under an agreement of August 18, 1910 discussed the question whether it was authorized to invoke principles of equity in deciding the Cayuga Indians Case. The decision contained this language:

"American Courts have agreed from the beginning in pronouncing the position of the Indians an anomalous one. Miller J., in United States v. Kagama, 118 U.S. 375, 381. When a situation legally so anomalous is presented, recourse must be had to generally recognized principles of justice and fair dealing in order to determine the rights of the individuals involved."^{13/}

The same tribunal applied identical reasoning to the rules of warfare in the case of Eastern Extension, Australasia and China Telegraph Company, Ltd. The decision in that case states:

" . . . In our opinion, however, even assuming that there was in 1898 no treaty and no specific rules of international law formulated as the expression of a universally recognized rule governing the case of the cutting of cables

^{11/} Ibid.

^{12/} See Administrative Decision No. II, by Judge Parker, Mixed Claims Commission between the United States and Germany, November 1, 1923; Annual Digest, 1923-1924, case No. 205; Goldenberg & Sons v. Germany, Special Arbitral Tribunal between Roumania and Germany, September 27, 1928; Annual Digest, 1927-1928, case No. 369; Lena Goldfields Arbitration September 2, 1930; Annual Digest, 1929-1930, case No. 1 (Cited in Lauterpacht, Oppenheim's International Law, Sixth Ed., p. 28).

^{13/} Nielsen's Report of American and British Claims Arbitration (1926) 203 at 314. Quoted in Hackworth, Digest of International Law, Vol. 1, p. 8.

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by belligerents, it can not be said that there is no principle of international law applicable. International law, as well as domestic law, may not contain, and generally does not contain, express rules decisive of particular cases; but the function of jurisprudence is to resolve the conflict of opposing rights and interests by applying, in default of any specific provision of law, the corollaries of general principles, and so to find - exactly as in the mathematical sciences - the solution of the problem. This is the method of jurisprudence; it is the method by which the law has been gradually evolved in every country resulting in the definition and settlement of legal relations as well between States as between private individuals.^{14/} (Underscoring supplied)

Recognition of the fact that the body of international law consists not only of specific rules but also of the ordinary rules of justice and general principles of law, has led inevitably to the conclusion that there is in international, just as in domestic law, a principle of growth. Thus, the rules of warfare are not static but are dynamic and the new and unusual problems that the United Nations will face when the hostilities with Germany cease must be solved by building upon the existing framework.

The existence of this principle of growth is apparent from even the most cursory examination of the history of the rules of warfare. When courts look back at old decisions which are argued as the basis of a litigant's case, they sometimes take note of the principle. For example, an English court had occasion in 1934 to examine the law of piracy and one case considered had been decided in 1696. In discussing it the court said:

"But over and above that we are not now in the year 1696, we are now in the year 1934. International law was not crystallized in the 17th century, but is a living and expanding code. * * * Again another example may be given. A body of international law is growing up with regard to aerial warfare and aerial transport, of which Sir Charles Hedges in 1696 could have had no possible idea." In re Piracy jure Gentium (1934) A.C. 586, 592-593.

The text writers have also found evidence of this principle of growth and have discussed it at some length. Hyde's "International Law" contains one of the clearest expositions of this feature of

^{14/} Id., pp. 73, 75-76.

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international law. He points out that the rules of conduct, no matter how definitely established, when applied under conditions differing sharply from those that prevailed when they were first enunciated, often fail to reflect and sometimes even oppose the underlying principles from which they have originated. He then states:

" . . . Nevertheless, it must be constantly borne in mind that what the consensus of opinion of enlightened States deems to be essential to the welfare of the international society is ever subject to change, and that the evolution of thought in this regard remains as constant as at any time since the United States came into being. Above all, it must be apparent that whenever the interests of that society are acknowledged to be at variance with the conduct of the individual State, there is established the ground for a fresh rule of restraint against which old and familiar precedents may cease to be availing."^{15/} (Underscoring supplied)

Any nation can, therefore, propose changes in international law and such changes will be accepted and become law if society as a whole is convinced that benefits will be derived from them. As a matter of fact, the United States has, from time to time, proposed changes and they have become international law. Hyde gives as an illustration the attitude of the United States as a neutral during the 18th century and then states:

" . . . Thus without specific conventional arrangement, and by practices manifesting a common and sharp deviation from formerly accepted rules, the society of States may in fact modify the regulations governing its members."^{16/}

It would be impossible to lay down precisely all the principles contained in our own jurisprudence that should be observed in examining special cases that may arise when Germany has been defeated. Several general guides can, however, be stated briefly. In the first place, the danger of dogmatic crystallization -- which inevitably results in rigid and inflexible rules -- should be carefully avoided. Secondly, precedents must always be examined in the light of the fundamental principles upon which they are based. And thirdly, rules must not be observed blindly but only after searching analysis of their utility in furthering the needs of society.

^{15/} Hyde, International Law Chiefly as Interpreted and Applied by the United States, Vol. I, p. 3

^{16/} Id., p. 5.

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Above all, when confronted by problems which are not covered by the existing rules of warfare, we must approach them with boldness, courage and the determination to advance the science of international law by making the necessary decisions in a manner consistent with the ethical, moral and humane principles recognized by civilized men. The responsibility of the United Nations in this respect is a heavy one. It must not be discharged with primary emphasis on the technical construction of obsolete rules of conduct, but, on the contrary, it must be discharged with due regard to achieving the goals for which this war is being fought.

II. Authority of the United Nations to Carry Out Their Legitimate War Aims.

Germany's defeat will not be the final realization of all our war aims, but will only serve as an opportunity for the United Nations to take the steps necessary to achieve the objectives for which they have fought so hard and so long. The period immediately following the cessation of major hostilities in Europe must be utilized for this purpose. There are no rules of international law which present legal obstacles to the attainment of the goal.

This conclusion is based on the following principles which will be fully discussed below:

(1) International law permits nations which have won a war such as that being waged against Germany by the United Nations, to accomplish the ends for which they have struggled by imposing upon their defeated enemy, in an armistice or a treaty of peace, or through military occupation, such terms and punishments as they consider necessary.

(2) Germany has forfeited all belligerent rights under international law except the right to humane treatment, and since the United Nations include nearly all of the civilized peoples of the world, the best test as to the humaneness of the treatment to be accorded Germany is public opinion and the views of government authorities in the United Nations.

(1) Achievement of war aims through an armistice, a treaty, or military occupation.

Victorious nations do not always accomplish their war aims by merely defeating their enemies in battle. They generally fight for specific objectives which can be attained only after they have been

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militarily successful and are in a position to impose upon their enemies appropriate terms and punishments. This is particularly true when wars are fought against ruthless aggressors such as Germany and Japan.

It is not necessary, for the purposes of this memorandum, to examine the war aims of the United Nations in minute detail. It should suffice to point out that there has been an enormous expenditure of life and property to thwart the Axis dream of world domination and to make certain that peace-loving nations will never again be similarly threatened. The legitimacy of these objectives could not possibly be questioned.

The task confronting the United Nations when hostilities against Germany are at an end, and again when those against Japan terminate, is enormous in proportion and extremely complex. Effective performance of the task may well require unprecedented action, but there are no principles of international law which stand in the way of its successful completion.

The measures required to prevent future aggressions by Germany and Japan can be the subject of an armistice or a treaty of peace. They may also be carried out through military occupation.

A general armistice is essentially a cessation of hostilities pending the settlement of the terms of a treaty of peace. The losing belligerent generally requests an armistice and is faced with the choice of accepting the terms proposed by its stronger adversary or continuing hostilities against hopeless odds. An armistice represents, therefore, the will of the victor and it is recognized that he may impose upon his defeated adversary any terms that he desires.

The history of the last 100 years reveals many examples of armistice which imposed severe terms upon the losing belligerent. The Armistice Convention of January 28, 1871, in the Franco-Prussian War provided for the delivery of the fortresses and the surrender of the armed garrisons of Paris, the payment by Paris of a "war contribution" of 200,000,000 francs, and the occupation by the German army of large parts of France.

The protocol of peace in the Spanish-American War stipulated that Spain would relinquish her sovereignty of Cuba, cede Puerto Rico to the United States and that the United States should occupy Manila until the fate of the Philippines was determined.^{17/}

^{17/} Phillipson, Termination of War and Treaties of Peace (1916), p. 70.

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The terms imposed upon Germany by the Armistice of November 11, 1918, included, among other things, the evacuation of invaded territories, the surrender of specified war material, the surrender of all submarines, as well as a certain number of surface vessels of war, the evacuation of particular ports, and the occupation of certain strategic positions along the Rhine. As stated by Hyde, "these provisions reveal an arrangement designed to accomplish far more than merely cessation of hostilities, and serving in case of the observance of its terms, to render it practically impossible for Germany to resume formidable operations against its enemies."^{18/}

Almost all treaties of peace contain provisions designed to achieve the war aims of the victor. They provide for such things as cession of territory, payment of reparations and indemnities, occupation by foreign troops, etc. If a war aim is a legitimate one, there are no rules of international law that prevent the inclusion in a treaty of peace of terms necessary to accomplish it.

International law also permits a victorious nation to annex the entire territory of its defeated adversary, thus eliminating it entirely from the society of nations, if such action is in furtherance of a legitimate war objective.^{19/} When annexation takes place, the treatment of the area subjugated becomes a matter of domestic concern for the conqueror and there are no problems of international law. No treaty or other agreement with the losing nation is required and the disposition to be made of its territory is a question decided by the victor alone or in conjunction with its allies.^{20/}

There are, therefore, at least two separate and distinct courses that the United Nations can follow when they have defeated Germany. They can (1) impose upon Germany in an armistice or a treaty of peace, such terms and punishments as they deem appropriate to prevent future aggressions, or (2) they can annex all German territory, obliterate Germany as a nation, and administer the former German territory in any way they see fit, subject only to such limitations as may exist in their own domestic laws. These two courses being open, can it be said that if the corrective measures deemed essential fall short of complete annexation and if there is no effective German government in existence which could sign an armistice or a peace treaty, the hands of the United Nations will be tied? Can it be said that the inability of Germany to sign a

^{18/} 2 Hyde, International Law Chiefly as Interpreted by the United States, sec. 647.

^{19/} Oppenheim's International Law, Vol. I, pp. 449-450; Hall, A Treatise on International Law, p. 681; Lawrence, Principles of International Law, pp. 159-160; 1 Hyde, International Law Chiefly as Interpreted by the United States, pp. 176-177.

^{20/} Mormon Church v. United States, 136 U.S. 42; United States, Lyon et al. v. Huckabee, 83 U.S. 414, 434; and texts cited in footnote 25.

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treaty coupled with the unwillingness of the victors to annex all Germany, means that a more moderate course than annexation cannot be undertaken? Obviously, the answer to these questions is an emphatic "no".

Customarily nations have achieved legitimate war aims either by treaty or by annexation. There is nothing in this practice, however, from which an implication can be drawn that these methods are exclusive. The situations that have existed in the past were such as to fit known procedures but the fact that they did is not in any sense a reason for concluding that no others can be utilized.

Assuming that the United Nations do not wish to eradicate Germany completely by annexing all of its territories, the traditional approach left open to them is to impose their will upon Germany by means of an armistice or a treaty of peace. The essential nature of such an "agreement" must be examined in order to determine whether it has as its basis any principle of law which would be violated should the terms and punishments be imposed without benefit of a bilateral document.

In many respects an armistice and a treaty of peace occupy under international law a position equivalent to that of a contract under domestic law. The analogy fails, however, in one important respect. Duress does not invalidate a treaty although it would invalidate a contract. In discussing the analogy, Lauterpacht states:

"There are few questions in international law in which there is such a measure of common agreement as this, that duress, so far as States are concerned, does not invalidate a contract; nevertheless, it is submitted that this exception does not affect the view presented here of the fundamental identity of contracts and treaties. It has already been pointed out that analogy fails here so far as international law is an undeveloped law; it may safely be said that with the development of international law to a system of law without qualifications and limitations the analogy will hold with undisputed force."^{21/}

The ideal situation visualized by Lauterpacht of international law without qualifications and limitations is far from realization at present. The law remains as it was in 1927 when he published his treatise - duress does not vitiate a treaty.

^{21/} Lauterpacht, Private Law Sources and Analogies of International Law (1927) p. 161.

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The rule is neither shocking nor obscure when considered in its proper frame of reference, i.e., the conditions that exist when treaties of peace are drafted. They do not result from the usual give-and-take type of negotiations that prevail in normal times. On the contrary, the stronger belligerent offers terms to its adversary and the loser must accept them or face annihilation. If the loser refuses the offer, hostilities will continue and this will generally lead to a further deterioration so that the second offer may be even more severe and the need to accept the terms even more urgent. Pressure and duress are, therefore, the motivating forces in the negotiation of peace treaties. The treaty of peace would not have become the principal device for terminating wars if the loser were permitted at a later date to abrogate its obligations on the basis of duress. This would have rendered practically all such treaties nullities and international law would undoubtedly have developed along other lines, giving recognition to the accomplishment of legitimate war objectives through other means.

Phillipson states the basis of the rule quite clearly. He says:

"* * * If peace negotiation is not an actual extension, in another plane of conflict, of the military operations of the belligerents, it is at all events a substitute therefore, and cannot possibly be considered as being immune from all threats and pressure. There is not and cannot be any legal principle forbidding a peace negotiator to threaten that he will resume hostilities if his terms are not accepted; for the other party knows full well what will happen if the negotiations fail. A certain element of pressure is therefore inevitable here, and it cannot properly be described as duress."22/

Lawrence takes the same view:

"Most treaties of peace are made by the vanquished state under duress; but there would be an end of all stability in international affairs if it were free to repudiate its engagements on that account whenever it thought fit."23/

Thus, the validity of a peace treaty is not based upon the consent of the vanquished but rather upon the practical benefit of the stable re-establishment of peaceful relations. In view of the fact that

22/ Phillipson, Termination of War and Treaties of Peace, p. 162.

23/ Principles of International Law (1923) p. 303. See also 2 Hyde, International Law Chiefly as Interpreted by the United States, p. 8; 5 Moore, International Law Digest, p. 183; Edmunds, The Lawless Law of Nations (1925) p. 184; Lauterpacht, Private Law Sources and Analogies of International Law (1927), p. 161.

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annexation depends solely upon the will of the victors and treaties of peace upon the consent of the vanquished obtained under duress, it is clear that these two procedures are not exclusive. The terms and punishments are in fact decided upon and enforced by the victors. Thus, the method they adopt is simply a matter of form and not of substance.

It would be absurd to assert that the United Nations can annex Germany but if they are unwilling to do so they can take less drastic steps only if they are willing to rely upon a German government which must arise out of the wreckage of six years of Nazism plus more than five years of total warfare. There might be some merit to such a conclusion if consent of the vanquished were an element of peace treaty negotiations but, since consent is not involved, the historical methods of achieving war aims are obviously not legal limits but only manifestations of the general rule that legitimate war objectives can be attained through the imposition upon the defeated nation of appropriate terms and punishments.

Prolonged occupation as a means of achieving war aims has been recognized by writers since the early days of international law. In 1758 Vattel stated:

"When, therefore, he (a conqueror) has totally subdued a hostile nation, he undoubtedly may, in the first place, do himself justice respecting the object which had given rise to the war, and indemnify himself for the expenses and damages he has sustained by it; he may, according to the exigency of the case, subject the nation to punishment by way of example: he may even, if prudence so require, render her incapable of doing mischief with the same ease in future."^{24/} (Italics in original)

In recent times Phillipson has made a similar observation:

"Conquest means nothing more than effective military occupation by the enemy forces; and as such it may be merely a provisional procedure, or a means to some other end contemplated by the Government of the occupying forces."^{25/} (Underscoring supplied)

There is, therefore, nothing in international law that would prohibit the use of military occupation, or any other measures, to impose appropriate terms and punishments on Germany in order to prevent further aggressions against peace-loving nations.

^{24/} Vattel, Law of Nations, (1758, Chitty ed., 1859) Book III, sec. 201.

^{25/} Phillipson, Termination of War and Treaties of Peace (1916), p. 9.

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(2) Germany is not entitled to belligerent rights under international law.

Careful study of the limitations placed by international law upon the activities of occupying powers and victorious nations reveals that the United Nations, in planning for the treatment of Germany, will not be hampered in any way by technical legal difficulties. Germany is not entitled to the rights generally accorded to belligerents under international law.

International law as embodied in treaties and usage must, like other branches of law, be interpreted by human beings. The basic ingredient of each rule of warfare is a logical moral principle which, for practical purposes, must be set forth in words. The words used may sometimes be subject to technical legal construction leading to conclusions entirely foreign to the moral principle. If by denying belligerent rights to Germany we should deprive her of the protection derived from sound moral principles, we might be open to severe criticism. If, on the other hand, the United Nations scrupulously observe accepted moral standards and merely deny to Germany the opportunity to contend that -- without reference to the underlying moral principle -- certain activities violate the words in which particular rules of warfare are stated, then their behavior cannot be questioned.

In fact, this approach is eminently suited to the type of problem with which we will be confronted when Germany collapses. It cannot reasonably be contended that the Germans have a right, through technical legalistic argument, to prevent the accomplishment by the United Nations of the objectives for which they have fought. Such arguments have not been available as a defense against past German aggressions and barbarities and it is only just that they should not be permitted to interfere with the methods deemed by the United Nations to be essential to the prevention of future aggressions and barbarities.

The Germans have violated the Pact of Paris which renounced "recourse to war for the solution of international controversies" and "as an instrument of national policy." The Germans have violated most of the provisions of the Hague Conventions. The Germans have committed innumerable outrages that defy description. They have made no effort whatever to conform to a standard of conduct which would meet with the approval of public opinion throughout the world. Accordingly, they have lost the right to be treated as belligerents, they have established grounds for retaliation and they are not in a position to contest, or even discuss, the measures which will be taken by the United Nations.

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This conclusion -- discussed in detail below -- is clearly a proper statement of the existing rules of international law. Although it means that the Germans have no "legal" rights as belligerents it does not mean, and should not be considered as implying that Germany is not entitled to humane treatment. As indicated in the preceding pages, the absence of legal rules established by treaties or general usage throws us back upon general principles of law for guidance in the conduct of the war and the period that will follow, and there are no principles of American jurisprudence permitting inhuman treatment of individuals, groups or nations.

We must, therefore, in formulating plans for the post-war period, observe those moral principles which are the foundation of our own civilization. Ordinarily this will be a simple matter, since the average American is accustomed to make decisions with these maxims in mind. There will probably be situations, however, so novel that the demands of morality will be difficult to ascertain. In such cases, reliance upon the statements of the leaders of the United Nations governments will be the safest course to follow. Their utterances will be found, in general, to embody public opinion as crystallized by governmental planning and governmental action. Since moral principles are in essence the standards of conduct accepted by the great bulk of civilized peoples, it would be impossible to find a more accurate source. Even in these more difficult situations, however, the effort to give the Germans humane treatment should not be perverted and the issues should not be clouded by technical reasoning. The problem is one of conscience, not of law.

The Pact of Paris of August 27, 1928, 26/which was formally designated the "Treaty for the Renunciation of War as an Instrument of National Policy" introduced a new concept in the Law of War. During the entire 19th and early 20th centuries, war was recognized as having an "extra-legal" status -- it was not considered illegal yet writers hesitated to describe it as legal.

When a war broke out, regardless of its nature or cause, regardless of whether it was just or unjust, both belligerents were clothed "automatically" with a complete set of belligerent rights. These belligerent rights included the rights which each belligerent had with respect to the other and with respect to all non-belligerents. In addition, there sprang up a set of corresponding duties which each belligerent owed to the other and which each non-belligerent owed to the belligerents.

26/ 4 Treaties, Conventions, International Acts, Protocols and Agreements between the United States and Other Powers, (1938) p. 5130.

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As a result a cordon sanitaire was drawn about the belligerents and the remainder of the world was sharply restricted in its ability to favor one belligerent as against the other regardless of the merits of the cause.

This artificial and unjust relationship was abandoned in the Pact of Paris, and any belligerent which thereafter engaged in a war as an instrument of national policy would be guilty of an illegal act and would forfeit its status as a lawful belligerent.

The Pact of Paris provides, in part:

"Article I. The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

"Article II. The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by peaceful means." 27/ (Underscoring supplied)

Sixty-three nations, including Germany, were signatories to the Pact of Paris. All of them solemnly agreed that war was outlawed as an instrument of national policy and that war, as such, had lost its extralegal status in the field of international law and was thenceforth to be deemed illegal except for the purpose of self-defense.

Having renounced war and having condemned it as an instrument of national policy, the Pact of Paris made resort to war an illegal act. However, the Pact of Paris does not itself express what legal incidents flow from its violation. Nevertheless, its interpretation has been made perfectly clear by the authorities. An excellent statement of the legal consequences of resorting to war in violation of the Pact of Paris was made by Mr. Stimson, as Secretary of State, in a speech before the Council on Foreign Relations on August 8, 1932. He stated:

"War between nations was renounced by the signatories of the Briand-Kellogg Treaty. (Pact of Paris) This means that it has become illegal throughout practically the entire world. It is no longer to be the source and subject of rights. It is no longer to be the principle around which the duties, the conduct and the rights of nations revolve. It is an illegal thing. Hereafter, when two nations engage in armed conflict, either one or both of them must be wrongdoers -- violators of the general treaty. We no longer draw a circle about them and treat them with the punctilios of the duelist's code. Instead, we denounce them as lawbreakers. By that very act we have made obsolete many

27/ Id., at 5132

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legal precedents and have given the legal profession the task of re-examining many of its codes and treatises." (Underscoring supplied) (Parenthetical phrase supplied) 28/

A more specific formulation of the legal effects of the violation of the Pact of Paris may be found in the interpretation placed upon the Pact by the Harvard Research Convention on Rights and Duties of States in Case of Aggression, which was drafted in October 1939 and was signed by eighteen distinguished American scholars in the field of international law. The Convention provides in part:

" * * * an aggressor does not have any of the rights which it would have if it were a belligerent. * * *"

"An aggressor does not have any of the rights which would accrue to a State not an aggressor as the result of the use of its armed force." (Underscoring supplied) 29/

When the logic of the Pact of Paris is carried through it is at once evident that what the 63 nations agreed to in August 1928 was not merely the expression of a pious hope but was rather the formation of a new legal doctrine with far-reaching effects. This new concept of international law has been applied to specific situations which have occurred since its formulation. It will be observed that nations resorting to war as an instrument of national policy have not been accorded the "rights of belligerents."

The first crucial test ^{30/} came in September of 1931 when hostilities broke out between the armed forces of Japan and China in Manchuria. The United States Government cooperated with the Council of the League of Nations in efforts at conciliation. Notwithstanding these conciliatory efforts, Japan occupied all of Manchuria.

On January 7, 1932, the United States sent identical notes to China and Japan, declaring that:

"it cannot admit the legality of any situation de facto * * * and that it does not intend to recognize any situation, treaty, or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928, * * *." (Underscoring supplied) 31/

28/ Foreign Affairs, Special Supplement, Vol. 11, No. 1, (1932) p. IV.

29/ 33 American Journal of International Law, Supp. 819, 886, 888.

30/ Note that the border hostilities between the Soviet Union and China in 1929 were amicably settled upon the citation of the Pact of Paris and the League Statute. See Stimson, "The Pact of Paris: Three Years of Development," Foreign Affairs, Special Supplement to Vol. 11, No. 1 (1932).

31/ Peace and War. United States Foreign Policy, 1931-1941, Department of State, (1943) pp. 159, 160.

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On March 11, 1932, the Assembly of the League of Nations declared:

"that it is incumbent upon the members of the League of Nations not to recognize any situation, treaty or agreement which may be brought about by means contrary to the Covenant of the League of Nations or to the Pact of Paris."
(Underscoring supplied) 32/

The vital change that had been wrought by the Pact of Paris was underscored by Mr. Stimson in his address before the Council on Foreign Relations:

"Under the former concepts of international law when a conflict occurred, it was usually deemed the concern only of the parties to the conflict. The others could only exercise and express a strict neutrality alike towards the injured and the aggressor. If they took any action or even expressed an opinion, it was likely to be deemed a hostile act towards the nation against which it was directed. The direct individual interest which every nation has in preventing a war had not yet been fully realized, nor had that interest been given legal recognition. But now under the covenants of the Briand-Kellogg Pact such a conflict becomes a legal concern to everybody connected with the Treaty. All of the steps taken to enforce the treaty must be judged by this new situation. As was said by M. Briand, quoting the words of President Coolidge: 'An act of war in any part of the world is an act that injures the interests of my country.' The world has learned that great lesson and the execution of the Briand-Kellogg Treaty codified it." (Underscoring supplied) 33/

Thus, the Pact of Paris bore its first fruit and an illegal belligerent was deprived of one of its most important belligerent rights-- the right of conquest. Prior to the Pact it had been universally accepted that a belligerent may subjugate and annex conquered territory. 34/ Under the new doctrine the right of conquest does not exist if the conquering nation has lost its "belligerent rights" by engaging in an illegal war. This doctrine was applied not only to Manchuria, but also to Ethiopia, 35/ Austria, 36/ Czechoslovakia, 37/ and Albania. 38/

32/ Monthly Summary of League of Nations (1932) p. 100.

33/ Foreign Affairs, Special Supplement to Vol. 11, No. 1 (1932) p. VIII.

34/ See footnote 19.

35/ In 1935 when Italy invaded Ethiopia, the United States, in conformity with the doctrine of the Pact of Paris, refused to recognize the conquest of Ethiopia. Peace and War, United States Foreign Policy, 1931-1941, Department of State, 1943, p. 33.

36/ The United States has never recognized the absorption of Austria by Germany, and under the Moscow Declaration has expressly refused such recognition. Dept. of State Bulletin, Nov. 6, 1943, Vol. IX, p. 310.

37/ Press Release, State Dept., March 25, 1939, Vol. XX, No. 495, p. 221.

38/ Dept. of State Bulletin, June 3, 1944, Vol. X, p. 510.

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Another of the important "belligerent rights" is the right to require that countries not engaged in the war remain completely neutral.

Prior to the Pact of Paris when one nation declared war upon and invaded another nation the remaining nations of the world were faced with the choice of actually taking sides and becoming belligerents or maintaining a "neutral" status. However, since the Pact of Paris there can be no "neutral status" where war has been resorted to as an instrument of national policy. Neutrality, as such, applied only to a "belligerent" and a nation waging a war in contravention of the Pact of Paris is not a "belligerent" and consequently is not entitled to require other nations to remain neutral.

This doctrine has had practical application in the present war. Germany, having resorted to war as an instrument of national policy, has not been accorded its "belligerent right" to have all non-participating nations maintain a strict neutrality. On September 3, 1940, the President of the United States announced the exchange of fifty of our over-age destroyers for naval and air bases in the British Caribbean possessions.

Commenting on the legal significance of the transfer of destroyers to Great Britain at a time when she was engaged in a war, Quincy Wright made the following enlightening observations:

"It is believed that the various public declarations by the President and the Secretary of State that Germany and Italy are aggressors, that international law and the Pact of Paris have been violated, that acts of the violating states professing to change the status of occupied territories will not be recognized, and that forms of aid incompatible with a status of neutrality will be extended to the victims of aggression, are adequate to indicate that the United States is no longer a neutral from the point of view of international law.

* * *

"* * * the United States has a complete answer to any challenge to the propriety of the destroyer transaction under international law. The states of the world have generally recognized that Germany has initiated hostilities in violation of its international obligations under the Pact of Paris and other instruments. Consequently Germany is not a lawful belligerent, and parties to those instruments are not obliged under international law to observe towards Germany and her allies the duties of a neutral." 39/

39/ The Transfer of Destroyers to Great Britain, 34 A.J.I.L. 680, 688-689.

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Another marked departure from the conventional concept of neutrality may be found in the Lend-Lease legislation introduced on January 10, 1941, and approved by the President on March 11, 1941, which asserted the freedom of a non-belligerent to discriminate between the participants in foreign hostilities by favoring the lawful belligerent as against the aggressor nation in a manner which would have been clearly in violation of international law principles of neutrality as they existed prior to the Pact of Paris, but which are completely consistent with the new doctrine that an aggressor is deprived of its "belligerent rights."

The fact that the adoption of the Lend-Lease Bill constituted a radical departure from former concepts of neutrality was expressly recognized by Secretary of State Hull and Secretary of War Stimson, the House Committee on Foreign Affairs,^{40/} and the Senate Foreign Relations Committee.^{41/} Testifying before the House Committee on Foreign Affairs, Mr. Hull stated:

"The question presented is, therefore, whether in view of a universally recognized world movement of force based on determination to invade and to conquer and to subjugate, peaceful nations shall wait until the invaders cross their boundary line, still clinging to the forms and

^{40/} The House Committee on Foreign Affairs expressed the principle as follows:

"* * * Furthermore, the Kellogg-Briand Pact, which is a part of international law not only was intended to outlaw force as a means of resolving international disputes, but its violation has also been regarded by many distinguished international lawyers as giving any signatory the power:

"to decline to observe toward the State violating the Pact the duties prescribed by International Law, apart from the Pact, for a neutral in relation to a belligerent; and to Supply the State attacked with financial or material assistance, including munitions of war.* * *!" H. Rept. 18, 77th Cong., 1st sess., p. 5.

^{41/} The report of the Senate Foreign Relations Committee indicated unmistakably that that body appreciated the change in the legal relationship brought about by the Pact of Paris. The report states, in part:

"* * * In line with that doctrine, the Kellogg-Briand Pact is recognized by eminent scholars of international law to give any signatory the power, where the pact's provisions are violated by another nation, to cease to abide by the neutrality laws which govern in normal times, and to Supply the State attacked with financial or material assistance, including munitions of war; * * *!" (Underscoring supplied) S. Rept. 45, 77th Cong., 1st sess., p. 4.

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shadows of neutrality laws, or whether they shall recognize that this is a world movement of conquest without limit as to extent of territory and invoke the law of self-defense before it is too late to assert it successfully, as was the case with so many of those magnificent little countries in Europe. That is the question. We can take our choice. And in these circumstances, where we have a situation of an outlaw country moving straight at another country, there is no occasion to invoke neutrality. Only the law of self-defense can be invoked, from any practical viewpoint." (Underscoring supplied) ^{42/}

A more elaborate analysis of the problem was presented by Mr. Stimson who stated, before the same congressional committee:

"This country was one of the authors of one of the greatest changes in international law that has ever taken place when it was in 1926 and 1927 and 1928 the initiator of what has been called the Pact of Paris, or the Kellogg-Briand Pact."^{43/}

Then referring to the Association of International Law, which interpreted the significance of the Pact of Paris, Mr. Stimson continued:

"* * * I might say that the membership of that association is composed of the most distinguished international lawyers from all over the world; Americans, British, Frenchmen, Germans, Scandinavians, Italians, Japanese--all of them. And they considered what the effect would be of an attack in violation of the Kellogg Pact by one signatory upon another, and what effect it would have upon the rights and redresses of the other members of the great family of nations which had entered into that treaty under international law. And the conclusions which they reached are the most authoritative statement of international law on that subject which, so far as I know, has ever been published. And this is what they said, and I would like to have it on this record very carefully so that when our friends say that to help Great Britain at this time would be an act of war, I would like them to know that these great scholars and lawyers have said it would be under the Kellogg Pact." * * *

"Now, this is what they said and they were considering just that very question.

^{42/} Hearings before the House Committee on Foreign Affairs, 77th Cong., 1st sess., January 15, 1941, on H.R. 1776, p. 10.

^{43/} Id., p. 103.

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"Whereas the pact (the Pact of Paris) is a multi-lateral law-making treaty --"

"Making international law among these members, in other words.

"* * * whereby each of the high contracting parties makes binding agreements with each other and all of the other high contracting parties; and

"Whereas by their participation in the pact 63 States have abolished the conception of war as a legitimate means of exercising pressure on another state in the pursuit of national policy and have also renounced any recourse to armed force for the solution of international disputes or conflicts --

* * *

"4. In the event of a violation of the pact by a resort to armed force or war by one signatory state against another, the other states may, without thereby committing a breach of the pact or of any rule of international law do all or any of the following things --

* * *

"decline to observe toward the State violating the pact the duties prescribed by international law, apart from the pact, for a neutral in relation to a belligerent--'

"We are no longer bound by the rules." (Underscoring supplied) ///

The right of annexation and the duty of neutrality are merely examples of belligerent rights forfeited by a nation engaging in a war that is contrary to the provisions of the Pact of Paris. The effect of the Pact upon the activities of the United Nations during the occupation of Germany is equally as great. We need not be blind followers of ancient precedents in our treatment of the defeated aggressor. We are not required to give cognizance to legalistic arguments that this or that "right" of Germany is being violated. On the contrary, the United Nations are free to exercise their joint ingenuity in the formulation of a plan that will insure the world against any repetition of the Nazi outrages, and there will be no legal obstacles to overcome in order to execute the plan. Germany by attempting to dominate the whole earth has forfeited all "legal"

/// Hearings before the House Committee on Foreign Affairs, 77th Cong., 1st sess., Jan. 15, 1941, on H.R. 1776, pp. 103-104.

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rights and can only claim what will be freely accorded without request -- the observance of humane principles in the application of appropriate terms and punishments.^{45/}

^{45/} In view of the clear implication of the Pact of Paris and its previous application by this and other governments, it is unnecessary to develop other reasons why there can be no technical application of the Hague Conventions to the occupation of Germany. Briefly, some of the other reasons are:

(a) Should the United Nations choose to achieve their war aims by means of an armistice, a treaty or annexation -- all imposed upon Germany -- their powers would be unlimited. Since they can also choose to accomplish these aims through a military occupation, it would be illogical to confine such action within limits that would not exist if a different choice were made.

(b) The Hague Conventions are designed to apply to the type of warfare that was known in the nineteenth century and they cannot be applied logically and justly to "total warfare."

(c) The Hague Convention rules governing military occupation apply only to a precarious occupation while hostilities are in progress and the occupant is in imminent danger of being driven out of the occupied territory.

(d) All of the rules of the Hague Conventions are subject to exceptions in cases of military necessity. The prevention of further hostilities is as clear a military necessity as the successful completion of a military campaign.

(e) The United Nations are entitled to take reprisal measures against Germany because of Germany's violations of the Hague Conventions.

(f) Some of the belligerents are not bound by the Hague Conventions and, therefore, under the terms of the Conventions they do not apply to any of the belligerents.

(Initialed) J.J.O'C, Jr.

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German Policy

Pollock
Wittis

Jan. 26, 1945

Files

Mr. White

Colonel Bernstein

Joe Fisher at
 The following are some points in the recent communication I received from SHAEF which may be of interest to you or others on the staff:

1. Brig. Robbins, the chief Civil Affairs Officer at 21st Army Group, (British) seems to feel that if we remove or suspend in accordance with the financial program all the undesirable people in public or private financial institutions "chaos would ensue". Robbins also tried to argue with the support of Brig. Gen. Hando (U.S.) that even though we have been ordered to remove Nazis regardless of administrative convenience we should not remove Nazis if "operational necessity" makes it desirable to retain them. A British group at SHAEF is trying to get out an administrative memorandum covering the point of operational necessity (which to me is a device to dilute the program for de-Nazification.) I am hopeful that McSherry will knock down this idea. When I mentioned the point to Colonel Barstow of the War Department he was quite shocked at the attitude being shown in the field on the question of de-Nazification and said that someone would get a "hell of a kick" if they didn't carry on the de-Nazification program.

2. Attached is Exhibit A which contains some interesting information with respect to Luxembourg.

3. Attached is Exhibit B which contains comments on proposed cable covering exports from Germany.

4. Attached is Exhibit C which contains some comments by Brig. Heyman, one of the key British officers in G-3 SHAEF.

5. The British War Office seems to be interested in our feeling that the German municipalities do not exact tax laws which are "illegal" and some British are taking the view that under international law an occupied power can not increase taxes; that the German governmental authorities will be acting as our agencies, and that if such German authorities increase taxes, we will be guilty of violating international law.

6. Leon Henderson at a dinner given by Ambassador Gaffrey in Paris told the French that it was up to them and the Russians to take the strong policy vis-a-vis Germany; and that they could not count on the United States to take the lead but that they would obtain support from the United States on any strong policy they take.

7. Attached is Exhibit D which contains some comments by Smith regarding long range planning for Germany.

8. Attached is Exhibit E which contains comments re meeting at Luxembourg.

9. Attached is Exhibit F which contains comments by Major Konsbruck.

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JAN 19 1945 (Misc)

Outline of the
Economic Basis of Program for Germany

I.

Objectives

The single objective of policy towards Germany should be that of doing all that we can do now to prevent Germany from starting a third world war in the next generation. To accomplish this purpose Germany must be weakened politically, militarily and economically, as much as possible.

There are a number of major conditions which are necessary for fulfillment of this objective:

1. The provision of the strongest basis on which post-war collaboration among the nations of the world to preserve the peace can be established and developed.
2. Taking from Germany the arms she now has and her ability to make arms for as long a period as possible in the future.
3. Giving the greatest stimulus to the industrial and economic development of all the countries surrounding Germany.
4. Preventing German militarists, Nazis and war criminals from escaping to other countries from which they might continue to carry out their subversive attacks against democracy and peace-loving peoples and plan for a new war.
5. Providing the opportunity to the Germans to attain a better life for themselves commensurate with the extent to which they earn their way back into the peaceful family of nations.

II.

Elimination of Heavy Industry

The central feature of a program which will fulfill to the maximum extent the indispensable conditions of an adequate post-war program for Germany is the elimination of German heavy industry.

- a. The metallurgical, chemical, and electrical industries, the heart of German war-making power, should be eliminated. Domestic production of the primary war materials, iron and steel, should be stopped and all civil needs met from imports. The machine tool industry, the

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seed from which armament industries grow, should be eliminated. Likewise to be banned is the versatile chemical industry with which Germany has stultified economic blockade measures by fixing nitrogen, producing synthetic rubber and oil and which carries the potential threat of poison gas warfare. The electrical machinery industry is the basis without which the necessary expansion of electric power facilities for war production cannot take place. The absence of this industry from Germany and her dependence on imports would make effective control possible.

b. Preparation for war begins in laboratories. No German research work in metallurgy, chemistry, physics (and perhaps even biology) should be permitted.

c. German preparations for war through the preservation and training of experts abroad and through the building and maintenance of shadow factories outside of Germany should not be tolerated.

d. The Ruhr is a special problem. The bulk of German heavy industry is located in the Ruhr. Since this area is small, though thickly populated, and is on the border of Germany it becomes possible to separate it from Germany and place it under some form of international control.

The heavy industry in the Ruhr should be removed whatever the form of international control over this zone.

The basis of heavy industry in the Ruhr is the existence of the richest coal deposits in Europe. As long as the coal is present the basic condition for the re-emergence of heavy industry remains. It may be desirable to permit the coal mines to continue to operate in order to supply the rest of Europe with a basic raw material. This represents a danger but this danger may not be avoidable. If the internationalization of the Ruhr is carried out in such a way as to maximize the possibility that the area will not be returned to Germany the continuation of coal production would not be serious.

III.

Restitution and Reparations

The second principal part of the program is immediate recompense as far as possible for losses suffered by the victims of German aggression in this war. As a corollary, there would be no program

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		Box	84

#195

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requiring Germany to pay recurrent reparations over a long period of time. Such reparations can only result in reconstructing German industry and recreating the dependence of the rest of Europe upon German industry. In the immediate post-war period, however, recurring reparations might be levied for a few years in coal and surplus food crops to assist in the relief and rehabilitation of the liberated countries.

Post-war collaboration is, to a considerable degree, dependent upon adequate restitution to the victims of German aggression. Immediate restitution will weaken Germany industrially and at the same time it will give greater strength to the neighbors of Germany and provide them with the basis on which they can develop their own industrial and economic power strengthening their security and thus providing a basis for international collaboration.

Restitution for the damage caused by Germany in the occupied countries would consist of the following:

1. Cession of German border regions to Poland, U.S.S.R., France, Netherlands, Belgium, Denmark, and perhaps Czechoslovakia. The German populations living in these areas should be removed to the New Germany if either (a) the Germans wish to be moved, or (b) if the government obtaining the land wishes that they be moved.
2. The restitution of property which was looted by Germany from the areas she occupied, whether such loot was acquired by ostensible "legal" purchase or by plain theft.
3. Transfer of equipment, machinery, installations and any other assets from heavy industry in Germany to the liberated areas of Europe which lay claim to such assets.
4. Indirect restitution will accrue to U.K., U.S. and the Western countries of Europe by the elimination of German industrial competition in the post-war period. The expanded industrial capacity of the United Nations will be far more than adequate to replace Germany's potential exports of manufactured goods to the rest of the world.
5. The privilege of using German labor for reconstruction in the difficult post-war period should not be denied to any of the liberated areas wishing to use it.

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RG 56
 Entry 69A4707
 File POLICY TOWARD
VOE. E (HON) #95
 Box 84

TO: Mr. White
 FROM: Mr. Pehle

I am somewhat troubled about the Treasury's program on Germany. As far as it goes I agree with it, but it seems to me it stops short of a complete program.

As nearly as I can put my finger on it, the missing element is this: We have carefully constructed a program designed to keep the German people down - to make Germany a second or third rate power politically and industrially - and there we stop.

It seems to me that we cannot stop there. Since we do not subscribe to theories involving blood taint, we cannot ignore the problem of the millions of Germans who will be born in the next 15 years and who cannot be said to be guilty of any anti-social action. We cannot put ourselves in a position where someone can honestly think our program is based on retribution. Nor can we ignore the dangers of a situation in which an embittered German population deprived of its former goals and ambitions has nothing to contemplate for the future except complete frustration. There must be developed alternative goals as well as the prospect of rejoining the society of nations if Germany behaves and if the member nations consent.

It seems to me that a program can be designed which Germany can follow - if she is so inclined - and which will let her live in peace and in some measure of prosperity.

On this score our present program seems to me to be entirely negative. It should be augmented by a carefully constructed plan for the rehabilitation of Germany after she has been largely stripped of industry. This rehabilitation should take place over a long period of time and should be so designed as to avoid any possibility of Germany becoming so industrially and politically strong as to menace the peace of the world in the next 25 years.

For example on the question of partitioning I think it might be very well to hold out the hope to Germany that, at the end of a 25-year period, with the permission of the World Security Organization and if approved by the majority of the German population in the various partitioned areas, these areas may again unite as one country. Further, I think it should be made clear that Germany has a chance, conditional on good behavior for 25 years and the vote of the members to join the World Security Organization.

On the question of the feeling of the German population, if we are going to strip Germany of industry and accordingly the where-with-all to purchase from abroad, I think we might as well plan to use some of the food surpluses that apparently are going to plague the world to feed the German population until they can make the necessary adjustments toward a new economy. During this period of readjustment encouragement should be given to migration, particularly of skilled workers to other areas whose industries are being expanded, such as Poland, France, etc.

Pehle - 1 - 26

207088

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Authority NND 978025By SR NARA Date 1-7-00

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As a further small example of what I have in mind, our program emphasizes that the higher institutions of learning in Germany shall be closed and will have to remain closed for a long time. I agree with this, but I feel that our program should call for the reopening, as soon as possible, of the German medical schools so that the contribution which Germany has to offer in this field, which can be substantial, will not be lost to the world and Germany will be in a position to continue to be proud of the contribution which she is able to make. I also believe that our program ought to make it clear that Germans who have not been thoroughly indoctrinated with the Nazi philosophy because of their age will be encouraged and helped in continuing their education outside Germany until Germany schools can assume this burden. I am not impressed with the argument that it is dangerous to send Germans outside Germany for education since this will result in the spread of Nazi doctrines.

As a final point, I am not convinced that it wouldn't be more advisable to leave the Ruhr area in Germany under an international trusteeship than to separate this area from Germany in an international zone. I should think that such a trusteeship ought to have definite limitations as to its responsibilities and that the feeding of the unemployed population be left to the German authorities.

I should also add that I think we should avoid over-emphasizing the point that Hitler and the other Nazi ringleaders are put to death. Any disproportionate insistence on this item is likely to be misunderstood and to make the reader feel that we think the punishment of selected war criminals is an all-important end in itself. To me this tends to emphasize the philosophy of those who are inclined to blame Germany's difficulties on a relatively small group instead of dealing with the whole problem of an entire people who through environment as well as temperament constitute a potential recurring menace.

In short, I wonder whether without compromising at all on the objectives of obtaining a permanently demilitarized Germany, we cannot follow through and suggest a program which will permit of some hope in Germany for a chance to participate in the affairs of the world on a fair basis.

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Authority NND 978025By SR NARA Date 1-7-00

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Entry 69A4707File POLICY TOWARDBox 84

#95

DRAFT

FUTURE OF GERMAN PEOPLE UNDER THE PROGRAM RECOMMENDED

1. In considering any post-surrender program for Germany the following fundamental points must be borne in mind:

(a) The welfare of two billion people is at stake in any program designed to prevent Germany from again plunging the world into war. Only three out of every hundred live in Germany. As a result of this war alone, Germany will be responsible for the death of nearly as many, if not more, human beings than are living within her borders. The life and happiness of many times more, hundreds of millions, has been gravely affected. And the death, horror and destruction of this war is small compared with what might happen in another war twenty-five years from now. Accordingly, however "tough" any program may seem vis-a-vis Germany, the more effective it is in preventing World War III, the more humanitarian it will be.

(b) Regardless of the nature of the post-surrender program which may be adopted for Germany, the German people will have a hard time getting along for several years after the war. The very fact of decisive military defeat will result inevitably in intense suffering in the period immediately following surrender. There will be the humiliation of defeat and the collapse of hopes for world conquest. There will be disillusionment with respect to the theory of racial superiority and German invincibility, with which the German people were so thoroughly indoctrinated. Politically, there will be an interregnum of confusion after the abolition of the old order and before development of the new. Economically, there will be a substantial drop in the standard of living - there will be large scale unemployment and severe inflation. Finally, the huge sacrifices that

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the Germans were willing to make in dead and wounded, for victory, will weigh heavily upon them in defeat.

(c) It will not only be the German people who will have a hard time in the transition period - all the people in Europe will have a hard time as a consequence of the war which Germany brought on the world. Our concern must obviously first be directed to the well-being of the people in the liberated countries. The Germans, who have enjoyed fat years at the direct expense of the other European countries, will now have to face the lean years when these other European countries will be given priority on the limited supply of consumer commodities. It is obviously only fair that the needs of the countries despoiled and starved by their German conquerors should have first choice on whatever supplies are available.

In summary, in the transition period, the German people will have to bear the inevitable consequences of their own acts and their welfare must be subordinated, first, to whatever is necessary to prevent another war and, second, to the welfare of the people in the countries which Germany has devastated. This will mean a hard struggle for several years after the war. It offers, however, real hope for the future.

2. Under the program which has been recommended it is recognized that the German people may have a harder time in the transition period than under some other program which might be adopted. From a long range point of view, however, under the recommended program the German people will be able to live on an economic level equal to or better than that enjoyed by most other European nations. This statement is based on the following considerations:

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(a) In the last pre-war year, 1938, aggregate consumption of the German people was higher than in 1929, the most prosperous year in the inter-war period. Few other nations of the world had then consumption patterns in excess of those of Germany. Consumption of the German people in the pre-war period was hence so high that even a sharp decline would not reduce it below a level consistent with the requirements of healthy living.

(b) The high level of consumption in 1938 was achieved although at least one third of the German national income went into the preparation of war. Since Germany will henceforth not have any armament expenditures, she could sustain a drop in national income to two thirds of the 1938 level and still maintain the high 1938 consumption level; and she would still have a tolerable standard of living even if the national income fell as low as 50 percent of the 1938 level.

(c) The dismemberment of Germany, the destruction of the Ruhr and armament industries and the detachment of territories in the East, North and West, would lead to a serious decline in the national income which the two new German states and the International Zone achieved together in 1938. The dismemberment would disrupt certain industries which had been adjusted to each other for many years, and productivity in these industries would hence decline. Because of destruction of the whole Ruhr industry and the armament industry throughout Germany, the level of unemployment would be high for a number of years, which would further reduce the national income. On the other hand, the three states would be completely freed from the armament burden which they carried before 1939 and no reparations would be imposed upon them. The total volume of goods and services that would be available for consumption purposes may be for some time considerably lower than

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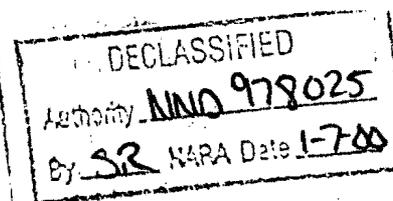
- 4 -

it was in 1938, but it would under no circumstances fall to a level which would not permit the German people a tolerable standard of living. After years of adjustment and reorientation, after redistribution of the population and re-agrarianization of the three states, consumption might approach again the high level of the pre-war period.

(d) It may reasonably be anticipated that after a period of adjustment the standard of living in the South German State (which will gain considerably by the Customs Union with Austria) and in the North German State will at least be as high as that of most of the countries of Europe. By encouraging the people, and their families, within the International Zone having special skills or technical training to migrate during the transition period, this area should be able to enjoy a fairly high level of consumption.

In conclusion, once a transition period of five or ten years after the war has passed, there is no reason why under the program recommended the recognized ingenuity and ability of the German people will not enable them to so adjust themselves that the German people as a whole will be able to enjoy a fuller life than they have enjoyed in the past. Once the German people realize that making their aim in life the conquest of other peoples is futile, the sooner the German people will be able to devote themselves to making a better life for themselves and the rest of the world.

207093



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Entry	<u>69A4707</u>
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#95

*Germany -
Postwar treatment*

January 10, 1945

(misc)

Memorandum for the Files

Subject: Policy Towards Germany (Minutes of Meeting with Col. Bernstein, January 10, 1945).

1. It was suggested that Friedman prepare a memorandum on the legal basis for the punishment of war criminals based on the Kellogg Pact, demonstrating that Germany's making war was of itself a crime. Participation in preparation for the war then becomes participation in a conspiracy to commit a crime. The question whether certain Germans should be punished for crimes committed by Germans against Germans in Germany comes within this general conspiracy of preparation for aggressive war.

2. Recruitment of labor battalions should be disassociated from the question of punishment of war crimes. It is understood that the Germans will have to provide a certain number of men in labor battalions to rebuild devastated areas. As an administrative measure to get the necessary labor for these labor battalions, certain groups of Germans should provide the man power. These groups should include the officer corps, Nazi Party members, etc. Prisoners of war should not be used to form labor battalions. Prisoners of war should be demobilized first. If they fall within the given groups, which for administrative convenience are drawn on to provide labor, they should then be taken into the labor battalions.

3. In regard to property of Germans taken away by Germans in Germany, the solution is first to take away the property from the Nazis and those who profited from Nazism. This property should then be held in abeyance for ultimate decision as to who shall get it - the original owners, the liberated governments, or others.

Andrew M. Kamarck

cc: Mr. Glasser-Mrs. Gold, Col. Bernstein, Mr. DuBois, Mr. Luxford, Mr. Hynning, Mr. Friedman.

AMK:lrm, 1/12/45

207094

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Authority NND 978025
By SR NARA Date 10-15-99

RG 50
Entry 69A4707
File CONM - GOLD LOOT
HOODINGS + TRANS
Box 80

Ret. To Ward Wellens
- 5418

COPY

INCOMING TELEGRAM

CONFIDENTIAL

Control 3889

Rec'd February 13, 1947
11:52 a.m.

FROM: Berlin
TO: Secretary of State

NO: 265, February 13, 4 p.m.

MURTEL 283, (451 to Paris, 98 Lisbon, 131 Bern, 142 Brussels, 584 London) Feb 5. External US Assets Branch ONOUS has made following comments.

*Cable states that only half of negligence can be laid to Dutch for failure to furnish information on looted gold and to French who failed to follow-up lead obtained from Reichsbank records and that information just came to attention US and UK when reviewing French records. We feel it advisable to point out that such representations to France or Dutch may have embarrassing repercussions in view of following facts. Dutch furnished complete and detailed schedules of gold removed by Germany which schedules were available in Frankfurt prior to Swiss negotiations, together with records of Reichsbank sufficient to establish that major portion of Dutch gold was sent to Switzerland.

US personnel assigned to study of looted gold under Division of Investigation of Cartels and External Assets returned to US about Dec 1945 at time of abolition of DICHA. It was assumed that they had completed reports based upon records in their possession and their failure to prepare report on Dutch gold came to attention of Finance Division only after Swiss accord was signed. It is noted that Curtis member of gold studies team attended meeting of committee on gold on 26 Mar 1946 at which meeting Swiss were informed that according to information found in Germany there possibility that all of gold received by Switzerland from Germany was looted and that minimum of \$200,000,000 was involved, and estimate exceeding by about \$70,000,000 all Belgian gold sent to Switzerland. In as much as Vaidie was also present

at this end

cc: Dickson, Robt. Schwartz, McNeill and Curtis

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By SR NARA Date 10-15-99

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File GERM - GOLD LOOT
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Box 80

*File to Trans. Section
5418*

CONFIDENTIAL

-3- 9365, February 13, 4 p.m., from Berlin

at this and other meetings French may contend not only that US was advised of other than Belgian gold sent to Switzerland but also information available only to US was withheld. Records of Prussian mint recently obtained from Soviet zone served only to verify and supplement records held in Frankfurt since 1945.

Renewed Dutch interest anticipated following publicity recently given to matter in press and instructions are therefore sought as to attitude to be taken with respect to any Dutch request for information.

Reported Paris 54, Lisbon 4, Bern 21, Brussels for Dorr 10 and London 78.

MICRO

DUMS

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 By SR NARA Date 10-16-99

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MISCELLANEOUS FILE

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Authority 978025

By TJ NARA Date 9/28/99

KU 26

Entry 69A4707

File GERM: GOLD/LOOTED HOLDING + TRANSFER

Box 80

REFERENCE:

GERMAN GOLD

PRUSSIAN MINT RECORDS

SWITZERLAND: WARTIME ACTIVITIES OF THE BIS

BIS: LOOTED GOLD

DECLASSIFIED
 Authority 978025
 By TJ NARA Date 9/28/99

KU 06
 Entry 69A4707
 File GERM: GOLD LOOTED
HOLDING + TRANSFER
 Box 80

Genevieve
 Germ: Looted Gold -

June 3, 1946

Mr. Ullman

Mr. Curtis

In accordance with our recent conversation I have assisted Mrs. Jenkins in setting up the following central files:

✓ Germany: Gold, Currency, and Loot Recoveries - Discovery and Accounting

Germany Testimony
 History of Search
 Shipments to Frankfurt
 Subsequent Inventory

✓ Germany: Gold, Currency, and Loot Recoveries - Newspaper Clippings

✓ Germany: Gold, Currency, and Loot Recoveries - Non-Bbk. Caches and "Closed"

Depots
 Miscellaneous
 Helmer Deliveries (S. S. Loot)

✓ Germany: Gold, Currency, and Loot Recoveries - Problem of Disposition

Miscellaneous
 Gold
 Currency

✓ Germany: Gold Records Found and Research Thereon

Pre-Magdeburg Studies
 Records Found Magdeburg
 Post-Magdeburg Research
 Prussian Mint Records

✓ Germany: Gold Recovered - Origin and Claims, by Countries

Belgium and Luxembourg
 Czechoslovakia
 Italy (incl. Albania and Yugoslavia)

✓ Germany: Gold - Testimony of Emil Puhl

I have placed therein all the relevant materials which I had brought back from Germany, and have also added my file of Puhl interrogations on various subjects (except the B. I. S.) under the category "Germany: Interrogations".

Duc
 DWG:edt 6/3/46 *MW*

207099

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By SR NARA Date 10-16-99

RG 56
Entry 69A4707
File
Box 80

GERMANY Gold, Currency and Loot
Recovery Problem of Disposition

*Germany - Gold, Currency - Loot Recoveries
(Problem of Disposition)*

THE UNDER SECRETARY OF THE TREASURY

WASHINGTON 25

(Under Currency)



not sent

Dear Mr. Secretary:

This is to acknowledge your letter of June 11, 1945, relative to French participation in an examination of the gold and other valuables found in the German salt mine and now under the control of the United States Army Forces.

The information has been forwarded to our Paris representative for transmittal to the French authorities.

Sincerely yours,

Under Secretary of the Treasury

Honorable Henry L. Stimson,
Secretary of War.

DECLASSIFIED
Authority <u>NND 978025</u>
By <u>SR</u> NARA Date <u>10-15-99</u>

RG 56
 Entry 69A4707
 File GERMANY - Gold, Currency, and Loot Recoveries - Problem of Disposition
 Box 811

France: Minister's List

WAR DEPARTMENT
 WASHINGTON

JUN 11 1945

The Honorable

The Secretary of Treasury

Dear Mr. Secretary:

Further reference is made to your letter of 10 May 1945 concerning the desire of the Minister of Finance of the French Provisional Government for French participation in an examination of the gold and other valuables found in a German salt mine and now under the control of United States Army Forces.

A cable has been received from General Eisenhower approving the dispatch of a party of three American and two British experts to assist in the examination of the treasure. He further states that he considers this party will be sufficient to meet his need for assistance and requests that no inspection by other nations be permitted until that party has finished its inventory and appraisal and the policy for the disposal of the treasure has been determined.

In view of the expressed views of General Eisenhower, with which I am in accord, the French request should be denied for the present.

Neither the theater commander nor the War Department has been advised of the official policy of the United States Government concerning the disposal of the treasure. Therefore, the matter is being considered by the Informal Policy Committee on Germany. //

Sincerely yours,

Henry L. Stimson

Secretary of War

207101

DECLASSIFIED
Authority NND 978025
By SR NARA Date 10-16-99

RG 56
Entry 69A4707
File GERMANY - Gold, Currency, and Lost
Recoveries - Problem of Disposition
Box 80

NO PARAPHRASE NECESSARY
RESTRICTED

DC/L
LIAISON

Berlin via War
Dated January 8, 1946
Rec'd 5 p.m.

Secretary of State
Washington

59, January 8, 6 p.m.

Finance Division advises that General Clay has informed General Sokolovaky, in response to the latter's request, that he is prepared to turn over to the Soviet military authorities 801 sacks of rubles (un-counted) held in the vaults of the Reichsbank, Frankfurt. The Russians have been requested to send the personnel necessary to effect the transfer which will include opening and inspection of the contents of the sacks in presence of American authorities to make sure that the contents consist entirely of rubles. The rubles in question were uncovered by American occupying forces in Thuringia. One important consideration in this decision was the fact that rubles are not convertible into foreign currencies.

MURPHY

SW
RESTRICTED

cc: 1/15/46 Glasser, Miss Montgomery (3), Schmidt (3), Ullmann, Willis, E. Hebbard.

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Authority NND 978025
By SR NARA Date 10-15-99

RG 56
Entry 694677
File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
Box 80

in Property

X

Treasury Department
Division of Monetary Research

Date January 16, 1946

Berlin via War

Dated January 8, 1946

Rec'd 5 p.m.

To:

From:

For Action

General Clay has advised Soviet military authorities that he is prepared to turn over 801 sacks of rubles uncovered by American forces in Thuringia and held in vaults of Reichsbank, Frankfurt.

Action: Mr. Ullmann

General Clay has informed General [unclear]'s request, that he is prepared to [unclear] authorities 801 sacks of rubles (un- [unclear] Reichsbank, Frankfurt. The Russians [unclear] personnel necessary to effect the trans- [unclear] inspection of the contents of the

sacks in presence of American authorities to make sure that the contents consist entirely of rubles. The rubles in question were uncovered by American occupying forces in Thuringia. One important consideration in this decision was the fact that rubles are not convertible into foreign currencies.

MURPHY

SW

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cc: 1/15/46 Glasser, Miss Montgomery (3), Schmidt (3), Ullmann, Willis, E. Hebbard.

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Authority NND 978025
By SR NARA Date 10-15-99

RG 56
Entry 6A4577
File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
Box 80

German *1-Currency* *A. Recovery*
Distribution

COPY

March 12, 1947

MEMORANDUM FOR THE FILES

There has just come to my attention cable No. 365 of February 13, 1947, from Berlin, transmitting comments from External Assets Branch of OMBUS concerning the Dutch gold problem.

The cable indicates that the blame for not having raised the problem of looted Dutch gold during the course of the Swiss negotiations should be placed on the DICEA group which investigated the gold problem in Germany. The cable refers specifically to Donald Curtis who is now employed in the Division of Monetary Research.

This cable is obviously based on complete ignorance or distortion of the facts. I participated actively in all phases of the Swiss negotiations in Washington and particularly the part relating to looted gold. During the course of the negotiations I discussed with Mr. Curtis the problem of looted gold and the investigation carried on in Germany. Mr. Curtis made it clear at all times that investigations of the looted gold problem had not been completed in Germany and that it was quite probable that the Germans had looted a great deal of gold from the Dutch and other countries. For some time during the course of the negotiations the Allied negotiators attempted to get settlement from the Swiss upon the basis of a so-called global approach, i.e., an estimate of the total amount of gold looted by the Germans from all European countries, based upon a comparison of the amount of legitimate gold in the hands of the Germans at the beginning of the war with the much larger amount actually disposed of by the Germans. Several of the American delegation, including myself and Mr. Curtis, strongly and continuously urged that settlement be made with the Swiss only on this overall basis. We were finally overruled by the principal Allied negotiators who decided to confine their claim to the amount of looted Belgian gold. When this decision was made several of us, including Mr. Curtis, strongly urged that the agreement contain a clause which would enable us to make further claim against the Swiss in the event of the after-discovery of specific proof of gold looted from other countries, including the Dutch. Again we were overruled by the principal Allied negotiators who insisted on waiving all claims against the Swiss for looted gold received from the Germans in exchange for a partial settlement for the Belgian gold.

In view of the foregoing, it is quite obvious that no blame for failure to leave open the possibility of a claim against the Swiss for looted Dutch gold can be placed on Mr. Curtis or any other member of the DICEA group which investigated the gold situation in Germany.

I have written the above memorandum in view of the unwarranted attack on Mr. Curtis which appears in the above-mentioned cable.

J. B. Friedman

JBF:fls 3/18/47

cc: Messrs. Overby, Glasser, Schmidt, Richards, Locker, Willis-Curtis, Mann

DECLASSIFIED
 Authority 978025
 By TJ NARA Date 9/28/99

RG 56
 Entry 69 A4707
 File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
 Box 80

Germany: Restituted Property

PARAPHRASE OF TELEGRAM SENT

FROM: Secretary of State, Washington
 TO: U. S. Political Advisor, Berlin
 DATED: August 18, 1945
 NUMBER: 294

SECRET

The following message is personal from the Secretary for the information of Panley.

Regarding the recommendations which are contained in your cable of August 5 (sent from Berlin via War) to the effect that the United States retain a lien on gold looted from occupied countries in Europe by Germany until prospective and past claims of the United States against such nations have been settled, I have consulted with the President, the Secretary of the Treasury and with others. In addition I have noted that your cable dated August 13 (No. 2881 from Moscow) renews in somewhat different form this recommendation on looted gold and includes a recommendation for imposing similar conditions upon the restitution of securities which have been looted.

In the light of the factors stated below we have given much thought and careful study to this problem:

(a) No moral or legal basis is in possession of the United States for laying claim to or attaching this gold or any other gold belonging to foreign nations in settlement of past debts or prospective ones.

(b) By its adherences, given without reservation, to the United Nations' declaration respecting Axis acts of dispossession of January 5, 1943 the United States is bound; also by the gold declaration of February 22, 1944; resolution VI of the Conference on Problems of War and Peace held at Mexico City; and Bretton Woods resolution VI. The United States is solemnly pledged to support the restitution of looted property in these declarations, which were sponsored by the United States and to which the signatures of other nations were invited by the United States.

cc: 8/27/45 Messrs. Glasser, Gunter, Mikosell, Brons (3), L. Hubbard

207105

DECLASSIFIED
 AUTHORITY 978025
 BY TJ NARA Date 9/28/99

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 File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
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(c) An effort by the United States to lay claim to gold which belongs to nations with which it maintains friendly relations would prejudice those relations to a serious extent. In view of the fact that the United States now owns the major share of the world stock of monetary gold, this is especially true.

For this reason, the position of the United States which should be expressed by you in your dealings with your associates on the Allied Commission on Reparations is that gold which the United States forces captured as well as gold which other Allied forces captured should in principle be restored to the nations from which it was looted without encumbrance, condition or reservation. However, this Government recognizes that German disposition of some looted gold and the impossibility of identification of the origin of other gold require a modification of the simple principle of restitution of looted objects which can be identified to the jurisdiction from which they were removed by Germany, for the sake of equity. The contents of paragraph 10 of the Reparations section of the Berlin Protocol and the necessity for such modification as that indicated above have resulted in the advocacy by the United States of the policy of pooling into a common pot all gold found by Allied troops (French, Russian, British, American) in Austria and Germany. Then this gold would be divided between nations which can establish the fact that gold was looted by the Germans from their jurisdiction, other than the USSR, in proportion to their losses which have been established.

In a similar manner this Government is committed to a policy of restitution of securities looted from occupied countries of Europe by the Germans without encumbrance, condition or reservation. An equitable principle of distribution must be devised among the United States, France, Russia and the United Kingdom, to the extent that the jurisdiction from which some securities have been removed cannot be established, in order to achieve rough justice in the division, among the countries from which they were looted, of these securities.

The United States Government is anxious that at the earliest possible date steps should be taken for the restoration of securities and gold as well as other types of property to the countries from which Germany removed them. Information from you as to whether you consider it likely that negotiations with your associates on the Allied Commission on Reparations are apt to lead to agreement on procedure and principles at an early date, would be appreciated by me. You are authorized, if so, to propose to your associates a formulation of the gold-pot policy and of the principle of restitution of securities above described. Certain aspects of the gold-pot policy on

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Robert R. Anderson

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which agreement would have to be reached are being given consideration by the Department, namely: (1) the compass of the treasure to be included in the pot, for example, whether accumulations of precious metals from concentration camps by the SS, monetary silver, etc., should be lumped in with monetary gold; (2) Italy's and Austria's eligibility and the eligibility of satellites as claimants on the gold-pot, and whether their treatment should be the same as the treatment accorded countries liberated; (3) the manner of recovering looted gold which was sold illegally by Germany during the course of the war and whether there should be added to the pot recoveries of such gold. The Department will communicate its opinions on these points to you if you believe that the Reparations Commission can usefully attempt to deal with this question.

However, I am fully aware of the difficulties which confront you and if, in view of the position of Russia reported in your cable No. 2551, you do not feel that the Reparations Commission will be able to dispose of the problem of restitution of securities and gold it is requested that you let me know so that we may examine into the possibility of settling these matters through other channels of negotiation with the occupying powers or by unilateral settlement for the zone of occupation of the United States.

The foregoing message which was sent as No. 294 to USPOLAD in Berlin, has been repeated as No. 6974 to London for Clayton, and as No. 3879 to Paris.

BYRNES

VN:GPKindleberger:ST

Paraphrased:

DC/L:LOW:MMH

8/23/45 (Initialled) LOW

207107

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 Authority 978025
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8/17/45

Proposed Reply to Ambassador Pauley's Cable Concerning Disposition of German Gold.

Careful consideration has been given to your suggestion concerning the disposition of the gold captured in Germany by the U.S. Armed Forces. It is the view of this Government that final decision concerning the disposition of this gold should be postponed until the Control Council has agreed to appropriate measures for the mobilization and disposition of German-owned external assets in accordance with the decisions taken at Potsdam on this subject. In the meantime, the U.S. Armed Forces should maintain custody of the German gold.

It is our view that postponement of the ultimate decision concerning the gold and the continuance of American custody will have the advantages which your suggestion seeks to achieve without arousing the inevitable controversy with our Allies which the assertion of a lien would produce.

JFR:edman:fls
 8/17/45

207108

DECLASSIFIED
 Authority 978025
 By TJ NARA Date 9/28/99

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German: Looted Property

SECRET

USPOLAD

BERLIN

PERSONAL FOR PAULEY FROM THE SECRETARY

I have consulted the President, the Secretary of the Treasury and Mr. Crowley of FEA in regard to the recommendation contained in your telegram of August 5 (from Berlin via War) that the United States retain a lien on gold looted by Germany from occupied countries in Europe until past and prospective claims of the United States against such countries are settled. I have also noted that your telegram of August 13 (No. 3891 from Moscow) renews this recommendation on looted gold and includes a recommendation for imposing similar conditions on the restitution of looted securities.

It is the view of the President, my view, and that of Judge Vinson and Mr. Crowley that this government cannot adopt your recommendations. The considerations on which this view is based are as follows:

- (a) The United States has no moral or legal basis for laying claim to or attaching this or any other gold belonging to foreign countries in settlement of past or prospective debts;
- (b) The United States is bound by its adherences, given without reservation, to the United Nations' declaration with respect to Axis acts of dispossession of January 6, 1943; the gold declaration of February 22, 1944; Bretton Woods resolution VI; and resolution six of the Conference on Problems of War and Peace held

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at Mexico City. In these declarations, which were sponsored by the United States and to which the United States invited the signatures of other nations, the United States is solemnly pledged to support the resitution of looted property;

(c) An attempt by the United States to lay claim to gold belonging to countries with which it maintains friendly relations would seriously prejudice those relations. Particularly is this the case since the United States now owns the greater share of the world stock of monetary gold.

The position of the United States, which you should express in your dealings with your colleagues on the Allied Commission on Reparations, is that gold captured by US forces, as well as gold captured by other Allied forces, should in principle be restored to the countries from which it was looted without reservation, condition, or encumbrance. This Government recognizes, however, that German disposition of some looted gold, and the impossibility of identifying the origin of other gold, require for the sake of equity a modification of the simple principle of restitution of identifiable looted objects to the jurisdiction from which they were removed by Germany. The necessity for such modification and the content of paragraph 10 of the Reparations section of the Berlin Protocol have resulted in the advocacy by the United States of the policy of pooling all gold found in Germany and Austria by Allied troops (British, American, French and Soviet) into a common pot. This gold would then be divided among countries which can establish the fact of

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German looting of gold from their jurisdiction, other than USSR, in proportion to their established losses.

This Government is similarly committed to a policy of restitution of securities looted by Germany from occupied countries of Europe, without reservation, condition or encumbrance. To the extent that the jurisdiction from which some securities have been removed cannot be established, an equitable principle of distribution must be devised among the UK, USSR, US and France to achieve rough justice in dividing these securities among the countries from which they were looted.

This Government is anxious that steps should be taken at the earliest possible date to restore gold and securities, as well as other types of property, to the countries from which they were removed by Germany. I would appreciate learning from you whether you consider it likely that negotiations with your colleagues on the Allied Commission on Reparations are likely to lead to early agreement on principles and procedure. If so, you are authorized to propose to your colleagues a formulation of the gold-pot policy and of the principle of restitution of securities described above. The Department is considering certain aspects of the gold-pot policy on which agreement would have to be reached: (1) the scope of the treasure to be included in the pot, eg. whether SS accumulations of precious metals from concentration camps, monetary silver, etc. should be lumped with monetary gold; (2) the eligibility of Austria, Italy and the satellites as claimants on the gold pot, and whether their treatment should

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DECLASSIFIED
 Authority NND 978025
 By TJ NARA Date 9/28/99

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be identical with that of liberated countries; (3) how looted gold which Germany illegally sold during the course of the war should be recovered and whether recoveries of such gold should be added to the pot. If you consider that the Reparations Commission can usefully attempt to deal with this problem, the Department will communicate its views on these points to you.

If, however, you do not believe that the Reparations Commission will be able to dispose of the question of restitution of gold and securities please advise me directly so that the Department can undertake to have these matters settled either in ACC, in other negotiations with the occupying powers, or by unilateral settlement for the US zone of occupation.

Sent to USPOLAD, BERLIN as _____, repeated to London for Clayton as _____, repeated to Paris as _____.

CODE ROOM: Please repeat to London for Clayton and to Paris.

FN:CPKindleberger:ST 8/15/45 RS OFD AC WE
 ECR A-D S

Cleared with Treasury _____ Cleared with FEA _____

207112

DECLASSIFIED
 Authority 978025
 By TJ NARA Date 9/28/99

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Paraphrase of Incoming Telegram

To: The Secretary of State
 From: Ambassador Pauley - Moscow
 Dated: August 13, 1945
 Number: 2861

M. Jacques Rueff, the French representative, has not accepted the Berlin Protocol officially, and has reservations concerning French participation in Moscow conferences. He states that the French must know what they are to receive in the way of reparations before they can agree to the Potsdam decisions. I have made it clear that this matter is still one of negotiation among the British, French, American and other representatives of nations claiming a share of reparations from the three western zones of occupation, and that France like the U.K. and U.S. would enter the negotiations without previous commitments or understandings. M. Rueff is also very desirous to have definitions of restitution agreed by us. Since my view has always been that the scope of restitution should be settled in the Commission on Reparations, I have put forward a definition as a basis for negotiation. The draft introduced was that last prepared by Mr. Clayton, modified to take account of the points raised by DEPT's telegram 1770 of August 8. The representative of the USSR was unwilling to discuss the subject, and stated that while he would refer the matter to his government, in his view restitution would be better handled by discussions outside the Reparations Commission. M. Jacques Rueff dislikes the U.S. view of restitution, mainly because it fails to include securities and gold. I replied that this question could be settled later by France, the U.K. and other countries concerned,

outside

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outside of Moscow, since the USSR had waived its rights to gold. It is my strong recommendation to the Secretary of State that the U. S. not restore gold and securities until final agreements have been reached regarding reparations, and until a foreign trade plan has been reached which will permit the U.S. to receive payment for imports into Germany such as are now being diverted from Army stocks for shipment to French and British zones to expedite the production of coal. I fear that unless we are careful, the U.S. will again find itself in the position it reached after the last war, when it financed reparations deliveries to other nations. Please inform me whether arrangements have been concluded for paying for the coal now exported from Germany and for the coal and food which is being delivered to Western Europe from the U.S.

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 Authority 978025
 By TJ NARA Date 9/28/99

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SECRET

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INCOMING CLASSIFIED MESSAGE

of the liberated countries to the gold, and countries' possession should be made a single subject of ~~SECRET~~ **PRIORITY** against them. Their gold possession should not be relinquished until our military and ~~PROB~~ **PARAPHRASED** are satisfied.

FROM: Commanding General, United States Forces, European Theater, Main, Frankfurt, Germany.

TO: War Department

No.: 05/1425C-2 (For State Dept., Treas. Dept., and FRG)

DATE: 15 August 1945

This message is for transmittal to the President, Secretaries of the State and Treasury Departments, and Mr. Crowley, Foreign Economic Administration, from Ambassador E. W. Pawley.

Today I wrote you as follows: We have, as you know, in our possession at Frankfurt, more than \$200,000,000 worth of gold captured in Germany by the United States Armed Forces. A large amount of this gold can be probably identified as having been taken from various liberated European countries. No disposition of this gold has been determined. However, the two following possibilities will soon become the subject of active discussion:

(a) To restore any identifiable gold to the specific countries from which it was taken.

(b) To view the gold (or at least the identifiable part) as a common pot, and equitably distribute it among the liberated countries which lost gold because of enemy action.

It is my understanding that it would be possible for the United States to regard this gold as War booty, from a strictly legal standpoint. I have not insisted on such treatment of the gold, but I do believe that if such gold, or any part of it, is returned to the liberated countries, either on a straight basis (restitution) or under the formula (common pot), arrangements should be so made that any claims of the United States against such countries will, in effect, become a first lien on the gold to be returned. This lien should be applicable to satisfy existing American claims and also to ensure payment of obligations that the claimant countries will incur soon for the importation of food and other necessary supplies. This would mean that, although we admit the superior right

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WAR DEPARTMENT CLASSIFIED MESSAGE CENTER

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INCOMING CLASSIFIED MESSAGE

of the liberated countries to the gold, our continued possession thereof would be for the single purpose of satisfying our claims against those countries, and that such possession should not be relinquished until our existing and immediately prospective claims are satisfied.

TO: Commanding General, United States Army, Frankfurt, Germany.

ACTION: White House

INFORMATION: G-2 (For State Dept. Treas Dept., and FEA)

CM-IN-5860 (6 Aug 45)

This message is for your information only. It is not to be disseminated outside your office.

Reference is made to your message of August 4, 1945, regarding the gold recovered from the German concentration camps. It is noted that you are desirous of having this gold distributed to the liberated countries. It is pointed out that the gold recovered from the camps is not the same as the gold recovered from the German banks and is not subject to the same claims.

(1) To insure that the gold is distributed to the liberated countries in a fair and equitable manner, it is suggested that you advise the War Relocation Authority of the amount and location of the gold.

Note: This document contains information affecting the national defense of the United States within the meaning of the Espionage Act, 50 U.S.C., 31 and 32, as amended. Its transmission or the revelation of its contents in any manner to an unauthorized person is prohibited by law.

SECRET

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Authority <u>978025</u>
By <u>TJ</u> NARA Date <u>9/28/99</u>

RG 56
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German Looted Property

June 22, 1945.

MEMORANDUM FOR THE FILES:

At Mr. Fussell's request I spoke over the phone with Mr. Costello of C.B.S. concerning the caches of loot, etc., uncovered by our forces in Germany. Mr. Costello asked me about the legal rights of belligerents in such property. I mentioned to him several possible theories, such as the booty theory, the reparations theory, and restitution. He asked me to whom the gold belonged and I told him of the possibilities under the combined command theory and the immediate command theory. I told him that none of these things had been decided, and suggested to him that if he were going to discuss this matter publicly, it would not be desirable to focus public attention on the legal aspects in view of the fact that the matter was in suspense, that the property was now being held in status quo, and that the matter was a very delicate one from the standpoint of international relations. Costello stated that he disagreed with me, that he had reliable information that this property was now in fact being used, that the use of it was being determined on a political rather than a legal basis, that the story was being suppressed by censorship, and that he felt an early public airing of the story was in the public interest. He also mentioned that if "one used his head" one could tie up this use of the property with our relations with Russia. He definitely inferred that the recent improvement in our relations with Russia was due to the use which we were making of the Maerckers treasure and other treasures recently discovered.

I told Costello that we had no evidence to support this conclusion and that we very much doubted its veracity. I told him further that if the story were purely fictitious he would not be doing a public service in spreading it publicly.

After the conversation I spoke to Mr. White, who felt that we should not concern ourselves too much with the matter and that if, after the warning I had given Costello, he persisted in giving out the story publicly, we could deny it if shown to be untrue. On the other hand, Mr. White felt that if there was a chance of truth in the story, it might as well be brought out this way.

Mr. White suggested that Costello be advised to check the matter with the War Department.

I called Costello back and told him that I had nothing further to add except to reiterate that we had no evidence to support his story and to suggest that he check the matter carefully with the War Department. Costello said that he was trying his best to check the story with the War Department and was also going to talk with appropriate persons at the Department of State.

CC: *lca* Messrs. White, Fussell, Coe, Glasser, Luxford, Friedman, Scott, Mrs. Schwarz.

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DECLASSIFIED
Authority <u>978025</u>
By <u>TJ</u> NARA Date <u>9/28/99</u>

RG 56
 Entry 69A4707
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German Looting Property

May 12, 1945

MEMORANDUM FOR THE FILES:

- E. Prussak

I rang Mr. Collado on May 12 and protested the despatch by State of cable No. 330 on April 26 and other cables relating to gold, without any clearance by the Treasury. I said I understood a telegram had been sent to London on April 27 dealing with looted gold and that we had not been consulted about this. I told Mr. Collado that I thought State should not send out anything on gold without consulting the Treasury.

I reminded him of the meeting we had held recently on the German gold and the fact that representatives of State, War and Treasury all affirmed that their departments had not yet come to any decision on this gold. In view of this, and the fact that the secretary was stating that the matter was still open, we were anxious that State send nothing on the subject of gold restitution which would prejudice a later decision.

Mr. Collado said that the cable of the 27th had not prejudiced any position, that it simply told London to disregard all previous cables and do nothing. He said he was aware of the incoming notes concerning gold and of these cables and had taken steps in the department to make sure that we received these notes concerning gold and to prevent cables from being sent on this subject without clearance with us. He said that the notes had not been distributed because of specific instructions from higher quarters. I asked him if his steps would insure that we received all the notes. He said he thought so, but he would have to talk to Will Clayton.

Frank Coe

5/12 - distributed to Messrs. Hoffman, Aarons, Friedberg, Southworth

FC:imo:5/12/45

207118

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Authority 978025
By TJ NARA Date 9/28/99

RG 56
Entry 69 A4707
File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
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London Dispatch
outgoing (State)
MAY 14 1945
Comm: Looting Property

PARAPHRASE OF TELEGRAM SENT

FROM: Secretary of State, Washington
TO: American Embassy, London
DATED: May 10, 1945
NUMBER: 3665

CONFIDENTIAL

US URGENT

Attention of Ambassador Winant.

It would seem advisable, in view of discussions now going on in Washington regarding the disposition of looted gold, to withhold comment on plans for restitution or replacement of gold which has been looted.

GREW
(Acting)

S:SHRubin:mf

Paraphrased:
DC/L:MAS:CVT
5-11-45

cc: 5/23/45
For Information - Messrs. Feig, Brenner, Miss Burnett, Zimmerman, Delaney(4), DeZevallos(2), Locker, NY Fed., General Records: "Safehaven".

EOB/t

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TREASURY DEPARTMENT

INTER OFFICE COMMUNICATION

DATE May 8, 1945

TO Secretary Morgenthau (For Action)
 FROM Mr. Coe FC

The following two questions are raised about the gold in the salt mines in Germany:

Shall the British be permitted to send technical experts to identify, weigh and catalog the gold?

What shall be the United States Government policy on the ultimate disposition of the gold?

1. It is our recommendation that the British experts be permitted to go in with American experts to identify, weigh and catalog the gold in the hoard. If any other United Nations Government wants to look at this gold they should also be permitted to do so. The handling of the gold has to a certain extent already been made a joint U.S.-U.K. concern when the gold was turned over to SHAEF by the United States Army group some time ago.

2. It is our recommendation that we make no further move or statement at this time with respect to the ultimate disposition of the gold. Our present tentative view is that the gold should be thrown into the general "pot" of German assets for distribution as reparations. It would be difficult to maintain the position in intergovernmental discussions that the gold belongs to the U. S. as "war booty".

It is in the financial interest of the United States that the gold be utilized solely as reparations (if it cannot be called "booty") because it will increase the amount of reparations which the United States can obtain. However, this point of view will find considerable opposition from other governments since some of these governments may find it in their interest to insist on restitution wherever possible.

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DECLASSIFIED
 Authority 978025
 By TJ NARA Date 9/28/99

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 Entry 69A4707
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SECRET PARAPHRASE OF SECRET TELEGRAM FROM DEPARTMENT OF STATE
 dated April 26, 7 p.m. #3282.

Both the French and Belgian Embassies in Washington presented notes to the Department on March 26, 1945 with respect to the gold which was entrusted by the Banque Nationale de Belgique to the Banque de France and which was sent by the Banque de France to Germany during the German occupation of France (REURTEL 509*, April 17) and notes have been drafted in response which indicate merely that the U.S. Government is prepared fully to support the United Nations Declaration of January 5, 1945 and the Gold Declaration of February 22, 1944. A telegram is also in process of preparation in the Department to the American Embassy, London, dealing with the subject of restitution of looted gold, and indicating that the Department will support the restitution of identifiable looted gold, in compliance with the policy announced on February 22, 1944, but will press for rigid limitation of this principle to actual restitution of identifiable gold, and exclusion of proposals for replacement. In the near future this matter will probably be under discussion in the EAC.

Sent to Brussels, repeated to London and Paris.

GREW ACTING

207121

DECLASSIFIED
Authority 978025
By TJ NARA Date 9/28/99

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Entry 69A4707
File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
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German Looting Property
MAY 1 1945
not start

Treasury Department
Division of Monetary Research

Date May 10, 1945

TELEGRAM SENT

Washington

Brussels

To: **Mr. Coe - For Your Information**

From: **Mr. Delaney**

Subject: **Disposition of German Loot**

1. Attached is a cable from State to our Brussels Embassy concerning adoption of policy regarding restitution of gold looted by the Germans. I do not know whether this cable was cleared with Treasury.

ET

in the Embassy dated April 17,

2. State supports the restitution of identifiable looted gold but will insist on rigid limitation to actual restitution of identifiable gold.

in the Embassies in Washington pre- on March 26 regarding the gold of the Louvre de France by the Banque Nationale de France during the occupation of France.

(State to Brussels, April 26, 1945, 330)

cc: Nathan, Friedberg.

drafted which merely indicate that the State is fully prepared to support the policy of January 5, 1943 and the gold of the Louvre 1944 also. In addition a telegram to

the American Embassy in Brussels is being prepared in the Department which deals with the subject of restitution of gold which has been looted and which indicates that the Department, in compliance with the policy announced February 22, 1944 will support the restitution of looted gold which is possible of identification but will insist on exclusion of proposals for replacement and on rigid limitation of the foregoing principle to actual restitution of identifiable gold. In the near future this matter will probably be under discussion in the EAC.

The foregoing message has been repeated to Paris as No. 1699 and to London as No. 3282.

GREW
(Acting)

ES:SJRutin:mf
Paraphrased:
DC/L:LOW:CVT
4/28/45

cc: 5/5/45

For Information - Messrs. Feig, Gilbert, Parke, Richards, Miss Scullen, Robinson, Delaney(4), Arnold, Moskovitz, McNeil, NY Fed., General Records: "Gold".

CLS/t

DECLASSIFIED
 AUTHORITY 978025
 By TJ NARA Date 9/28/99

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GERMANY: Gold, Currency, and Loot
 Recoveries - Problem of Disposition

German Looting Prop.

MAY 1 1945

PARAPHRASE OF TELEGRAM SENT

FROM: Secretary of State, Washington
 TO: American Embassy, Brussels
 DATED: April 26, 1945
 NUMBER: 330

SECRET

Please refer to cable from the Embassy dated April 17, No. 509.

Both the French and Belgian Embassies in Washington presented notes to the Department on March 26 regarding the gold which was entrusted to the Banque de France by the Banque Nationale de Belgique and was sent to Germany during the occupation of France by Germany, by the Banque de France .

In reply notes have been drafted which merely indicate that the Government of the United States is fully prepared to support the United Nations Declaration of January 5, 1943 and the gold declaration of February 22, 1944 also. In addition a telegram to the American Embassy in London is being prepared in the Department which deals with the subject of restitution of gold which has been looted and which indicates that the Department, in compliance with the policy announced February 22, 1944 will support the restitution of looted gold which is possible of identification but will insist on exclusion of proposals for replacement and on rigid limitation of the foregoing principle to actual restitution of identifiable gold. In the near future this matter will probably be under discussion in the EAC.

The foregoing message has been repeated to Paris as No. 1699 and to London as No. 3282.

GREW
 (Acting)

ES:SJRutin:mf
 Paraphrased:
 DC/L:LCW:CVT
 4/28/45

cc: 5/5/45.

For Information - Messrs. Feig, Gilbert, Parke, Richards, Miss Scullen, Robinson, Delaney(4), Arnold, Moskovitz, McNeil, NY Fed., General Records: "Gold".

CLS/t

207123

DECLASSIFIED
 Authority 978025
 By TJ NARA Date 9/28/99

RG 56
 Entry 69 A4707
 File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
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Germany: Looted Property

April 25, 1945

Dear Oscar,

In Harry's absence (he is in San Francisco) I want to thank you for your letter of April 18 suggesting that the assets discovered in the Salt Mines in Germany be contributed to the Fund and Bank.

I will bring it to his attention when he returns. Personally, I suspect there will be a lot of discussion and wrangling over these assets and others that will, no doubt, be discovered. If this atmosphere does develop your suggestion at the strategic moment may offer the basis for a compromise.

Sincerely,

W. L. Lutz

Mr. Oscar Cox,
 Assistant Administrator,
 Foreign Economic Administration,
 Washington, D. C.

AFL:nrd - 4/25/45

RB *Encl*

207124

DECLASSIFIED
 Authority 978025
 By TJ NARA Date 9/28/99

RG 56
 Entry 69 A4707
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FOREIGN ECONOMIC ADMINISTRATION
 OFFICE OF THE ADMINISTRATOR
 WASHINGTON 25, D. C.

April 18, 1945

Dear Harry:

What about the possibility of considering the use of the gold and other assets which were discovered in the Salt Mines as a contribution to the Fund and the Bank?

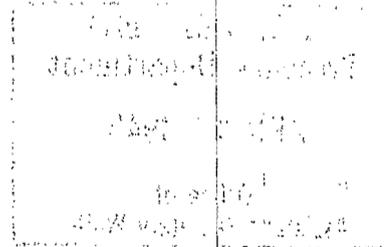
This might be an equitable way of reducing proportionately the quotas of the Fund and the Bank. The quotas for the Bank and the Fund were worked out, as you know, after a great deal of give and take. Although the quotas are not the best ones that might be worked out on a reparations principle at least they are not too far off the mark. If the Salt Mine assets are put into the Bank and the Fund, I should think it ought to be done with the agreement of at least the chief contributors of the Bank and the Fund and on the understanding that any assets found by them could similarly be put in.

It might also be made a condition of entering into the Fund and the Bank by neutrals such as Switzerland, Sweden, et al., that they turn over German assets to the Fund and the Bank on the same principle.

Sincerely yours,

Oscar Cox

The Honorable Harry D. White
 Assistant Secretary of the Treasury
 Washington, D.C.



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 Authority 978025
 By TJ NARA Date 9/28/99

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 File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
 Box 80



TREASURY DEPARTMENT

WASHINGTON

Dear Oscar,

Before he left for San Francisco, Harry asked me to reply to your letter of April 18, in which you suggested that the assets discovered in the Salt Mines in Germany be contributed to the Fund and the Bank.

If your suggestion were followed and the assets were contributed to the Bretton Woods institutions so as to reduce the quotas proportionately, I believe there would be an inequity in the result. The quotas were determined primarily on the basis of economic importance, whereas German assets taken by the United Nations would more properly be allocated on the basis of damage suffered at the hands of the Germans. So far as the neutrals are concerned, conditions could be imposed upon their membership that they turn over German assets to the military authorities in Germany and the same result would be achieved as if they had been required to turn them over to the Fund and the Bank.

Perhaps I have not caught the full implication of your suggestion. I would be glad to discuss it with you at any time that suits your convenience.

Sincerely yours,

Ansel F. Luxford
 Assistant to the Secretary

Mr. Oscar Cox
 Assistant Administrator
 Foreign Economic Administration
 Washington, D. C.

FOR DEFENSE



BUY
 UNITED
 STATES
 SAVINGS
 BONDS
 AND STAMPS

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 Authority 978025
 By TJ NARA Date 9/28/99

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Y

*Germany - Gold - Currency
 + Loot Recoveries -
 Problems of Disposition*
 November 20, 1945

MEMORANDUM for the Files:

A meeting was held in Mr. White's office on November 20, 1945, to discuss the Treasury position concerning (1) steps to be taken to implement the German vesting decree and (2) distribution of gold seized by the U.S. Army in Germany. The meeting was attended by Mr. White, Colonel Bernstein, Messrs. Coe, Ullmann, Schmidt, Friedman, Locker, Scott, and Mrs. Shwartz.

The following conclusions were reached:

1. Treasury Department should not concur in the State Department proposal to have the negotiations with the neutrals conducted by representatives of the British, French, and United States Governments rather than by the Control Council. However, since the State Department has already communicated its proposal to the French and British, the Treasury should not pursue this argument any further, but should express its disapproval.
2. The basic matter to be decided in connection with the vesting decree is the question of whether this Government is prepared to use sanctions. It was agreed that the Treasury would request State to have a meeting at the earliest possible moment to discuss this matter. At the meeting Treasury Department representatives should clearly state that in view of the attitude of the neutrals, we must agree in advance of negotiations that in the event of neutral recalcitrance we will impose economic sanctions. Treasury representatives should request State to indicate whether it is prepared to agree as a matter of governmental policy that we will apply the sanctions set forth in Secretary Vinson's letter. State should be requested to reply in writing to Secretary Vinson's letter.
3. It was agreed that Treasury would no longer withhold approval of the proposed State Department cable to Angell suggesting that he proceed with the distribution of the German gold in accordance with the gold pot theory.

*See Gold Cur. + Loot Rec.
 - Problem of Disposition*

In accordance with the foregoing, Mr. Friedman called Mr. Collado and indicated that (1) Treasury disagrees with the approach expressed in the proposed State Department note to the neutrals, but does not propose to discuss this aspect of the matter further; (2) Treasury considers it of primary importance to discuss immediately the question of sanctions. Friedman asked Collado if he would arrange such a meeting. Collado agreed to do so. Collado was also advised that Treasury approved the gold cable to Angell.

J. B. Friedman

cc: Mr. White, Col. Bernstein, Messrs. Coe, Ullmann, Schmidt, Locker, Scott, and Mrs. Shwartz.
 JBF:fls
 11/20/45

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*Germany - Gold, Currency
& Loot Recoveries
Problems of Disposition*

November 15, 1945

Mr. Coe

Mr. Ullmann

Subject Differences with State Department over vesting decree

1. The principal difference with the State Department is over the question of whether to make full use of the legal strength of the vesting decree or to negotiate with neutrals on other grounds.

2. The Treasury feels that the most effective way to gain control of the assets and thus carry out the Potsdam decisions is to make fullest use of the vesting decree's legal basis for claiming the assets. Most effective use of the vesting decree is:

(a) To have the Control Council, which is the Government of Germany which issued the decree, initiate the claim, call a meeting and negotiate with the neutrals.

(b) To be prepared to use economic sanctions, imposed by the Control Council and by supporting governments.

3. State Department feels that legality should not be the principal approach, but that three governments should negotiate with the neutrals on a "cap-in-hand" basis, appealing to their moral conscience. They would cite the vesting decree only to prevent the neutrals, questioning our legal interest in the assets.

4. The Treasury position does not:

(a) Question the use of diplomatic channels to transmit and support the Control Council's notes.

(b) Prevent the Control Council's delegating authority to a tripartite sub-commission if it desires.

(c) Prevent the use of outside advisers and experts.

5. The whole discussion is somewhat academic at this point, since we learn today that State has instructed Angell in Paris to get agreement by the British and French to its note. Angell was also informed, to our surprise, that Treasury concurred in the State Department position.

6. Attached memorandum and enclosures contain more detail.

WLU:bpg 11-15-45

FILE COPY

*To Coe 11/16
To HDW 11/19*

207128

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 By TJ NARA Date 9/28/99

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November 15, 1945

Mr. Coe

Mr. Ullmann

Subject Vesting Law and Implementing Procedure

1. On October 26, in anticipation of the vesting decree, Mr. Rubin prepared a cable to the Embassy, London, outlining procedure to be followed when the vesting decree was passed by the Control Council (the cable did not actually get out until November 5). The cable proposed that note to neutrals would make minimum use of decree as a legal argument, but that "main body of approach would rely on" other arguments. The cable stated that the matters had "been discussed with Treasury," even though the Treasury views were known to be in direct conflict. Copy of the cable is attached as enclosure 1.

2. When the decree was passed on October 30, the State Department submitted to the Treasury a draft of a proposed note to the Swiss. This note, in our opinion, had several weaknesses:

(a) It only mentioned the vesting decree, and thus failed to use fully the strongest legal argument with which to approach the Swiss.

(b) It called for a three power discussion with the Swiss in Berlin, thus further weakening the legal strength of the decree which had been issued by the Control Council, as the government of Germany. This proposal is in conflict with Gen. Clay's expressed opposition to meetings, sponsored by three powers only, with the Swiss in Berlin. Copy of the State Department's proposed note is enclosure 2.

3. Treasury prepared and submitted to State a series of three proposed notes:

(a) A note from the United States to the neutrals, stating its views on the question of German assets (closely parallel to the State Department's note) but stating that it was instructing the U.S. member of the Control Council to propose a meeting with the neutrals to be called by the Control Council in Berlin.
 (Enclosure 3)

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(b) A note from the Control Council to the neutral governments (to be transmitted through U.S. diplomatic channels) inviting the neutrals to a meeting in Berlin, to discuss implementing the Decree (Enclosure 4).

(c) A note from the U.S. Government to the neutrals, transmitting and supporting the Control Council invitation (Enclosure 5).

4. As a result of the Treasury proposed notes, a meeting was held in Mr. Rubin's office on November 9. At the meeting, the State Department compromised its original position to the following extent:

(a) It proposed a Tripartite meeting with the Swiss in Washington instead of Berlin.

(b) It agreed to State that this Government and the other two were "acting on behalf of the Control Council."

The revised State Department note is Enclosure 6.

5. As a result of a discussion in your office, Mr. J. Friedman in a telephone conversation with Mr. Rubin stated that the Treasury would not approve the State Department note because:

(a) It is the Treasury's view that an effective program for seizing German assets in the neutrals in accordance with the Potsdam agreement can only be based upon a claim to such assets as a matter of legal right under the vesting decree issued by the Allied Control Council.

(b) The Treasury further believes that the only way this legal claim can be properly asserted is by the Allied Control Council which in fact issued the decree as the de facto government of Germany. Accordingly, the Treasury is convinced that communications to the neutrals concerning the decree and negotiations with them concerning its implementation must be executed by the Allied Control Council through the German External Property Commission created by the decree.

(c) Treasury believes that any other approach as, for example, by representatives of the governments of Great Britain, France, and the United States will amount in practice to discarding the vesting decree and the legal claim of title to German assets in the neutrals. In the Treasury's view, such an approach however phrased will inevitably result in a discussion of the matter with the neutrals on a "cap-in-hand" basis which will nullify the agreement at Potsdam.

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6. Mr. Rubin replied that the State Department did not feel that legal claim should be the chief basis of our approach to the Swiss, and that State Department would probably send out its note regardless of Treasury non-concurrence.

7. Basis Issue. The principal issue is over the basic approach to the neutrals. The Treasury believes that full use should be made of the legal right to the assets, as expressed in the vesting decree, and most effective assertion of our legal rights by:

(a) Having the Control Council, as the Government of Germany, which issued the decree, initiate the claim for the assets, call a meeting with the neutrals, and negotiate with the neutrals on the basis of legal right and in the most effective support of the Potsdam decisions.

(b) Being prepared to support the Control Council with sanctions against recalcitrant neutrals by the Allied Governments as well as by the Control Council itself. The State Department feels that legality should not be the principal approach, but that three governments should negotiate with the neutrals on a "cap-in-hand" basis, appealing to their moral conscience. They want to use the vesting decree only if the neutrals question our legal interest in the assets.

8. It should be noted:

(a) The Treasury does not question the use of diplomatic channels to transmit and support the Control Council's notes.

(b) Nothing in the Treasury proposal precludes the Control Council or the German External Property Commission's turning over negotiations to a tripartite sub-commission, if it so chooses.

(c) Nothing in the Treasury proposal prevents the Control Council's calling in for participation in the negotiations, any experts it may desire to strengthen, give technical advice, give governmental views, or in other ways support the Control Council in its negotiations.

9. Today, November 15, Mr. Rubin has informed the Treasury that State's proposal was sent to Mr. Angell in Paris, with instructions to get agreement with the British and French. His message to Angell stated that Treasury concurred in State Department's views. He explained the latter inclusion on his mistaken impression that our presence at his meeting implied our concurrence (even though J. Friedman had carefully pointed out at the meeting that we were not empowered to speak for the Treasury). He failed to mention his impression when J. Friedman called him to inform him of Treasury's non-concurrence.

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 Box 80

COPY

November 5, 1945

AMEMBASSY

LONDON

9612

In conversations held Oct 25, McCombe of Brit Emb informed Dept that Brit would not (repeat not) object to issuance of proposed ACC vesting decree in its present form. He indicated belief, however, that approach to neutrals should not rely upon this decree. Dept indicated that in proposed approach decree would probably be used only to eliminate anticipated legal objection on part of neutrals that the authority to take over German external assets, even if conceded, had not actually been exercised by the occupying powers. Main body of approach, however would rely on arguments made along lines of your 8411 Aug 20. With above McCombe agreed and Dept stated it would attempt to have the draft note prepared by Oct 29. Note will be along lines of your 8411 under reference and will assume that vesting decree has already been issued.

These matters have also been discussed with Treasury.

BYRNES

ESP: SJRubin:mf 10-26-45

BC CE

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COPY

The following is the State Department's draft of a proposed note to Switzerland.

His Excellency

The Minister of Foreign Affairs,

Excellency:

I have the honor, under instructions from my Government, to make the following communication to Your Excellency.

On blank date, the Allied Control Council, representing the four Governments exercising supreme authority in Germany, adopted a decree establishing a German External Property Commission and vesting in this Commission against fair compensation all right, title, and interest in or with respect to all property outside Germany of persons within Germany and of certain German citizens outside Germany.

A copy of this decree is enclosed as an annex to this note.

The attention of the Government of Switzerland is called to Article 1 of this decree stating its purpose as QUOTE to protect and maintain international peace and collective security in the post-war world UNQUOTE by assuming QUOTE control of all German assets UNQUOTE and diverting QUOTE German ownership when necessary UNQUOTE.

My Government wishes me, further, to make clear its purpose in supporting the program to be administered by the German External Property Commission. The primary objective is to achieve security by completely eliminating Germany's military potential including privately owned enterprises outside Germany which have been mobilized by the German

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Government as spearheads for war purposes. At the same time, the program for mobilization of German external assets is motivated by the need, to utilize these resources in the relief and rehabilitation of countries devastated by German aggression. Restoration of the damage done in their territory will substantially depend on the rapidity with which these countries obtain the means of importing goods despite their present unfavorable foreign exchange position. Thus, realization for reparations account of the value of German external assets will largely tend to promote the restoration of their trade with Switzerland and thereby Switzerland's participation in European reconstruction.

My Government and the Govts of the United Kingdom and France acting jointly by virtue of Article III, Section 18 of the Potsdam Protocol are not unmindful of the fact that the control and disposition powers to be exercised by the German External Property Commission raise economic questions of great importance to the Govt of Switzerland. They therefore wish to work out in consultation with the Govt of Switzerland such arrangements as will avoid economic dislocations and advance our mutual interest in a harmonious solution to this problem.

For these reasons it is proposed that a meeting be held between representatives of the three Allied Govts and representatives of the Govt of Switzerland to reach agreement on the manner in which German property in Switzerland can best be administered, liquidated or otherwise disposed of to common advantage. It is suggested that this meeting be held in Berlin during the week beginning Dec 10 and in any case not later

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than Dec 31. The agenda of this meeting would include agreement on the disposal of these assets in such a way as to protect Swiss interests as well as those of the United Nations, including approval of purchases, terms of sale, etc, and on currency or foreign exchange questions arising out of the use for reparations and rehabilitation of the funds realized including purchases in Switzerland. It is also expected that an understanding can be reached on the domestic decrees and orders necessary to achieve our objectives, on the establishment of administrative machinery for full inter-governmental cooperation, and on any other related questions which the Govt of Switzerland wishes to propose for discussion.

I understand that the British and French Ambassadors, Ministers, are addressing to Your Excellency a communication in similar terms. Accept, Excellency, the assurances of my distinguished consideration.

COPY

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Box 80

Germany - Looting Property

11-15-45

Treasury Department
Division of Monetary Research

Date 11/19 1945

To: Mr. White

Do you think this "gold pot" theory should be cleared with the Secretary?

Should we tell State to go ahead without Treasury clearance?

Do you want a meeting on it? What about letting it go to NAC, after meeting in Treasury?

F.C.

MR. COE
Room 3430 - Branch 305 and 306

American armed forces in Germany.

Just State Department requested Treasury advisor Pauley to take immediate steps regarding American forces at Frankfurt. At that time I recommended that distribution be delayed until dominant countries would cooperate in the distribution of looted external assets. You will also note that the State Department dispatched the representative to express this Government's desire to take steps...

Discussions between the British and French took place after the war but we have not been advised of the results.

3. Several weeks ago the State Department submitted to the Treasury for approval a proposed cable instructing a State Department representative to attempt to reach agreement on the so-called gold pot theory with the French and the British. At that time Treasury proposed that the gold distribution be delayed until an effort had been made to recover certain looted gold which reports of the military government show were shipped to Switzerland by the Germans during the war. A cable for this purpose was drafted by Treasury and submitted to the State Department. However, while the cable was awaiting discussion with State, Treasury was informed that Mr. Angell, State's representative on the Reparations Commission, had already opened discussions with the French and British on the gold pot theory and had perhaps reached some tentative agreements.

4. The State Department has now submitted for Treasury clearance a draft cable to Mr. Angell, a copy of which is attached. This cable confirms the correctness of Angell's negotiations with the British and French and instructs him to take the additional steps necessary for prompt distribution of the gold in accordance with the gold pot theory which it is stated the Treasury has approved.

5. It is our view that immediate distribution will weaken our approach to the Swiss for the purpose of recovering the looted gold; however, in view of the fact that the State Department, despite Treasury's view, has proceeded so far in its negotiations with the French and the British, it would not seem desirable to attempt to prevent State from sending the proposed cable in question. Under the circumstances, however, we do not feel that this cable should indicate Treasury's approval. If you agree, we will notify State accordingly.

RDS:JBF:MEL/brg
11-15-45

R.D.J. JBF per R.D.J. MEL W.M.

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File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition

Box 80

Germany Looting Property

11-15-45

Secretary Vinson

Mr. White

Subject: Disposition of gold captured by American armed forces in Germany.

1. You will recall that last August State Department requested Treasury clearance of a cable instructing Ambassador Pauley to take immediate steps to distribute the gold now held by American forces at Frankfurt. At that time the Treasury opposed the cable and recommended that distribution be postponed until it was evident that claimant countries would cooperate in the mobilization and disposition of German-owned external assets. You will also recall that despite Treasury opposition, the State Department dispatched the cable to Ambassador Pauley expressing this Government's desire to take steps toward distribution on a pro rata basis.
2. Apparently discussions with the British and French took place after Ambassador Pauley received the cable, but we have not been advised of the nature of the discussions.
3. Several weeks ago the State Department submitted to the Treasury for approval a proposed cable instructing a State Department representative to attempt to reach agreement on the so-called gold pot theory with the French and the British. At that time Treasury proposed that the gold distribution be delayed until an effort had been made to recover certain looted gold which reports of the military government show were shipped to Switzerland by the Germans during the war. A cable for this purpose was drafted by Treasury and submitted to the State Department. However, while the cable was awaiting discussion with State, Treasury was informed that Mr. Angell, State's representative on the Reparations Commission, had already opened discussions with the French and British on the gold pot theory and had perhaps reached some tentative agreements.
4. The State Department has now submitted for Treasury clearance a draft cable to Mr. Angell, a copy of which is attached. This cable confirms the correctness of Angell's negotiations with the British and French and instructs him to take the additional steps necessary for prompt distribution of the gold in accordance with the gold pot theory which it is stated the Treasury has approved.
5. It is our view that immediate distribution will weaken our approach to the Swiss for the purpose of recovering the looted gold; however, in view of the fact that the State Department, despite Treasury's view, has proceeded so far in its negotiations with the French and the British, it would not seem desirable to attempt to prevent State from sending the proposed cable in question. Under the circumstances, however, we do not feel that this cable should indicate Treasury's approval. If you agree, we will notify State accordingly.

RDS:JBF:MEL/brg
 11-15-45

R.D.J. JBF per [unclear] MEL W.M.

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DRAFTSECRET

No. 18
 FOR ANGELL.

As indicated in deptel _____ (For Angell No. 20) no understanding on restitution for Italy reached at CFM (URTEL 6351, Nov. 1, no. 10 from Angell) but Brit held that Italy should be treated as United Nation in this and other similar respects. Dept prepared to support policy of restitution for Italy and satellite countries with proviso that actual return of identifiable properties to these countries should be effected by the military only after program of restitution to liberated Allied countries well developed. Full share in gold pot for Italy and Hungary concomitant of such policy.

Dept agrees that Austria should participate fully in gold pot and that Albanian claim against pot should be fully admitted. Dept approves proposal that Italian, Hungarian and Austrian shares in pot be set aside for time being probably until final peace settlements are made with these countries.

Potsdam arrangements which provide that USSR will take care of Poland's reparation claims not (repeat not) regarded as pertinent to question of whether Poland is to participate in gold pot. Dept regards gold pot as operating on principle of restitution and that Danzig and Poland fully entitled to share therein. Dept's view is that Potsdam waiver by USSR of claim to gold in Germany does not (repeat not) affect rights of Poland and Danzig in this regard.

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You are authorized to agree to inclusion in gold pot of all gold coins found in Germany (Urtel 6418, Nov. 5, No. 23 from Angell) except for coins of numismatic value which should be restituted directly if possible.

Gold pot now completely cleared in this Govt as Treasury has given final concurrence. Distribution of gold now in pot should proceed immediately after agreement is reached on such distribution. Department prefers not (repeat not) to await recovery of looted gold from Switzerland and other countries before proceeding with distribution. Please ascertain Brit and French views on this point. Although it might be argued that recovery of Belgian gold is more important than immediate distribution, Dept prefers not (repeat not) to delay for such reason.

You will wish further to consider possible procedures in implementing gold pot. Dept's view is that allocation of shares in pot is for determination by U.S. Brit and French Govts, not (repeat not) by military authorities. Determination of shares will require presentation of claims by Govts of countries from which Germans looted gold together with proof of such looting. Nature of invitation to submit such claims and method of processing claims should be referred to Dept after being worked out with Brit and French. You may also wish to consider presenting gold pot proposal to IARA meetings with view to obtaining reaction of interested Govts.

FN:WJStibravy:cp
 11/3/45

207139

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 By TJ NARA Date 9/28/99

RG 56Entry 69 A4707File GERMANY: Gold, Currency, and Loot Recoveries - Problem of DispositionBox 80

*Germany - Gold:
 Currency & Loot Recoveries -
 Problems of Disposition*

November 9, 1945

Mr. Coe
Mr. Ullmann
 Subject: Recent developments

1. Yasting

On November 7, Friedman, Locker and I went to Mr. Rubin's office to discuss procedure for implementing the German external assets law. Rubin was adamant on a tripartite negotiation with the neutrals. He stated his position was based on:

- (a) The Control Council has no legal status as the government of Germany.
- (b) Gen. Clay agreed to his procedure.
- (c) The Russians have agreed to take no part in implementing the law in neutral countries.
- (d) The State note would be cleared through the Control Council.

He agreed, as concessions, to have the meetings in Washington (rather than "London, Paris, or Washington..") as he proposed, and to state that this government was acting "on behalf of the Control Council." These were as far as he would go in making concessions to the Treasury position (which was to have the meeting called by the Control Council, and negotiations by the quadripartite Commission).

We said we would see if the Treasury would clear his note and procedure.

We now feel that there is no point in our clearing his procedure, because:

- (a) The action tends to break down the authority and legal status of the Control Council.
- (b) Gen. Clay told Col. Bernstein that he wanted the meetings in Berlin, with all negotiations to be conducted by the External Property Commission.
- (c) We have seen no Russian agreement that Rubin refers to.
- (d) We are not sure that State would clear its note with the Control Council.

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To Files

Orig. to Coe
11/9

207140

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2. German gold

Despite the Treasury's position that gold found in Germany should not be divided until a settlement has been made of the Belgian gold in Switzerland, Rubin has informed Friedman that through some mistake, Jim Angell in Paris has inadvertently offered the British and French to divide the gold immediately. (There is no indication that the French have been informed of the possibility of locating the Belgian gold.)

Rubin wants Treasury approval to a cable to Angell, instructing him to proceed to get the gold divided immediately.

3. Treasury Clearance of State policy

1. During the vesting discussions, Rubin sent a cable about external assets, exactly contrary to Treasury position. He closed it with a statement that the question had been "discussed with Treasury," thus giving the impression that it had our approval. (copy attached).

2. Despite our position, Angell made an error in Paris regarding the gold division—and State now wants our clearance. They will probably send out what they want, whatever we do.

3. On the vesting note, State will probably do what it wants, although it would prefer to have Treasury blessing to cite.

4. Recommendation

It is felt that Friedman, Locker, Glasser and I should meet with you on Monday to discuss the whole question of giving clearance to State Department messages of this nature—especially if we are being consulted only to get our approval as a form of blessing to whatever policy State may wish to pursue.

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11/9

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 Box 80

German Looting Property

COPY

August 20, 1945

To: Secretary Vinson

From: Mr. White

Re: Gold Captured by U.S. Army in Germany

(1) During the invasion of Germany, the U.S. Armed Forces captured about \$200 million worth of gold in the Markers mine and other miscellaneous lots of gold hidden in other places in Germany. This gold is at present in the custody of the U.S. Armed Forces at Frankfurt.

(2) Investigations are under way to ascertain the origin of the gold in question as well as to ascertain the disposition by Germany of other gold looted by it during the war from occupied countries. Investigations to date indicate that certain portions of the gold, probably the larger portion of it, can be identified as to origin, but investigations are still incomplete and the full facts are not known.

(3) Various nations which lost gold to the Germans and particularly France have been quite vocal in demanding that the gold in question be distributed to them.

(4) The Treasury, while not having arrived at a definite position on the ultimate disposition of the gold, has been taking the position that nothing should be done with respect to the gold which would prejudice any one of a number of alternative ultimate solutions. Among these possible alternative solutions are the following: (a) treating the gold as war booty to the U.S. Armed Forces; (b) treating the gold as part of the pool of German external assets for reparation purposes; (c) treating the gold, to the extent it is identifiable, as restitutable property for return to former owners.

(5) Ambassador Pauley has transmitted to the President and other interested agencies, including the Treasury, a cable containing the following recommendation as to the disposition of the gold:

That if the gold or any part of it is returned to the liberated countries either on the basis of restitution of identifiable property or under a "common pot" formula, arrangements should be made that any claims of the United States against such countries whether for payment of obligations on account of the importation of food and supplies to such countries or otherwise, should constitute a lien against the gold. Pauley's point

207142

DECLASSIFIED
 Authority 978025
 By TJ NARA Date 9/28/99

RG 56
 Entry 69A4707
 File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
 Box 80

- 2 -

really seems to be that we should not surrender this bargaining weapon when there are outstanding so many claims and potential claims against the countries claiming the gold and other issues with respect to which we desire their concurrence.

(6) State Department proposes to tell Pauley that this Government should not hold on to the gold for any purpose, bargaining or otherwise, but instead should treat the gold as constituting a pot from which payment will immediately be made on a pro rata basis to all Allied countries which had gold stolen from them by the Germans.

(7) It is our view that a determination cannot and should not be made now concerning the final disposition of this gold and that the U.S. forces should continue to maintain custody of the gold at least until the facts are fully known and until we have some more clear indication of how the countries involved intend to respond to the claims we have against them and the extent of cooperation they intend to give us in various matters, such as the question of the mobilization and disposition of all German external assets.

(8) The present status of the reply to be given to Pauley's suggestion is as follows:

(a) The State Department draft reply has been submitted to Secretary Byrnes for approval;

(b) We understand that the White House draft of the reply is also on Byrnes' desk, but we have been unable to ascertain the nature of such reply;

(c) We have given State Department representatives a copy of the attached draft reply with the distinct understanding that it has not been cleared with you. The State Department representatives indicated that they might also show our draft reply to Secretary Byrnes.

Appended is also a copy of the cable received from Pauley and the proposed draft reply of the State Department submitted to us for comment.

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 Box 80

COPY

8/17/45

Proposed Reply to Ambassador Fahey's Cable Concerning Disposition of German Gold.

Careful consideration has been given to your suggestion concerning the disposition of the gold captured in Germany by the U.S. Armed Forces. It is the view of this Government that final decision concerning the disposition of this gold should be postponed until the Control Council has agreed to appropriate measures for the mobilization and disposition of German-owned external assets in accordance with the decisions taken at Potsdam on this subject. In the meantime, the U.S. Armed Forces should maintain custody of the German gold.

It is our view that postponement of the ultimate decision concerning the gold and the continuance of American custody will have the advantages which your suggestion seeks to achieve without arousing the inevitable controversy with our Allies which the assertion of a lien would produce.

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Paraphrase of Incoming Telegram

To: The Secretary of State

From: Ambassador Pauley - Moscow

Dated: August 13, 1945

Number: 2881

M. Jacques Rueff, the French representative, has not accepted the Berlin Protocol officially, and has reservations concerning French participation in Moscow conferences. He states that the French must know what they are to receive in the way of reparations before they can agree to the Potsdam decisions. I have made it clear that this matter is still one of negotiation among the British, French, American and other representatives of nations claiming a share of reparations from the three western zones of occupation, and that France like the U.K. and U.S. would enter the negotiations without previous commitments or understandings. M. Rueff is also very desirous to have definitions of restitution agreed by us. Since my view has always been that the scope of restitution should be settled in the Commission on Reparations, I have put forward a definition as a basis for negotiation. The draft introduced was that last prepared by Mr. Clayton, modified to take account of the points raised by DEPT's telegram 1770 of August 8. The representative of the USSR was unwilling to discuss the subject, and stated that while he would refer the matter to his government, in his view restitution would be better handled by discussions outside the Reparations Commission. M. Jacques Rueff dislikes the U.S. view of restitution, mainly because it fails to include securities and gold. I replied that this question could be settled later by France, the U.K. and other countries concerned,

outside

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... following telegram
outside of Moscow, since the USSR had waived its rights to gold. It
is my strong recommendation to the Secretary of State that the U. S.
not restore gold and securities until final agreements have been reached
regarding reparations, and until a foreign trade plan has been reached
which will permit the U.S. to receive payment for imports into Germany
such as are now being diverted from Army stocks for shipment to French
and British zones to expedite the production of coal. I fear that unless
we are careful, the U.S. will again find itself in the position it
reached after the last war, when it financed reparations deliveries to
other nations. Please inform me whether arrangements have been concluded
for paying for the coal now exported from Germany and for the coal and
food which is being delivered to Western Europe from the U.S.

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 Box 80

*German: Looted Property
 Germany - Gold*

PARAPHRASE OF TELEGRAM SENT

FROM: Secretary of State, Washington
 TO: American Embassy, Paris
 DATED: August 2, 1945
 NUMBER: 3630

CONFIDENTIAL

The concern of the French in regard to disposal of gold found in Germany, especially Belgian gold held by the Bank of France and looted by Germany, was again expressed by the French Embassy to the Department. Assurances were requested from the Department that the opinion, which was expressed in conversation with Rueff (see your cable of June 27, No. 3862), that the gold found in Germany be used as payment for supplies imported to Germany, did not reflect this Government's policy.

Assurances were given the Embassy that this statement, imputed to General Clay, was not a representation of this Government's opinions, that urgent consideration is being given the question of disposition of this gold, and that this Government hoped to disclose its views in regard to the disposal of this gold in the near future.

The foregoing message has been repeated as No. 212 to U.S. Political Adviser, Frankfurt.

GRW
 (Acting)

FR:WJStibravy

Paraphrased:

DC/L:AN

8-4-45

cc: 8/7/45 Messrs. Glasser-Gold, Bronz (3), Schmidt (3), Friedberg, Gunter, W. Hebbard, Nathan-Leonard

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By TJ NARA Date 9/28/99

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Entry 69A4707
File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
Box 80

Germany - Looted Property

WAR DEPARTMENT
WASHINGTON, D. C.

FEB 18 1946

The Honorable
The Secretary of the Treasury

Dear Mr. Secretary:

Reference is to your letter dated February 8, 1946, concerning the request of the Belgian Government to inspect the gold and other property discovered in May or June 1945 near Merkers, Germany, and now stored in the vaults of the Reichsbank in Frankfurt.

In accordance with your letter, I am instructing the theater commander to direct the Office of Military Government, Germany (U.S. Section) to extend to the Belgian representatives the desired permission. You may wish to communicate this information to the Belgian representatives who have referred the matter to you.

Sincerely yours,

RLP

Secretary of War



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 By TJ NARA Date 9/28/99

RG 56
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 File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
 Box 80

German Looting Property

1351/W.C.

Office of the Representative of Belgium
 on the
 United Nations War Crimes Commission

38 Eaton Square,
 S.W. 1.

20th December 1945

Dear Sir,

For some time I have been in correspondence with Colonel Hodgson, United States Commissioner on the United Nations War Crimes Commission, about a stock of gold bullion currency and miscellaneous property which had been discovered in May or June of this year near Merkers, Germany, and now in the vaults of the Reichsbank in Frankfurt.

I had been told that if my country desired, this property would be open to inspection by experts, and I notified my Government of this invitation in June. Some difficulties arose and finally Colonel Hodgson let me know that the most expeditious course would be to make application to the United States Treasury Department, as jurisdiction over the property seemed to have been relinquished by the Commanding General USFET to the Treasury Department before September last.

My Government has just let me know that they are very anxious to inspect the property stored at Frankfurt because the Belgian Office of Economic Recuperation has good reasons to believe that among the looted property there may be items which might be identifiable as belonging to Belgian nationals. They have asked me to contact you to apply for permission to inspect the property.

I should be very glad to hear from you on this matter at your earliest convenience.

Yours truly,

(Signed) M. de Baar.

M. de Baar

Mr. William H. Taylor,
 Representative of the U. S. Treasury Department,
 Room 22,
 1 Grosvenor Square, W.1.

207149

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RG 56
 Entry 69A4707
 File GERMANY: Gold, Currenc
Recoveries - Problem of
 Box 80

Bank of Belgium deposited with the Bank of France about 200 tons of gold worth about \$200,000,000 or 10,000,000,000 francs.

The Germans forced the Bank of France to send the gold to Berlin, where it was melted down, largely because the Reichsbank had had its fingers burned by some gold it had accepted from the Russian government at face value.

The Belgian government quite naturally complained bitterly and legally to the Bank of France for having let its gold be transferred to Germany. The provisional French government repaid to the Belgian government the gold owing it with the understanding that if the gold were ever discovered in Germany France should get it back.

The French are particularly irritated because they have reimbursed the Belgian government for the gold the Germans stole from France. Vice-president Puhl said more than a quarter of the total Belgian holdings was secreted in the Thuringia salt mines captured near Frankfurt by the American 3d Army. All efforts by the French and Belgian governments to inspect the gold seizures, however, have been unsuccessful.

"Apparently, if we are not big shots we can't see anything," said one important French government official. "After all, we get a little irritated if we can't even get an answer to our requests to see what's going on up there in Frankfurt."

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 File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
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German Protected Property

July 11, 1945

Secretary Morgenthau

Mr. Coe

Subject: Examination by the French of gold at Frankfurt

After clearance with State and Treasury, the War Department has sent the following cable to SHAEF:

"On the ground that France is one of the powers participating in the occupation of Germany, it is satisfactory for the French Government to send technical experts to Frankfurt" (for the purpose of examining the gold held there).

7/13 - Orig. to White

MF

MF:mjs 7/11/45

FILE COPY

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 Authority 978025
 By TJ NARA Date 9/28/99

RG 56
 Entry 69A4707
 File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
 Box 80

Germany: Gold

CONFIDENTIAL - TOT

From: Supreme Headquarters, Allied Expeditionary Forces,
 Main, Frankfurt, Germany

To: War Department

Hr: S 93726 VOG 535 28 June 1945

From SHAEF Main, S 93726, to AGWAR for Combined Chiefs of Staff to for info AMSSO for BCS signed Tedder this is VOG 535.

Pleven, French Minister of Finance and National Economy, has made following request:

"The French Government is desirous of sending two technical experts, one from the French Treasury, one from Bank of France, to take part in the inventory of gold presently under your control. Would appreciate authority for these experts to go to Frankfurt."

We are prepared to allow these French technicians to come to Frankfurt to assist the US/BR technicians in the inventory of the gold. Kindly confirm that such will be satisfactory to you.

End

cc: 6/30/45 Messrs. Glasser-Gold, Bronz (3), Schmidt (3), Friedberg, Gunter, E. Hebbard, Nathan

ACTION: MR. GUNTER

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NND 978025
Authority
By TJ NARA Date 9/28/99

RG 56
Entry 69A4707
File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
Box 80

Treasury Department
Division of Monetary Research

GRAM

DIVISION OF
CENTRAL SERVICES
TELEGRAPH SECTION

Date.....1945

German: Looted Property

~~Text~~

For Action

~~Text~~

Paris.

Dated June 27, 1945

Rec'd 2:43 p.m.

General Clay has suggested that gold discovered in Germany be used to pay for supplies furnished to Germany by United States.

Mr. Ball urges that French experts be permitted to examine gold in view of General Clay's statement and unfavorable publicity given to reply to French request to check identity of gold.

Action: Mr. Friedberg

DM BALL

formed me that Rueff who is

the head of the French Committee for German affairs was recently in Frankfurt where he talked to General Clay. In discussing the gold which is presently held by the Army Rueff stated that Gen Clay informed him that inasmuch as USA was expected to furnish supplies to Germany he could see no reason why this gold should not be used to pay for these supplies.

Two. HERALD TRIBUNE carried story this morning that French authorities had been bluntly discouraged in attempts to check identity of gold in spite of United Nations' declaration; also statement reuse of gold to pay for goods sent to Germany.

Three. RE Treasury's 291, June 25. In view publicity which has

DC/L
LIAISON

1945 JUN 27 PM 9 26

RECEIVED
DIVISION OF
CENTRAL SERVICES

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RG 56
Entry 69 A4707
File GERMANY: Gold, Currency, and Loot
Recoveries - Problem of Disposition
Box 80

-2- #3862, June 27, noon, from Paris

which has been given in HERALD TRIBUNE and Gen
Clay's statement to Rueff would like to urge strongly
that if at all possible permission be granted to French
to examine this gold immed. I understand that Brit have
already sent or are about to send experts forward.

CLFFERY

MJK

207153

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 By TJ NARA Date 9/28/99

RG 56
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 File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
 Box 80

Germany: Gold

June 25, 1945

5 p.m.

AMEMBASSY.

PARIS
 2931
FOR BAIL FROM TREASURY.

With reference to Plevin's request for permission to have the gold in the German salt mine examined by agents of the Ministry of Finance, Eisenhower has informed the Secretary of War that a group of experts are now sorting, weighing and classifying the valuables. When the valuables have been placed in order notice will be given us through the War Department for communication to Plevin.

GHEW
 (Acting)
 (HRS)

FN:AAPost:aps.
 6/22/45.

cc: 6/29/45 Messrs. Glasser-Gold, Bronz (3), Schmidt (3),
 Friedberg, Gunter, E. Hebbard, Nathan

207154

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 Authority 978025
 By TJ NARA Date 9/28/99

RG 56
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 File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
 Box 80

Germany: Gold

June 16, 1945

7 p.m.

EMBASSY,

LONDON.

4874

FOR TAYLOR FROM TREASURY

This Government has not reached a decision concerning the disposition of the gold captured in Germany (REURTEL 4170, April 21). The matter remains open and no statements should be made which would prejudice a later decision to make any of several possible dispositions. Your reply to Yugoslav's should be along following lines which is form being used to answer similar inquiries from other governments: Several caches of gold have been discovered in various sections of the European theater of operations. These deposits are in the custody of United States forces and steps are now being taken to inventory them. The U.S. Government is not in a position to make a specific reply to the inquiry of the Yugoslav Government until the experts have completed their surveys.

GREW
 (Acting)
 (HRS)

FN:JESchairer:jco
 6/14/45

cc: 6/20/45 Messrs. Glasser-Gold, Bronz (3), Schmidt (3),
 Gunter, Mrs. Baum, E. Hebbard, Nathan

207155

DECLASSIFIED
NND Authority 978025
By TJ NARA Date 9/28/99

RG 56
Entry 69A4707
File GERMANY: Gold, Currency, and Loot
Recoveries - Problem of Disposition
Box 80

Germany: Stolen Property

14 June 1945

MEMORANDUM for the Files.

Subject: Replies to Italian and Yugoslav Governments
Concerning Captured Gold.

I received a telephone call from Miss Schairer of the State Department today at which time she suggested that a proposed cable to Mr. Taylor, prepared by Treasury, answering the Yugoslav government concerning the disposition of captured gold be revised to authorize Mr. Taylor to indicate to the Yugoslav's that an inventory is now being made and that until such time as the inventory is completed, this Government is in no position to answer questions regarding the gold. Miss Schairer also asked whether the Treasury would clear a similar reply to the Italian government to be included in a note to be handed to the Italian Ambassador.

I discussed this matter with Mr. Gunter. He agreed that both answers are appropriate and I notified Miss Schairer to that effect.

RDS:ik

207156

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By TJ NARA Date 9/28/99

RG 50
Entry 69A4707
File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
Box 80

Treasury Department
Division of Monetary Research

Date July 14, 1945

~~TO:~~

~~FROM:~~

For Information

SHAET approval granted for French experts to participate in inventory of gold held in Frankfurt.

Attention: Mr. Gunter and Mr. Friedberg

DISTRIBUTION
CONFIDENTIAL

Gunn & Related Property

CCS CCAG 73766 Lt Col Hilliard

9 July 1945

confidential.

Technical experts to take part inventory gold Frankfurt.

On ground that France is 1 of powers participating in occupation Germany, it is satisfactory, reference VOG 535, French Government send technical experts Frankfurt for purpose mentioned.

End.

cc: 7/13/45 Messrs. Glasser-Gold, Bronz (3), Schmidt (3), Friedberg, Gunter, E. Hebbard, Nathan

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Treasury Department
Bureau of Monetary Research

Date July 14, 1945 CCAC DISTRIBUTION

Germ: Looted Property

CONFIDENTIAL

CCS CCAC 73766 Lt Col Hilliard

9 July 1945

~~For Information~~
Supreme Headquarters
Allied Expeditionary Forces
Main Echelon
Frankfurt, Germany

Commanding General
United Kingdom Base Section
London, England

Attention: Mr. Gunter and
Friedberg
British Joint Staff Mission
Washington, D. C.

Number: WARK 29639

This is GOV 401 classification confidential.

French technical experts to take part inventory gold
Frankfurt.

On ground that France is 1 of powers participating
in occupation Germany, it is satisfactory, reference VOG 535,
French Government send technical experts Frankfurt for purpose
mentioned.

End.

cc: 7/13/45 Messrs. Glasser-Gold, Bronz (3), Schmidt (3),
Friedberg, Gunter, E. Hebbard, Nathan

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 By TJ NARA Date 9/28/99

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CCAC DISTRIBUTION
 SECRET

Combined Chiefs of Staff
 Combined Civ Affairs Committee
 Lt Wingate 4376

Germ; Looted Property

24 May 1945

Supreme Headquarters Allied Expeditionary Force Forward
 Echelon Rheims France

Commanding General United Kingdom Base Section London England

British Joint Staff Mission Washington, D. C.

Number: WARI 87416

This is GOV 349.

French participation in inspection of Wehrers treasure.

French request permission to send 2 representatives appointed by the Minister of Finance to participate in examination of treasury referred to in FAGS 225 in similar capacity to that of United States/United Kingdom experts. Request your views relative to adding them to party of 5. If this request is approved it may be necessary to grant similar privilege to Belgians.

End.

cc: 5/26/45 Messrs. Glasser-Gold, Brons (3), Schmidt (3),
 Friedberg, Gunter, E. Hubbard

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 By TJ NARA Date 9/28/99

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 File GERMANY; Gold, Currency, and Loot Recoveries - Problem of Disposition
 Box 80

Germ Looting Property
 Treasury Department
 Division of Monetary Research

Date May 22, 1945 19

To: Mr. Coe - For Your Information

From: Mr. Delaney *AD*

Subject: Restitution of Looted Gold

1. You will recall the cable State despatched on April 26 to Brussels concerning restitution of gold looted by Germans. That cable, not cleared with Treasury so far as I have been able to determine, referred to a cable State was preparing for London indicating that State would support restitution of identifiable gold.

2. I understand that State's failure to clear this policy with Treasury was called to their attention.

3. It appears that, as a result, State despatched cable No. 3665, of May 10 to London saying:

It would seem advisable, in view of discussions now going on in Washington regarding the disposition of looted gold, to withhold comment on plans for restitution or replacement of gold which has been looted.

Mr. Feig called this cable to my attention this morning and is circulating it.

cc: Mr. Glasser

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Authority 978025
By TJ NARA Date 9/28/99

RG 56Entry 69 A4707File GERMANY: Gold, Currency, and Loot Recoveries - Problem of DispositionBox 80

WAR DEPARTMENT
WASHINGTON

19 May 1945

The Honorable
The Secretary of Treasury
The Treasury Department
Washington 25, D. C.

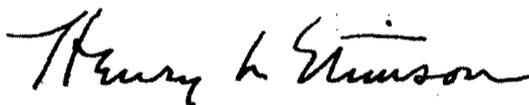
Dear Mr. Secretary:

Receipt is acknowledged of your letter 10 May 1945 concerning the desire of the Minister of Finance of the French Provisional Government for French participation in an examination of the gold and other valuables found in a German salt mine, now under the control of United States Army forces.

As you know, after consultation with your department and the British Treasury, a draft reply to the Supreme Commander's request for three Treasury Department experts to assist him in examining the treasure was submitted to the Combined Chiefs of Staff. This reply suggested sending three U. S. and two U. K. experts and asked his approval. No reply to this message has been received.

It will now be necessary to obtain the Supreme Commander's views in regard to the French representative. As soon as they have been received further consideration will be given to the French request.

Sincerely yours,



Secretary of War

207161

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 By TJ NARA Date 9/28/99

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 Entry 69A4707
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 Box 80

Germany, Looted Property

May 19, 1945

MEMORANDUM for the Files.

Subject: Looted German Gold.

On Friday, May 11, 1945, Mr. Coe, Colonel Willmer, Lt. Col. Hilliard, Mr. Friedman and Mr. Scott met in Mr. Coe's office to discuss certain cables relating to the disposition of looted gold found by American forces in Germany.

Mr. Coe had phoned the War Department to find out who had authorized the transfer of the gold from the American commander to the deputy head of G-5 of SHAMP. He pointed out that this transfer placed the gold in combined channels and to some extent prejudiced a decision on the part of the U. S. Government as to the present ownership of the gold. He explained that neither the Treasury nor any other Government agency had as yet adopted a position concerning the ownership of the gold but that it had been the intention of the Treasury to take only such steps as would permit any of several decisions, i.e., (1) that the gold belonged to the U. S. Government as booty seized by U.S. forces, (2) that the gold was to be held for payment of reparations, or (3) that the gold be identified to the extent possible and restored to former owners.

Colonel Hilliard explained that the Civil Affairs Division had not been consulted on the earlier cables and that by the time they were consulted the gold had already been placed in combined channels. He disclosed, moreover, that the British Foreign Office has proposed that experts of the Bank of England be allowed to participate in the weighing, marking and possible identification of the gold. He submitted a proposed CCAC paper which provides that both British and American experts be utilized in weighing the gold and studying the assay certificates. The War Crimes Commission would be invited to participate in an examination of the gold because of the fact that the hoard includes manufactured items such as dental plates, etc., which might be utilized as evidence in war crimes trials.

After indicating his disappointment in the developments, Mr. Coe approved the CCAC paper and also a cable to the British Foreign Office which advises the British of U. S. acceptance of the services of British gold experts. Mr. Coe further stated that pending a decision of what should be done with the gold, it was his opinion that United Nations governments should be permitted full knowledge of what the hoard includes and should be allowed to make such investigations as they may desire.

RDS:ik
 cc: Mr. Friedman (3)

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Box 80

And one who had authorized sender to the deputy head refer placed

REPUBLICQUE FRANCAISE *Lost Property*

MAY 16 1945

Dear Mr. Secretary:

I append herewith a copy of a letter from M. Plevin, Minister of Finance of the French Provisional Government, who desires to have an examination made of the gold and other valuables found in the German salt mine now under the control of the American Army.

I should be glad if you would accord this permission to the representatives selected by M. Plevin.

Sincerely,

(Signed) H. Morgenthau, Jr.

The Honorable,
The Secretary of War.

Enclosures.

5/18 - Signed by Secy. dated 5/16/45
cc to MF
mailed by Secy. office

MF FC

MF:mjs 5/14/45

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By TJ NARA Date 9/28/99

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File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
Box 80

Germany: Looted Property

files

Treasury Department
Division of Monetary Research

Date 22 May 1945

Tox

FROM

For Action

Paris, May 14, 1945

Mr. Ball requests Treasury views on SHAEF proposal to permit French and Belgian experts to attempt to identify gold found in Germany.

Colonel Bernstein has agreed.

Action: Mr. Friedberg

the Treasury, requested me to come this morning to discuss the question of the gold found in Germany. We informed him of the ultimate disposal of the gold and that no final decision had been reached that he was aware of that fact and that at present was an identification of the gold seized by the Germans in France and for which he had reimbursed the Belgian Government. I also had no information at the present time as to the location of the gold that had been captured, but would be glad to take the matter up with the proper authorities.

I discussed this question with Col. Bernstein who informed me that he had already received a similar request from another branch of the French Government and had informed them that the Army was simply the custodian of the gold until a decision was made as to its ultimate disposal.

SHAEF has forwarded a request to Washington for some experts to be sent over to assist in identifying the gold and has also, I understand, raised the question with CCS as to whether or not there are any objections to permitting French and Belgian experts to attempt to identify the seized gold. Col. Bernstein indicated that he could see no objection to granting permission for them to examine the gold for this purpose.

This matter is urgent from the point of view of our relations with the Ministry of Finance, and I would appreciate a reply by cable if the U.S. Government has no objection to an examination being made by the French and Belgians.

Sincerely,

Theodore H. Ball,
U.S. Treasury Representative.

Mr. Harry D. White,
Assistant Secretary of the Treasury,
Washington, D. C.

DECLASSIFIED
Authority 978025
By TJ NARA Date 9/28/99

RG 56
Entry 69 A4707
File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
Box 80

Germany: Looted Property

Paris, May 14, 1945

No. 208

Dear Mr. White:

M. Brunet, Director of the Treasury, requested me to come to the Ministry of Finance this morning to discuss the question of the identification of the gold found in Germany. We informed Brunet that the whole question of the ultimate disposal of the gold was still up for discussion and that no final decision had been reached. Brunet indicated that he was aware of that fact and that all he was interested in at present was an identification of the Belgian gold which was seized by the Germans in France and for which they had already reimbursed the Belgian Government. I also informed M. Brunet that we had no information at the present time regarding the identification of the gold that had been captured, but would be glad to take the matter up with the proper authorities.

I discussed this question with Col. Bernstein who informed me that he had already received a similar request from another branch of the French Government and had informed them that the Army was simply the custodian of the gold until a decision was made as to its ultimate disposal.

SHAEF has forwarded a request to Washington for some experts to be sent over to assist in identifying the gold and has also, I understand, raised the question with CCS as to whether or not there are any objections to permitting French and Belgian experts to attempt to identify the seized gold. Col. Bernstein indicated that he could see no objection to granting permission for them to examine the gold for this purpose.

This matter is urgent from the point of view of our relations with the Ministry of Finance, and I would appreciate a reply by cable if the U.S. Government has no objection to an examination being made by the French and Belgians.

Sincerely,

Theodore H. Ball,
U.S. Treasury Representative.

Mr. Harry D. White,
Assistant Secretary of the Treasury,
Washington, D. C.

DECLASSIFIED
Authority 978025
By TJ NARA Date 9/28/99

RG 56
Entry 69A4707
File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
Box 80

ec

REPUBLIQUE FRANCAISE

AMBASSADE
LEGATION
DU
GOVERNEMENT PROVISoire
AUX
ETATS UNIS
L'ATTACHE FINANCIER

1800 MASSACHUSETTS AVE. N. W.
WASHINGTON 6. D. C.
P. O. Box 3157
DECATUR 7935

AF 633
CV/MJ

MAY 12, 1945.

DEAR MR. COE:

PURSUANT TO OUR RECENT CONVERSATION, I SEND YOU HEREWITH A COPY, TOGETHER WITH TRANSLATION IN ENGLISH, OF MR. PLEVEN'S LETTER TO MR. MORGENTHAU REQUESTING THAT REPRESENTATIVES OF BOTH THE FRENCH MINISTRY OF FINANCE AND THE BANQUE DE FRANCE BE PERMITTED TO EXAMINE ON THE PREMISES THE ASSETS OF THE REICHSBANK UNDER THE CONTROL OF THE AMERICAN ARMY.

SINCERELY YOURS,

Christian Valensi

CHRISTIAN VALENSI
FINANCIAL ATTACHE

2 ENCLS.

FRANK COE, ESQ.,
DIRECTOR,
DIVISION OF MONETARY RESEARCH,
TREASURY DEPARTMENT,
WASHINGTON, D.C.

DECLASSIFIED
 Authority 978025
 By TJ NARA Date 9/28/99

RG 56Entry 69 A4707File GERMANY: Gold, Currency, and Loot Recoveries - Problem of DispositionBox 80

35

REPUBLIQUE FRANCAISE

1800 MASSACHUSETTS AVENUE, N.W.
 WASHINGTON 6, D.C.

Le Ministre des Finances

le 10 mai 1945

Cher Monsieur le Secretaire,

Comme suite a notre conversation de ce matin, je vous confirme que j'attacherais un grand interet a ce qu'un representant du Ministere des Finances Francais et un representant de la Banque de France, pussent aller sur place examiner les avoirs de la REICHSBANK actuellement places sous le controle de l'Armee americaine. Je vous serais tres oblige de bien vouloir, comme vous me l'avez propose, donner les instructions necessaires a cet effet.

Les arrangements pratiques relatifs a cette visite pourraient etre faits a Paris d'accord entre SHAEF et la Mission Militaire francaise pour les affaires allemandes.

En vous remerciant a l'avance, je vous prie de bien vouloir agreer, Monsieur le Secretaire, l'expression de ma haute consideration.

The Honorable Henry MORGENTHAU, Jr.,
 Secretary of the Treasury,
WASHINGTON

207167

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By TJ NARA Date 9/28/99

RG 50
Entry 69 A4707
File GERMANY: Gold, Currency, and Loot Recoveries - Problem of Disposition
Box 80

German: Looted Property

Treasury Department
Division of Monetary Research

Date 5/7 1945

To: Mr. Coe

From: Mr. Glasser

The War Department (Major Blewer) called and asked if the Treasury had reached a decision on letting the British look at the gold hoard in Germany.

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Authority NND 978025
By KV NARA Date 9/30/97RG 56
Entry 69A4707
File GERMANY: LOOTED
PROPERTY
Box 82*Germany: Looted Property*

SECRET TGT

INCOMING CLASSIFIED MESSAGE

CR

FROM: CNGUS Berlin Germany signed Hays

TO: Chief of Staff for CSCAD

NR: CG 3450 9 March 1948

Reurad WX 97155,

1. Definition of monetary gold contained in urad November WX 90566 necessitates new survey of gold collected under Law 53 since present records do not indicate origin.

2. As of 31 December 1947 following quantities had been delivered in United States Zone except United States Sector of Berlin:

Gold bars, 241 kilograms. Gold pieces, 73 kilograms.
Leaf gold, 391 grams. Dental gold, 2.4 kilograms.
Bare gold, 2.8 kilograms. Commercial gold, 280 kilograms.
Other 1.9 kilograms.

3. Information from other zones and sectors will be requested and forwarded as soon as available.

4. Disposition on monetary gold including deposits under Law 53 being dealt with in separate reply urad WX 90566.

END.

CM IN 1869 (10 Mar 48)

3-15-48 cc to: Gunter, Masterson 3, Richards 3, Nelson, Pollack, Willis,
Wood, Gewirtz, F. Smith, Eddy, Bittermann, and Schwartz.

pel

207169

DECLASSIFIED
 Authority NND 978025
 By KV NARA Date 9/30/99

RG 56
 Entry 69A4707
 File GERMANY: LOOTED PROPERTY
 Box 82

German; Looted Property

SECRET

OUTGOING CLASSIFIED MESSAGE

OR

Civil Affairs Division
 Lt Col Jorgenson for
 (Mr Hemmendinger State)
 75140

27 May 1948

OMGUS Berlin Germany

Information

Hq EUCOM Frankfurt Germany

COMCONUSAFE Wiesbaden Germany

Hr: WARK 82735

From CSCAD cite ECOM. Reurad April CC 3894 and ourad Nov WARK 90566. EUCOM and USAFE for OMGUS Property Div. Definition of monetary gold is subj.

1. For purpose establishing your working definition of monetary gold in order to determine extent gold held by fed is to be turned over to Tripartite Gold Commission, you are correct in using definition in Paris Reparations Agreement, Part III and Angelle report. Any different or add instruction contained Par 1 A of ourad, is herewith cancelled. It must be borne in mind that for purpose of recovery of monetary looted gold provisions of Paris Reparations Agreement Part III are binding, whereas for purpose of distribution by TGC, limitation providing for verification of claims submitted by victimized countries had to be added.
2. Lot of 64 gold bars mentioned in Par 3 urad consequently is to be considered monetary gold for purpose of disposal by you. Decision whether this particular lot is to be turned over to TGC or to French Govt depends whether gold was found and seized by US M.I on German or on French soil. You are therefore requested earliest report where subj lot was found.
3. You are auth make avail Precious Metals Control Office gold described in Par 7 urad, except that TGC definition of monetary gold not to be used. Only such gold as falls outside Angell report definition may be delivered Precious Metals Control Office for use German economy.

END.

CC 3894 is CM IN 4081, 16 Apr 48.

CM OUT 82735 (May 48)

6-4-48 cc to: Guanter, Arnold, Shwartz S, Nelson, Pollack, Willis, Wood, F. Smith, Schaffner, Kamarek, Bittermann, Dietrich, Gewirts, and Mint.

pel

207170

DECLASSIFIED
 Authority NND 978025
 By KD NARA Date 9/30/99

RG 56
 Entry 69A4707
 File GERMANY: LOYALTY
PROPERTY
 Box 82

DEPARTMENT OF THE ARMY
 STAFF MESSAGE CENTER
 INCOMING CLASSIFIED MESSAGE

SECRET TOT

PARAPHRASE NOT REQUIRED. HANDLE AS SECRET CORRESPONDENCE
 PER PARAS 511 and 60a (4), AR 380-5

From: OMGUS Berlin Germany sgd Hays
 To: Chief of Staff USA for CSCAD
 Nr: CC 3894 16 April 1948

Reurads WX 96654, WX 90566, WX 85682, ourads CC 7904,
 CC 1701, CC 3450, and State Department telegram from Lovett
 to Board, 31 December 1947. Definition of monetary gold is
 subject.

1. In para 3 of ourad CC 1701 we transmitted to you our working definition for monetary gold which we had based on Angell's definition. Thus we considered monetary gold to represent "gold in such form as to permit it by normal practice to be held as a part of the gold reserves of a central bank, specifically including any gold that can be identified as having been so held." This definition is based only on the form, shape, mint markings, and or assay certificates of gold and not on its source.

2. In ourad WX 90566 in reply to CC 1701, however, you instructed us to be guided by Angell's report and by definition included in Tripartite Gold Commission questionnaire. Since the definition used by TGC is based not on appearance of gold alone but in addition emphasizes the criterion of source, we feel that Mr Angell's definition ("gold in such form as to be a medium of exchange") has been narrowed down considerably and, if used by us, would leave us with certain lots of gold which do not satisfy the monetary category as employed by TGC nor the nonmonetary classification as defined by WX 85682. We are presently

CM IN 4081 (19 Apr 48)

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SECRET TOT

Page 2

From: CMGUS Berlin Germany sgd Hays

Nr: CC 3894

16 April 1948

holding gold which is "in such form as to permit it by normal practice to be held as a part of the gold reserves of a central bank" but the origin of which is either unknown or which "at the time of its looting or wrongful removal" according to our records was not "held by respective governments central bank or monetary authority as part of that country's monetary reserve."

3. The most important of such lots presently held by FED consists of 64 gold bars totaling weight of 25,682,530 fine ounces claimed to be property of the firm Dollfus-Mieg, Muehlhausen/Alsace, contained in boxes bearing seals of Sec Banque Suisse, La Locle. 63 of these bars bear Russian mint marking "Vockba" but lack assay certificates and remaining bar is Swiss good delivery bar. This lot of gold is said to have been confiscated by the Germans; French inquired about it in 1945. This gold is not monetary according to the TGC definition and France therefore cannot file claim for it on present TGC questionnaire. It cannot be considered nonmonetary since it does not support attributes prescribed by AR 85632 such as unidentifiability as to national and individual origin, heirlessness, loot from victims of Nazi persecution nor does it qualify as nonmonetary as defined in paras 1 and 3 of State Department telegram.

4. Most gold deposited under law 53 will also fail to fall within TGC definition of monetary gold nor will it, on the other hand, represent nonmonetary gold as defined by

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By <u>KN</u> NARA Date <u>9/30/99</u>	File <u>GERMANY: CONTROL PROPERTY</u>
	Box <u>82</u>

DEPARTMENT OF THE ARMY
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SECRET POT

Page 3

From: OMGUS Berlin Germany sgd Hays

Nr: CC 3894

16 April 1948

WX 85682 and State Department telegram.

5. We would also like to mention that the TGC definition of monetary gold seems to be in contradiction with the definition apparently used in cables CG 7904 and WX 96654 when in reply to our question: "What disposition is to be made of monetary gold falling under WX 85682?", you answered: "Monetary gold to go entirely to gold pot." (It is not possible for monetary gold as defined TGC to be at the same time Nazi victim loot as defined by WX 85682.) WX 96654, however, is in harmony with Angell's final report on the Paris Conference since he there referred to "non-monetary gold taken by the Nazis from their victims" and apparently used this expression in contrast to monetary gold which he defined as "gold in such form as to be a medium of exchange."

6. Since the TGC in their acceptance and satisfaction of monetary gold claims employ a narrower definition we should employ for shipping monetary gold to the TGC. If you favor our use of the TGC definition for these shipments, we will need your additional guidance as to the classification and final disposition of the category of gold which cannot be classified as monetary gold as defined by TGC nor considered nonmonetary gold. Since the origin of some of this gold has been established, we do not feel free to turn it over to the IRO as nonmonetary gold as indicated in para 1 of State Department telegram.

CM IN 4081 (19 Apr 48)

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DECLASSIFIED
 Authority NND 978025
 By KN NARA Date 9/30/99
 RG 56
 Entry 69A4707
 File Germany: Looted Property
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DEPARTMENT OF THE ARMY
 STAFF MESSAGE CENTER
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SECRET TOP

Page 4

From: OMGUS Berlin Germany sgd Hays

Nr: CC 3894

16 April 1948

According to WX 85965, WX 99226 and present occupation directive, gold is excluded from restitution.

7. In connection with monetary gold definition we also desire to draw your attention to fact that gold held pursuant to law 53, which is not in monetary form (sheets, wire, et cetera) and which according to our records originated neither from monetary (CFMGC definition) nor non-monetary (CF WX 85682) source, will have to be classified and disposed of. We request your authority to make this gold available to the precious metals control office of the Verwaltung Fuer Wirtschaft (economic administration) for such use in the German economy as deemed appropriate by them, excepting gold which can be shown to have been looted and with respect to which we shall request your instructions as specific cases arise.

End

Note: CC 1701 is CM IN 4397 (23 Sept 47) CAD
 CC 3450 is CM IN 1869 (10 Mar 47) CAD
 CC 7904 is CM IN 545 (5 Feb 47) JCS

ACTION: CAD

INFO : JCS, ID, OUS, PO, LOGD, BUD

CM IN 4081 (19 Apr 48)

DTG 160922Z

hhl

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WAR DEPARTMENT *German Looted Property*
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PARAPHRASE NOT REQUIRED. HANDLE AS SECRET CORRESPONDENCE
 PER PARAS 511 and 60a (4) AR 380-5

From: OMCUS Berlin sgd Hays
 To: Chief of Staff for CSCAD Eoon
 Nr: CC 2497

5 December 1947

Reurads WX 87966 and WX 80729 and ourad May, CC 9160.
 Disposition of monetary gold at foreign exchange depository
 is subject.

1. Have been advised by tripartite gold commission
 to prepare for shipment of balance monetary gold from foreign
 exchange depository to central bank or banks prior to further
 allocations by commission. Since this represents change from
 previous plan to make all preliminary distributions from
 foreign exchange depository, request your approval our
 shipping balance of gold as instructed by commission.

2. We do not plan to include in present shipment
 any gold deposited under Law 53. Will send separate cable
 regarding this matter.

3. Commission has requested inclusion in shipment
 of Italian alloy bars described our May CC 9160. In your
 WX 80729 you stated tentative conclusion that silver content
 these bars was to be restituted to Italy. In view of this
 fact, should we comply with commission's request?

End

NOTE: CC 9160 not identified in SMC

ACTION: CAD

INFO: CAD (State), OUS, PO

CM IN 1058

(6 Dec 47)

DTG 051455Z mec

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By KV NARA Date 9/30/97

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WAR DEPARTMENT *German Looted Property*
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PER PARAS 511 and 60a (4), AR 380-5

Civil Affairs Division
Maj German 6432

8 October 1947

OMGUS Berlin, Germany

INFORMATION:

HQ EUCOM Frankfurt, Germany

Number: WARX 87966

From CSCAD Econ. Reurad Oct 66 1815 and cured July WX 81893.
Preliminary distribution of monetary gold from FED is subj.

1. Text official press statement by Under Sec of State
Lovett of 24 Sept fols:

"Preliminary distribution of the 'gold pot'.

"At the Paris Reparations Conference (Nov-Dec 1945) it was agreed that all the monetary gold found in Germany by the Allied Forces and looted gold recovered from third countries to which it was transferred from Germany should be pooled for redistribution among the victimized countries on a pro-rata basis. On 27 Sept 46 a gold commission composed of representatives of France, the UK and US was set up in Brussels to scrutinize claims for looted gold and to determine the share of each claimant govt.

"Although the technical and legal difficulties involved are tremendous, the Dept of State has instructed its representative on the commission, in view of the critical international financial situation, to urge a preliminary distribution of the 'gold pot' not later than Oct 15. The commission has agreed to try to meet this deadline. The return of a substantial portion of their monetary gold reserve to some of the European countries which are in a critical financial

CM OUT 87966

(Oct 47)

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Nr: WARK 87966 8 Oct 47 Page 2

situation will help them to overcome their present difficulties. There are at present avail for distribution about \$260,000,000 worth of gold looted by the Nazis and recovered by US Forces in Germany plus about \$70,000,000 worth of gold recovered from third countries. Negotiations with third countries still going on should yield add looted gold for the 'pot' in the near future. Only about half of the total of \$330,000,000 worth of gold now avail can be distributed immediately since a substantial reserve will have to be withheld to meet claims which may later be determined to be valid. The total of all claims submitted to the commission amts to nearly \$800,000,000 worth of gold.

"Claims have been filed by Albania, Austria, Belgium, Czechoslovakia, Greece, Italy, Luxembourg, Netherlands, Poland and Yugoslavia. I am not in a pos to reveal the amt of each particular claim nor am I in a pos to say at this moment how much any one of the forementioned countries will receive in the preliminary distribution since the decision is up to the tripartite gold commission and will be announced by this commission."

2. Out of total claims 722,546 KG, 254,328 KG are recognized as valid by commission at this time. Commission agreed Depts decision that preliminary distribution is to be made from Frankfurt. Transfer to be made directly to claimant gold pot countries not to IARA.

3. As you will see from fol text of cable instructions sent by State to Brussels for Dorr, the tripartite gold commission will be responsible for distribution. Fol is text of abovementioned cable:

"1. Dept pleased commission concurrence (urtel 112 to Berlin for Ball and Bennett, rpted Dept 1501 Sept 28 para 1, 1520 Oct 1, and Berlins 130 to Brussels Oct 1) Depts decision Frankfurt gold pit for distribution should not be moved central bank but should be distributed from Frankfurt occasion preliminary distribution. Necessary instructions in accordance with fol plan will be sent from Wash to COMUS via Dept of Army.

OM OUT 87966 (Oct 47) SECRET

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Nr: WARX 87966 8 Oct 47 Page 3

"A. Preliminary distribution to be made in fol order.

"(1) Gold delivery bars at Frankfurt.

"(2) Gold held at Frb NY.

"(3) Gold coin at Frankfurt suitable for distribution.

"(4) Doubtful bars at Frankfurt in accordance with alternative waiver procedures suggested in immediately fol cable.

"B. Commission will determine shares to be paid from Frankfurt gold on basis Howard report and notify OMGUS for preparation of shares for delivery. Treas sending Schiercke, mint expert immediately to work for commission reporting to Dorr as chairman. Re Brussels 1520 Oct 1 para 3, US pos is stated in fol para 3. US would also welcome Brit and French mint experts on same terms.

"C. Commission will prepare schedule of deliveries from Frankfurt possibly 1 delivery a day, until completed, obtain waiver from each recipient country and in return give order on OMGUS for delivery of share of gold on designated day. Commission will also obtain photograph, signature, and possibly fingerprints of person or persons auth to receive gold for recipient country and fwd same to OMGUS. Also send to OMGUS specimen signatures of commissioners and copies of all orders for delivery.

"D. On day of delivery OMGUS, after satisfying itself as to identity of representative of recipient country and authenticity of order for delivery, will deliver gold against simple receipt identifying by description and total weight gold delivered. If necessary to deliver doubtful bars, receipt for such bars may show description of bars followed by phrase 'said to contain xray ounces of fine gold'. (See immediately fol cable on waiver). If desired, delivery may be

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No: WARX 87966 8 Oct 47 Page 4

preceded by joint inventory.

"E. Upon delivery at Frankfurt, recipient country will assume full responsibility for gold. Recipient will arrange for transport of gold although if requested, OMGUS may assist in transport of gold to border provided recipient agrees to accept all risks of loss. Any cost payable in reichsmarks are to be borne by Germany economy (see DEPTTEL 840 June 17 para 6).

"2. Please work out detailed procedure with OMGUS and advise.

"3. Dept disturbed UR 1520 paras 1 and 3. Strongly of opinion that final responsibility for preliminary distribution rests with gold commission. Under procedure suggested above commission has responsibility for determination to make distribution on basis Howard report allocating shares to each country, obtaining waivers from and delivering orders to representatives of recipient countries and communicating adequate identification info to OMGUS. OMGUS responsibility to segregate shares of gold, identify representatives of recipient and make delivery against receipt. Recipient country has responsibility for transport and safety of gold from time of delivery at Frankfurt.

"4. In light of foregoing, please raise question of responsibility for distribution with commission indicating US not prepared to accept sole responsibility for gold commission acts. Dept will raise question with France and UK if other commissioners not prepared to agree.

"Repeated to Berlin for Murphy for info."

4. Pursuant to para 17B ourad you are auth to make preliminary deliveries monetary gold held by you at foreign exchange depository, Frankfurt, in accordance with the foregoing plan to make such procedural modifications thereof as may be agreed between you and tripartite gold commission. Nothing further.

Note: CC 1815 is CM IN 286 (Oct) End
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By <u>KEN</u> NARA Date <u>9/30/91</u>	File <u>GERMANY: LOOTED PROPERTY</u>
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Germ. Looted Property

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PARAPHRASE NOT REQUIRED. HANDLE AS SECRET CORRESPONDENCE
PER PAPAS 511 and 60a (4) AR 380-5

Civil Affairs Division
Maj Gorman 6432
18 November 1947

OMCUS Berlin Germany

INFORMATION:

HQ EUCOM Frankfurt Germany

Nr: WAFX 90566

From CSCAD cite ECON. Reurads Sept CC 1701 Oct CC 1796
Oct CC 2145 ourad Sept WAFX 85632

1. Re CC 1701

(A) In defining monetary gold you shld be guided by Angells report and by definition included in tripartite gold commission questionnaire, which refers to monetary gold as "all gold which, at time of its looting or wrongful removal, was carried as part of the claimant countrys monetary reserve, either in the accounts of the claimant govt itself or in the accounts of the claimant countrys central bank or other monetary authority at home or abroad". Altho definition gold in questionnaire is for purpose providing basis for claims by nations rather than for distinction between mon gold and other gold in Germany, criterion of "monetary reserve" considered important; thus question is not only whether gold in Germany is bullion or coin but also whether if German gold it was held by German Govt or Reichsbank or other German monetary auth as part of German monetary reserve, or if looted from some other country, it was held by respective govts central bank or monetary auth as part of that countrys monetary reserve.

(B) Your Par 5. This gold is not monetary, inasmuch as it does not appear to satisfy any of criteria. Czecho also appears to regard this gold as other than monetary

OM OUT 90566

(Nov 47)

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AN EXACT COPY OF THIS MESSAGE IS FORBIDDEN

DECLASSIFIED
 Authority NND 978025
 By KNO NARA Date 9/30/99
 RG 56
 Entry 69A4707
 File CERMAN: LOOTED PROPERTY
 Box 82

WAR DEPARTMENT
 STAFF MESSAGE CENTER
 OUTGOING CLASSIFIED MESSAGE

SECRET

Nr: WAPX 90566

18 November 1947

Page 2

If there is substantial evidence this gold is melted concentration camp loot, it shld be considered non-monetary under WX 85682 and turned over to PCIPO. However, if substantial evidence that gold in question was not derived from concentration camp loot and was obtained principally from Czech sources, request you suspend any action and transmit full info.

(C) If gold is in fact concentration camp loot, question of restitutability thereof to Czechs does not arise in opinion of this govt. ACC definition of restitution speaks of "identifiable property" removed by force as subj to restitution. View of this govt that gold in question wld not be identifiable within meaning ACC definition and therefore not subj to restitution. Similarly, Melmer deliveries or similar loot not subj to restitution to countries where respective concentration camps were located, because not identifiable (urad CC 1796 CC 2145), therefore subj delivery PCIPO. Furthermore, property this type not considered to have determinable "national origin" within meaning our WX 85682, inasmuch as location of particular concentration camp where loot was assembled not regarded as bearing on "national" source.

(D) Your Par 8. Identifiable numismatic gold coins are subj to restitution in ordinary way. Agree your proposal Par 8 B re disposition gold which is not monetary or non-monetary.

2. Fearad Sept CC 1796.

(A) Agree your procedure and proposals re disposition envelopes. Desirable explore all reasonable possibilities internal or external restitution before delivering pursuant WX 85682. Your procedure appears to offer adequate safeguards this respect.

(B) Info and comments your Par 6 valuable and greatly appreciated.

End

NOTE: CC 1701 is CM IN 4397 (23 Sept 47)
 CC 1796 is CM IN 165 (2 Oct 47)
 CC 2145 is CM IN 5573 (31 Oct 47)

ORIGINATOR: CAD

DISTRIBUTION: CAD (State), OUS, PO (Nov 47)

DTG 182259Z rb

"THIS DOCUMENT CONTAINS INFORMATION AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES WITHIN THE MEANING OF THE ESPIONAGE ACT, U.S.C. 80; 31 and 32. TRANSMISSION OR THE REVELATION OF ITS CONTENTS IN ANY MANNER TO AN UNAUTHORIZED PERSON IS PROHIBITED BY LAW."

SECRET

COPY NO.

23

DECLASSIFIED	RG 56
Authority <u>NND 978025</u>	Entry <u>69A4707</u>
By <u>KV</u> NARA Date <u>9/30/91</u>	File <u>GERMANY: LOOTED PROPERTY</u>
	Box <u>82</u>

German Cooled Property

**WAR DEPARTMENT
CLASSIFIED MESSAGE CENTER
INCOMING CLASSIFIED MESSAGE**

CONFIDENTIAL

PARAPHRASE NOT REQUIRED. HANDLE AS SECRET CORRESPONDENTS
PER PARAS 511 and 602 (4) AR 380-5

From: OMCUS Berlin Germany sgd Keating

To: AGWAR for WDSOA

Info: EUCOM

Nr: CC 9170

14 May 1947

Reurad April WX-96350, reourads March CC-8237 and November CC-7152. Subject is General Policy for return of movable property claimed by foreign interests, as raised by Danish request for return of commercial gold.

1. In view of undetermined status of multitude of foreign claims against Germany of every conceivable nature, we consider it inopportune at this time to apply general policy outlined in tentative views of State Department.

2. We are, of course, fully prepared to recognize title of foreign interests to identifiable property presently located in Germany and verifiable claims of foreign creditors against Germany and/or her nationals, and we have persistently endeavored to protect the foreign, specifically Allied, interest through blocking and property control.

3. We also appreciate that in priority scale of claims for return of property, other than restitutable property, identifiable items sent into Germany with view to subsequent reexport would logically take preferred position.

CM IN 2482

(15 May 47)

**"THIS DOCUMENT CONTAINS INFORMATION
AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES.
THE MEANING OF THE
ESPIONAGE ACTS, SA, 31 AND 32. THE
TRANSMISSION OR THE REVELATION OF ITS CON-
TENTS IN ANY MANNER TO AN UNAUTHORIZED
PERSON IS PROHIBITED BY LAW."**

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207182

DECLASSIFIED
 Authority NND 978025
 By KEN NARA Date 9/30/99
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 File GERMANY: LOOTED PROPERTY
 Box 82

WAR DEPARTMENT
 CLASSIFIED MESSAGE CENTER
 INCOMING CLASSIFIED MESSAGE

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Page 2

From: OMBUS Berlin Germany sgd Keating

Nr: CC 9170

14 May 1947

4 We are fearful, however, that any realization of our present policy as outlined in ourad CC-7152 would be used by foreign interests as opening wedge to claims for return of a large number of items of movable property which could possibly be classified in returnable category under the proposed policy, and the extent of which cannot be foreseen at this time. We feel justified in our apprehension in this respect in the fact that the value of the gold in question is relatively insignificant (Estimated to be in the neighborhood of \$5,000) presumably only a fraction of Danish property shipped in under similar conditions and presently located in Germany.

5 Our general policy was understood by Netherlands in our various trade negotiations, and although no positive affirmation was given by the Netherlands, their agreement was, in fact, implicitly given in their failure to make representations at this time for return of identifiable property of the nature under discussion.

6 We strongly feel that as long as we have not reached an overall decision with respect to the total complex of commercial claims against Germany, which must of necessity include the establishment of a machinery for the verification and the classification of claims into various priority categories, exceptions to our general policy as outlined in ourad CC-7152 should only be made in exceptional cases.

CM IN 2482

(15 May 47)

***THIS DOCUMENT CONTAINS INFORMATION AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES TO THE MEANING OF THE ESPIONAGE ACT, 50, 51 AND 52. THE TRANSMISSION OR THE REVELATION OF ITS CONTENTS IN ANY MANNER TO AN UNAUTHORIZED PERSON IS PROHIBITED BY LAW.** CONFIDENTIAL
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WAR DEPARTMENT
 CLASSIFIED MESSAGE CENTER
 INCOMING CLASSIFIED MESSAGE

CONFIDENTIAL

Page 3

FROM: OPGUS Berlin Germany sgd Keating

Nr: CC 9170

14 May 1947

In accordance with paragraph 5 of urad WX-96350, we are making arrangements with danes for return of items sent in for repair or alteration. If you feel that political reasons make it necessary to return all items enumerated in USPOLAD telegram 2229 dated 24th September 1946 in view of commitment of State Department vis-a-vis the Danish Government, we are prepared to return balance identifiable items listed upon your instructions.

End

NOTE: CC8237 is CM IN 569 (4 Mar 47) CHD
 CC 7152 is CM IN 5194 (30 Nov 46) CHD
 2229 not identified in SMC

ACTION: CAD

INFO: ASN, CAD (state), P&O

CM IN 2482

(15 May 47)

DTG 141855Z JJY

"THIS DOCUMENT CONTAINS INFORMATION AFFECTING THE NATIONAL DEFENSE OF THE UNITED STATES. THE MEANING OF THE ESPIONAGE ACTS OF 1850, 31 AND 32, THE TRANSMISSION OR REVELATION OF ITS CONTENTS IN ANY MANNER TO AN UNAUTHORIZED PERSON IS PROHIBITED BY LAW."

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Authority NND 978025
By KNO NARA Date 9/30/99

RG 56
Entry 69A4707
File GERMANY: LOOTED PROPERTY
Box 82

INCOMING TELEGRAM

German: Looted Property

DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS

TELEGRAPH BRANCH

RECEIVED
DEPARTMENT OF STATE

13-D

1947 FEB 27 AM 9:50

SECRET

A

Action: ESP
Infos
S/S
U-E
A-H
EUR
DCD
CIG
DC/L
ITP
FC
DC/R

Control 8211

Rec'd February 27, 1947
1:25 a.m.

FROM: Berlin

TO: Secretary of State

NO: 474, February 26, 9 p.m.

Reference your telegram of February 19, 1947, and Department as 90.

WARNING
This is a classified telegram, the protection of which is required by Section 135, Title 22, of the United States Code.

Finance Division, OMGUS, and this office not completely clear as to information requested reference telegram or information needed in negotiations. Possible reference telegram garbled or parts omitted. Also wish point out several pertinent telegrams not sent Berlin. For example, Lisbon's 1103, December 20, 1946, Department's 59, January 20 and Embassy's 52, January 22, which we just received as requested in our telegram 6, February 20.

Finance Division provides following information regarding reference telegram based on incomplete records of Reichsbank and Prussian mint:

- (1) Series 1451/1458, year 1943, consisted of Japanese gold. Bars resulting this smelting recovered at Merkers and now held our depository Frankfurt.
- (2) Series 1013/1034, year 1944, consisted resmelted reichsmark coins. Source of coins not revealed but in absence information that gold reichsmarks in considerable quantity were obtained outside Germany inference is that this gold looted.
- (3) Series 881/939, year 1944, discussed page 7 our report "Netherlands Gold Transferred to Germany during the Occupation" and this smelting treated in full detail

in schedule X

SECRET

INFORMATION COPY

DECLASSIFIED

Authority NND 978025
By KN NARA Date 9/30/91

RG

56

Entry

69A4707

File

GERMANY: LOOTED
PROPERTY

Box

82

SECRET

-2-#474, February 26, 9 p.m., from Berlin.

in schedule X annexed to report. Also exhibit one to schedule X has photostatic copies of relevant pages "900 Ex Goldbarren Kontrollbuch" of Precious Metals Department Reichsbank showing smelt number, gross and fine weight, and fineness of each of the 1520 bars resulting this smelting. Since this data carried by Schmidt to Lisbon, fail to understand statement that data left by Schmidt after visit Germany did not include information this series. Our report showed that of 19,978,294.5 rough grams used this smelting, 15,021,886 grams were looted from Netherlands and 3,085,299 grams were looted from Belgium. Therefore the resulting bars (series 881/939) contained minimum of 90.6 percent looted gold and even higher percentage if looted gold included in added fine gold is taken into account. Not having received Lisbon's 52, Finance Division not advised whether looted content this series has been taken into account by gold sub-committee and takes this occasion to point out extreme importance doing so. If Schmidt failed to leave complete records Lisbon sub-committee may wish send representative Germany before concluding settlement.

(4) Paragraph Two Lisbon's telegram of February 10 requests urgent confirmation that Prussian mint records do not contain reference to series 197/1998, year 1942, which series also subject of Department's telegram February 18, repeated Berlin.

Basis request information on series 1971/1998 not clear inasmuch our 36, December 31, 1946 replying Lisbon's unnumbered December 3, 1946 contained all information available in Berlin on this series. Conclusion was that it did not consist of looted gold.

Reference to "Swiss Report" and Bern's "1971/1998" in reference telegram not clear.

Do Netherlands Bank representatives have copy Prussian mint records, if so, how obtained?

Because large

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207186

DECLASSIFIED

Authority NND 978025
By KEN NARA Date 9/30/99

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Entry

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File

GERMANY: LOOTED
PROPERTY

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SECRET

-3-#474, February 26, 9 p.m., from Berlin.

Because large sums involved strongly recommend before any final agreement is made someone be sent Berlin for final check of records here. As alternative Lisbon might indicate by number gold bars Portugal received from Germany stating which are admittedly or presumed to be melted and those for which there is no evidence as to loot. These bar numbers could then be checked with Berlin records.

Sent to Lisbon as 8; repeated to Department as 474.

MUCCIO

EEC:GEM

SECRET

207187

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Authority NND 978025
By KN NARA Date 9/30/99

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56

Entry

69A4707

File

GERMANY: LOOTED
PROPERTY

Box

82*Germ: Looted Property Ullmann*Born, November 20, 1946 *Ullmann*FOUCH

No. 273

Copy of an airgram from Paris dated October 25 relative to a reported census of non-monetary gold in the three Western zones of Germany. We would appreciate receiving any information which the Treasury may have on this matter.

COPYAIRGRAMCONFIDENTIALFROM: Paris, France
DATE: October 25, 1946The Secretary of State,
Washington.

A-1576, October 25, 1946.

Reference is made to London's A-1281 SAFEHAVEN, of October 3, 1946, transmitting the text of a letter from Mr. Villiers, of the British Foreign Office, stating that the American officials in Berlin were compiling an inventory which would cover all non-monetary gold found in the three western zones.

Mr. Theodore Ball, Deputy Chief of the Finance Division, OMGUS, Berlin, has informed the Embassy that there is no basis for this assertion. OMGUS is making an inventory of the non-monetary gold in the American zone, but has received no reports on the non-monetary gold in the French or British zones. It is possible that Mr. Villiers of the British Foreign Office has confused the tri-zonal processing of the Americans of MGAX forms with respect to declarations by German firms of their external assets.

The London Embassy may wish to consult further with Mr. Villiers on this matter and request him to make a further investigation of the non-monetary gold situation in the British zone inasmuch as there have recently been several articles in the German press indicating that considerable caches have been found by the British.

CAPPERY

Encl. #6 to ltr. #273 from Mann

cc: Glasser, Taylor, Miss Masterson (3), Schmidt (3), Curtis, Willis, E. Hebbard, Ullmann, Eittermann, Eddy, Dickens.

hps

207188

DECLASSIFIED
Authority NND 978025
By KCN NARA Date 9/30/99

RG 56
Entry 69A4707
File GERMANY: LOOTED PROPERTY
Box 82

Germany: Looting Property *FM*

JAN 9 1946

RWN -G
Paraphrase before communicating except to Government Agencies

Control # 1843

Paris

Dated January 5, 1946

Rec'd 7:24 p.m., 6th

SECRET O

Secretary of State
Washington

71, January 5, 2 p.m.

Chargueraud of FONOFF has informed Embassy that question of approach to Swiss Government on question of looted gold transferred by Germany to Switzerland (DEPTEL 5657, December 4, numbers unknown to London and Bern; London's 813, December 20 to Department as 13321 and Bern as 384) has not been resolved as between Finance Minister and FONMIN here.

Finance Minister is of opinion that French interest in looted gold question should be taken up through the National Bank of Belgium which was the original owner of such gold; while Chargueraud is trying to dissuade Finance Minister and has suggested tripartite approach to be made at time of Washington discussion. He is, furthermore, of the opinion that we should advise Swiss on all specific problems of this type to appear on the agenda in order that they may not plead incompetence to discuss such questions during the proposed negotiations (sent Department 71 repeated London 5, Bern 3).

Embassy will attempt to obtain more definitive statement of French position next week. Embassy would appreciate being informed of Department's current advice on this matter.

CAFFERY

BB

cc: 1/14/46
For Information - Miss Scullen, Mrs. Henderson, Miss Steinberg, Gewirtz, Mrs. Schwartz, de Zévallos, O'Flaherty, Locker, Brenner, Ullman, Bitterman, McGrew, Mrs. Alcorn, Friedberg, NY Fed., General Records.

DECLASSIFIED	RG
Authority <u>NND 978025</u>	Entry <u>56</u>
By <u>KV</u> NARA Date <u>9/30/91</u>	File <u>69A4707</u>
	Box <u>82</u>

Germany: LOOTED PROPERTY

PARAPHRASE OF TELEGRAM RECEIVED

Germany & Looted Property
DEC 6 1945

FROM: U. S. Political Adviser, Berlin via War
TO: Secretary of State, Washington
DATE: November 28, 1945
NUMBER: 1126

SECRET

1. On November 27 the Coordinating Committee held its twenty-third meeting. The Soviet member presided over this meeting. A certain acrimony with regard to the subjects of restitution and decentralization of the economy of Germany arose.

2. A report which contained a Soviet definition of restitution on the one hand and a British, French and United States definition on the other hand was produced by the Economics Directorate. Restitution as defined by the Soviets is limited to property which is identifiable and which was seized by force by the enemy and removed from the territory of the country. This definition was essentially the same as that advanced at the Coordinating Committee's twenty-second meeting. Under the alternative definition, restitution will be restricted to goods capable of identification which existed at the time of the occupation and which the enemy removed from the country, regardless of the means of dispossession. This alternative definition would include goods which are identifiable and which were produced while the country was occupied and taken by force by the enemy, in addition. It was pointed out by the French member that the alternative definition was not as broad as the declaration of January 5, 1943, in this latter respect, as the January 5, 1943, declaration visualized restitution of goods sold to the enemy with the victim country's consent and/or pointed to his delegation's conciliatory attitude in accepting this more limited construction. Reference was made by him to the positions which the French, British and United States representatives took at the current Paris Reparations Conference. As a result, the British member inquired which body would supply a definition and he declared that he understood that the responsibility rested with the Control Council in this connection.

The urgent necessity for reaching a definition was stressed by General Clay who pointed out that the present discussion's intention was mostly to establish a limit on restitution and that progress with regard to procedure could be made subsequently. General Clay suggested a compromise along the lines noted below:

In the first instance, restitution will be restricted to goods capable of identification which existed when the country was occupied and which the enemy forcibly removed from the country. Identifiable goods produced during the occupation of the country and whose acquisition by the enemy was accompanied by an act of force also fall under measures of restitution. Also eligible for restitution to the extent consistent with reparations and the minimum economy to be left Germany are all other goods taken out of the country by the enemy which existed at the time of occupation.

cc: 12/6/45 For Information: Messrs. Schmidt, Richards, Miss Scullen, Arnold, Mrs. Henderson, Hazard, Gewirtz, Mrs. Shwartz, DeZevallos (2), O'Flaherty, Locker, Brenner, Delaney, Bronz, Glasser, Miss Ayers, NY Fed.
General Records.
dg

207190

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Authority <u>NND 978025</u>	Entry <u>56</u>
By <u>KEN</u> NARA Date <u>9/30/91</u>	File <u>69A4707</u>
	Box <u>82</u>

GERMANY: LOOTED
PROPERTY

- 2 -

It was pointed out by the French member that public opinion in France could not accept relinquishing certain important looted articles to the remaining minimum economy of Germany. He said he would seek the views of his Government with regard to the suggestion submitted by General Clay for presentation at the Coordinating Committee's next meeting, however. Time for consideration was also requested by the Soviet member. Sympathy with the position of the French member was expressed by the member from Britain. He said that whatever definition is agreeable to the French would be acceptable to him.

3. Following this there was a lengthy discussion concerning the draft law on the decentralization of the economy of Germany. General agreement was reached as to the top figure to be established for any particular German enterprise, namely, 10% of total business in the enterprise, 25 million marks turnover and employment of 3,000 workers. The question arose as to whether a particular enterprise exceeding these limits should be closed down automatically. It was maintained by the member from Britain that the limit set on turnover was not fair in the light of possible rises in price and also in view of the fact that the mandatory closing of some industries might result from the departure of one industry from the field of competition. The British member claimed that a business exceeding the limits set should have recourse to the Control Council and the question of whether there was dangerous concentration of industry would be decided by the Control Council. The Soviet and United States members strongly opposed the view of the British member. General Clay said that he would have to advise the United States Government and await additional instructions in this connection.

4. The committee adopted a draft law on the seizure and control of I. G. Farbenindustrie. This draft law was based on the United States proposal and was forwarded to the Control Council following certain clarifying amendments concerning the establishment of a committee made up of control officers, each appointed by the commanders of their respective zones. It is provided in Article 1 of this law that all factories, properties and assets of any sort located in Germany which were owned or controlled by I.G. Farbenindustrie on or after May 8, 1945, are hereby seized and the Control Council is vested with legal title thereto.

5. Upon the further explanation offered by the member from Britain that his earlier remarks were not in the nature of reservations and that Britain would execute any law which they signed, without reservation, the committee adopted the law on the punishment of war criminals and referred to the Control Council imm, with the concurrence of General Clay.

6. A directive on removal from office and positions of responsibility of Nazis and individuals hostile to purposes of the Allies was adopted by the Coordinating Committee and submitted to the Control Council. This directive is mainly based on British and United States drafts, and outlines comprehensive and detailed definition of such individuals.

7. Conclusions of report of Air Directorate providing for air corridors west of Berlin (namely, from Berlin to Hamburg, Bukesburg and Frankfurt respectively) were adopted by the Coordinating Committee. The British and United States proposal for corridors from Berlin to Warsaw, Praha, and Copenhagen respectively, in addition to that from Bukesburg to Praha, was

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Germany & United Properties

- 3 -

It
 opposed by the Russian member, who said that permission would necessitate governmental decision since these corridors extend beyond the Russian zone's limits. He said that information with regard to the latter proposals was being forwarded to his Government. The members from Britain and the United States went on record as favoring a full freedom of transit over Germany of occupying powers' planes on a reciprocal basis. The statement that the United States would match restriction with restriction henceforth was made by General Clay.

8. Miscellaneous papers on (a) law on gas and electricity rationing, (b) directive concerning the destruction of airfields of Germany, (c) proposals for network of German meteorological installations, (d) ban on the prohibition of military training, were adopted by the Coordinating Committee. In connection with (c), the French member insisted that such establishments should be placed under Allied control inasmuch as the French meteorological establishments had served as a channel for the transmission of all secret information to England during the war. The Coordinating Committee added as a footnote to (d) the provision that members of the armed forces of Germany awaiting disbandment or working for the Allies are exempted from the ban of uniforms and military discipline for the time being.

9. Subject to the understanding that such representatives would not have the power to make any commitments with regard to Germany, the despatch of representatives of the Transport Directorate to the forthcoming conference of the European Central Inland Transportation Organization in Brussels was approved by the Coordinating Committee.

10. The announcement that land had been acquired by the French from the Soviets for their Berlin sector for the building of an airdrome at Stolpe, north of Frohnau, was made by the representative of France.

The foregoing message has been repeated as number 86 to Moscow and as number 143 to Paris for Angell.

MURPHY

DC/L:GPW:RMW
 12-4-45

207192

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By <u>KEN</u> NARA Date <u>9/30/99</u>	File <u>GERMANY: LOOTED PROPERTY</u>
	Box <u>82</u>

Willis files 5000

FROM: American Embassy, Lisbon
 TO : Secretary of State, Washington
 DATE: October 17, 1946
 NR : 904

German Looted Property

SECRET

The following message for attention of Schmidt or Ball, OMEUS, Finance Division.

Portuguese weights are about 10 grammes less per complete smelt, meeting today with them disclosed. As yet there is not progress on obtention data with regard to gold not in their possession at the present time.

With reference to your cable of October 16th, Bern, Number 118 (repeated as Number 2397 to the Department and as Number 122 to Madrid) the suggestion is made that individual bar weights may be obtainable more readily from Reichsbank correspondence files with Central Banks rather than from records of smelt. This information, Pessoa explained, is contained in communications which transmit offer of acceptance and final settlement in each transaction (based upon confirmation or possible weight adjustment after bars are received).

This date, if available, would be more effective identification, in particular for Portugal, and as proof that such bars represent loot, smelt records can be better used.

Above message was repeated to the Department under Number 904; it was sent to Paris with request that it be repeated to Berlin, as Number 180; was repeated to Madrid as Number 89 and to Bern as Number 20.

CROCKER

See Portugal; Saperharn

cc: 10/21/46 Glasser, Taylor, Miss Masterson (3), Schmidt (2), Wood-
 Meter, Willis, E. Hebbard, Ullmann, Bittermann, Eddy.

hps

DECLASSIFIED
Authority NND 978025
By KV NARA Date 9/30/97

RG 56
Entry 69A4707
File GERMANY: LOOTED PROPERTY
Box 82

Germ. Looted Property

Treasury Department
Division of Monetary Research

Date: Oct. 21, 1946

To: **For Information**

Schmidt in Berlin reports Finance Division's investigations have traced 48 million guilders seized in Holland (2,448 bars of which 2,383 bars were sent to SNB, Bern).

Strong possibility that 1942 bars held by Portugal came from this group.

Data which Soviets have may make possible identification 1942 bars, with exception of bar weights.

Attention: Mr. Rittermann.

Copy to Mr. Rittermann

TELEGRAM RECEIVED

Berlin

ington

SECRET

has been sent to Bern as No. 118. It is Treasury. It has also been repeated to Lisbon.

Investigations have succeeded, within the

past day or two, in tracing the smelting of forty-eight million guilders seized in Holland and cast into 2,448 bars. Of these bars, 2,383 were sent to Swiss National Bank, Bern; they have total weight of 28,288 fine kilograms and are worth \$31,831,000. Prussian mint date of 1942 appears on all of these bars. A strong possibility exists that the 1942 bars which Portugal now has came from this group. We now have complete identification of 427 such bars, inclusive of individual weight of each bar, based on data secured from records at Frankfurt.

Have engagement to meet Denisov on October 16, Thursday a.m. (?) as result of negotiations with Soviets. The appointment is for the purpose of gaining access to requested records, supposedly. Anticipate that data which Soviets have will make possible identification of all

1942 bars,

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GERMANY: LOOTED
PROPERTY

Box

82*Germ. Looted Property*

PARAPHRASE OF TELEGRAM RECEIVED

FROM: U. S. Political Adviser, Berlin
 TO: Secretary of State, Washington
 DATED: October 16, 1946
 NUMBER: 2397

SECRET

From Schmidt for Rubin.

The following message has been sent to Bern as No. 118. It is repeated to Department for ESP and Treasury. It has also been repeated as No. 122 to Madrid and as No. 31 to Lisbon.

Finance Division's investigations have succeeded, within the past day or two, in tracing the smelting of forty-eight million guilders seized in Holland and cast into 2,448 bars. Of these bars, 2,383 were sent to Swiss National Bank, Bern; they have total weight of 28,288 fine kilograms and are worth \$31,831,000. Prussian mint date of 1942 appears on all of these bars. A strong possibility exists that the 1942 bars which Portugal now has came from this group. We now have complete identification of 427 such bars, inclusive of individual weight of each bar, based on data secured from records at Frankfurt.

Have engagement to meet Denisov on October 16, Thursday a.m. (?) as result of negotiations with Soviets. The appointment is for the purpose of gaining access to requested records, supposedly. Anticipate that data which Soviets have will make possible identification of all

1942 bars,

DECLASSIFIED

Authority NND 978025
By KN NARA Date 9/30/99

RG

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GERMANY: LOOTED
PROPERTY

Box

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NO. 2397 - page #2

1942 bars, with the exception of bar weights.

Gold mentioned in the foregoing as traced to Switzerland is in addition to the unsmelted gold which cable dated October 14 reported.

It has not been possible so far to get individual bar weights on Belgian gold; however, inasmuch as Thomas is of the opinion information on individual bar weights is still in Reichsbank in Soviet zone, we hope to confer with the Soviets tomorrow as to the possibility of examining such records. In the event additional time is needed to get this data, perhaps I shall go to Switzerland shortly and return to Iberian Peninsula by way of Berlin if, during my stay in Switzerland, it is possible for the Finance Division to uncover individual bar weights. While in Switzerland, I shall also explore the possibility of securing such data from SNB for bars which are in the hands of the Portuguese, by their previous admission.

MURPHY

DC/L:GPW

10-17-46

207196

DECLASSIFIED
 Authority NND 978025
 By KN NARA Date 9/30/91
 RG 56
 Entry 69A4707
 File GERMANY: LOOTED PROPERTY
 Box 82

Treasury Department
 Division of Monetary Research

Date: Oct. 21, 1946

To: **For Information**

USPOLAD, Berlin reports Schmidt leaving Berlin by car to arrive in Bern October 21.

Prussian Mint records obtained from Soviets contains 1942 gold smelt numbers and number of bars in smelt.

Search for further data in Reichsbank, Berlin being started with Soviet permission.

Attention: Mr. Bittermann.

German Looted Property

TELEGRAM RECEIVED

Berlin (via War)

Washington

BT

and Mann.

is here by car for Switzerland and

Secured Prussian mint record from Soviets yesterday.

This record contains the 1942 gold smelt numbers and number of bars in smelt. It lacks information on fineness and weight, however.

A search for further data in Reichsbank, Berlin, is being started at once by Finance Division, with Soviet permission.

The foregoing was sent to Bern. It is repeated to Department for Treasury and ESP and is also being repeated as No. 32 to Lisbon and as No. 123 to Madrid.

MURPHY

DC/L:GPW

10-19-46

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Authority NND 978025
By KEN NARA Date 9/30/99

RG

56

Entry

69A4707

File

GERMANY: LOOTED
PROPERTY

Box

82*Germ. Looted Property*

PARAPHRASE OF TELEGRAM RECEIVED

FROM: U. S. Political Adviser, Berlin (via War)
 TO: Secretary of State, Washington
 DATED: October 18, 1946
 NUMBER: 2403

SECRET

From Schmidt for Rubin and Mann.

Today Schmidt is leaving here by car for Switzerland and expects to reach Bern October 21.

Secured Prussian mint record from Soviets yesterday. This record contains the 1942 gold smelt numbers and number of bars in smelt. It lacks information on fineness and weight, however. A search for further data in Reichsbank, Berlin, is being started at once by Finance Division, with Soviet permission.

The foregoing was sent to Bern. It is repeated to Department for Treasury and ESP and is also being repeated as No. 32 to Lisbon and as No. 123 to Madrid.

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10-19-46

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Germany: Looted Property

INFORMATION COPY

Treasury Department
Division of Monetary Affairs

Date: Oct. 17, 1946

DEPT OF STATE
TELEGRAM

To: **For Action**

Schmidt in Berlin reports brief examination records in Frankfurt indicates existence of valuable material apparently unavailable in Washington, covering German acquisition of gold in occupied countries and disposition of such gold.

Records show shipments to SNE October 8, 1941 - August 26, 1943 of Netherlands gold worth \$67.5 million.

In view new data Schmidt suggests possibly new approach to Swiss should be considered.

Action: Mr. Rittermann.

Berlin

Dated October 14, 1946

Rec'd 2:41 p.m., 14th

FOR ES AND TREASURY FROM SCHMIDT

After conferring with Bennett and Ball, arrangements were made for Schmidt to confer Setnin, Chief Soviet Finance Division, concerning documents Prussian mint in Soviet possession and for shipment to Berlin of gold records in Frankfurt. Brief examination of Frankfurt records indicates existence of valuable material apparently as yet unavailable in Washington concerning German acquisition of gold in occupied countries and disposition by Germany of such gold. Following discovery deemed of sufficient importance to warrant immediate consideration concerning course to be pursued.

Records available definitely establish shipments from "asservat der" to Swiss National Bank between October 8, 1941 and August 26, 1943, of gold seized by Germans in Holland, both from private interests and from Netherlands central Bank consisting of 5239 bars amounting to 59959 kilograms worth \$67,460,571. This gold has not been re-smelted but transferred in form seized from Netherlands and records now in Berlin (formerly in vaults of foreign exchange depository, Frankfurt) permit absolute identification of every bar including bar markings and weights. Data also permits identification of about dollars two million such gold sold to private Swiss banks by Germans. This does not include any of the 40,000 kilograms of Dutch bars re-smelted by Prussian mint in 1942 which we cannot yet identify pending receipt of information from the Russians.

Inasmuch as

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German Looted Property

DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

DEPARTMENT OF STATE

INFORMATION COPY

RECEIVED DEPARTMENT OF STATE INCOMING TELEGRAM

1946 OCT 15 AM 9:33

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 Action: ESP
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SECRET
 Control 4726
 No paraphrase necessary
SECSTATE

Berlin
 Dated October 14, 1946
 Rec'd 2:41 p.m., 14th

2374, October 14, 7 p.m.
 FOR ES AND TREASURY FROM SCHMIDT

After conferring with Bennett and Ball, arrangements were made for Schmidt to confer Setnin, Chief Soviet Finance Division, concerning documents Prussian mint in Soviet possession and for shipment to Berlin of gold records in Frankfurt. Brief examination of Frankfurt records indicates existence of valuable material apparently as yet unavailable in Washington concerning German acquisition of gold in occupied countries and disposition by Germany of such gold. Following discovery deemed of sufficient importance to warrant immediate consideration concerning course to be pursued.

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Inasmuch as

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82**SECRET****-2-, #2374, October 14, 7 p.m., from Berlin**

Inasmuch as settlement with Swiss was based upon figure of dollars eighty eight million derived from data then available which related only to Belgian gold, possibility of new approach to Swiss on looted gold should be considered.

Finance division OMGUS now undertaking to prepare soonest possible report based on records now available on gold and strong likelihood that additional information similar to foregoing will be uncovered. Believe any new settlement should await completion of this report.

Records also show that on December 8, 1942 eight four bars totalling 1,008,048. 65 grams were placed on deposit in Berlin to account of Swedish Reichsbank Stockholm. On August 17, 1943, this gold was transferred to Swedish Reichsbank Stockholm in Malmo. Believe this Dutch gold was not included in figures discussed with the Swedes which believe related only to remelted Belgian gold.

MURPHY**GD:GWP****SECRET**

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TO: Mr. Glasser File

Unless there is some purpose in this letter that doesn't meet my eye, I would prefer not to have the letter sent. I hate to confess that so much time and money were spent in securing information which resulted in the stinking settlement that we got with the Swiss.

I do want you to know, however, that Curtis and Dunkel did an exceptionally fine job in Germany in getting material about looted gold. And if this letter will result in getting them any special credit with the Army or with the Treasury, I would certainly have no objection to the letter going out.

MR. J. B. FRIEDMAN

O. A. SCHMIDT

... investigation should also prove equally valuable in our subsequent negotiations with other neutrals, as well as in fixing the claims of the looted countries under the Paris Reparations Agreement to the gold recovered by our armed forces in Germany and from the neutrals.

I would appreciate your communicating the substance of this letter to Lt. General Gray who was, of course, the commanding general of both U.S. Group CG and OMOGUS when this valuable work was done.

Among the other persons concerned is Col. Bernard Bernstein, OSG. As Director of the Finance Division and subsequently of the Cartels and External Assets Division, Col. Bernstein was responsible for initiating and continuously pushing an intensive investigation of the Nazi program of looting the gold stocks of the countries they occupied and of the subsequent disposition and location of the gold so looted.

Germany-Looted Property

sent
now

the agreement recently concluded... worth of gold looted by the... and subsequently sold to the... allied powers for restitution under...

A success in securing this \$58... on between our two departments... id holdings by the joint military... gned to the Finance Division, Investigation of Cartels and... ay.

ample, had resmelted all the... it, this investigation succeeded... and fully tracing their dispo... counts which went to Switzerland... e of our information on this gold... pression upon the Swiss delegates,

enck

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Box 82

Germany-Looted Property

not sent

My dear Mr. Secretary:

May I call to your attention the agreement recently concluded with Switzerland whereby \$58 million worth of gold looted by the Germans from the occupied countries and subsequently sold to the Swiss will be delivered to the Allied powers for restitution under the Paris Reparations Agreement.

A major reason for the Allied success in securing this \$58 million was the cordial cooperation between our two departments in the investigation of German gold holdings by the joint military and Treasury civilian staffs assigned to the Finance Division, U.S. Group CG and the Division of Investigation of Cartels and External Assets, OMGGUS, in Germany.

Although the Germans, for example, had remelted all the Belgian gold before disposing of it, this investigation succeeded in identifying the remelted bars and fully tracing their disposition abroad - including large amounts which went to Switzerland. The accurate and exhaustive nature of our information on this gold, particularly, made a profound impression upon the Swiss delegates to the recent negotiations.

The results of this investigation should also prove equally valuable in our subsequent negotiations with other neutrals, as well as in fixing the claims of the looted countries under the Paris Reparations Agreement to the gold recovered by our armed forces in Germany and from the neutrals.

I would appreciate your communicating the substance of this letter to Lt. General Glay who was, of course, the commanding general of both U.S. Group CG and OMGGUS when this valuable work was done.

Among the other persons concerned is Col. Bernard Bernstein, GSC. As Director of the Finance Division and subsequently of the Cartels and External Assets Division, Col. Bernstein was responsible for initiating and continuously pushing an intensive investigation of the Nazi program of looting the gold stocks of the countries they occupied and of the subsequent disposition and location of the gold so looted.

circle

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Mr. Andrew M. Kamarek and Mr. Russell A. Nixon, as Deputy Directors of the Finance and Cartels and External Assets Divisions, respectively, were successively responsible for the immediate supervision of this investigation. Mr. Donald W. Curtis, Mr. William V. Dunkel, and Mr. Nathan Volkman, who conducted the investigation over a nine-month period and are primarily responsible for the extent and quality of the results achieved, were originally assigned to the project as enlisted men, but with the cooperation of the War Department were subsequently discharged in the Theater, and completed this work in civilian status as members of the German Financial Mission of the Treasury Department.

Very truly yours,

Secretary of the Treasury

The Honorable,

The Secretary of War

DWC:edt 6/25/46
llc *awll*

FILE COPY

207204

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 By KEN NARA Date 9/30/99

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 File CERAMNY: LOOTED
PROPERTY
 Box 82

Summary; Looted Property

UNRESTRICTED

THE AMERICAN EMBASSY
 Praha, Czechoslovakia,
 April 26, 1946

No. 809

Subject: German looting of Czechoslovak assets
 during the war.

The Honorable
 The Secretary of State,
 Washington.

Sir:

1/ In connection with the trial of K. H. Frank, German political leader in Praha during the Protectorate period (1939-45), I have the honor to enclose a summary as reported in the official bulletin of the Ministry of Information of April 24th of a written statement by Dr. Chmela, General Manager of the National Bank of Czechoslovakia which was introduced as evidence, showing the thoroughness of the German despoliation of Bohemia and Moravia during the war.

The summary, after passing over an unestimated amount of military damage, goes into details and statistics as to the German methods of looting the country, namely, (1) confiscation of Jewish property, (2) enforced contributions, (3) outright theft by the Germans of military and other movable property, (4) a systematic taking over of intrinsic values in exchange for worthless paper, and (5) a system of clearing whereby Czechoslovak exports and foreign assets were converted to the credit of the Reich.

Respectfully yours,

Laurence A. Steinhardt

Enclosure:

Summary

JHBruins:cmg
 Original and hectograph to Department.

cc: 5/24/46
 For information - Messrs. Glasser, Miss Ayers, Mrs. Masterson, Kamarek, Ullman, Mrs. Baum, Miss Scullen, Glaser, Gewirtz, Mrs. Shwartz, Mrs. Schwartz, de Zevallos, O'Flaherty, Locker, Brenner, NY Fed., General Records.

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 By KNO NARA Date 9/30/91

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Enclosure to despatch to Dept No. 809 dated April 28, 1946
 subject: German looting of Czechoslovak assets during the war.

The Trial of K. H. Frank

SPECIAL SUPPLEMENT
 24th day

In the afternoon, a statement written by the General Manager of the National Bank of Czechoslovakia, Dr. Chmela, was read to the Court. In the first part of the statement the expert said that the activities of the accused in the economic realm cannot be judged without taking into account his political status, since this was the basis of the power, behind which he hid all the pernicious measures aimed at the economic enslavement of this country. The Czechoslovak Republic respected the rights of the individual in economic matters. But this democratic viewpoint underwent a change after the setting up of the Third Reich, which in international economic relations gradually but systematically changed into a debtor country. In particular the weaker nations became the victims of this policy; their assets in Germany were frozen and the countries were then forced to buy commodities which they had to accept if they wanted to be compensated for the products they delivered, and which were essential for German war preparations. Thus the Balkan countries were forced to purchase accordions and aspirin in return for fats and raw materials. These Nazi methods were, in this country, facilitated by the business activities of Sudeten German firms, which purchased abroad for Czechoslovak foreign exchange, and exported to Germany under the clearing system. Czechoslovak economics thus felt the pressure of the monstrous German system long before the occupation. In the second part of his statement, Dr. Chmela dealt with the economic methods of Germany, based on the Fuehrer principle.

In the third part, he discussed the application of Nazi economic methods in the Czechoslovak Republic, which in 1938 was prepared for war. The loot of Czechoslovak munitions amounted to 24 billion Kcs. Since the country was aware that in the case of war the enemy would primarily attempt to get hold of gold and foreign currency, these had already before 1938 been shipped outside Europe. This defence measure was thwarted by Munich. After the occupation the economic system of this country was organized on the German pattern and in accordance with German interests.

With the approach of the war, the Germans began to dominate foreign trade completely. The Office for Import and Export was set up; all its officials were Germans from the Reich and Czechs were excluded from taking part in the administration of trade. These offices were first under the indirect and later under the direct control of the

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	Box <u>82</u>

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accused. Foreign trade was reserved for German firms, and instead of foreign exchange, business received credits of paper marks. For the purchase of foreign goods the gold and foreign exchange of the National Bank was used, although the goods thus received were used exclusively for the German population.

Frank thus enforced the realization of an economic union between the Protectorate and the Reich, which was most harmful to the economic system of this country. The reserves accumulated during previous years gradually disappeared; and the currency was misused both as an internal and external means of exchange. The introduction of German-planned economy together with the prohibition of an increase of prices and wages rendered the exchange value of the currency fictitious. This fictitious value was however used for the purchase of accumulated stock, which had been paid for in gold and foreign exchange. The finances of the country were weakened by various means. Gold was confiscated, foreign exchange was "bought up" for valueless Reichsmarks, and newly acquired foreign exchange converted into such Reichsmarks. Foreign holdings were liable for registration and bought up at inflation rates, reserves and the sugar production were declared to be German property. The total of losses thus caused is estimated at 135 billion Kcs.

Apart from the German marks credited to our account in Berlin, amounting to 1471 million marks, the occupation power issued bonds which were given in exchange for cash, needed for the various German offices, for the upkeep of the German army, for the purchase of horses and cattle, etc. The total credit balance for these transactions amounts to 15,291 million marks. Further losses to the Czechoslovak treasury were caused by the confiscation of Jewish property, and by the registration of credit balances due for goods delivered before the occupation, amounting to 4.3 billion Kcs in June 1938. Foreign exchange had to be put at the disposal of the National Bank, but the latter was forced to credit it to the Reichsbank. After this country had become part of the German Customs Union, the so-called "central clearing system" was enforced. Our assets abroad, in particular in Sweden, Switzerland, and Finland, amounting to 138 million Kcs. were taken over by the Reichsbank. Thus our export firms received inland exchange and the Germans used our foreign claims for the strengthening of their position abroad. The German bid for foreign exchange started on March 15; on that day, Great Britain ceased to recognize this country as an independent state and neither the gold deposited on behalf of the Czechoslovak National Bank nor

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the sterling credit from the Munich agreement remained at the disposal of this country. Later the Czechoslovak gold deposited in London was transferred to the German Reichsbank. Thus the German treasury increased its reserves in gold to the value of 740 million Kcs. This was not all. The gold remaining in Prague had to be surrendered to Berlin, and so had the gold belonging to the Skoda works and to the Armament Factory in Brno amounting to 250 million Kcs. The Germans also laid hand on the foreign exchange due to Czechoslovakia for the delivery of sugar.

Apart from gold and foreign exchange, foreign holdings of Czech subjects formed a considerable part of national assets. Their owners had to sell them at rates fixed by the Germans. Thus holdings of a value of some 40 million Kcs and gold of 100 million Kcs disappeared, in addition to Slovak shares, which Frank forced their owners to sell. His interest in these matters was unlimited. He blamed the National Bank for not having placed its holdings of silver at the disposal of the Reich, and his last attack he carried out as late as April 24th, 1945, when he forced the National Bank to sell him a considerable amount of foreign banknotes. For these he paid in a cheque, of which he could draw any amount. When the Protectorate ceased to be an economic unity Frank was instrumental in fixing the exchange rate between the Mark and the Crown at 10:1. Germany then ceased to be a foreign country, as far as exchange was concerned. The Reichs Protector, and later the accused, issued strict orders banning the circulation of Czechoslovak money, with the exception of coins. Other methods, with the purpose of ruining the economic system of this country were enforced. The basis for this was the German price policy. The unfavourable exchange rate was a means of practically stealing one third of our exports for Germany. Thus this country lost tens of billions. In order to keep the price level, the Czech Ministry of Finance was forced to pay grants to farmers while the prices of agricultural produce remained unchanged. These subventions went into billions too. The result of all these measures was a reduction of the internal value of holdings to a third of their prewar rate. The Protectorate finally was heavily burdened by the contribution it had to pay to the Reich finances. This contribution was enforced by the accused. The total damage caused by the German occupation and by the activities of the accused is estimated at 430 billion Kcs. This amount is however based on prewar figures. Owing to the reduced purchasing power of the Czechoslovak currency today, the figure is substantially higher.