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result of the war. Can it be possibly said that the losses in gold as notified by the Polish Government to the Commission are only "alleged" losses? Is it possible to question even for a moment that Poland has not suffered those losses? Can it be said that our claim concerning these losses has not the full backing of facts? Is there anyone who can doubt? I believe there is no doubt. Indeed there are facts and documents and history itself which supply full evidence of the case. Even more, let me quote some of the documents of the United Nations published during and after the war, which bear evidence of these and similar losses suffered by countries under occupation, and Poland was undoubted in the forefront of those countries which suffered occupation.

On January 5, 1943 the United Nations published a declaration simultaneously in Paris and London, Washington and Moscow, which used the following wording:- "The systematic spoliation of occupied or controlled territory has followed immediately upon each fresh aggression. This has taken every sort of form and it has extended to every sort of form and it has extended to every sort of property, from works of art to stocks of commodities, from bullion and bank notes to stocks and shares in business and financial undertakings." The same declaration said also something else. It said that the object of those acts has always been the same: "to seize everything of value that can be put to the aggressor's profit and then to bring the whole economy of the subjugated countries under control so that they must slave to enrich and strengthen their oppressors". These points were supplemented by the declaration issued on February 22, 1944 which states that "one of the particular methods of dispossession practised by the Axis powers has been the illegal seizure of large amounts of gold belonging to the nations they have occupied and plundered".

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The hideous criminality of these deeds has been corroborated by the judgment of the Nuremberg Tribunal. We read in it that as a result of Goering's order of October 19, 1939, an order which mentions particularly Poland as a territory of special plunder - I quote - "Agricultural products, raw materials necessary for German factories, tools, transport equipment, other finished products and even foreign currency and the stocks of foreign values have been seized and sent to Germany. These goods have been seized in a manner out of any proportion to the economic possibilities of these countries and as a result brought hunger, inflation and a gigantic black market". These problems have also been dealt with by the declarations of Yalta and Potsdam, and a particular aspect of them found its expression in the Paris Reparation Agreement.

The brutal reality spoke through the words of regulations, orders and instructions of the Hitlerite occupant; the order of the Chief of the Civil Administration at the Military H.Q. in Krakow of September 14 1939, which introduced the duty to deliver to the Bank all foreign exchange and gold both in bars and coins; the order of the Chief of the Civil Administration in Posnan, the famed Greiser of September 14 1939 which provided for the delivery of currency, foreign exchange and gold within ten days - the order gave permission for the population to retain in domestic currency no more than an amount necessary to cover living expenses for one week only; the regulations of October 7 1939 which provided for the duty to deliver gold from occupied Poland to the so-called Reichskreditkassen; further regulations ordering the seizure of gold coins, pure and melted gold, the forcible opening of safes in banks and other institutions and the mass confiscation of everything found in them. Yet the picture would not be fully painted if I would not say that more than legislative acts, more striking than all documents, were the facts, the facts of an occupation which surpassed all human imagination, surpassed the fantasies of leigislators and men

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of law. We know from those who have lived in Poland in the days of the occupation that all this and even more happened than the plunder of Nazi legislation. The world knows it too. The world knows it through documentary evidence produced at the Nuremberg Trials, through reports of Hitler's henchmen themselves, as for instance the report of Globocnik, the Commander-in-chief of the SS in the Lublin district, through depositions of witnesses in the many trials of war criminals.

The question I want to put is, is there any need for me to reproduce all this before you and to recall the memory of those facts? Is it not established fact that all the occupied territories suffered losses in the war, and that Poland not only lost about 40% of her national wealth but suffered the greatest losses in human beings killed and tortured? Is it necessary to recall again that we were the victims of the most brutal exploitation and destructive activities of the enemy? These facts lay at the very basis of all acts passed by the United Nations; from them sprang the need and necessity for restitution and compensation. As Delegate of the Polish Government I think to be fully entitled to put forward the question, can there still be imposed on us the duty or obligation to produce evidence that we have suffered losses, tremendous losses? The looting of gold from Poland is of course a small part of the whole story. In the light of the painful truth, in the light of the declarations of 1943 and 1944, in the light of the Yalta and Potsdam Agreement, there is no need for Poland to produce evidence that she has suffered losses as a result of looting of her gold. Both declarations start with the presumption that the occupant countries - that they accepted the

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basic presumption that gold was looted and removed by Germany; they stress the fact of looting in occupied territories - and Poland was an occupied territory. The Agreement of Yalta and Potsdam speaks about losses and sufferings inflicted on the United Nations - and Poland is one of the United Nations. The various documents issued by the United Nations accept with certainty the fact of looting; it has therefore acquired the lement of notoriety. These documents have thus accepted as principle the presumption of looting and confiscation.

In the case of Nazi Germany we find much stronger evidence of presumption of looting, but we find it also in other documents, for instance, in the peace treaty with Italy. Article 75, section 7 of the peace treaty with Italy says: "the burden of proving that the property was not removed by force or duress shall rest on the Italian Government". It goes without saying that if this principle found its expression in the treaty with Italy, the more it should be fully applied in the case of Nazi Germany.

Having said that I wish to proceed with the further views of the case.

3. CHAIRMAN

May I just interrupt you for a moment. I think we have come to a part where the translator can translate without interfering.

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There is some further evidence to be offered in this respect, namely, in the legislative acts issued in Occupied Germany. To quote, first of all, the decision of the Allied Control Council of January 21st, 1946; the Military Government Regulation, United States, of the 15th April, 1946; and the American Law No. 59, which enumerates acts of confiscation, and then qualifies as confiscation by Governmental acts, inter allia; sequestration, confiscation, forfeiture by order or operation of law, and transfer by order of the State or Trustee appointed by the State.

This leads me to the first submission of the case I am presenting to you, to wit; the question of principle as to whether Poland has suffered losses through looting and wrongful removal of gold to Germany, requires no proof on our part, being an established fact. But, we have to give evidence on top of this, but we have not based ourselves fully on the basic, and I should say, comparative presumption of the losses. We have every reason to believe that the evidence we have submitted reinforces our case, so that it would be regarded as fully proven.

Having said so much on this particular aspect of the problem, while resting really on the threshold of the issue itself, I might explain the reasons for doing so. Although only five years have elapsed since the ciminal war was brought to an end, these facts have very frequently been forgotten. The damage and suffering seemed to have disappeared from the eyes and minds and thoughts of many - many thoughts wander in different directions, and that is why I would like you to bear in mind that I come here from one of the most devastated cities of Europe, from one of the most ravaged capitals of Europe - a capital which has been re-built through the superhuman effort of the whole Nation, and which is growing in our eyes, but where ruins and ashes did not cease to speak to us with memories of the years we have gone through of the occupation. These things, of course, should not be taken

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sentimentally, but they are essential, as they are linked with facts; because they are the background of the facts we are discussing today. They are the background of the whole picture. We have suffered losses other than gold, but we have suffered losses in gold too. This fact remains undeniable and undisputable. Therefore, I go back to the sentence I started with, that we have been struck by the word "Alleged", when reference was made to our losses.

The figure of 138.738,5309 kgs. of gold is but a small part of the total loss in gold inflicted upon us. In these circumstances, we maintain and insist that the problem of whether we suffered losses is beyond discussion. The discussion can affect only the question of how much. There is no question of if; there is a question of the amount of the figure, but there can be no question of principle.

Thus, I think that having clarified the preliminary question, I can arrive at the first conclusion:-

1) that gold was looted from the Territory of Poland and wrongfully removed to Germany;

2) that it has been looted and removed by Hitlerite Germany;

and therefore, the two constituent elements of the definition as adopted by Part III of the Paris Reparations Agreement, are fulfilled. Both elements come within the province of the definition of Part III, to which you, Mr. Chairman, made reference at the beginning of our meeting.

Having clarified the first question, I proceed now to the next. Having stated the undeniable fact, in principle, that losses have been suffered by Poland and that there is no question of if, but only the question of how much, I put forward the next question. Are we entitled to claim satisfaction for the losses thus incurred? The right of Nations which suffered losses in the last war - the right to claim satisfaction through restitution of looted property, has been established more than once. In the same way as it is the duty of other nations to help and to

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assist the victims of Hitler's aggression. Some declaration I referred to earlier of 5th January, 1943, announces the unyielding determination of the United Nations to combat and defeat the plundering of the Occupied Territories by enemy powers. It laid down that these misdeeds of the enemy, regardless of their form, will not be recognised, that they are null and void, and adds: "It is obviously impossible to define exactly the action which will be required to be taken when victory has been won and the occupation or control of foreign territory by the enemy has been brought to an end". The declaration of 1943 provided the machinery for restitution; it foreshadowed such action, without specifying and defining precisely its shape or content. At a later stage of the war and immediately upon the termination of hostilities, principles of restitution were embodied in various international documents. Declaration of February 22, 1944, was based on the same principles, but it is already more concrete and categorised that any transfer of title to the looted gold which the Axis Powers may have effected in neutral countries, is to be considered illegal. It is worth recalling that at the time of the publication of that Declaration of February 22, 1944, it was estimated that Nazi Germany gold stock at the beginning of the war amounted to 50 million pounds, including the gold looted from Austria and Czechoslovakia, while she was at the same time continuing to make international transactions covering manifold bigger amounts, and therefore, it was obvious, as stated on the occasion, that she has made payments ot other countries with gold looted from occupied territories.

The Final Act of the Conference of Bretton Woods, of July 22, 1944, makes also clear reference to the need of safeguarding property and gold looted and expropriated from occupied territories, with a view to returning it to its rightful owners. The same is established by the Yalta and Potsdam Agreement, and in such as tary gold is concerned, this question was dealt with by Part III of the Paris nt on German Reparation. There, we find the exact formula - we are so

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FAMILIAR WITH "all monetary gold found in Germany by the Allied Armies and the gold recovered from third countries, shall be distributed by way of restitution to the countries where it was looted from, or where it was illegally removed from". This feature of restitution was also stressed, as you will know, in Resolution No. 1, attached to Part III of the Paris Agreement on Reparation, bearing the signatures of ten Governments, inter alia of the French Government, who is represented on the Commission. This resolution pronounces the right and duty of restitution. The same line is also being followed by the Allied Control Council. The decision I make reference to earlier, of January 21, 1946, specificially invokes the United Nations Declaration of January 5, 1943, and places the problem of compensation for damages and losses incurred by the Occupied countries during the war, on the very same basis.

The instructions of April 15, 1946, issued to implement the decision, lays down that all property seized by force, be it by looting, theft or other means, is to be returned and restored, regardless of whether it was so seized on instructions from Nazi Authorities, or arbitrary action by officials of the occupation administration. All these Acts pronounce clearly and without any ambiguity, the categorical principle of restitution, which is of restoring looted property and I think there is no need to stress that restitution is not indeed a new legal notion. Its essential element, as we all know, is accepted by all legal instruments of the world - is reinvestment of rights to those who were deprived of them in defiance of the law. The very reason of restitution is, on the one hand, refusal to sanction lawlessness and force, to maintain the principle of law and not to have the criminal profit from this activity, and on the other, the absolute right of the wrongfully dispossessed to claim the return of his property and have his claim fully recognised.

Restitution is, therefore, one of the basic commands of law. It is the

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guarantee that crime should not pay. There is also an international practice where this principle has found full application. It was stated, for instance, by the Permanent Court of Arbitration in the Norwegian Shipping Claim of 1922, "that proper satisfaction means restitution to the status quo". Violation of the obligation of law require by their very nature appropriate sanction. The basic action of law is to restore the state which existed prior to the violation of law. Other action is only applied and sought for, if restitution has become impossible. This principle has found confirmation in many international agreements and documents. In actual circumstances, we find, therefore, full justification for the thesis that the fullest compensation for the damages incurred by the occupied countries as the result of Nazi looting, should apply to those who were its victims. In the first instance, it should be restituted. But let us move a step further in order to study that in many circumstances, restitution of identified goods and objects, in other words, what was classically called the "restitutio in integrum", becomes impossible. In many cases, the objects in question cannot be traced, or underwent such radical changes, that their identification creates serious and sometimes unsurmountable difficulties. Hence, the socalled "Restitution by replacement". It found, as you well know, its practical application already after First World War, but more generally in the legal instruments after the Second World War.

The Allied Control Council in Germany, in implementing the Declaration of January 5, 1943, goes beyond the formal definition of restitution, by its resolution of January 21, 1946, provides for a special restitution procedure for "items subject to replacement". The principle of restitution by replacement has also been applied in Peace Treaties already concluded after World War Two. We have it again in the Pleace Treaty with Italy, which says that "if, in particular cases, it is impossible for Italy to make restitution of objects of artistic, historic or archaelogical value, belonging to the cultural heritage

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of the United Nations from whose territory such objects were removed by force or duress by Italian Forces, authorities or nationals, Italy shall transfer to the United Nation concerned objects of the same kind as, and of approximately equivalent value to, the objects removed". This is Article 75, para. 9 of the Peace Treaty with Italy.

But, to sum up this part of my explanation, it is clear that this principle has been adopted in connection with monetary gold. It is clear that this is what is meant by para. A of Part III of the Paris Reparation Agreement, that "all monetary gold found in Germany by the Allied Forces, and that referred to in paragraph G below, shall be polled for restitution, as restitution among the countries participating in the pool, in proportion to their respective losses of gold through looting or by wrongful removal to Germany".

What are the essential elements of this Article? Firstly, a pool is being created without regard being paid to the identity of the means. Secondly, out of this pool, the pro rata satisfaction of the claims will be made. Here again, we have the basic presumption I have made earlier in my intervention that gold has been removed from Poland. There is no need to identify the gold found in Germany or recovered from third States; there is no duty to offer any evidence in the field of identification on the part of the countries claiming the restoration of gold; there is no need to do anything in this field. The more so, if one considers that in relation to the gold coins mentioned in the same paragraph of Part III. These are to be returned in specie. Therefore, to sum up, we are faced here with a clear concurrence of two procedures:-

(a) Gold coins of numismatic or historic value are being returned in case of recovery in specie as stated:

(b) All other gold looted or wrongfully removed to Germany, including gold coins, is to be allocated from the pool pro rata parte, without identification.

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This membership of the pool is ex definitione open to all those countries who suffered losses during the war - those countries, one of which is Poland.

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5. POLISH REPRESENTATIVE

This analysis brings me to the second conclusion of my exposé; that we have suffered losses in gold through looting and wrongful removal to Germany is an established fact; that we have the right to claim restitution is based on those principles of law and provisions of United Nations documents. Since the restitution of gold is provided for by establishment of the pool, and our losses in principle are unquestionable, it suffices to put a claim forward to become a member of the pool. This is the obvious and undeniable conclusion in the case. A member of the United Nations, as a country which was under enemy occupation, has a right to become a member of the pool for the distribution of looted and wrongfully removed gold to Germany. This right of Poland is unquestionable for she has, as I said, satisfied the two conditions laid down in the Paris Agreement on German Reparations. Therefore its claim to satisfaction cannot be disputed. The more so that documentary evidence concerning the amount of gold lost through looting has been produced and this makes the situation to my mind quite clear. Again we are bound to state that anybody called upon to decide on the legality of our claim could only confine itself to the question of how much of the amount is substantiated, and may only dispute one or other figure, or one or other item, but never the principle or right to restitution and part of the pool, because as I said earlier the legality of the claim and its validity could not be in doubt.

But having said this, may I now pass to the second conclusion contained in the Commission's letter of July 27, 1950.

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In this letter the Commission says it "has been unable to find that the Polish Government has established, in respect of any of the above mentioned claims, that a definite amount of monetary gold belonging to it was looted by Germany or, at any time after March 12 1938, was wrongfully removed into German territory." How was it indeed possible that the Commission could have arrived at such a conclusion? My Government was both astonished as to the form and substance of this statement. My Government was particularly concerned by the fact that the Commission found it possible to dispose of the tremendous documentation, gathered with such an effort by the Polish authorities, in a few words with such a brief formula. I stress again that although the decision was provisional, and although it had a strongly provisional character, yet I have to express the astonishment of my Government as to this decision. In one sentence a case deserving serious consideration and detailed reasoning has been answered, and though my Government cannot consider this conclusion as anything but a provisional and not a binding view, yet it has the impression that any impartial observer must gather, that those who scrutinized the documents and arguments submitted by Poland either did not understand the essentials of the case or problem, or did not thoroughly get acquainted with the documents before it. With all due respect I submit that I must come to the conclusion that elements extraneous to the case and not matters of substance may have influenced this decision, but before going into the substance I wish to detain you for a few moments and dwell on a strictly procedural issue.

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It has been stated many times that the Commission has the character of a quasi-judicial body, from which it follows that the Commission should apply rules of procedure generally accepted for international bodies of this kind. It is worthwhile to go into certain international customs in this respect, such as the Convention of 1907 and statutes of international bodies of this type, which have laid down for those bodies always the duty to state reasons on which decisions are based - but I wish to add not only final decisions, even preliminary decisions. It is obvious that during proceedings an international body may pronounce decisions of an incidental character. These are interim measures; they may concern such questions as fixation of time limits or their prorogation, measures of interim protection, expert enquiry, joinder of application, or similar cases. The very essence of these decisions lies in the fact that they are matters of strictly procedural character, that they concern issues of less importance, and that they never have the binding force or effect of decisions in substance or a judgment. It is a well established rule, which again with due respect I wish to stress here, that decisions even if provisional in character must require a statement of reasons. The International Court of Justice laid down that in any decisions "reasons in point of law and fact" must be put down. All the Polish Government was informed was that the Commission was unable to find that the Polish Government have established certain facts upon which its claim is based. The Commission added that before taking a binding decision in the

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matter "it will be glad to give the Government of Poland an opportunity of presenting to it, through an accredited representative or representatives, any further arguments or observations which the Government of Poland may see fit to put forward in support of the claims concerned." As far as this sentence is concerned, there is an obvious discrepancy between the French and English text of the letter of July 27. The French text uses the words "arguments ou observations supplémentaires;" the English text uses the words "further arguments," which does not amount to th e same. These words do not mean the same in English and French.

Without having been told the reasons of the provisional decision the Polish Government has been offered the possibility to present its case orally before the Commission, as I do it now. This makes it clear that the exposé which I am presenting to the Commission cannot be regarded as the final and last opportunity the Polish Government has to substantiate its claims. Not having had the reasons for this decision, the Polish Government have by the very nature of the situation not been able to deal with the reasons which led to the Commission's unfavourable decision. But no doubt this procedural issue, which I consider as being rather important, turns on the substance: on what grounds does the Commission base its provisional decision? This is the crucial point really which I am trying to ask. As I have said, the Commission could not have based its decision on the fact that gold has not been looted from Poland, because it was; it could not have based its decision on the fact that it was not removed

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to Germany, because it was; neither could the Commission have arrived at the decision that, the gold having been looted and removed, Poland should not receive restitution, because that conclusion flows automatically from the proceedings. The Commission could neither have reached its conclusion on the basis of the definition of gold as subject to restitution in conformity with Part III of the Paris Agreement. The last problem, the problem of definition, not having been dealt with by me hitherto, I shall devote some remarks to its analysis.

Part III of the Paris Agreement on German Reparation employs concurrently the two terms "gold" and "monetary gold." Paragraph A refers to "all the monetary gold found in Germany" and paragraph G says "any monetary gold which may be recovered from a third country." But when dealing with losses - and this is the key problem - the document employs exclusively the term "gold," as it refers, for instance, to "respective losses of gold through looting or by wrongful removal to Germany." The same wording is found in the French text which employs the terms "quantité d'or." The concurrence of the French and the English text is not incidental, and therefore one cannot regard the fact that the word "monetary" has been omitted as being devoid of its meaning and legal consequence. It was rightly pointed out on another occasion by a high authority on international agreements, in connection with another case, that "words must not be considered as being without any meaning," that words and international documents have always a meaning. What is the meaning of these words, and what is the possibility which is open to us while interpreting these two terms "monetary gold"

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and "gold"? The notion "monetary gold" as used in the text leaves no doubt as to the possibility of a double interpretation. The gold may be monetary at the time it was looted, and having found its way into Germany have been transformed into a different kind of gold and ceased to be monetary. But it may be the other way round. Gold may be devoid of the element of "monetary" at the time of looting and having been passed to Germany, transformed into monetary gold. Those two possibilities are undoubtedly at the back of the Paris Agreement, and I would say that the Paris Reparation Agreements calls for such an interpretation. For let us look at Paragraph E of Part III, where we find the following words "gold losses suffered in looting or by removal to Germany." It refers to the need for supplying the three Governments with data concerning the losses of gold. Again I come back to what I said at the beginning, data concerning various items but never questioning the principle, never questioning the right to compensation - only data concerning this or the other item. This Paragraph E says that those Governments can claim the right for restitution who supply the three Governments with data. Thus the data which has been asked for completely dispenses with the qualification of gold as "monetary" and bases the whole claim on the amount of gold.

In view of the above, the definition accepted at a later stage by the Commission seriously restricts the notion of gold which is subject to restitution. Does it in these circumstances conform with the principle accepted by the Paris Reparation Agreement? One is bound to arrive at the conclusion that it contradicts

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the principle of liberal construction of treaties, and limits the rights of those who suffered most in the last war. It must be said that this definition went much further than the situation visualized by the International Court of Justice when it stated that whenever restrictive interpretation is admissible - I quote: "it must stop at the point where the so-called restrictive interpretation would be contrary to the plain terms of the article and would destroy what has been clearly guaranteed."

But I go even further. I put the question, was the restrictive interpretation of the term "gold" subject to restitution admissible in this case altogether? And what are the practical consequences and result of such a restrictive interpretation? Big quantities of gold which had been looted in death and concentration camps, gold which is only in part covered by the figures submitted by the Polish Government, would be excluded from restition and Poland would therefore be deprived of her right to recompensation for damages and losses incurred. In the documents we have submitted we have proved amongst other things, on the basis of the report of Globoonik who was responsible for the liquidation of Polish lives and property in one only district of Poland, that apart from jewellery and objects of gold, 236 bars of gold of the weight of 2909.68 kgs. were looted. On the basis of other documents we have been able to prove the methods and results of looting of gold in other parts of Poland. These stocks of gold were eventually transferred to Germany. They increased and contributed to the increase of the stocks of the Reichsbank and contributed to the increase of the monetary gold

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of the Third Reich. The fact that there existed on Polish territory many extermination and concentration camps requires, I think, no proof. I think no proof is also required as to the facts which occurred in those camps. In camps like Oswiecim, Majdanek, and Treblinka hundreds of thousands of people were imprisoned, and when we take into account the fact that they were dragged into those camps with their belongings, that there existed in those camps special squads used by the Nazis for the sole purpose of collecting and sorting out the gold from their murdered victims, and that finally, if I shall not refrain from mentioning this gruseome fact, the corpses of the victims were checked in order to extract their gold teeth - then the figure of 100,000 kgs. of gold, which was submitted by the Government of Poland, is, of course, the very minimum estimate.

It must therefore be recognized, and I think there can be no doubt about it, that our claim in this connection has been prima facie established. If then the narrow definition that I have just mentioned is accepted - a definition which is not backed by the Paris Agreement - Poland will be deprived of the possibility to receive satisfaction in those of her claims. This would be the result even though she has legal title to it. Moreover it is not only probable, but almost certain, that the gold seized in those camps was eventually delivered to the Treasury of the Reichsbank, thus acquiring the qualification of "monetary gold" in the second state, and thus falling within the definition as adopted by the Paris Agreement, and therefore we claim that this gold is subject to restitution. That is why the

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Government of Poland has on several occasions protested against the restrictive and in fact discriminatory character of the definition which above all affects - and this should be borne in mind - affects those who suffered most, those with whom the Nazis did not deal in bluffs, those against whom the Nazis displayed the most ruthless campaign of brutality. Whether this was he intention of the Agreement of 1943, that those who suffered most should be deprived of restitution, I beg to doubt. The Polish Government therefore renewed on several occasions its protests, basing itself on the Reparations Agreement, and considering the definition as accepted by the Commission is limited and discriminatory in character, as laid down in ultra vive.

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I have dealt so far with one of the claims, namely, the claim estimated at 100,000 kgs. of gold which, in accordance with the definition of monetary gold as laid down in Part III of the Paris Reparation Agreement, made our losses subject to restitution. It might be barred from restitution, as a result of the restrictive definition adopted by the Commission, but all other claims we have submitted come within the province of both definitions, as adopted by Part III of the Paris Reparation Agreement, and the definition as drafted by the Tripartite Gold Commission. All these items we have submitted, apart as I said, from the 100,000 Kgs. of gold, are fully covered and thus within the framework of both definitions.

The letter of the Commission of July 27th, did not deal with the specific claims which were forwarded and for which we asked for restitution. It is worth while to devote some attention to the specific claims. The Polish Government has submitted documents, original accounts, books, testimonies and affidavits, which bear out the losses through looting of:

1) 1,654,201 Kg. of gold through the Reichskreditkassen and the Emissionsbank.
2) 260,300 Kg. of gold through the Reichsbank branches in Posnan.
3) 466,1012 Kg. of gold through the Reichsbank branch in Lodz.
4) 91,8980 Kg. through the Doutsche Bank in Krakow.
5) 10,6652 Kgs. through the Landesgenossenschaft in Bydgoszoz; and
6) 260,0489 Kg. of gold from the safes of the Postal Savings Bank; and
7) 4,877,2047 Kg. of gold, the looting of which has been established by affidavits of persons concerned and by documents which are fully trustworthy.

Moreover, we have proved by way of estimate the loss amounting to about 27,000 Kg. of gold looted from the civilian population, apart from the 100,000 Kg. of gold referred to earlier, and the gold of Gdansk.

It may be possible , as far as the figures of our claim are concerned, to

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argue that the estimates made by the Polish Authorities were exagerated, or not based on actual facts. But, here again our figures have been reinforced by detailed analysis of which the following example is the best proof. The average figure of gold delivered to the Branch Offices of the Reichsbank, was based on the account found in one of them, namely, in the Branch Office of Posman. The books and receipts of that Branch Office indicated the figure of 260 Kg. but the documents found later and since handed over to the Commission have shown that, for instance, in other Branch Offices of the Reichsbank the amount of gold delivered was much higher. For instance, in the case of the Branch Office of Lodt, where documentary evidence is available that 460,6 Kg. of gold were delivered to the account of the Reichsbank. This goes to prove that our estimate based on an average calculation was more than conservative and the real figure, the real amount is much higher and in some cases, as I have shown in the case of Lodt, 100 higher than indicated in our original application. What more can prove the very careful and indeed serious approach to the whole problem as made by the Government of Poland? But let me continue and examine now more closely the character of these claims, so as to place their relationship to the right of restitution. To this end, let me for a while take as basis the definition of the Commission itself, which states that objects of restitution is all gold which "at the time of its looting or wrongful removal was carried as part of the claimant country's monetary reserve, either in accounts of the claimant Government itself, or in the accounts of the claimant country's central bank or other monetary authority at home or abroad". In other words, let us consider whether this gold at the moment of looting or wrongful removal to Germany, had the character of monetary gold, within the meaning, as I said, of the definition adopted by the Tripartite Commission. This leads me to the preliminary question, what is monetary gold altogether?

On the basis of expert opinion, it must be stated that the most essential feature of monetary gold is the fact that it is gold which is out of circulation,

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and an authority defining this element - "il ne circule pas dans le public". This is also the meaning which should be attached to the definition accepted by the Commission when it says "it was carried as a part of the claiment country's monetary reserve". Thus, the essential feature distinguishing monetary gold in its various aspects and forms, is the fact of its being immobilised, its exclusion from circulation so that it acquires the character of bullion reserve, which apart from the backing of the currency, serves to regulate international payments.

This is why when, in the years between the wars the majority of states left the gold standard, one of the first measures was to immobilise the gold in private hands. This found its expression, first of all, in the prohibition of dealings in gold; in its seizure and ultimate taking over by the Central Banks. The most typical example was the law of the United States of March 6, 1933, respectively, the Banking Act of March 9th of the same year. According to the provisions of this law, as you well know, the President of the U.S. was vested with the right to issue regulations in order to compel the population to pay and deliver to the Treasury of the U. S. any or all gold coins, gold bullion, and gold certificates. This law affected even gold certificates, which from a historical point of view are interesting, because they were first issued during the Civil War. Practice has proved that the duty to deliver gold to the monetary banks of the U.S. was not only based on individual declarations and was not limited to registration by persons being in possession of the gold, but also that the execution of the law was checked ex officio, and owners of safe deposits in banks had been directly or indirectly compelled to deliver the gold in those very safes. This gold, as I mentioned above, became thus part of the monetary reserve of the U.S.

Legislation of that kind was also issued in most countries which introduced foreign exchange control. The pre-war Polish Government also issued a similar law on September 2, 1939. It provision laid down that all physical and juridical persons ---- bound to deliver gold coins and gold bullion for purchase to the Bank of Poland,

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As the result of this order, the entire gold reserve remaining in Poland, either in coins or in bullion, has been incorporated into the national reserve of monetary gold. Had the then Polish Government had the time to carry out and enforce the law of September 2, 1939, the gold covered and legally already incorporated into the gold reserve of the bank, would have found its physical way into the treasury of the Central Poland Monetary Authority. Nonetheless, though it has not flown into the Treasury of t the Bank for obvious reasons, yet from a juridical and economic point of view, it was already from the moment of the issuing of the law, that the gold acquired the qualification of monetary gold. This is the first element of the definition - the first element which I want to stress - that all the items which I quoted earlier to you covers the definition of monetary gold, as adopted by the Commission itself. But let us now admit for the sake of argument that by the law of September 2, 1939, the gold has not acquired the qualities of monetary gold. I do it, as I say for the sake of argument. In the meanwhile, Poland was, as you will remember, overrun by the Hitlerite hoards and the civilian authorities of the occupent had issued orders, enacting not only the purchase of gold but also its compulsory delivery without compensation or equivalent. I shall not indulge upon your patience by quoting the many laws on the occasion, since I have done it in part earlier. They can be found everywhere, and their existence and stipulations are well known. But, what is essential is that simultaneously the Hitlerite occupant has commenced the opening and breaking open of safes in banks and saving institutions, as for instance in Warsaw. Already in October 1939 and according to reports from the Capital, up to the end of October, 660 safes with 2,000 items have been opened and looted, which covered ¼ of the total amount of safes in the capital of Poland.

Let me now put the question - what was the significance of these measures and acts of the occupent? By those regulations the occupent had qualified the entire stock of gold which was at that time on Polish territory, as monetary gold, not only from a strictly formal point of view, but also in fact, as the provisions of those measures had been fully put into operation. The gold thus acquired had been

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taken over for the Reichsbank as monetary gold, through the instrumentalities of the socalled Reichskreditkassen and later of the branches of the Reichsbank, respectively branches of the Emissionsbank.

What was the real nature of those bodies, which by the authority of the occupant, dealt with the purchase and seizure and confiscation of the gold?

We did submit to the Commission a translation of the Verordnung aber Reichskreditkassen from September 23, 1939. These Reichskreditkassen had been established throughout occupied Poland, with the exception of Upper Silesia, which was immediately illegally incorporated into the Reich. What are the obvious conclusions every reader must draw from those legislative acts we have submitted?

(a) that those Reichskreditkassen have been established in order to regulate the circulation of the currency -

(b) that they have been vested with the right to issue bank notes, socalled Rechskreditscheine, which constituted the legal tender within the occupied territory.

(c) The backing and coverage of the bank notes issued by them constituted inter alia their credit accounts in the Reichsbank, socalled Cuthaben - in the Reichsbank. These were the constituent elements of these institutions.

It is, therefore, clear that the Reichskreditkassen did exist as banks with the right of issue, thus being monetary authorities, within the strictest meaning of the term. Their activities did not last long. Soon after, the territory of the Polish State was divided into two parts, one of them, the western part, was incorporated into the Reich. By an order of December 21, 1939, published in the Reichsgesetablatt I.S.2., it was announced that in the incorporated territory of the Polish State the law of June 15, 1939, is hence to be applied. This was the law concerning the Reichsbank. Thus, the Reichsbank became the successor, the authority with the right to issue within the territories for which the Germans introduced the German Mark. The Reichsbank established through the territory illegally incorporated into Germany, Branch Offices amounting in number to 18. A list of them was submitted

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by the Polish Government.

At the same time, the socalled Verodmung Uber die Emissionsbank of December 15, 1939, established the latter institution - I mean the Emissionsbank, within the socalled General Government. By virtue of this Verordmung, it was laid down that the Emissionsbank:-

a) Was the institution called upon to regulate the circulation of currency in the territory of the General Government.

b) Had the right to issue banknotes, zlote,

c) That is emission was covered and backed by the credit account (Guthaben) inter alia in the Deutsche Reichsbank.

d) Its banknotes constituted the exclusive legal tender within the General Government.

Consequently, it was also this bank which had the right of issue and all the qualifications of a monetary authority sensu stricto. We had, therefore, on Polish Territory the following institutions which the character of monetary authorities:

1) The Reichskreditkassen through the whole of Poland, with the exception of Upper Silesia, later was the illegally incorporated teritories of Poland - the Deutsche Reichsbank - and for the General Government, the Emissionsbank.

Did these banks and these institutions have the characteristic features of monetary authorities? The reply must be an unqualified "yes". True enough they were established by the occupant; no-one denies that. They were bound to become instruments he used in order to exploit the Polish economy, but no-one can deny that they were acting on Polish territory, and in the country of Poland, and that they were regulating, in fact, the monetary aspect of Poland's economic life.

It was through those bodies that gold was flowing from Poland in Germany. First stage, looting, opening of safes; second stage, wrongful removal - both elements

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of the definition as established by the Commission. The detailed technique of this wrongful removal was described in detail by one of the witnesses offered by the Government of Poland - Witness Gruner. He explained that the particular branches of the Emissionsbank were purchasing gold on the account of the Deutsche Reichsbank. In other words, this very bank established throughout occupied Poland, was purchasing at a ridiculously low price and later they confiscated gold which flowed into the Reichsbank, into its Hauptkasse - Edelmetall, Berlin C III. They were conducting those activities on the basis of the orders I have quoted to you, and heavy penalities were provided for all those who refused to sell or give up the gold they had. The same witness made it clear that the gold purchased by the branch offices was being transferred to the central office of the Emissionsbank in Cracow, which was the pooling point of all deliveries and forwarded all of them together to the above mentioned address in Berlin. Was it wrongful removal, or was it not? Undoubtedly, it was. The same witness bore evidence to the fact that the Emissionsbank held an account with the Deutsche Reichsbank on which the equivalent of the purchased gold was duly accounted for. The number of that account was 2039.

The technique of purchase of gold by the branch offices of the Reichskreditkassen and branch offices of the Reichsbank, was identical. This is borne out by many documents we have, and some of which have been purchased to the Commission. These are the facts - undeniable facts, from which flow obvious consequences. But, since the gold was being purchased by an institution which had the right and power to issue banknotes by a central bank - the gold, at the moment of its purchasing, became monetary gold, for all intents and purposes, since this gold was bought or confiscated (in the majority of cases later confiscated) - found its way into the safes either of the branches of the Reichsbank or branches of the Emissionsbank, it became monetary gold and it was carried on the account of the central bank. Since this gold, as was known, was later transferred to Germany, it was clear that this removal concerned gold which figures on the account of a monetary authority operating on Polish territory - all monetary gold within the meaning of the definition as

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drafted by the Commission. Since further on, an equivalent of this gold was being credited with the Reichsbank in favour of the Reichskreditkassen or Emissionsbank - this account acquired in accordance with para. 11 section 2 and para. 16 of the Verordnung Uber dis Emissionsbank, the character of coverage and backing of the emission of currency circulating on Polish territory. Thus, the gold in question did fulfil all the requirements of monetary gold within the meaning of the Commission, and it was not only either looted or wrongfully removed, it was both, and therefore subject to restitution.

True enough, all these measures, as I said, were taken by the occupant as part of his policy aimed at the economic ruination of Poland and depriving her of all the gold within her boundaries. But, as I said earlier, the gold thus acquired and seized did not, by this very fact, cease to have the qualification of mentary gold. Under these circumstances, it is quite clear that, should the Commission not accept as basis the Polish Decree of September 2, 1939, full account must be taken of the measures introduced by the occupying authorities.

In any case, the figures of gold covered by the documents submitted, are undoubtedly within the province of the definition, and they have satisfied the alternatives offered by the Commission. The gold was either looted or wrongfully removed, but it was both; looted and wrongfully removed. Thus, facts and law do not present any difficulties. Some figures may be higher, some lower, but the principal basis remains unchanged. The gold thus taken over comes under the definition and is, therefore, liable to restitution to Poland, under the terms of the Paris Agreement on Reparations.

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7. POLISH REPRESENTATIVE

Having siad what I did, I am bound to put the question, what are the doubts which may arise in connection with the Polish claim? The acts of the occupants, as I said, were undoubtedly illegal, but can illegality be invoked against a victim? This is the crucial legal point. Can it be invoked as an argument for the non-recognition of this case, which would be the practical effect of such an approach. The definition we are dealing with, and I have in mind all the time the definition as submitted by the Commission, is not a definition of a strictly juridical nature. It is based on a factual state of affairs, which in the case of the Polish claim has been fully supported by the events on Polish territory, and can therefore have no detrimental effect on the claims of the Polish Government. Moreover there is a well known and old legal principle stating that no one can invoke illegality of an act vis-a-vis the victim of the illegality, vis-a-vis the person who has been the victim of such illegality. If this were admissible it would lead us to a paradoxical situation, to wit, that an illegal act and a crime exempts from responsibility the criminal and deprives the victim of the right to prosecute his claim, for the apparent reason that illegality makes the act void - in other words the act was legally non-existent, and on account of the apparent fact that it was legally non-existent because it was void, the victim is deprived of the right to prosecute his claim; a situation of which no legal system in the world can allow or can approve. But the result of such a situation would on the other side be obvious. The fruits of the crime would be reaped. This principle - that illegality cannot be invoked against the victim - is valid erga omnes not only against the criminal himself but against anybody else who could reap any fruit or profit from the illegality of the criminal. This principle I could put at very great length, but I think there is no need to delve into it, because the principle is a well established principle of law. It is therefore clear that the principle is valid regardless of who could or would become the beneficiary of the illegal act

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as committed by the criminal himself or anyone else who derives direct or indirect profits from the crime. Therefore it cannot be said that in view of the illegality of the act the Polish claim is disallowed.

This I think is a very fundamental and important issue, which reminds me of a statement of a medieval English judge who, when faced with the case of a soldier who had to carry out an illegal order, told him, if you had carried out this illegal order you would have been hanged by a civil court; if you had refused to carry it out you would be shot by a military court. The approach to the whole problem of the case is one essence of recognising the principle of the claim. No institution can base its arguments on the views that it is possible to kill the claim this way or the other, because it makes no difference whether you shoot it or hang it.

It is therefore quite clear that in deciding upon the case the Commission could not possibly argue on the basis of illegality of the acts. It could not argue this point since it is clear that this argument would produce beneficial results to a third state and not the state against whom the illegality was committed. There is a known institution of "estoppel", very well known in Anglo-Saxon law, which would find its application here in a much wider sense. If a different approach is taken to the Polish claim presented here, we would arrive at a situation in which the criminal activity of the occupant would create rights in favour of a third state and thus lead to unjust enrichment which would be contrary both to law and equity and the documents of the United Nations.

Finally, as I stated already before, the Commission construes in its definition a certain state of affairs which in the concrete case took place with all its constituent elements. How then could a negative decision, although provisional, be taken? How was it possible not to recognise fully the claim of the Polish Government?

The brief, and with all due respect I would say the all too brief formula

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of the letter of July 27, did not deal with the case, another part of the case submitted by the Polish Government, namely, the claim concerning Gdansk amounting to 4726 Kgs. of gold. This gold has of course all the qualifications of monetary gold, even within the narrow framework of the definition submitted by the Commission. The figure was substantiated by the books of the Bank of Danzig which have been submitted to the Commission. Moreover the Commission was supplied with evidence concerning the incorporation of the Bank of Danzig into the Reichsbank on September 5, 1939, and the notification concerning the setting up of the branch of the Reichsbank in Danzig on September 6, 1939. These documents established that the gold in question has been looted by the Hitlerite authorities. It is therefore clear that here again all the elements of the definition are available. The gold is monetary gold, and it was looted, and it was wrongfully removed into Germany.

As far as the pre-war status of Danzig is concerned, it is based as you know on article 104 of the Versailles Peace Treaty. While further, article 2 of the Convention between Poland and Gdansk of November 2 1922 has to be borne in mind. In accordance with the provisions of these documents, Poland exclusively had the rights and duty to conduct the foreign affairs of the Free City. Poland represented her interests vis-a-vis third states. It signed on her behalf international documents, protected her interests abroad, acted in the whole international arena on behalf of the Free City. True enough Gdansk had a monetary authority of her own but on the international plain this was irrelevant as Poland was responsible for the international relations of the Free City. The annexation of Gdansk which was carried out on September 1 1939 was and remained a flagrant violation of international law amounting to full-fledged aggression. But the decisive document on which the whole case rets today is the Potsdam Agreement where it states that the Free City of Danzig is to be transferred to the Polish State. Thus full authority over the former Free City has been handed over to Poland. Special attention must be paid to the fact that the Potsdam Agreement uses the term - and I would like you to bear in mind

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the use of this term - "the former Free City of Danzig". The term "former" must under no circumstances be referred to the annexation of Gdanak in 1939 because the Potsdam Agreement could not possibly sanction an act of violence which was really open aggression. It had never received the approval of the United Nations. The term "former Free City of Danzig" carries and means only one thing, namely, that the Free City ceased to exist as a result of its incorporation into the territory of the Polish State.

If this is so, and there is no doubt in this respect, only Poland can both in law and in fact have full title to take over the monetary gold of Gdansk within the meaning of the definition adopted by the Commission. If Poland were refused the gold, who would then received it who has any right to claim it? Germany has never had that right because she renounced all rights to Gdansk in the Versailles Peace Treaty. Part of the gold which is now in the hands of the Commission is undoubtedly of Gdansk origin. Who has any right to claim it? Is it any other state participating in the pool? No other state has any right. Is it any state represented on the Commission? None of them has the right to acquire the gold of the former Free City of Danzig, and the exclusive right to claim this gold is the right of the Polish State. Should any further guidance be required of cases of a similar nature, I can readily supply examples from the Peace Treaty with Italy. It is known that some territories formerly under Italian sovereignty have been transferred to states neighbouring with Italy, and here is annex XIV, paragraph 16, of the treaty, which says the following:

"Italy shall return property unlawfully removed from ceded territory to Italy". Here you can find proof that the cession of territory to another state does not deprive the new state of the rights arising out of restitution. The case of Italy is the more striking as the territories in question were, prior to the act of cession, part of the Italian territory and under its full sovereignty. How much stronger therefore is the claim if the territory had not been under the sovereignty of an enemy state to which the enemy state has no legal title. In the case of ceded territories there is the possibility of another claiment, but in the case of the former Free City of Danzig there is no other who can raise a claim for

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the gold thus looted and wrongfully removed. The Free City of Danzig ceased to exist; her territory had become a component part of Poland and therefore Poland's title is fully backed by law and United Nations decisions elsewhere. The refusal to recognise law and fact would amount to obvious violation of the Potsdam Agreement. Gdansk cannot be treated as a political or legal vacuum. Prior to 1939 Poland represented the Free City in international relations by virtue of international agreements. Today she does so because the territory of the former Free City is within the territories of the Polish State.

These are the foundations of our claim for the restoration of the gold seized from the Bank of Danzig. This claim is, as I say, very well founded and could not possibly be rejected. I imagine that its rejection would amount to the undue enriching of other states participating in the pool - undue enrichment at the expense of Poland.

I have, Mr. Chairman, arrived at the end of the summary and analysis of the claims submitted by the Government of Poland. May I now turn to some general remarks and comments. The very nature of my expose was general, in view of the fact which I mentioned earlier, that the letter of the Commission of July 27 did not state any reason for its provisional decision, and I shall now continue with a general approach to the subject. I wish to dwell on the very nature of the United Nations documents which form the basis of the activities. I return to the declaration of January 5, 1943. By it the signatories have siad that they intend to do their utmost to defeat the methods of dispossession practiced by the Governments with which are at war against the countries and peoples who have been so wantonly assaulted and despoiled. In stating this intention they have also mutually obligated themselves to do everything necessary in order to achieve the objective contained therein.

The same obligation is contained in the declaration of February 22, 1944. The agreements of Yalta and Potsdam, while laying down the principles did also fix the line of action. It was in particular the Potsdam Agreement which paved the way to the establishment of the whole machinery of restitution. The Paris Agreement on Reparations are like a beacon, a directive which shows the way to put the whole thing into practice.

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in its Part III fixes a specific obligation and provides for the procedure to attain the goal. On February 4 1946 the British Embassy in Warsaw informed the Polish Government that the definition of restitution of property removed by Germans from allied countries, as agreed by the Control Council in Berlin at the meeting on January 21 1946. The decision of the Allied Control Council makes it clear that the question of restitution of property removed by the Germans from allied countries must be examined in all cases in the light of the declaration of January 5, 1943. The objective is therefore clear - to make good as far as possible th damage done and compensate the losses suffered. This was also made clear in a statement contained in the bulletin of the Department of State of June 16, 1946, which stresses the right-ful claims of countries like Poland which, "those countries which have borne the main burden of the war, have suffered the heaviest losses, and have organised victory over the enemy".

These were the obvious intentions of the United Nations in establishing and setting into motion the whole machinery of restitution. Can they be lost sight of or remain without influence on the methods and procedure while these documents are being implemented? It is a well established principle of law that the intentions of the parties are of paramount importance. This principle is fully recognised by both theory and practice, and finds its expression in the old Roman maxim: in conventioni-bus contrahentium voluntas potius quam verba spectari placuit. The Permanent Court of Arbitration stressed it by using plain words: " here again and always we must look for the real and harmonious intention of the parties when they bound themselves". What was the intention of the parties to the declarations of January 5 1943, of February 22 1944, of the Yalta and Potsdam Agreement? The intentions were quite clear - they aimed at satisfying the needs and desires of the devastated countries; they meant to give priority to those who suffer most. These intentions were not only inherent in the documents themselves, they were made clear in statements, declarations and pronouncements made outside the instruments in question. This being so we must throughout the operation of the machinery instituted to implement and carry out those intentions, remember these purposes which were and are like a beacon, a directive which shows the way to put the whole thing into practice.

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Can anyone question that Poland stands in the first line of those who suffered most and that she is therefore among the first who should be considered? Would it under these circumstances be just and right that a narrow formula be put as a bar preventing Poland from having her rightful claims satisfied? Some of the claims are well within even this narrow formula, but I am now trying to approach the issue on a much wider field. We have established the clear and manifest intentions of the parties when they bound themselves to proceed with the restitution of looted or removed gold. Our claims must have been in their minds when the documents were drafted. Our claims are well within the provisions of Part III of the Paris Agreement on Reparations. If this is so, it has to be applied to all our items, all of them, as to have to be accepted. We are faced with another definition as drafted by the Commission, which my Government has questioned and which excludes some of our claims. But there are some claims which are justified by both, being the monetary gold, as I proved in the earlier part of my statement this afternoon. In the light of all I have said can any of these formulas be used to bar our claims? The intention of the parties being clear, the only proper interpretation which could and should be applied is liberal construction of the documents in question. What is this liberal construction? Liberal construction is liberal construction of all the documents, which is backed in theory and practice in law.

[illegible] which I [illegible] to you.

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There are other examples which I would like to quote to you. Take for instance, the decision of the Supreme Court of the U. S. of 1830 in the case of Shanks v. Dupont. The Supreme Court of the U.S. said: "If the treaty admits two interpretations, and one is limited, and the other liberal, why should not the most liberal exposition is to be adopted". And in another case, the same court said: "Where a treaty admits of two constructions, one restrictive as to the rights that may be claimed under it, and the other liberal, the latter is to be preferred. Such is the settled rule of the Court" (1879) And, again in another case in 1889, it has been said that the "Treaties shall be liberally construed so as to carry out the apparent intention of the parties". And, again it has been said: "Treaties are to be construed in a broad and liberal spirit, and when two constructions are possible, one restrictive of rights that may be claimed under it, the latter is to be preferred". Asakura v. Seatle (1923). The liberal construction of treaties and extensive interpretation of rights - arising out of them is a well-established principle of law. The more so it is to be applied, where the whole procedure is one of equity. Where equity is in play, the only admissible interpretation is the liberal construction of an instrument. In this case, as soverign rights of states are not involved, restrictive interpretation is not justified. It leads to the conclusion that claims, certain claims, justified claims, like the claim of the Government of Poland, would be excluded and barred from satisfaction. Otherwise, as I say, we are bound to conclude that the agreements, the United Nation's Declaration of 1943 and 1944, Yalta and Potsdam and the Paris Agreement on Reparations of Part III, are really devoid of any meaning. This agreement would remain meaningless and here again, I wish to quote a high international authority who said that "Nothing is better settled as a canon of interpretation in all systems of law, than that a clause must be so interpreted as to give it a meaning, rather than to deprive it of meaning". That is what the Arbitration Tribunal Court said in the Cayuga Indians Claims Case (1910).

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Box 22

This brings me to the conclusion that neither in the intention of the parties, ndr in the text of the relevant documents, is there any basis for the rejection of the claims as submitted by the Government of Poland. We claim that the agreement concerning the restitution of monetary gold be interpreted and applied in this very spirit, so that the rights of the most affected and their claims, be fully satisfied.

Mr. Chairman, this is the view of the Polish Government this view, I believe, is will founded, as it is not only backed by theory and practice in general; some aspects of the practice of the Commission itself offer further reinforcement, if any reinforcement is really necessary. I have here in mind, inter alia, the case of the Dollfus Mieg et Cie, S.A., which the Commission is not unfamiliar with. But, I hope you will forgive me for detaining you for a few minutes which I shall deal with the particulars of the case, which I think is not without importance and bearing on the general lines of reasoning, in the question of restitution of monetary gold.

As you well know, the French Company purchased 64 bars of gold and lodged them for safe custody at the Bank in Limoges. In August, 1944, the gold bars were forcibly removed to Germany, after having been seized by the German Authorities. Upon the termination of hostilities, the gold was found in Germany, and in 1948 on instructions from the Treasury, an account was opened with the Bank of England, where the mentioned 64 bars of gold were to be deposited. This account was operated by the "representatives of the Governments of the U.S., the U.K. and France, on the Tripartite Commission for the Restitution of Monetary Gold, for the deposit and eventual distribution of a portion of the gold looted by Germany from the occupied States of Europe". The Bank of England accepted the deposit with the explicit proviso that it "Be utilized for the deposit and eventual distribution of gold coming under the jurisdiction", I repeat, "jurisdiction, of the Tripartite Commission for Restitution of Monetary Gold". Meanwhile, the French Company has been trying to locate the looted gold and on June 29th, 1948 approached through the French authorities, the Chief of the U.S. Foreing Exchange

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Depository at Frankfurt. On enquiry, they were informed that "the disposition of this gold is subject to the orders of the Tripartite Gold Commission and the Office of the Mil. Government, U. S., Germany". In July 1948, this gold was despatched to England and deposited with the Bank of England. This was done on the orders of the Tripartite Commission. All these facts have been revealed in connection with an action brought by the Dollfus Mieg Cie. against the Bank of England in the Chancery Division of the High Court in England. The Frency Company claim delivery of the bars. In delivering the judgment, the English Judge found that the transfer of the gold, I quote, "was clearly done under the orders of the Tripertite Commission" and added " who seem, rightly or wrongly to have treated the 64 gold bars as monetary gold". The reasoning of the Judge who refused the French company the right to have the case considered in substance, by holding that it was a case of soverign immunity, not to be dealt with by municipal court, is irrelevant. It is, of course, of no importance that the Superior Court when dealing with the case found the bank sold inadvertedly 13 bars of gold in question. The essential problem is, and the reason why I mention the case, is the fact that the Commission found it possible to extend its jurisdiction over gold which, for all intents and purposes, was <u>never</u> monetary gold, and the Judge as I quoted earlier, cited all the internation instruments on which the authority of the Commission was based, starting with the Reparation Agreement of Paris and ending with the definition, as made by the Commission, and he said: "The Commission seem, rightly or wrongly to have treated the 64 gold bars as monetary gold". I quoted this example as a sideline and a sidelight, for illustration only, because I think that all the arguments I have advanced to the Commission earlier prove my case, without having any need to refer to the case of Dollfus Mieg. I think th that our case is proven, and there is no room for any alternative - for the rejection.

Apart from what I have said already - apart from the fact that the rejection of our claim would amount to viiation of our entitlement and rights - would amount

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to nothing short of expropriation - it would create a source of unjust enrichment of other states, at our expense.

From what is know, and there is little doubt about it, Polish gold is in the stocks of gold recoverd from Germany and at present held under the jurisdiction of the Commission. By dispensing with the need of identification and accepting the principle of distribution from the pool, the Paris Agreement and the Commission have thus qualified all the gold found in Germany and recovered from third states, as a global fund, from which allocations will be made to the individual Governments. Since, as I say, there are considerable quantities of gold looted and removed from Poland, the conclusion is clear. The allocation, without Poland participating in it, would mean that Polish gold would be allocated to third states. It would be superfluous to argue that should this happen the very object and purposes of restitution of gold after World War 2, would be completely frustrated.

By way of international agreements, as thos concluded with Spain, Switzerland and Sweden, the Governments of the three Powers, U.S., U.K., and France, have received and will receive gold which found its way to those countries by various lootings of the Hitler Government and was looted from occupied countries. That is how the three Governments obtained for the jurisidction of the Commission, 3740 Kgs. of gold from the Bank of International Settlement, in exchange for: waiving all claims against the Bank of International Settlement with regard to looted gold transferred to it by Germany" - the agreement of May 13, 1948. This was one of the typical operations through which Hitlerite Germany was disposing of gold looted in occupied countries. Being fully aware that the gold stocks of the Commission contain gold looted from Poland, its allocation to other countries would amount to an unjust and undue enrichment at the expense of Poland. How could this, I respectfully submit, be compatible with the Declaration of September 27, 1946, on the occasion of the establishment of the Commision by the three Governments represented on it? This was said

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the occasion: - "Il a donc ete reconnu qu'il ne serait pas equitable qu'un pays quelconque puisse beneficier d'un avantage aux depens des autres pays, parce que les Allemands, par hasard, n'ont pas fait disparaitre les poincons originaux sur une partie de l'or volé. En outre, on a tenue compte du fait que la plupart des pays liberes ont un besoin urgent de devises etrangeres pour leurs importations. On espere qu'une repartitition de l'or monetaire entre ces pays, au prorate de leurs pertes, augmentara leur pouvoir d'achat a l'etranger et contribuern ainsi au redressement general de l'economie europeene".

Here we see it quite clear that the Commission in its first statement, that of September 27, 1946, as stated, has a line of policy that no undue enrichment should ever happen within the activities of the Commission, and therefore, the refusal to recognise our case would be obviously contrary to the principle of equity, on which the distribution of gold should be based, and it would be contrary to the very principle of restitution.

The compensation of damages in this case is built on equity, which requires particular consideration to be given to those who suffered and lost most. It is therefore that the Commission should be guided by the principle of "broad conceptions, rather than by narrow interpretation", as it was stated by a member of international tribunals. Unjust enrichment is certainly not the purpose of restitution, nor is it compatible with the many documents of the United Nations.

In connection with the above, it would be also unjust to admit for only a moment, the possibility of tranferring Poland's claim into another sphere. As I pointed out earlier, restitution is and remains the basic institution aimed at compensating losses suffered and damage done. As substance has been saved, and we know that substance has been saved as far as gold is concerned, only restituion can be applied. It would be both unjust and imporper if the distribution of gold would be carried out and Poland omitted from it, under the pretext that our damage should be covered from other sources.

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Mr. Chairman, having thus presented the case in its summary and arrived at the definite conclusion that our claim is justified, bot in law and fact, that international instruments and practice back the claim advanced by the Polish Government.

Appearing today before the Commission and presenting the view of the Polish Government, we request that international agreements be carried out. The Agreements of Yalta and Potsdam are international instruments, which should be honoured in this, as in all other aspects. We claim that the three Governments who have signed with us the Protocal of July 9, 1949, should carry out their obligations. Pacta servanda sunt. Unilateral repudiation of the agreement amounts to the violation. Apart from the binding force of international treaties, it should be borne in mind that it is not enough to reap the fruits of the treaty, without carrying out its obligation - not to acquire rights resulting from it, without complying with the obligation resulting from it. We are fully entitled to ask for the implementation of this agreement. The three Governments in whose hands rests the distribution of monetary gold, act as Trustees and they are, therefore, bound to act in the interests of those in whose benefit the institution of restitution has been set up. I think these are things which should be borne in mind throughout the procedure. If you mention, Mr. Chairman, that the Commission is bound by strict rules of procedure, then I think that we should remeber that the main principle is substance - the question is clear which serves which - substance - procedure, or procedure - substance.

We appear before this Commission on the basis of assurances given to us by the three Governments that our rights will be fully recognised. These assurances had the character of binding obligations, and it is on this basis that we did sign the Protocal of July, 1949. Now, we would like this assurance to be implemented.

On its part, the Government of Poland wishes to repeat and recall that it honours international obligations. Out of many facts, I wish to quote one. I have

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in mind the exchange of notes, with which you may be familiar, between the Embassy of the U. S. in Warsaw and the Polish Ministry of Foreign Affairs on the 5th and 31 May, 1947, in connection with the concrete question in which gold from Portugal was to be used in a transaction. The Government of the U. S. expressed its confidence that "The Government of Poland would not wish to be a party to a transaction by which the Allied countries, including Poland, might be deprived of receiving gold looted from them". The claim to receiving gold from the pool was then recognized by the U. S. Government as early as May 6, 1947, and in reply to that note, the Polish Ministry of Foreign Affairs stated:-

"Le Gouvernement polonais partage les apprehensions du Government des Etats Unis concernant l'or spolie par les Allemands et se trouvant encore dans les differents pays. C'est dans cet esprit que le Gouvernement polonais est tous dispose a collaborer dans cette question, etant un parti des plus interesses dans ce probleme.

Tenant compte du fait, que la plus grande partie de l'or polonais et d'autres metaux precieux fut transfere par les Allemands pendant l'occupation et a augmente la reserve d'or monetaire allemande, la Pologne est vivement interesse que la somme totale destinee a la repartition, compreene la plus grande quantite d'or recupere, et par le meme, que la participation de la Pologne dans cette repartition reponde a la valeur de ses pertes".

Here is an example of the attitutde adopted by my Government, but it was not only in words, but also in deeds that the Government of Poland has carried out its stipulation concluded among the United Nations. But, as I said earlier, while implementing agreement she has the full right to ask other signatoreis of this Agreement to do the same.

Appearing today on behalf of the Government of Poland before the honourable members of the Commission, I represent a Government as a fully entitled signatory of an international instrument. We do not plead mercy; we do not call for an act

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of grace; we want our rights, that are due to us, be fully recognised and that agreement be carried out in both letter and spirit.

On the basis of the later documents submitted and additional information, the Polish Government is conviced that its title to the looted and wrogfully removed gold cannot be questioned.

The representatives of three Powers gave assurances prior to the signing of the Protocal of July 9th, 1949, that the Commission as a quasi-judicial body would consider its claim in an impartial manner.

On the basis of this assurance, the Polish Government submitted documents and other evidence. On the basis of this very assurance, the Polish Government has delegated me to present its case before you today - and in summing up the elements I have submitted to you during today's expose, I wish to state briefly that the claim of the Polish Government is based:-

1) On the paramount desideratum to give satisfaction by way of restitution for the losses suffered by Poland through the looting of and removal to Germany of Polish gold.
2) On conrete, clear and unequivocal obligations and rights resulting from the Declaration of January 5, 1943, February 22, 1944, on the agreements of Yalta and Potsdam, on Part III of the Paris Reparations Agreement and the Protocol signed with us on July 9th, 1949, as well as on other obligations undertaken by the three Governments represented by the Commission.
3) On the evidence submitted, which specifies the claim for restitution of 138.738.5309 Kgs. of gold looted from Poland and wrongfully removed by Nazi Germany.
4) On general principles of interpretation and implementation of international documents which require and call for equity and liberal construction in this and similar cases.

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5) On the undeniable right and fact that among the gold found by the Occupying Authorities in Western Germany and recovered from third states, there is gold looted from Poland.

6) On the fact that the refusal to acknowledge our claim would, apart from violating the principles enumerated above, constitute an undue enrichment of a third state at the expense of Poland. It was rightly stated that the United Nations documents on restitution reiterate the historical, moral and legal principle, that neither the person who steals, nor the one who may later come into the possession of the goods, honestly receives the title.

In order to fully satisfy this principle in its both positive and negative aspect, we must insist on the refusal to sanction looting and the imperative command to restore the looted property to those who were deprived of it.

I am at the end of my consideration, but before concluding, I am bound to go back to the letter of the Commission of July 27, 1950. The Polish Government was surprised by its short and brief statement. The letter does not explain whether the Commission questions statements of fact in connection with the evidence submitted by the Polish Government, or the juridical conclusion of the claim. No concrete issue was raised, nor additional information sought as to details to cover the issue as a whole. The Polish Government is convinced that having presented the case as a whole, it has made it. Should, hoever, the Commission harbour any further doubts, I am prepared, with the Financial Expert who has come from Warsaw this week, to answer any fum final questions you would like to raise.

I should not only appreciate this, but I think the procedure should really follow this line, but before I conclude, I wish to reserve, Mr. Chairman, for my self, the right to make an additional statement before the conclusion of today's session.

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RG 59 TGC
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on file TGC, Inc. gold claim

FOREIGN SERVICE OF THE UNITED STATES OF AMERICA

25

SECURITY: RESTRICTED

PRIORITY: AIR POUCH

For Dept. use only.

TO: Department of State

1 enclosure

200.6241 Gold/10-1150

RECD OCT 18

FROM: US COMMISSIONER, TGC, AMERICAN EMBASSY, Brussels - 176 - October 11, 1950.

REF: No previous

SUBJECT: Position 51.4463 Kgs Gold Allocated to Yugoslavia.

ACTION: E

INFO: DCR EUR OLI L

There is enclosed herewith a copy of a letter dated September 22, 1950, INT- 1686, from the Secretary General of the Gold Commission regarding an inquiry from the Yugoslav Government regarding the position of the 51.4463 kilograms of gold allocated to Yugoslavia in February 1949, but delivery of which is still pending. Notification of the allocation was made to the Yugoslav Government in the Commission's letter dated February 18, 1949.

The Secretary General inquires whether there would be any objection to informing the Yugoslav Representative that if his Government should formally request delivery of this quantity of gold, there would be no objection to such delivery being made.

On examing our files in regard to this matter, it would seem to me that delivery had been adequately authorized at the Commission's discretion and I have accordingly informed the Secretary General if the other Commissioners agree that there would be no objection to delivery of this amount of gold to the Yugoslav Government should a formal request be made. Should the Department perceive any objection to such delivery, I should appreciate being informed as promptly as possible.

Homer S. Fox
United States Commissioner
Tripartite Commission for the
Restitution of Monetary Gold.

Enclosure:

Letter dated September 22
from Secretary General.

HSFox:Set

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2 - Brussels - 176

COPY

TRIPARTITE COMMISSION
FOR THE RESTITUTION OF MONETARY GOLD

INT- 1686
CC/YUG.

22nd September, 1950.

From : The Secretary General.

To : The Commissioner of the Government of the United States of America.

The Commissioner of the Government of the United Kingdom of Great Britain and Northern Ireland.

The Commissioner of the Government of the French Republic.

Mr. Orlic, alternate Delegate of Yugoslavia, called this morning with regard to the following matter :

On 2nd September, 1948, the Commission delivered to Yugoslavia, on behalf of Italy, 8.393 kgs of gold.

At the same time it delivered 215.2903 kilograms of gold allocation of which by the Commission to Yugoslavia had been announced to that country on 17th July, 1948. (One of the objects the Commission had in view in making this allocation was to obtain the signature by Yugoslavia of a waiver which was, in fact, duly signed in consideration of the delivery).

On 18th February, 1949, the Commission advised the Delegate that it had made another allocation to his Government amounting to 51.4463 kgs but said "in view of the comparatively small amount involved delivery will be effected at a later date when a further payment on account is made on the previous allocations made to your Government".

As the Commissioners know, no further deliveries on account have, in fact, been made and the question of this delivery of 51.4463 Kgs has remained in suspense. This has been mentioned from time to time in the list of questions in suspense circulated to the Commissioners by the Secretariat (other allocations announced, but in respect of which deliveries have not been effected, are 37.8319 Kgs to Greece and 17.1911 Kgs to Albania in addition to the 1,104.2606 Kgs subject of an opposition by Italy).

The Yugoslav Government has written to Mr. Orlic enquiring as to the position in regard to the 51.4463 Kgs and the object of Mr. Orlic's visit was to ascertain how the matter now stands. I explained to Mr. Orlic that the matter has remained in suspense as no further deliveries have been made.

Mr. Orlic does not know whether his Government is desirous of receiving the 51.4463 Kgs at some early date or whether it is content to wait until the Commission makes its final announcement but, in making his report, he would like to be able to tell his Government what the Commission's reactions would be if Yugoslavia sent a formal request for delivery of the above amount.

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All allocations announced hitherto have been followed by delivery (except in the cases mentioned above) and there would appear to be no particular reason why the 51.4463 Kgs should not be delivered if asked for.

I should be grateful if the Commissioners would kindly let me know if there is any objection to my telling Mr. Orlic, verbally, that if his Government formally requests delivery of the 51.4463 Kgs these will be delivered against production of suitable powers and signature of the Commission's normal form of receipt. I presume that as a waiver has already been signed there would be no necessity, in case of a further delivery, to have another waiver signed.

(SIGNED) J.A. WATSON
Secretary General.

JAW/AS.

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OFFICE OF MILITARY GOVERNMENT FOR GERMANY (US)

Office of the Finance Adviser

Foreign Exchange Depository Group.

A P O 7 5 7.

17 August 1949.

Tripartite Commission
for the Restitution of Monetary Gold
155, rue de la Loi
Brussels, Belgium.

ATTN : J.A. Watson.

Ref. CC/YUG. 905
26 July 1949.

Gentlemen :

In reference to the Yugoslavian gold claims and documents, forwarded you by this office under date 15 July 1949, we received a visit today from the following :

Mr. Mate Topic
Counselor to the Yugoslavian
Military Mission in Berlin.

Mr. Topic's main purpose appeared to be to inquire into the present status of above claims, whereupon he was informed that they had been referred to the Tripartite Gold Commission for study and adjudication.

With specific reference to claim No. 1701, he stated that the relative gold bars, because of their low gold contents and alloy with silver, could not be considered in the category of monetary gold ; his meaning being that, if the claim were allowed, full recovery to Yugoslavia should be made to the extent these identical bars had been recovered.

Mr. Topic stated further, his investigations in reference to Yugoslavian gold were continuing and that he had already obtained additional documentary evidence. It was suggested to him that any new evidence in his possession, bearing on these claims, should be forwarded direct to the Tripartite Gold Commission, as soon as possible.

Very truly yours,

FRANK J. ROBERTS
Acting Chief
Foreign Exchange Depository

Tel : Frankfurt 7396.

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Military Mission of the Federal People's Republic
of Yugoslavia
to the Central Council for Germany
Berlin.

18th August, 1949.

To Colonel J.A. W A T S O N

Secretary General

Tripartite Commission
pour la Restitution de l'Or Monétaire

155, rue de la Loi
B r u x e l l e s.

Subject : CC Yug 905
Yugoslav Claims Nr. 1701. 1702. 1703.

With reference to your letter to Mr. R o b e r t s, Frankfurt, Bank der deutschen Lander of July 26th, concerning the above mentioned Yugoslav claims, I, authorized of the Government of F.P.R. of Yugoslavia, venture to submit to you the following facts :

1. Concerning claim No. 1701 I state that the gold mentioned there is no monetary gold as the bars contain less than 900/1000 of fine gold. It must therefore be considered as industrial gold, which is totally subject to restitution to Yugoslavia.

2. Concerning claim 1702 I state that the amount of gold mentioned there (161 kg) must be altered in 185 kg. I possess definitive documents which prove this fact.

3. Concerning claim 1703 I state that the amount of gold mentioned there (120 kg) must be altered in 245 kg as our documents prove.

4. I should like you to get knoledge of these documents and therefore will meet you in your office within the next fortnight when I shall come to Bruxelles.

(Mate Topic)
Consular authorirized by the
Yugoslav Government.

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By WBW NARA Date 7/7/99

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List 620115
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COPY/fac.

7 June 1949

SUBJECT : Yugoslavian Restitution Claims

TO : Foreign Exchange Depository Group
Finance Division , OMGUS
APO 757
US Army.

Attn : Mr. F.J. Roberts

1. There are enclosed herewith copies of three claims submitted as applications for restitution by the Federal People's Republic of Yugoslavia as follows :

Our Number	Yugoslavian Number	Description
M 890-Y-H	1701	85 bars of gold
M-891-Y-H	1702	161 kg monetary gold in 32 bags
M 892-Y-H	1703	120 kg gold monetary and in bars

2. Each of these claims alleges that the American Authorities took the gold into custody and transported it to the Reichsbank in Frankfurt/M.

3. Advice with respect to the processus of this claim is requested.

3 Incls: a/s/

MH. Mc CORD
Chief
REPARATIONS AND RESTITUTION LIAISON OFFICE
Reparations and Restitution Branch
Property Division, OMGUS
APO 757, US Army.

Telephone Frankfurt 21249.

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NN3-59-56-59
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OFT

AMERICAN EMBASSY
Rome, Italy, July 19, 1948.

No. 1095

SECRET

SUBJECT: Agreement Between Italy and Yugoslavia Regarding Brussels Gold Pool.

Rec'd
August 4

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The Charge d'Affaires ad interim refers to his telegram No. 3030 of July 15, 1948 concerning a reported agreement between Italy and Yugoslavia for the cession to Italy for lire by Yugoslavia of thirty percent of the gold received in satisfaction of its claim against Italy under Article 75 of the Italian Peace Treaty, and has the honor to report the receipt from the Italian Foreign Office of the following additional information concerning this matter:

"On the basis of Article 75, paragraph 8, Treaty of Peace, Yugoslavia has claimed from Italy 8,857 kilograms of fine gold.

"The same amount has been recognized by the Tripartite Commission of Brussels as due to Yugoslavia and set aside in its favor.

"Italy has presented documents to the Tripartite Commission of Brussels, claiming to owe Yugoslavia only 8,393 kilograms of fine gold.

"In the meantime, Yugoslavia and Italy have agreed on the latter figure as satisfying in full and definitively the claims for gold deriving from article 75, paragraph 8 of the Treaty of Peace in favor of Yugoslavia.

"At the same time it has been agreed that Yugoslavia will cede to Italy 30 percent of the 8,393 kilograms of fine gold and the countervalue in Italian lire will be used by Yugoslavia for purchases in Italy within the framework of the agreements in effect between the two countries."

cc: American Embassy, Paris
American Embassy, Brussels
American Embassy, Belgrade

EFogarty:vmd

Original and hectograph
to the Department

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Rec'd
July 19

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AIR MAIL

UNCLASSIFIED

American Embassy, London

No. 1565

July 15, 1948.

Subject: Restitution of Monetary Gold to Yugoslavia

The Honorable
The Secretary of State,
Washington.

Sir:

I have the honor to enclose copy of a letter dated July 13, 1948 addressed to the Embassy by M. Franc Ros, Counselor of the Yugoslav Embassy in London, regarding the restitution of monetary gold.

It is understood that no further action in connection with this matter is required of this Embassy.

Respectfully yours,

For the Ambassador:

F. P. Bartlett
First Secretary of Embassy

Enclosure:

1. Copy of letter dated July 13, 1948.

Copies to Brussels, Belgrade and Rome

Sent to the Department in original and hectograph

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By WAW NARA Date 7/7/99

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Lot 62D115
Box 22

Enclosure 1 in despatch No. 1565 of July 15, 1948, from the Embassy in London.

UNCLASSIFIED

(Copy)

EMBASSY OF THE FEDERAL PEOPLE'S
REPUBLIC OF YUGOSLAVIA.

15, Kensington Gore,
London, S.W.7.

P. No. 1252

13th July, 1948

Your Excellency,

With further reference to your letter of the 5th May last, regarding the restitution of monetary gold to Italy, I have the honour to inform you, on the instructions of my Government, that the Governments of the Federal People's Republic of Yugoslavia and the Italian Republic have, by the exchange of Notes on the 18th and 21st June, 1948, concluded an agreement by which the Italian Government, in accordance with para. 5 of article 75 of the Peace Treaty with Italy, has ceded to the F.P.R. of Yugoslavia 8,393 kg. of fine gold from that quantity of gold which the Tripartite Commission has allocated to Italy and is now held by the Commission in conformity with the London Protocol of the 16th December, 1947. The delivery of this gold is to take place in London.

The Yugoslav Government has declared that with the receipt of 8,393 kg. of fine gold it considers its requests in regard to the restitution of that part of the monetary gold which was looted by Italy will be fully satisfied and it renounces the right to ask, on any basis, for gold additional to 8,393 kg. and up to 8,057 kg. of fine gold as originally requested. The Yugoslav Government submitted the text of this Agreement to the Tripartite Commission in Brussels on the 29th June, 1948.

Please accept, Your Excellency, the assurances of my highest consideration.

(Sgd.) F. Franc[illegible]

His Excellency
The Honourable Lewis W. Douglas,
Ambassador of the U.S.A.,
London

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URGENT

AMEMBASSY

BRUSSELS

FOR DONR

1. Not clear to Dept whether remaining lots consisting substandard bars and scrap believed to about equal value of coins will remain London or will be sent on to NY. Depending upon solution above question it might be unnecessary ask US Mil Gov completion Yugo set aside at this time when balance gold transfer imminent or already under way (URTEL 1089, May 29).

2. In opinion Dept Treas set aside provisions URTEL 1089, May 29, London Protocol Dec 16, 1947 would be met by designation of a certain amount of particular gold for Yugo account. Thus earmarking in NY Fed or establishment of gold custody account in favor Yugo at Bank of England would appear to satisfy obligation.

Therefore, re last sentence para 3a UREFTEL it is not questioned whether gold should be sent NY or London to meet Commission's obligation but depending upon whether it is sent NY or London, practices of particular institution would have to be observed and interested parties should thereafter be informed by letter.

For

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For your info, practice of earmarking at NY Fed which is considered by Fed to be the only genuine form of earmarking involves physical separation of gold in question under label of country in whose name earmarked; consequently substandard bars and coins would be acceptable for earmarking. As you may know during war Bank of England abandoned orthodox earmarking system except with respect to coins and substituted gold custody account system under which a credit for a certain amount of gold is established on its books in favor of depositor while subject gold is physically merged with all other gold held in subject account for other foreign governments and other bank customers; consequently gold bars have to conform to certain standards established by Bank of England and if gold does not conform with such standards Bank of England would have bars refined in London at expense of depositor.

Dept does not particularly desire to have Yugo set aside deposited in NY for particular reasons. Of course Fed Res NY prepared to receive any reshipment of gold including gold coins either by Commission or by individual recipients of allocations having gold accounts at Fed Res.

3. Para 3B UREPTEL. While no specific commitments made to Italy re silver in alloy bars Dept did invite Ital file restitution claim therefor in AmZone Germany; hence any disposition materially reducing

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reducing silver return to Italy undesirable. Suggestion DEPTEL 601, Apr 23 still considered most equitable particularly considering fact that gold contents of such bars practically windfall for gold pot.

FN:OFFletcher/js
6/15/48

EP OFD GE SE L Treasury

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OFF

TRIPARTITE COMMISSION
FOR THE
RESTITUTION OF MONETARY GOLD

Brussels, Belgium

RESTRICTED

February 12, 1948

No. 286

Rec'd
Feb. 26

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

ACTION
OFD

Sir:

INFO
PR
DCR
FUR

I have the honor to enclose for the information of the Division of Occupied Areas Economic Affairs, the Division of Financial Affairs and other appropriate officers of the Department photostatic copies of Minutes relating to the handing over to the Bank of Italy of an amount of gold bars, already comprised in the weight of 8,329.8982 indicated in the Italian reply concerning gold received from Yugoslavia, and list and photostatic copies of Minutes relating to the delivery to the Bank of Italy of gold coins of a fine weight of 63.3299 kgs to be added to the weight of Yugoslav gold received by the Bank of Italy.

0-0-0

Respectfully yours,

Russell H. Dorr
Chairman and U.S. Commissioner,
Tripartite Commission for the Restitution
of Monetary Gold

Enclosure:

As stated.

Original and ozalid to Department.

RHDorr/kar

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N. 11440

AMBASCIATA D' ITALIA
WASHINGTON, D. C.

FN: OF Fletcher 12/31/47
DEC 26 1947
Letter drafted
DEPARTMENT OF STATE

December 29, 1947

Dear Mr. McGuire:

I told you a few days ago that Mr. Fletcher had asked me whether the Yugoslav authorities had approached the Italian Government directly for the restitution of their gold from Italy.

While my letter to Rome was already on its way I received a communication from the Ministry of Foreign Affairs, which indicates that said Ministry of Foreign Affairs had received on November 12, a note verbale in which the Yugoslav Legation in Rome asked for the immediate restitution of Yugoslav Monetary gold in possession of the Italian Government on the basis of the provisions contained in article 75 No. 8 of the Treaty of Peace with Italy. In such note the Yugoslav Legation has summarized the circumstances under which, according to them, the gold has come into the possession of the Italian Government.

Such Yugoslav request places the question on the basis of direct negotiations between the two countries independently from the proceedings of the Tripartite Brussels Commission.

I shall be very grateful if you would find it possible to inform this Embassy whether the Yugoslav Government has taken any steps with the aforesaid Tripartite Commission, in relation to their claim for the gold in question. I shall appreciate such information in order to know whether the said Yugoslav Government has filed its claim for the same purpose through two different channels.

Thanking you very much for your kind interest in the matter, I remain,

Yours very sincerely,

Pizzoni

Mr. Paul F. McGuire,
Division of Financial Affairs
Department of State
Washington, D.C.

(1) reply to ottoma thanking him + inviting him for further discussion the question
(2) cable to Brussels informing Mr Fletcher

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TRIPARTITE COMMISSION
FOR THE
RESTITUTION OF MONETARY GOLD

RECD DCL
June 17,
1947

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Brussels, June 2, 1947

RESTRICTED

No. 145

The Honorable

The Secretary of State,

Washington, D. C.

Sir:

I have the honor to enclose for the information of the Division of German and Austrian Economic Affairs and other appropriate officers of the Department the answer received today from the Federative People's Republic of Yugoslavia in response to the Questionnaire issued by the Tripartite Commission for the Restitution of Monetary Gold.

It will be observed that this answer raises some extremely nice questions of law. Yugoslavia has claimed for gold which was or might have been produced during the period of the occupation as a by-product of production of copper at the Mines de Bor. The basis for the claim is essentially that had there been no occupation, Mines de Bor would have been compelled to offer such gold to the National Bank of Yugoslavia under a decree of August 10, 1934. Had such offer been made, the implication of the Yugoslavian answer is that it would have been accepted and, in that event, the gold would have become a part of the monetary reserve of Yugoslavia.

Since the Yugoslavian decree apparently provided only that the gold should be offered to the National Bank, at least once a month, presumably it did not become a part of the monetary reserve until the offer was accepted. On the other hand, it does appear obvious that

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Box 22

in practice such offers always were and would have been accepted. The Tripartite Commission for the Restitution of Monetary Gold is, therefore, faced with the necessity of deciding whether Yugoslavia is entitled to include in her claims for restitution, not only the gold which she actually lost from her monetary reserves, but the gold which she would have added to such reserves had the German occupation not occurred. It can, of course, be argued that there is no more reason to consider putative additions to a country's gold reserve through mining than through other economic activities which might lead to a favorable balance of trade and hence to imports of gold. The Yugoslavs can, however, point to a pre-war record of gold receipts from this source and contend that there was nothing speculative about their prospects of adding such gold to their reserves.

Any legal advice and policy instructions which the Department has to offer will be welcome.

I also have the honor to enclose copies of the Minutes of the first three Meetings of the Gold Commission. Minutes of the fourth Meeting are under correction and will be forwarded shortly.

Respectfully yours,

Russell H. Dorr
Chairman, Tripartite Commission
For the Restitution of Monetary Gold

Enclosures:

1. Answer dated May 8, 1947 from the Federative People's Republic of Yugoslavia in response to Questionnaire by the Gold Commission.

2. Copies of Minutes of first three Meetings of the Gold Commission.

RHDorr/kar

Original and ossalid to Department.

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SECRET

[redacted]

[redacted]EMBASSY,

[redacted].

FOR DORR.

1. Agree Danzig claim be allowed to extent 3821 Kilogrms wet met (REPEAT KK) on Polish account. (USTELS 1812, Nov 14, Par 1, and 165, Jan 12, Para 4. and 1847 Nov 25). Danzig's share on basis of forementioned figure should be set aside in separate account until final decision reached fate Danzig and then established who entitled to receive Danzig share.

2. Announcement should be made simultaneously announcement re Polish claim. Latter could include reference decision outlined para one.

3. REPT understands Polish announcement must wait until Polish protocol signed London. Announcement favorable decision GDNZK claim should if possible be made simultaneously or preceede POLISH announcement.

Sent Brussels _____ Repeat to London _____

OK OFD EUR

FM:GFFletcher:ch 1/15/48

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INCOMING TELEGRAM

DEPARTMENT OF STATE—DIVISION OF COMMUNICATIONS AND RECORDS TELEGRAPH BRANCH

14

SECRET

Action: OFD
Info:
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Control 7562

Rec'd November 26, 1947
4:02 p.m.

FROM: Brussels

TO: Secretary of State

NO: 1847, November 25, 7 p.m.

FN FROM DASPIT.

1. Received from UK Commissioner following statement re position Danzig claim:"..... I agree that a claim for the amount shown in the accounts of the Bank of Danzig (not that amount claimed by Poland) appears to be a valid claim against the gold pool. There seems no doubt that this gold was looted or wrongfully removed by Germany from the Bank of Danzig when Germany occupied that territory. At the same time I am not at present able to concede that the Government of Poland has a right to present the claim.

It is first necessary for Poland to sign a protocol admitting her to participation in the pool. It is probably also necessary for the Council of Foreign Ministers officially to determine the de jure status of Danzig in respect of Poland, even though the de facto situation is clear enough. Depending upon the form of words used by the Council of Foreign Ministers in publishing their decision may reside a solution to the problem. If however the decision of the Council of Foreign Ministers takes a certain form, it is possible that further consideration will have to be given as to what existing sovereign authority or authorities have the legal right to present to the Commission a claim on behalf of the Danzig gold and to receive the corresponding share of the pool. Meanwhile, however, it is our opinion that Poland has at present no right to claim this gold".

Would

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P13-59-86-59

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-2- #1847, November 25, 7 p.m. from Brussels

Would appreciate Department's views this matter.

2. Although no change made in Commission's tentative decision approve Austrian claim 16628 kgs transfer through BIS reported MYTEL 1812 November 18 now clear French will insist payment this claim be reduced by full amount 4.3 tons Salsburg gold. This action clearly violation agreement of French Commissioner at meeting October 3 reported paragraph two Dorr's 1540 October 5 to Department. I will make strong statement for record when question again raised in Commission, probably end this week, arguing that decision Commission October 3 classified this amount as possibly valid claim and that in absence additional data or justification cannot agree to change in decision. However in view inadequacy data so far received from Austria and ability French block all further transfers Austria do not consider time appropriate for showdown. UK Commissioner maintains position this matter primarily concern US, France with his government accepting any reasonable solution.

3. Awaiting Department's decision re disallowance Luxembourg claim Pescatore Foundation raised paragraph eight (E) reference telegram.

MILLARD

DES:SR

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By TJ NARA Date 6/8/99

RG59
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Box 62D115
23

RD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : MN - Mr. Otto F. Fletcher DATE: March 9, 1950

FROM : GEA - George W. Baker

SUBJECT: Private Gold Holdings Looted in the Netherlands.

Pursuant to our telephone conversation, I am forwarding the memorandum on the subject which I have received from the Legislative Assistant to the House Judiciary Committee. This gentleman has been a good friend to the Department, and I should like to give him all reasonable assistance.

Enclosure:

Memorandum.

GER:GEA:GWBaker:gw

3-733

not be seen what nationality the former owner had. Assuming that he was not a Dutch citizen he might still have a compensation claim against the Netherlands and certainly a compensation claim against Germany. I am afraid however, I have to agree with you that the latter is not worth much.

I am aware that on the surface the few existing cases of private individuals whose gold holdings have been seized by the Nazis aren't well taken care of; however, it must be borne in mind that these holdings were illegal in most cases under the particular individuals domestic pre-Nazi laws; private gold holdings are illegal in the US since 1934. Prevailing economic theory also holds that for the general good gold belongs in Central banks and should not go into private hoardings.

For all these reasons it was agreed between the Tripartite Governments that all monetary gold recovered in Germany and from third countries shall be pooled and distributed among victimized countries after admission of their claims by the Gold Commission. The procedure is based on the old Roman lex Rhodea de jactu which deals with the division of salvaged goods among the victims of a maritime disaster.

OFD:MN:OFFletcher:fab

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NND3-59-86-59
Lot 62D115 Box 23

Mr Fletcher
Please return MN 077

Mr file
private gold claims

MEMORANDUM March 23, 1950

TO: GEA - Mr. George W. Baker

FROM: MN - O. F. Fletcher

SUBJECT: Private Gold Holdings Looted in the Netherlands.

Pursuant to our telephone conversation I should like to summarize my views on the subject matter as follows:

The one kilogram bars and the gold coins which were taken from a private individual's safe in a private bank in Amsterdam, Holland on German orders during the war and transferred to Reichsbank via the Dutch Central Bank were probably melted into German standard bars and are consequently not identifiable in the pool. No restitution claim by the former owner could be admitted even if the owner could trace the gold into specific bars still held by the Commission; no claim of a private individual to a share in the gold pool on a pro-rata basis can be admitted either. The gold taken from this man has become monetary gold in the meaning of the Paris Reparations Act, Part III and thus is subject to the provisions re redistribution of monetary gold under the "Terms of Reference" of the Tripartite Gold Commission.

From the memorandum which I herewith return to you it can not be seen what nationality the former owner had. Assuming that he was not a Dutch citizen he might still have a compensation claim against the Netherlands and certainly a compensation claim against Germany. I am afraid however, I have to agree with you that the latter is not worth much.

I am aware that on the surface the few existing cases of private individuals whose gold holdings have been seized by the Nazis aren't well taken care of; however, it must be borne in mind that these holdings were illegal in most cases under the particular individuals domestic pre-Nazi laws; private gold holdings are illegal in the US since 1934. Prevailing economic theory also holds that for the general good gold belongs in Central banks and should not go into private hoardings.

For all these reasons it was agreed between the Tripartite Governments that all monetary gold recovered in Germany and from third countries shall be pooled and distributed among victimized countries after admission of their claims by the Gold Commission. The procedure is based on the old Roman lex Rhodea de jactu which deals with the division of salvaged goods among the victims of a maritime disaster.

OFD:MN:OFFletcher:fab

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By TJ NARA Date 6/8/99

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Lot 62D115 Box 23

FN: OFFletcher

JUL 9 1948

your client or the "N. V. Amsterdamsche Groot-Handel", Amsterdam, the Dutch holding company which was wholly owned by your client, received for the gold the official market price in Reichsmarks which at that time represented the full equivalent or at least as an equivalent as anyone in Germany or, for that matter, in any other country, received for monetary gold delivered to the government.

In reply refer to
FN 462.11 EW Otten,
Albert/5-1048

My dear Mr. Nidonick:

Although it is not within the jurisdiction of the Tripartite Gold Commission to adjudicate Mr. Otten's claim, the Commission

Reference is made to your letter dated May 10, 1948 addressed to both the Tripartite Gold Commission in Brussels and the Department of State regarding Mr. Albert Otten's claim to a portion of the gold held by the Tripartite Gold Commission.

I should like to point out to you that the Tripartite Gold Commission deals with claims to looted gold only when submitted by the governments of victimized countries and not with claims to such gold made by private citizens. Therefore, it is not in the jurisdiction of the Tripartite Gold Commission to consider the claim of your client. I should like to add for your information that the United States has not filed any claim for looted gold.

Acting Special Assistant
Division of Financial Affairs

As to the justification of Mr. Otten's claim, it is felt that your client has, on the basis of his own presentation, no claim to the gold bars sold by him to the German Reichsbank in the first part of 1933, since this sale obviously occurred as a consequence of the German Foreign Exchange Regulation of 1932 which like similar regulations in most other countries called for the delivery of gold in monetary form by its nationals and alien residents alike, without discrimination against any special group of individuals. Furthermore, it is assumed that either

your

FN:OFFletcher/js
6/30/48 EP L/E

Mr. Willard L. Nidonick,
Pelier, Rembar and Nidonick,
60 Broad Street,
New York 4, New York.

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your client or the "N. V. Amsterdamsche Groot-Handel", Amsterdam, the Dutch holding company which was wholly owned by your client, received for the gold the official market price in Reichsmarks which at that time represented the full equivalent or at least as good an equivalent as anyone in Germany or, for that matter, in any other country, received for monetary gold delivered to the government.

Although it is not within the jurisdiction of the Commission to adjudicate Mr. Otten's claim, the Commission has made a check into its present holdings and has stated that the bars listed in your letter by number are not among the gold held by the Commission at the present time.

Sincerely yours,

For the Secretary of State:

Otto F. Fletcher
Acting Special Assistant
Division of Financial Affairs

FM:OFFletcher/je
6/30/48

KP L/E

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RESTRICTED

DEPARTMENT OF STATE

RESTRICTED

Memorandum of Conversation

DATE: October 3, 1950

SUBJECT: Claim of David Goldmann to Gold Looted by Nazis in Austria During August, 1940 Valued at Approximately $204,000.

PARTICIPANTS: Messrs. David Goldmann, Claimant,
Paul Reiner, Attorney for Mr. Goldmann,
Joseph B. Matre, Dept. of State (L/C)
Ely Maurer, Dept. of State (L/E)
William Frohlich, " " " (MN)

COPIES TO: Messrs. Matre, (L/C)
Maurer, (L/E)
McDiarmid, (MN)
Rosenson, (MN)
Fletcher, (MN)

1—1403

Mr. Goldmann and his attorney recited the circumstances surrounding the confiscation in August 1940 by the Vienna Secret State Police (acting on behalf of the German Reich) of very substantial quantities of the claimant's property. Among the property confiscated were securities, articles of jewelry and gold in the form of bars and nuggets. Some evidence was presented today indicating that at least 100 kilograms of this looted gold were delivered to or accounted for directly to the German Reichsbank in Berlin. Today's meeting concerned itself with the looted gold, the records of which while no longer in Mr. Goldmann's possession may still be available to him through friends or other sources abroad. At the time of the German occupation of Austria, Mr. Goldmann was a Czechoslovak citizen and a life-long resident of Austria until March 12, 1938 when he fled to London upon the Nazis' invasion of Austria and thence to the United States. Mr. Goldmann acquired United States citizenship on May 20, 1946. He seeks the aid of our Government "to have earmarked" for his benefit an amount of gold held by the Tripartite Gold Commission that would be the equivalent of that looted from him. He states that this is approximately 345 lbs., and is valued at $204,000.

The Department has previously written to Mr. Goldmann (2-14-49; 6-20-49; 4-14-50) expressing the opinion that Mr. Goldmann has no claim to any of the gold held by the Tripartite Gold Commission, which is understood to consider claims of Tripartite Gold Commission governments only; that he may have a compensation claim under Austrian law, and that the Department would bring his claim on record with the Ger[illegible] Mr. Goldmann [illegible] Lore, called at the [illegible] ago, and he was told [illegible] could not advance [illegible] name of the [illegible] could be heard. In [illegible] Department in its d[illegible] restrictions existed merely regarding the sale, transfer or [illegible] of such gold.

The Department [illegible] participate in the pool; (3) that any award that is made to a claimant government is necessarily based upon its abi[illegible] the specific quantities of gold claimed, were in fact looted, and that such gold did, in fact, constitute part of that claimant government's monetary reserves. Obviously, Mr. G[illegible] gold was, in no sense, part of the monetary reserves of any government who could assert a legal right thereto.

It was therefore

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[redacted]

The Department had previously written to Mr. Goldmann (2-14-49; 6-20-49; 4-18-50) expressing the opinion that Mr. Goldmann had no claim to any of the gold in the "pool" since individuals' claims for restitution of gold do not come within the scope of action of the Tripartite Gold Commission, which is understood to consider claims of governments only; that he may have a compensation claim under Austrian or German law, and that he might wish to put his claim on record with the War Claims Commission.

Mr. Goldmann stated that he and his Austrian Attorney, one Dr. Löwe, called at the American Legation in Vienna just about one year ago, and he was told that under the existing Austrian restitution laws he could not advance a claim against that Government, nor did the legation know of the existence of any international agreement on which a claim could be based. In that connection, the Legation reported to the Department in its despatch No. 428 dated September 15, 1949 that

"Under previously existing Austrian law the possession of gold bars, nugets and Austrian gold coins was not illegal; restrictions existed merely regarding the sale, transfer or export of such gold.

"In the Legation's opinion it will depend exclusively on the terms of the Austrian Treaty whether Mr. Goldmann will have a valid claim against Austria i.e. that it will depend whether the final text of the Treaty will contain a clause compelling Austria to indemnify Allied Nations nationals for losses sustained during the German occupation of this country for which they have no redress under present legislation in Austria."

During the course of today's meeting the Department's officers made it clear to the claimant and his attorney (1) that the United States Government is but one of the three governments, each represented by one Commissioner on the Tripartite Gold Commission, the other governments being Great Britain and France; (2) that all three Commissioners, acting jointly, constitute the Tripartite Gold Commission, which serves merely as the trustee for those claimant countries who can establish their right to participate in the pool; (3) that any award that is made to a claimant government is necessarily based upon its ability to prove that the specific quantities of gold claimed, were in fact looted, and that such gold did, in fact, constitute part of that claimant government's monetary reserves. Obviously, Mr. Goldmann's gold was, in no sense, part of the monetary reserves of any government who could assert a legal right thereto.

It was therefore

WD:MS:WFrohlich:hmg 10-5-50

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DEPARTMENT OF STATE

Memorandum of Conversation

DATE October 3, 1950

SUBJECT

PARTICIPANTS

COPIES

It was therefore impossible to hold out any hope that Mr. Goldmann could recover any gold from the gold pool. Mr. Matre stated that on the basis of many years of experience in the handling of claims of this character and further on the basis of what Mr. Goldmann and his counsel now tell us, the Department is convinced that no tribunal whether already in existence or yet to be established would ever hold that Mr. Goldmann has established lawful title to the gold he claims was his. Accordingly, he expressed the view that Mr. Goldmann would be well advised to lose no time in clarifying his ownership of the looted gold by competent documentary evidence; that such action by Mr. Goldmann might prove very useful at some future date should an Austrian or a German peace treaty be signed and should such treaty contain appropriate language compelling indemnification to be made to those allied nationals who can prove that they come within the provisions of such treaty.

On taking their leave, Messrs. Goldmann and Reiner expressed their thanks for having been given the opportunity of meeting with the Department officers and indicated that they would be guided by their advice and suggestions.

Mr. Goldmann and his attorney recited the circumstances surrounding the confiscation in August 1943 by the Vienna Secret State Police (acting on behalf of the German Reich) of very substantial quantities of the claimant's property. Among the property confiscated were securities, articles of jewelry and gold in the form of bars and nuggets. Some evidence was presented today indicating that at least 100 kilograms of this looted gold were delivered to or accounted for directly to the German Reichsbank in Berlin. Today's meeting concerned itself with the looted gold, the records of which while no longer in Mr. Goldmann's possession may still be available to him through friends or other sources abroad. At the time of the German occupation of Austria, Mr. Goldmann was a Czechoslovak citizen and a life-long resident of Austria until March 12, 1938 when he fled to London upon the Nazis' invasion of Austria and thence to the United States. Mr. Goldmann acquired United States citizenship on May 30, 1946. He seeks the aid of our Government "to have extracted" for his benefit an amount of gold held by the Tripartite Gold Commission that would be the equivalent of that looted from him. He states that this is approximately 360 lbs., and is valued at $204,000.

The Department

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OFD:HM:WFreshlichsing 10-5-50

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By TJ NARA Date 6/8/99

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NN3-59-96-59
Lot 62D115 Box 23

RE: Claim of David Goldmann to Gold Confiscated by the Nazis.

With respect to a claim for gold "looted" from a former Czechoslovak citizen, now an American citizen, the following seems to be the case. He was a resident of Austria but fled when the Germans invaded the country. He left his gold in a safe in his Vienna apartment where it was found and confiscated by the Gestapo in 1940 (See Vienna Despatch No. 428, Sept. 15, 1949).

The possession of gold in Austria was in no way different from the possession of other valuable commodities. The claimant should address himself through the regular mails to the Minister of Finance in Austria with the request that his claim be considered under the restitution laws in Austria. The Austrian Government has enacted seven such laws to protect the interests of those who have suffered from loss of property or interests in connection with Nazi aggression. We have been informed by the US Legation in Austria that claims addressed to the Austrian Government are receiving at present prompt and adequate attention.

A reply along these lines while not likely to give great satisfaction to a claimant represents the maximum that we can properly say in such a case. The earlier statement referring to the Austrian Treaty (See Vienna Despatch No. 428, Sept. 15, 1949) is one which was used for a time but has not been appropriate for many months. If there were to be an Austrian Treaty, it would provide only treatment equivalent to that applicable to the Austrian nationals.

There is no likelihood that the Austrian Government will distribute under any condition any part of the gold which it has received from the "gold pot". Perhaps some reference to this fact with an appropriate statement that the Austrian Government policy is dictated by emergency conditions and reconstruction needs, would make the response to Mr. Goldmann seem more reasonable.

Any further special comment on gold would have to be found in Mr. Fletcher's files.

208863

(Dictated in substance by EL Dulles 7-19-50) hmg
(from telephone)

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Authority NND 968106
By TJ NARA Date 6/8/99

RG59 TGC
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Copy

NO. 428

THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

UNCLASSIFIED

AMERICAN LEGATION

Vienna, Austria, September 15, 1949.

SUBJECT: Claim of David GOLDMAN to gold confiscated by the Nazis.

THE HONORABLE

THE SECRETARY OF STATE,

WASHINGTON.

SIR:

I have the honor to refer to the Department's instruction No. 94, of July 27, 1949, regarding certain gold bars and nugets of which Mr. David GOLDMAN was deprived by the Nazis, who seized the gold and transferred it to the German Reichsbank.

The matter was discussed with Mr. Goldman, who is at present on a visit in Vienna, and with his local attorney, Dr. Ernst Loew. Under the present Austrian restitution laws Mr. Goldman can not advance a claim against the Austrian Government nor does the Legation know of the existence of any international agreement on which Mr. Goldman could base his claim against the Austrian Government.

Mr. Goldman states that at the time of the German occupation of Austria he was a Czechoslovak citizen, and that up to March 12, 1938, he was a resident of Austria but fled when the Germans invaded the country. He left his gold in a safe in his Vienna apartment where it was found and confiscated by the Gestapo in 1940.

Under previously existing Austrian law the possession of gold bars, nugetw and Austrian gold coins was not illegal; restrictions existed merely regarding the sale, transfer or export of such gold.

In the Legation's opinion it will depend exclusively on the terms of the Austrian Treaty whether Mr. Goldman will have a valid claim against Austria i.e. that it will depend whether the final text of the Treaty will contain a clause compelling Austria to indemnify Allied Nations nationals for losses sustained during the German occupation of this country for which they have no redress under present legislation in Austria.

Mr. Goldman

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THE FOREIGN SERVICE
OF THE
UNITED STATES OF AMERICA

No. 428

Mr. Goldman explained that the reason why he was so anxious to establish his claim already now was, that as far as he knows, the United States is at present still in possession of the gold it seized in Germany after the war and therefore in a position to dispose of it in favor of such of its nationals as were deprived of their gold holdings by the Nazis.

Under the given circumstances the Legation sees no way of approaching the Austrian Government in regard to Mr. Goldman's claim because in the absence of any legal basis or authorization the Austrian Government would not be in a position to consider the claim.

Respectfully yours,

For the Minister:

/s/ Knowlton V. Hicks
Knowlton V. Hicks
American Consul General

Fike No. 236
FRODAKOWSKI/eh

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By TJ NARA Date 6/8/99

RG59 TGC
NND3-59-86-59
Lot 62D115 Box 23

TO: L - Mr. Phleger DATE: May 7, 1953.

FROM: L/E - Stanley Metzger

SUBJECT: Frederic Deutsch case

You have suggested that a letter be drafted for the signature of the Under Secretary which would go into the Deutsch case in more detail. Such a letter is herewith attached.

However, it is thought undesirable for the Department to go into details with respect to the investigations that have been made in an attempt to trace the gold. When the claim of Mr. Deutsch was originally presented to the United States, United Kingdom and France, it was the view of our three governments that the claim should be rejected on the basis that the claimant had not shown that the Allies possessed any of his gold. It was our view at that time that the burden of proof was on the claimant to trace his gold to our possession. As a matter of special consideration and in a very exceptional way, it was finally decided among the three governments that we would ourselves make a search of the gold records in Germany and elsewhere to ascertain whether any of Deutsch's gold was in our possession. That search has now been made with negative results.

We have heretofore not communicated to the claimant's representatives any exact information of the nature of our examination. It has been vaguely described as an examination into all aspects of the case. It would be inadvisable for the Department to include in any communication now any information as to the nature of our search and where it had led. It can be expected that, if this information is divulged, the representatives of Mr. Deutsch will not be satisfied, but will request permission to go over the very records themselves or with their experts. Possibly other claimants who had lost gold during the war would learn what we had done and request similar treatment. These are consequences which it seems desirable that we should avoid.

Accordingly, I recommend that you send the letter, as redrafted, to the Under Secretary for signature.

Attachment:

Letter to The Honorable
John W. McCormack

Mr. Malkin: I requested that reply in substance to the letter be withheld for about 4 weeks. (So as to give time to Hungarian to gracefully pull out) 5/21 OFF

L:L/E:SMetzger:mj
5/7/53

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MN - Mr. Fletcher
file Deutch Case

As you might already know Italy has appealed the Arbitral Advice on Albanian gold and has filed, I believe on the very last day of the deadline, an application with the International Court of Justice, in conformity with the Washington Agreement of April 25, 1951, requesting that the gold be delivered to Italy.

MAY 20 1953

Those are the main developments that you will be interested in.

In reply refer to
MN

What are your summer plans? I intend to take a real long vacation this summer (July-August), my first in eleven years, since I am very CONFIDENTIAL anxious to use up some of my accumulated leave.

Dear Homer:

With my best regards,

First of all I should like to refer to your telegram No. 1139, April 29 re Deutch Case. The information you gave us in this telegram was very helpful in rounding out the very elaborate search we have made in order to check whether or not the gold claimed by Deutch could be identified as being in the pool. The Department after examination of all the information gathered during our own search and the one submitted by Mr. Deutch's representatives and after consideration of the legal principles involved has concluded that the claim should be rejected. The principle and sufficient basis for this position is that the United States, the United Kingdom, and France are not aware of holding at any time, through the Tripartite Gold Commission, any gold identified as having belonged to Mr. Deutch. I am going to inform in the next days my British and French counterparts of the above Department position. Consequently, there is no need for a further search in Brussels by an expert.

Today the conversations reopen in Lisbon aimed at a revision of the External Assets Accord and a settlement of the looted gold question. If successful, this should result in delivery of 3,998 kilograms of gold to TGC, 100 million escudos for the IRO, and possibly 43 million escudos for IARA. The negotiations will take place first between the three Embassies and the Portuguese, later representatives of Western Germany will participate in some form. Ely Maurer of the Department and Munroe of HICOG are in Lisbon to help the Embassy as legal advisers.

As

Homer S. Fox, Esquire,
United States Commissioner,
Tripartite Commission for the
Restitution of Monetary Gold,
American Embassy,
Brussels.

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208867

OFD:MN:OFFletcher:dil

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Authority NND 968106
By TJ NARA Date 6/8/99

RG59 IGC.
NND3-59-86-59
Lot 62D115 Box 23

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As

Homer S. Fox, Esquire,
United States Commissioner,
Tripartite Commission for the
Restitution of Monetary Gold,
American Embassy,
Brussels.

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OFD:MN:OFFletcher:dll 5/20/53

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Authority NND 968106
By TJ NARA Date 6/8/99

RG59 TGC
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Lot 62D115 Box 23

file Deutsch

legality of not recognizing Mr. Deutsch's claim.

DISCUSSION

1. To determine the position of the United States with relation to the recognition of the Deutsch claim to looted gold, it would recommend that his claim be rejected by the United States, United Kingdom and France on the ground that the Paris Reparation Agreement does not provide for the recognition of the claims of individuals and that the Allies can under [illegible] Frederic Deutsch, a Liechtenstein citizen, attempted during the war to transfer about $2,000,000 in gold coin and bars from Switzerland outside Europe. He entrusted this gold to an Iranian, Pringhian, of Paris. Mr. Pringhian was detected by the German Devisenschutzkommando as being in possession of this gold in violation of the German regulations and was fined and imprisoned by a German Exception Court in Paris. Part of the gold was used to pay the fine and the rest was confiscated. French, the return of any such gold to Mr. Deutsch.

The Swiss Government acting on behalf of Liechtenstein has submitted a claim to the United States, United Kingdom and France requesting that the claim of Mr. Deutsch be satisfied out of the gold which the Allies have recovered from Germany and third countries and which they are distributing pursuant to the Paris Agreement on Reparation to the Allied countries from which gold was looted. The Swiss note threatened suit in the International Court if the claim was not recognized. In addition, Congressman Mahoney's office has been taking an interest in the case and have been pressing the Department for action.

The representatives of Mr. Deutsch have argued that the Paris Reparation Agreement should be construed to cover the claim of individuals who were looted of their gold and that, even if the Paris Agreement does not do so, Mr. Deutsch as a matter of international law is entitled to be indemnified from the gold recovered from Germany. The United States, United Kingdom and France have taken the position that the Paris Agreement provides only for the recognition of claims for gold looted from the governments or their central banks; and that under international law, in the absence of identification by Mr. Deutsch of any gold belonging to him in Allied possession, the Allies have the power to take the gold recovered from Germany to satisfy their own claims to the exclusion of the claims of neutral citizens.

The United States, United Kingdom and France have agreed that an investigation should be made of the available records to ascertain whether or not any of the gold taken from Mr. Deutsch has found its way into the gold which the Allies recovered. It has been thought that if such gold could be identified a serious problem would be raised with respect to the

legality

L:L/E:EMaurer/cre
12-29-52

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Frederic Deutsch Gold Case

legality of not recognizing Mr. Deutsch's claim.

RECOMMENDATION

To determine the position of the United States with relation to the

1. If Mr. Deutsch's gold cannot be identified as forming any part of the gold recovered by the Allies, the Department would recommend that his claim be rejected by the United States, United Kingdom and France on the basis that the Paris Reparation Agreement does not provide for the recognition of the claims of individuals and that the Allies can, under international law utilize the gold recovered by the Allies for the satisfaction of their own claims to the exclusion of the claims of, of neutral citizens.

2. If the gold of Mr. Deutsch can be identified as forming any part of the gold recovered by the Allies the Department would favor, subject to further consideration and consultation with the British and the French, the return of any such gold to Mr. Deutsch.

a claim to the United States, United Kingdom and France requesting that the claim of Mr. Deutsch be satisfied out of the gold which the Allies have recovered from Germany and third countries and which they are distributing pursuant to the Paris Agreement on Reparation to the Allied countries from which gold was looted. The Swiss note threatened suit in the International Court if the claim was not recognized. In addition, Congressman McCormack's office has been taking an interest in the case and has been pressing the Department for action.

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legality

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AIR POUCH
PRIORITY

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SECURITY INFORMATION
(Security Classification)

DO NOT TYPE IN THIS SPACE
200.6241 Gold/8-1152

FOREIGN SERVICE DESPATCH

FROM : US COMMISSIONER, TGC
AMEMBASSY, BRUSSELS

DESP. NO. 373

TO : THE DEPARTMENT OF STATE, WASHINGTON. - MN

DATE AUGUST 11, 1952.

REF : Department's A-46, August 4, 1952

7 For Dept. Use Only	ACTION	DEPT.
	E	INFO REP EUR GER NEA OLI L
el	REC'D AUG 16	OTHER COMM MSA OAP

SUBJECT: Tripartite Gold Commission - (Deutsch Case)

In order to clarify the situation regarding possible identification in the Gold Pool of certain gold bars and gold coins claimed to be the property of a private individual named Deutsch and the subject of a recent Liechtenstein note transmitted through the Swiss Government to the three Member Governments, it may be helpful to transmit a copy of the first page of the original Note Verbale submitted to the Commission by the Iranian Ambassador at Paris, January 16, 1950. It will be observed that this Note contains what has apparently been referred to in various quarters as a "list" of the coins and bars claimed in this case. However, as will be readily observed, this is not a list in the sense of detail which enables any identification to be made. This is the only list which is in the possession of the United States Commissioner orhas ever been seen by him. Furthermore, inquiry of the Secretary General brings the reply that this is the only list of any kind in the possession of the Commission or ever received by it.

As indicated in my telegram No. 1756, May 26, 1952, a check will be made against the Commission record of gold included in the Pool if bar markings can be obtained or any other identification either of the bars or the coins claimed by Deutsch. It is, of course, impossible to make any such check unless identification marks are available.

In view of the above, there would seem to be no point in attempting to obtain any more precise statements previously attributed to the Chairman or the Secretariat as to the identification of the gold claimed by Deutsch as being in possession of the Commission. Presumably any such statements which have been made would have referred to the fact that without some identification marks or other data it would, of course, be impossible to attempt to make any identification checks.

Homer S. Fox
United States Commissioner
Tripartite Commission for
Restitution of Monetary Gold.

Enclosures:

1st page Note Verbale
submitted by Iranian

HSFox:Sct REPORTER

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(Classification)

IMPERIAL EMBASSY

OF IRAN

Paris, 16th January, 1950.

No. 3964.

To the Members of the

TRIPARTITE COMMISSION FOR THE RESTITUTION OF GOLD,

INTER ALLIED REPARATION AGENCY.

B R U X E L L E S (Belgique)

Gentlemen,

I am instructed by my Government to inform you that the Imperial Government of Iran has charged me with the task of submitting to the Tripartite Commission a claim for the restitution of the following stock of gold :

English gold pounds	139,850
Swiss gold francs	789,000
French gold francs	1,042,590
Gold dollars	8,250
Dutch gold florins	9,290
Italian gold lire	60
Belgian gold francs	60
Gold bars with markings and numbers	115 kg 577
Gold scrap	42 kg 178

looted from Mr. Nourhan FRINGHIAN, a national of Iran.

This act of looting, which included the seizure of a certain amount of currency in bank-notes, was carried out by the Occupation Authorities in Paris, on 1st December, 1952, in the form of a confiscation ordered by the German Military Tribunal in Paris.

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DIVISION OF COMMUNICATIONS AND RECORDS
TELEGRAPH BRANCH

DEPARTMENT OF STATE

INFORMATION COPY

OUTGOING TELEGRAM

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Origin: ESP

Feb 24, 1947

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AMEMBASSY

BRUSSELS FOR DORR

230

Reurtel 231 Feb 17. Concur you oppose forcefully fr memo non-mon gold. Dept feels language Paris Act clearly requires non-mon gold go for rehabilitation non-repatriables only. Since demands IGCR-IRO program so high in relation to available non-mon gold US would oppose French plan. Considered that reopening question along lines French proposal wld raise numerous complicated problems, e.g., percentage distribution among recipients with final amounts involved too small. On other hand US favors and has been effecting maximum practical restitution identifiable loot from Germany to Allies.

There has been problem implementation Art 8 Paris Act. Non-mon gold not defined therein. US has taken position that narrow interpretation by limiting term to actual gold and excluding such loot found in Austria wld leave only comparatively insignificant property to be transferred IGCR-IRO. US has therefore adopted broad definition with objective including as much property as possible.

S...CC

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By TJ NARA Date 6/8/99

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Lot 62D115 Box 25

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230, 2/24/47, to BRUSSELS

SHUCO directive to US Forces Germany Austria last Nov provided for transfer to IGCR all valuable personal property representing loot seized from political, racial, religious victims Nazi govt or its allies or their nationals ~~xxx~~ which was or may hereafter be found, seized or confiscated by USFET or local authorities acting under direction or control US Forces provided (1) restitution can not be made because determination national origin impractical; (2) restitution to lawful owner under laws in force in place where presently found impossible because owner dead or determination ownership impractical; (3) real property in Germany and German currency and Jewish cultural property excluded. US Forces Germany Austria have begun implementation this directive. We have pressed both Brit and Fr act along same lines. Dept has had no reaction from Brit so far, understand Fr do not favor immediate transfer non-mon gold IGCR and oppose transfer non-mon gold found in Austria.

Dept suggest you circulate counter-memo to Fr memo only if you feel that Fr position likely to be accepted.

Your memo

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230 2/24/47, to BRUSSELS

Your memo might include any or all above points.

May be desirable not emphasize broad US interpretation Art 8, Paris Act if danger other delegates conclude that large amounts gum loot involved which might be disposed of according to Fr plan.

MARSHALL

GA:AS:Kiefer:mlg
2/21/47

A-H

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COPY NO. _____

7 November 1946

STATE-WAR-NAVY COORDINATING COMMITTEE

DECISION ON SWNCC 336

DEFINITION OF NON-MONETARY GOLD PURSUANT TO ARTICLE 8 OF THE PARIS REPARATIONS AGREEMENT

Note by the Secretaries

By informal action on 7 November 1946, the State-War-Navy Coordinating Committee approved SWNCC 336.

H. W. MOSELEY
W. A. SCHULGEN
V. L. LOWRANCE
Secretariat

208876

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COPY NO. ____

SWNCC 336

28 October 1946

Pages 1 to 7, incl.

STATE-WAR-NAVY COORDINATING COMMITTEE

DEFINITION OF NON-MONETARY GOLD PURSUANT TO ARTICLE 8 OF THE PARIS REPARATIONS AGREEMENT

Note by the Secretaries

The enclosure, a paper on the above subject presented by the State Member, SWNCC, is circulated for consideration by the Committee.

H. W. MOSELEY
A. D. REID
V. L. LOWRANCE
Secretariat

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ENCLOSURE

DEFINITION OF NON-MONETARY GOLD PURSUANT TO ARTICLE 8 OF THE PARIS REPARATIONS AGREEMENT

THE PROBLEM

1. To issue instructions to the U. S. Commanders in the European Theater with respect to the execution of that part of Article 8 of the Paris Agreement on Reparations which provided for the use of all non-monetary gold found by Allied Armed Forces in Germany for the rehabilitation and resettlement of non-repatriable victims of German action.

FACTS BEARING ON THE PROBLEM

2. Article 8 of the Paris Agreement on Reparations executed January 14, 1946 provided inter alia:

> "In recognition of the fact that large numbers of persons have suffered heavily at the hands of the Nazis and now stand in dire need of aid to promote their rehabilitation but will be unable to claim the assistance of any government receiving reparation from Germany, the Governments of the United States of America, France, the United Kingdom, Czechoslovakia and Yugoslavia, in consultation with the Inter-Governmental Committee on Refugees, shall as soon as possible work out in common agreement a plan on the following general lines:
>
> A. A share or reparation consisting of all the non-monetary gold found by the Allied Armed Forces in Germany ...shall be allocated for the rehabilitation and resettlement of non-repatriable victims of German action."

3. Pursuant to the foregoing Agreement there was executed on June 4, 1946 the Five Power Agreement which provided inter alia:

> "The Inter-governmental Committee on Refugees or its successor organization is hereby authorized to take title from the appropriate authorities to all 'non-monetary gold' found by the Allies in Germany and to take such steps as may be needed to liquidate these assets as promptly as possible, due consideration being given to secure the highest possible realizable value."

4. The proposed directive was sent to CG, USFET, and to CG, USFA, for comment. The reply of OMGUS (CC 4770, October 2, 1946) is annexed hereto as Appendix "B". The reply of USFA (P 3667, September 7, 1946) is annexed hereto as Appendix "C".

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5. It is the opinion of the Department of State that U.S. policy should favor the broadest possible interpretation of the obligation assumed by the signatories under Article 8 of the Paris Reparations Agreement, and that a liberal interpretation should be given in the definition of "non-monetary gold". To the extent that assets can be realized from this source, the burden upon the Government of the United States in connection with the financing of rehabilitation and resettlement problems will be diminished.

6. The draft directive accordingly departs somewhat from the precise terms of the Agreements, but is very close to the known intention, which was to make available those valuables seized from Nazi victims which were not capable of being restituted to their owners. The directive is broader than the Agreement in applying to other areas in addition to Germany and in including valuables other than gold; it is narrower than the Agreement in limiting the source of the assets to loot seized or obtained under duress from Nazi victims which cannot be restituted.

7. Both OMGUS and USFA have concurred in the proposed directive. Although specifically requested in WARX 98112 (Forwarded Appendix "A" for comment) to make any specific proposals for amendment which they may consider advisable, neither made any suggestions.

CONCLUSION

8. The proposed directive in Appendix "A" should be issued to CG, USFET and CG, USFA, by the Joint Chiefs of Staff.

RECOMMENDATION

9. It is recommended that, after approval by SWNCC, the Joint Chiefs of Staff be requested, if they have no objection from a military point of view, to dispatch to CG, USFET and to CG, USFA, the directive annexed hereto as Appendix "A".

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APPENDIX "A"

PROPOSED DRAFT DIRECTIVE TO CG, USFET, AND CG, USFA, ON DEFINITION OF NON-MONETARY GOLD PURSUANT TO ARTICLE 8 OF THE PARIS REPARATIONS AGREEMENT

1. You will make available on demand to duly accredited representative of IGCR all valuable personal property which represents loot seized or obtained under duress from political, racial or religious victims of Nazi Govt or its Statellite Govts. or nationals thereof which was or may hereafter be found, seized or confiscated by USFET or by local authorities acting under direction or control of US Forces, subj to fol conditions:

A. That property cannot be restituted to Govt pursuant to WARX 85965 November 1945 (SWNCC 204/2) and WARX 99226 March 1946 (SWNCC 204/5), as amended and modified by Control Council action, because determination of national origin is impractical

B. That property cannot be restituted to lawful owners under laws in force in place where presently found either because lawful owner has died or ceased to exist without legal successor or because determination of individual ownership is impractical

C. That ownership interests in real property located in Germany and German currency or instruments of exchange payable in German currency will be excepted.

D. That Jewish books, manuscripts and literature of cultural or religious importance will be excepted and disposed of pursuant to separate directive.

E. That detailed inventory and tentative agreed valuation will be made of property subj to transfer to IGCR hereunder, and transfer will be made upon signing of joint inventory which shall be made part of receipt.

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2. You will permit property transferred hereunder to be removed from Germany and Austria or to be sold therein if payment can be made outside Germany or Austria in acceptable foreign currency, notwithstanding any laws for control of foreign exchange, to end that maximum value be obtained therefrom by IGCR.

3. You will seek to obtain Control Council Agreement to disposition pursuant to terms of this directive of any property disposition of which is reserved to Control Council. Even prior to such agreement you will nevertheless execute directive and you may advise other representatives of Control auth that you are doing so pursuant to obligation assumed by your Govt in subscribing to Paris Agreement on reparations.

4. Expression "Valuable personal property" as used in par 1 of this directive shall be interpreted to exclude ordinary items of furniture, clothing and other personal property of small intrinsic value and to include any such items of uncommon value. In determination of impracticality of identification pursuant to par 1 subpar A and B of this directive regard shall be had to extent of commingling with other property and difficulty and expense of determination of ownership in comparison with value of property. All property, as defined herein, will be considered as falling within this directive and will be made available to IGCR unless available evidence clearly is to contrary. You will establish such adm machinery as may be necessary to execute this directive promptly and effectively.

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RESTRICTED

APPENDIX "B"

From: OMGUS Berlin Germany signed Clay

To: War Department for WDSCA ES

Info: CG USFA Vienna; CG USFET Frankfurt

Nr: CC 4770 2 October 1946

Reurad WX 98112. We are in agreement regarding urgency of problem and prepared to implement program along lines indicated as soon as possible. However we would wish to point out that:

1. Proposed directive indicates that only available personal property which is not possibly restitutable will be made available IGCR. Since identification property for restitution purposes is difficult and time-consuming task and since items of "uncommon value" singled out Para (4) proposed directive are those most likely to prove ultimately identifiable, we anticipate difficulty in transferring the entire available amount in the near future. "Detailed inventory" mentioned Para (1) E proposed directive now in progress foreign exchange depository Frankfurt, where bulk of property in question is held. Estimate that it will require approximately one year to complete task. As to non-restitutable loot held by individuals we propose to treat it according your draft directive when it is discovered and taken under control. However, discovery and control of substantial amounts will require some time.

2. No foreign exchange is available for purpose indicated para (2). Therefore sales would have to be to foreigners if IGCR is to benefit. In interests of avoiding many undesirable complications likely arise from new foreign investment in Germany at this time, such sales should be confined to movable property which would be taken out of Germany.

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3. Reference para (3) proposed directive. Coordinating committee at meeting 28 August agreed in principle that with certain exceptions Nazi Party properties of military and para - military organizations shall be transferred to Governments of Laender and Provinzen in which they are located, to be disposed of in accordance instructions of Zone Commanders. Disposition of Reich properties which do not fall within these categories still reserved to Control Council.

4. Detailed exceptions to Nazi Party property which will be subject to disposition of Zone Commander follow, with qualification that any looted non - restitutable properties irrespective of origin are considered by US available for purposes proposed in reference cable:

A. Properties claimed for restitution, or with respect to which reasonable chance such claims will be advanced.

B. Properties subject to reparations.

C. Properties of former enemy states, whose disposition is reserved to Control Council.

D. Former properties of religious institutions, cooperatives, and approved political parties.

E. Property used for Allied Forces.

5. In the interests of complying with your desires we are prepared to turn over shortly all SS loot which appears to offer little chance of being restituted. Since a large part has already been melted down or made untraceable, this will include majority of SS loot. Although now formally held in name of Reichsbank or Reich Government, rather than SS, we will not recognize nominal transfer from SS, and will make available upon your directive to Zone Commander as non - restitutable Nazi property. Other Nazi Party loot, including caches of jewelry as discovered and determined to be un - restitutable loot, will be treated in similar manner.

End.

CM-IN 687 (3 Oct 46)

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APPENDIX "C"

PARAPHRASE

From: CG USFA Vienna Austria cite PAACA/R

To: War Department for WDSCA

Info: OMGUS; USFET

Nr: P 3667 7 September 1946

Reference WARX 98112.

Proposed directive concurred in. Known material possibly applicable under this directive was all captured not in Germany but in Austria.

Definitely applicable is the Kurt Becher collection while possibly applicable is train of Hungarian loot.

Latter, which includes 100 small cases jewelry and watches and approximately 15,000 grams of gold bullion, is under study.

CM-IN 1409 (8 Sept 46)

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DISTRIBUTION OF THE "GOLD POT" M.M.

On October 17, the Tripartite Commission for the Restitution of Monetary Gold announced the distribution of $145 million in gold to certain of the countries which, during World War II, had been despoiled of monetary gold by Germany. The distribution consisted of $102 million to Belgium; $40 million to Netherlands; and $2 million to Luxembourg. In addition there was set aside $29 million for Austria and $4 million for Italy.

Before the above distribution and allocation, the Commission had at its disposal $321 million in gold. Of this, $263 million represented the gold recovered in Germany in the Merkers salt mine in 1945. The remaining $58 million was received from Switzerland in settlement for looted gold which Germany had sold to that country. Negotiations have been proceeding with other countries for the return of gold stolen by Germany and sold to them. Sweden has agreed to return $8 million and Rumania $20 million of such gold.

After the distribution and allocation on October 17, the Commission held $144 million in gold against which there are undetermined claims by Albania, Czechoslovakia, Greece, Poland, and Yugoslavia. The fact that these unvalidated claims exist makes it impossible to forecast how much more may be allocated to the countries whose claims have already been established.

Special interest attaches to this gold now because of the fact that resources of some European Recovery Program countries will be bolstered as the distribution proceeds and claims are finally decided. Gold reserve estimates currently in use heretofore have accounted for this gold under "Germany".

The large payment made to Belgium ($102 million) as well as that to Luxembourg ($2 million) will go to France since France had already compensated these countries in full for their gold (Belgium $223 million, Luxembourg $5 million), which had been deposited with the Bank of France for safekeeping and was taken from that institution to Germany during the occupation. Because a substantial amount is still owing on this account, French reserves stand to gain from any further distribution to Belgium and Luxembourg. The estimates of French needs during the interim period which have been submitted to the Congress, are based on the assumption that the gold already received by France from Belgium and Luxembourg will be available for current expenditures during this period.

The $40 million granted the Netherlands compares with a reported decline of 95.9 tons ($108 million) during the German occupation in the Netherlands Bank reserve.

The $29 million set aside for Austria compares with our estimate of $56 million of gold held by the Austrian National Bank when occupied by Germany in 1938.

Four million dollars was set aside for Italy. The Italian claim was much higher since in 1944 the Neo-Fascist Government transferred to Berlin approximately $80 million out of gold reserves of about $108 million.

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Included in this amount, however, were $10.5 million of Yugoslav gold and the Albanian reserve of $2.5 million. It is understood that the allocation of further amounts of gold is under discussion. This allocation of $4 million is in addition to the return to Italian control in September of this year of the $26 million recovered at Fortezza (Italy) in May 1945.

ECONOMIC AND FINANCIAL DEVELOPMENTS IN SIAM

John Exter

Siam is a country of approximately 18 million people. There is relatively little industry; the great majority of the people are employed in agriculture, mining, and forestry. Lacking industry, Siam is dependent upon imports for a wide variety of consumers' goods. It pays for these goods with four principal exports: rice, teak, rubber, and tin. Of these four, rice alone ordinarily accounts for between 45 and 65 per cent of total exports. Before the war the financial policy of the country was strictly orthodox. The Government's budget was normally in balance. The monetary system[1] was a 100 per cent sterling and gold reserve system with monetary authority vested in the Ministry of Finance. The note circulation fluctuated automatically with fluctuations in the balance of payments. There was no central bank. The banking system was rather primitive and was dominated by branches of foreign banks, principally British, which were engaged primarily in financing foreign trade. There were only two Siamese commercial banks. Internationally Siam was a creditor country. Its external long-term debt amounted to approximately 5 million pounds sterling. Its international assets greatly exceeded this figure. Short-term official sterling assets alone equaled approximately £14 million. In addition, there were official holdings of sterling securities of about £2 million, as well as gold and dollar holdings totaling more than $40 million.

Wartime Developments

There was a marked change in the typical pattern of the Siamese economy when Siam entered World War II. Trade with countries other than those controlled by Japan was cut off and at the same time Siam was obliged to play host to the Japanese military. By its pact of Alliance with Japan, Siam agreed to devalue the baht[2] by about 35 per cent in April 1942, thus placing it on a par with the yen, and, in return for yen credits with the Bank of Japan, to provide practically unlimited supplies of baht for Japanese military expenditures in Siam. The Bank of Thailand, now called the Bank of Siam, was created in 1942 and took over the note issue function from the Ministry of Finance. The Bank quickly became the instrument for greatly expanding the money supply. This expansion took place in three principal ways.

First, the Bank sold baht for yen to finance the Japanese military. From December 1941 to September 1945, when the relation with Japan was finally severed, the Bank financed expenditures of more than 1.5 billion baht.

1/ The legal currency unit in Siam is the baht; however, the term "tical", the legal term until 1928, is still in more common usage.
2/ Until the war the baht was pegged at 11 to the pound sterling; its approximate value in December 1941 was 36 U.S. cents.

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IN FINE KILOGRAMS OF GOLD
(fractions omitted)

TOTAL AVAILABLE TO POOL	
Howard Report (coins)	115982
Howard Report (bars & scrap)	117289
Later recoveries, U.S. Zone (coins)	1413
Later recoveries, U.S. Zone (bars & scrap)	18
Swiss gold	51294
Rumanian gold	18000
British Zone (coins)	1755
British Zone (bars, etc.)	361
BIS	3750
	309862
Spain	?
Sweden	?
Portugal	?
Turkey	?

TOTAL CLAIMS		INVALID	VALID	PENDING	ALLOTTED
Albania	2580	125	2417	38	
Austria	91257		73952	17305	33742
Belgium	204868		198434	6434	90650
Czechoslovakia	45008		13296	31712	6045
Greece	12718		- 0 -	12718	
Italy	71098		69320	1778	3805
Luxemborg	4317		4224	93	1930
Netherlands	145650		116813	28837	35890
Poland	138734	132380	- 0 -	63354	
Danzig	4726		3821	905	
Yugoslavia	11653	10207	471	975	
	732609	142712	482748	107149	172062

Claims Allowed 482748 + Claims Pending 107149 = 589897

If all pending claims were allowed the Commission could distribute on basis of

$\frac{309862}{589897} = \frac{52.528}{100}$ less a fraction for administrative costs.

average up to 55%

2088887

E. W. O'FLAHERTY
17 JUNE 1948

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INFORMATION
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DEPARTMENT OF STATE

INCOMING TELEGRAM

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2

Action: ESP
Info:
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OCD
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DC/R

DIVISION OF GERMAN AND AUSTRIAN ECONOMIC AFFAIRS
DEPARTMENT OF STATE
NOV 4 1946

Control 693

Rec'd November 3, 1946
2 p.m.

FROM: Brussels

TO: Secretary of State

NO: 1473, November 2, 1 p.m.

US URGENT

FOR CA FROM DORR

REDEPTEL 1250, October 31.

One. Would appreciate for discussion with other commissioners some elaboration of necessity proposed change gold definition. French, UK commissioners feel that to permit check by commission gold claims should be confined monetary reserve gold regardless holder. Believed desirable exclude, for example, secret gold accounts held by govts for military intelligence purposes since inclusion such gold would leave door wide open to fictitious claims.

Two. Morton proposed following:

"All gold which at the time of its looting or wrongful removal was held as a part of the govt of the claimant country's monetary reserve either by the govt of the claimant country or in the accounts of a central bank or other monetary authority".

Three. Since discussion with other commissioners have come to wonder whether the words "either in the accounts of the claimant govt itself" should not be substituted for the words "either by the claimant govt". Purpose of inserting word "accounts" in original definition was mai fear that legislation some country might have declared all gold in country part of monetary reserve. This might be made basis for assertion private gold losses all kinds were losses of part of gold reserve.

Four.

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Four. Request instructions urgently whether Morton's proposal either in original form or with my suggested amendment meets Dept's point. In either case statement concerning reason inclusion all govt losses would be helpful.

KIRK

BB:CWD

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file gold pool

file

US URGENT

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October 31, 1946

AMEMBASSY,

BRUSSELS.

1250

Definition proposed paragraph one USTEL 1408, Oct 24, approved by Dept only (repeat only) with insertion following words QUOTE held by government of claimant country or UNQUOTE making definition therefore read QUOTE all gold which at the time of its looting or wrongful removal was held by government of claimant country or carried in the accounts of a central bank or other monetary authority as a part of the claimant country's monetary reserve UNQUOTE.

As to the exclusion of gold which has form of monetary gold but was privately owned, Dept approves your attempt but would not wish to hold out in face of strong opposition since legal and economic justification debatable.

ACHESON (ACTING)

A:OF/Fletcher:jd
10/28/46

GA SEP FE OFD CE

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Mr. [illegible]
pl return O.F.F.
for file

CE, EUR and L

June 16, 1948

OFD - Mr. Knapp

Memorandum to Accompany the Attached Telegram.

The incoming telegram from Mr. Dorr indicates that after much delay OMGUS is now prepared to go forward with the removal of the residue of the gold pool from Frankfurt to London. OFD calls attention to the fact that the attached outgoing telegram does not instruct Mr. Dorr to seek the reversal of the decision made by the Gold Commission sometime ago that the residue of the gold should be shipped to London. Gold Commission operations looking to this transfer had begun well before the question was raised when Mr. Dorr was last here whether future awards to Czechoslovakia should not be blocked by the U.S. pending settlement of U.S. nationalization claims against Czechoslovakia. It will be recalled in this connection that the Department and Mr. Dorr are agreed that the only possible way of blocking Czechoslovakia without violating the Paris Agreement on Reparation would be to have Czechoslovakia accept as its share a quantity of gold remaining in U.S. jurisdiction, either in Frankfurt or in this country, which gold could be subsequently blocked unilaterally by the U.S.

OFD had not expected that the issue regarding the possible blocking of the Czech gold would arise in this way. Rather, it had been thought that a residual amount would have remained in Germany because of the continuance of difficulties with OMGUS regarding the removal. During this period and before the next award by the Gold Commission to Czechoslovakia, some six to eight weeks hence, it could be seen what the results of Mr. Steinhart's present negotiations with the Czechs might be.

It is desirable, however, for operational and security reasons that the gold be removed from Germany, and in view of the agreement with OMGUS, this movement will apparently take place unless immediate steps are taken to stop it. OFD is strongly of the opinion that no such steps should be attempted. It should be clearly understood that after the Frankfurt gold is moved to London it may be quite difficult for Mr. Dorr to secure the agreement of the Commission for re-shipment of any part of it to New York. However, this possibility remains; and in any case, there is now in the New York Federal 9.0 tons of gold, which together with the 7 tons from Sweden which the Commission has already agreed to accept in New York, would constitute an important quantity of gold which could be used for further assignments to Czechoslovakia and then blocked should this course

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ultimately be decided upon. The total Czech allocations in U.S. would then amount to about 23 tons, ~~almost~~ over two-thirds of the total expected recovery by Czechoslovakia from the gold pool, some 39 tons; ~~but~~ it would be a significant source of pressure on Czechoslovakia.

OFD is, however, strongly opposed to the blocking of the Czech share of the gold pool, wholly or partially, in order to obtain a U.S. bargaining lever against Czechoslovakia. Such an effort by the U.S. would violate the substance and intent of Part III of the Paris Agreement on Reparations and would be inconsistent with the U.S. economic objective of long standing to redistribute the monetary gold among the United Nations which lost their gold to Germany. Such a unilateral act would be bitterly resented by the British and French which also have claims against Czechoslovakia. Such an operation would involve the practice of deception on Czechoslovakia, for that country would certainly never accept its share of gold from a source within American jurisdiction if it had any inkling that the U.S. was planning to initiate new blocking action against it. Such new blocking action would, of course, single out Czechoslovakia for the reimposition of economic warfare measures which are not generally being reimposed upon Soviet Satellite countries.

Because the views of OFD on the principle involved are those stated in the preceeding paragraph, OFD has called special attention to the present situation in order to make it quite clear to the other interested offices, that unless positive instructions are issued that a portion of the gold should remain in Germany, it may not be possible to implement in the future a decision that the Czech share should be blocked. If any of the offices addressed wish to seek resolution of the basic issue at this time, OFD is prepared to participate in a meeting to be called by those offices.

EP:CTOliver:ddec
FW:OFFletcher:ddec

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INCOMING TELEGRAM **Department of State**

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OFF file - Czech negotiations

Control: 15276
Rec'd: JUNE 29, 1955
4:46 P.M.

23
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FOA

FROM: PRAGUE

TO: Secretary of State

NO: 459, JUNE 29, 4 P.M.

ACTING FOREIGN MINISTER SEKANINOVA ASKED SEE ME LATE YESTERDAY. SHE FIRST OUTLINED AND THEN HANDED TO ME NOTE ON GOLD POOL REFERRING EMBASSY'S NOTE FEBRUARY 7 STATING EMBASSY "APPARENTLY NOT INFORMED EXACT WORDING" DECEMBER 16, 1954 LETTER SECRETARY GENERAL COMMISSION WHEN IT STATED IN ITS NOTE THIS LETTER "FULLY SETS FORTH PRESENT SITUATION WITH REGARD" CZECHOSLOVAK CLAIMS. HER ORAL PRESENTATION AND NOTE LAY STRESS ON PHRASE IN SECRETARY GENERAL'S LETTER "CERTAIN UNEXPECTED CIRCUMSTANCES NOT WITHIN POWER OF COMMISSION" WHICH HAS DELAYED AWARD STATING THIS "EVOKES IMPRESSION CERTAIN OUTSIDE INTERFERENCE PARTICULARLY AS IF CERTAIN GOVERNMENTS ON WHOSE BEHALF COMMISSION IS ACTING WERE LINKING QUESTION RESTITUTION CZECHOSLOVAK MONETARY GOLD WITH BILATERAL ISSUES" WITH CZECHOSLOVAKIA. THEN REFERS STEINHARDT 1948 PROPOSALS LINKING UNITED STATES NATIONALIZATION CLAIMS "TO CERTAIN EXTENT" WITH GOLD AND STATES EMBASSY'S NOTE MAY 3 MAKES A CERTAIN CONNECTION BETWEEN THESE TWO QUESTIONS". THEN STATES REFUSAL RESTITUTE "FOR SIMILAR MOTIVES WOULD BE DIAMETRICAL CONTRADICTION REQUIREMENTS OBJECTIVE AND UNBIASED CONSIDERATION" CZECHOSLOVAK CLAIMS UNDER 1946 PARIS ACT BUT "ON OTHER HAND POSITIVE ATTITUDE" UNITED STATES ON SPEEDY SETTLEMENT "MIGHT UNDOUBTEDLY REFLECT ITSELF FAVORABLY ALSO IN NEGOTIATIONS ON OUTSTANDING ECONOMIC AND FINANCIAL ISSUES" BETWEEN CZECHOSLOVAKIA AND UNITED STATES.

I MADE NO COMMENT EXCEPT QUESTION ACCURACY QUOTATION FROM SECRETARY GENERAL'S LETTER BUT NEITHER OF US HAD TEXT AVAILABLE. I SAID ONLY WOULD TRANSMIT NOTE. SHE THEN IMMEDIATELY BROUGHT UP "ANOTHER SUBJECT" ~~OUTLINING~~ NOTE IN REPLY EMBASSY'S MAY 3 NOTE ON ECONOMIC NEGOTIATIONS. NOTE STATES CZECHOSLOVAKIA "HAS RECEIVED WITH INTEREST UNITED STATES PROPOSAL FOR NEGOTIATIONS ON COMPREHENSIVE SETTLEMENT ECONOMIC DIFFERENCES" AND STATES "AS IN PAST ALSO NOW WILLING NEGOTIATE". IN SUCH NEGOTIATIONS "SHOULD STRIVE FOR SOLUTION WHICH WOULD ELIMINATE OBSTACLES

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-2- 459, JUNE 29, 4 P.M. FROM PRAGUE

OBSTACLES STANDING IN WAY RESTORATION NORMAL TRADE RELATIONS WITHOUT RESTRICTIONS AND DISCRIMINATION". SETTLEMENT WHICH HAD AS BASIS NO OTHER OBJECTIVE THAN LEGALIZATION DE FACTO SITUATION CREATED BY UNILATERAL MEASURES NOT RECOGNIZED BY CZECHOSLOVAKIA UNDER-TAKEN AGAINST CZECHOSLOVAK PROPERTY IN UNITED STATES COULD CERTAINLY NOT SERVE AS BASIS FOR SATIS-FACTORY AND LASTING SOLUTION OUTSTANDING ISSUES" THEREFORE NOT POSSIBLE AGREE BLOCKED OR ARRESTED CZECHOSLOVAK ASSETS BE USED UNILATERALLY SATISFY UNITED STATES CLAIMS. CZECHOSLOVAK GOVERNMENT IS HOWEVER WILLING ENTER INTO NEGOTIATIONS ON ALL OUTSTANDING ECONOMIC AND FINANCIAL ISSUES "INCLUDING UNITED STATES NATIONALIZATION CLAIMS"AND CONCLUDE AGREEMENT ON "DEDUCTION CERTAIN PERCENTAGE PROCEEDS CZECHOSLOVAK EXPORTS TO UNITED STATES". BESIDES BLOCKED CZECHOSLOVAK PROPERTY "DESIRABLE CONSIDERATION BE GIVEN" TRADE AGREEMENT OR RENEWAL GATT. "SHOULD THIS BE ACCEPTABLE TO UNITED STATES, CZECHOSLOVAKIA IS PREPARED ENTER INTO SUCH NEGOTIATIONS".

I CHOSE INTERPRET NOTE AS UNCONDITIONAL CZECHOSLOVAK AGREE-MENT NEGOTIATE AND IMMEDIATELY ASKED HER FOR CZECHOSLOVAK VIEWS ON TIME, PLACE, ETC., STATING WE HAD CONTEMPLATED NEGOTIATIONS HERE WITH MYSELF READY UNDERTAKE THEM ANY TIME. HOWEVER, ALL EFFORTS DRAW HER OUT WERE FRUITLESS AS WAS TO BE EXPECTED. SHE ONLY REITERATED DESIRE I TRANSMIT NOTE AND CZECHOSLOVAKIA WOULD CONSIDER ANY UNITED STATES REPLY AND PROPOSAL ON NEGOTIATIONS. I COMMENTED THAT AS SHE KNEW UNITED STATES DID NOT ENTER INTO TRADE AGREEMENTS BUT MADE NO COMMENT ON GATT.

APART FROM SUBSTANCE, NOTES REPRESENT MARKED CHANGE IN TONE FROM PREVIOUS EXCHANGES AND HER ATTITUDE IN ORAL PRESENTATION WAS CONCILIATORY AND MIGHT EVEN BE TERMED FRIENDLY. ALSO AS VERY SMALL STRAW, COMPLIMENTARY CLOSING USES "HIGH CONSIDERATION" FOR FIRST TIME RECIPROCATING EMBASSY'S RESTORATION THIS PHRASE IN ITS NOTE SOME MONTHS AGO.

I DO NOT INTERPRET GOLD NOTE AS ESTABLISHING RESTITUTION GOLD AS PRE-CONDITION FOR ENTRING INTO NEGOTIATIONS BUT ONLY AS REITERATION CZECHOSLOVAK POSITION. I DO INTERPRET ECONOMIC NEGOTIATIONS NOTE AS PRESERVATION CZECHOSLOVAK POSITION ON STEEL MILL AS WELL AS NATIONALIZED PROPERTY AND ATTEMPT OBTAIN IMPLIED OR EXPRESSED COMMITMENT UNITED STATES INCLUDE TRADE AGREEMENT OR GATT IN NEGOTIATIONS.

I SUGGEST

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-3- 459, JUNE 29, 4 P.M. FROM PRAGUE

I SUGGEST NO REPLY TO GOLD NOTE AT THIS TIME AND PROMPT REPLY TO ECONOMIC NEGOTIATONS NOTE SETTING FORTH DEFINITE PROPOSAL FOR OPENING NEGOTIATIONS SAY ABOUT JULY 18 IN PRAGUE. I AM NOT SURE HOW WE SHOULD HANDLE TRADE AGREEMENT AND GATT QUESTION.. FAILURE MAKE ANY MENTION IN OUR REPLY WOULD BE INTERPRETED BY CZECHOSLOVAKS AS WILLINGNESS INCLUDE IN NEGOTIATIONS. SEVERAL OTHER DEFINITE INDICATIONS CZECHOSLOVAKIA NOW PARTICULARLY INTERESTED INCREASING PRESENT LOW-LEVEL TRADE WITH UNITED STATES AND TRADE AGREEMENT, GATT, UNITED STATES EXPORT CONTROLS ETC., WILL BE HEAVILY INJECTED INTO NEGOTIATIONS, REGARDLESS ATTITUDE WE TAKE. IN ABSENCE SOME BAIT THIS FIELD, CZECHOSLOVAK INTEREST ANY SETTLEMENT ACCEPTABLE UNITED STATES PROBABLY LOW AND CANNOT BE SANGUINE ANY SUCCESS NEGOTIATIONS PARTICULARLY IF WE SLAP THEM DOWN ON SUBJECT EVEN BEFORE NEGOTIATIONS STARTED. OUR PRESENT POSITION SETTLEMENT OUTSTANDING ECONOMIC QUESTIONS WILL SOMEHOW LEAD TO INCREASED TRADE NOT LIKELY BE VERY APPEALING. WHILE NOT CHANGING OUR POSITION ON TRADE AGREEMENT OR GATT, IS THERE NOT SOMETHING ADDITIONAL WHICH COULD BE INTRODUCED INTO NEGOTIATIONS AT PROPER TIME? IN ANY EVENT WOULD APPRECIATE BRIEFING PAPER ON GATT QUESTION GIVING ME AMMUNITION FOR USE WITH CZECHOSLOVAKS AS NECESSARY.

JOHNSON

TLS:

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Gold file, report

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FOREIGN SERVICE DESPATCH

FROM : AMEMBASSY, PRAGUE

497
DESP. NO.

TO : THE DEPARTMENT OF STATE, WASHINGTON.

June 29, 1955
DATE

REF : Embassy's Telegram No. 459 of June 29, 1955.

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4r	E-5	INFO RMK-2 OLI-6 EUR-9 L-2
	REC'D 7/5	OTHER CIA-7

Gold

SUBJECT: Czech Notes Concerning the Gold Pool and Economic Negotiations

With reference to Embassy telegram no. 459 of June 29, 1955 there are transmitted herewith unofficial translations of the two Notes handed to the Ambassador by the Acting Foreign Minister on June 28, 1955.

For the Ambassador:

Albert W. Sherer Jr.

Albert W. Sherer, Jr.
First Secretary of Embassy

Enclosures:

1. Copy of Note No. 122.622/55
2. Copy of Note No. 123.557/55.

AWSherer,Jr/pf
REPORTER

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Unofficial Translation
Ministry of Foreign Affairs

No. 122.622/55-ABO/1

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and with reference to the Embassy's Note No. 304 of February 7, 1955 regarding the Czechoslovak claims for the restitution of monetary gold has the honour to advise as follows:

In its Note of November 2, 1954, the Czechoslovak Government addressed besides the other Governments on whose behalf the Tripartite Commission for the Restitution of Monetary Gold is acting also the Government of the United States of America with the request to instruct its Representative in the Tripartite Commission to act in such a manner as to prevent any further delay of the restitution. The Czechoslovak Government took this step only after seven years of fruitless negotiations with the Tripartite Commission and after having advised the Commission that the Czechoslovak Government would view the refusal to restitute to Czechoslovakia its just share of the monetary gold as a violation of the Paris Act of January 24, 1946.

When the Embassy of the United States of America states in its aforesaid Note that the letter addressed by the Secretary General of the Tripartite Commission on December 16, 1954 to the Czechoslovak Delegate fully sets forth the present situation with regard to the claims of the Czechoslovak Government it is apparently not informed of the exact wording of this letter. In actual fact the Secretary General of the Tripartite Commission, Mr. Watson, in his letter of December 16, 1954 confirms the receipt of the Czechoslovak Documents addressed to the Commission on October 15, 1954 and admits that the work of the Commission "required more time than originally assumed" and notes in explanation that this was caused by "certain unexpected circumstances not within the power of the Commission" and by the alleged complexity of the questions submitted to the Commission's consideration. The letter of the Secretary General of the Tripartite Commission cannot therefore be considered in any respect as a full exposition of the present situation and the Czechoslovak Government has already advised the Tripartite Commission that it regards its reply to the Czechoslovak Memorandum of October 15, 1954 as highly unsatisfactory.

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The mention in the Secretary General's letter of certain circumstances not within the power of the Commission which allegedly stand in the way of the restitution of the Czechoslovak share of necessity evokes an impression of certain outside interference, particularly as if certain Governments on whose behalf the Commission is acting were linking the question of the restitution of the Czechoslovak share of monetary gold with bilateral issues outstanding between them and Czechoslovakia. The Government of the United States of America is undoubtedly aware that the former United States Ambassador in Prague, Mr. Steinhardt, already in the proposals which he submitted to the Czechoslovak authorities in 1948 linked the question of the claims of the United States Government to compensation for nationalized American property in Czechoslovakia to a certain extent to the question of the Czechoslovak claims for the restitution of monetary gold. And in its Note No. 407 of May 3, 1955, the Government of the United States of America again makes a certain connection between these two questions.

The Czechoslovak Government deems it necessary to declare in this respect that the refusal to restitute the monetary gold to Czechoslovakia for similar motives would be in diametral contradiction to the requirements of an objective and unbiased consideration of the Czechoslovak request in accordance with the provisions of the Paris Act of 1946. On the other hand, however, the positive attitude of the Government of the United States of America and its Representative in the Tripartite Commission with regard to the request of the Czechoslovak Government for a speedy settlement of the Czechoslovak restitution claims in accordance with the Paris Act of 1946 might undoubtedly reflect itself favourably also in negotiations on outstanding economic and financial issues between the Czechoslovak Republic and the United States of America.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurance of its high consideration.

Praha, June 28, 1955.

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Unofficial Translation
Ministry of Foreign Affairs

No. 123.557/55

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and in reply to the Embassy's Note No. 407 of May 3, 1955 has the honour to advise as follows:

The Government of the Czechoslovak Republic has received with interest the proposal of the Government of the United States of America for negotiations on a comprehensive settlement of economic differences, which would strengthen the economic relations between the two countries, and declares that, as in the past, also now it is willing to negotiate and contribute on its part to a successful settlement of outstanding economic issues in the interest of normalizing the economic relations between Czechoslovakia and the United States of America on the basis of equality and mutual advantage.

The Czechoslovak Government holds that in negotiating on outstanding economic and financial issues both parties should strive for a solution which would eliminate the obstacles standing in the way of the restoration of normal trade relations without restrictions and discrimination. A settlement which would have no other objective than the legalization of the de facto situation created by unilateral measures, not recognized by Czechoslovakia, undertaken against Czechoslovak property in the United States of America, could certainly not serve as a basis for a satisfactory and lasting solution of outstanding issues. It is therefore not possible to agree that the blocked or arrested Czechoslovak assets be used unilaterally to satisfy the claims of the United States Government against Czechoslovakia. The Czechoslovak Government is, however, willing to enter into negotiations with the Government of the United States of America on all outstanding economic and financial issues, including the question of compensation for American property nationalized in Czechoslovakia and to conclude an agreement on the deduction of a certain percentage of the proceeds of Czechoslovak exports to the United States of America to cover the claims of the United States of America against Czechoslovakia.

With a view to the creation of the necessary prerequisites for a normalization of mutual trade relations, as well

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as for the payment of compensation for nationalization, it would be desirable that besides the question of the release of blocked or arrested Czechoslovak property, consideration be likewise given to the question of the conclusion of a trade agreement or of the renewal of the validity of the respective provisions of the General Agreement on Tariffs and Trade between Czechoslovakia and the United States.

Should this be acceptable to the Government of the United States of America, the Czechoslovak Government is prepared to enter into such negotiations.

The Ministry of Foreign Affairs avails itself of this opportunity to renew to the Embassy of the United States of America the assurance of its high consideration.

Praha, June 28, 1955.

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DEPARTMENT OF STATE INSTRUCTION

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NO.: A-78, December 23, 1954

SUBJECT: Economic Negotiations with Czechoslovakia

TO: The American Embassy PRAGUE

In connection with the proposed note to the Czechoslovak Government concerning disposition of the proceeds from the sale of the steel mill and related economic issues (Department's telegram no. 111 of October 14, 1954) the Department has studied the survey of US-Czechoslovak economic problems set forth in the Embassy's despatch no. 127 of October 13. While a number of economic issues between the two Governments exist, as you have outlined, we consider the four major ones to be: (1) claims for compensation for nationalization and other takings of property belonging to American citizens; (2) financial claims of the US Government; (3) disposition of the proceeds from the sale of the mill; (4) disposition of the Czechoslovak share of monetary gold available for restitution by the Tripartite Gold Commission.

Our leverage in negotiations on economic issues derives from our complete control over the $9 million paid by Argentina for the mill and deposited in Federal Reserve Banks in the US and our power as a member of the Tripartite Gold Commission to delay agreeing on and issuing the Czechoslovak award, which as presently discussed in the Commission would amount to $18 to $20 million. (As has heretofore been indicated, the US also has the power to block the delivery of gold once an award is announced, but it is considered that the US is in a stronger legal and policy position if the Czechoslovak award has not been agreed upon and issued.)

We believe that these two weapons of complete control over the steel mill funds and limited control over the Czechoslovak gold pool share should be utilized at this time in an effort to get a settlement of compensation claims and if possible agreement of the Czechoslovak Government to resume payments on the surplus property credit and from the crown accounts. Without minimizing the importance of resumption of surplus property payments it seems to us that the best tactics are to concentrate first on discussion of compensation claims with the hope that if this issue can be resolved the way would be paved for settlement of the other questions. The US Government could not permit the

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EUR:EE:HCVedeler:mfd 12/22/54

APPROVED BY:
EUR:EE: Ray L. Thurston

Language drafted by: OFD:MN:Fletcher:mfd 12/22/54.

CLEARANCES:
L/E - Mr. Metzger
- Mr. Maurer
LL - Mr. Murphy
MN - Mr. Fletcher
E -
OFD - Mr. Robinson
Treasury - Mr. Raines (for parts concerning steel mill proceeds)

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the transfer of the steel mill proceeds to Czechoslovakia without a satisfactory compensation claims settlement. In the absence of such a settlement covering disposition of the steel mill proceeds and in fact clearing the obstacles to award of the Czechoslovak gold share there would appear but limited chance of reaching a narrower agreement on resumption of surplus property and crown account payments. At least we would see no likelihood of the latter until the Statni Banka case is disposed of.

In the Embassy's reference despatch you mention the Czechoslovak share of the gold pool and the fact that you do not have sufficient information to reach a judgment as to what use could be made of this share as a bargaining weapon. In this connection there is attached a separate memorandum on this delicate and complicated subject which may prove of use in your consideration of the matter.

The difficulties of utilizing in negotiations the leverage provided by our control over the Czechoslovak gold share are apparent from the attached memorandum and the Department's memorandum of March 19, 1954 previously transmitted to the Embassy. Owing to the delicacy of the situation from a legal standpoint our purpose now is to convey an impression to the Czechs without any explicit statement to this effect that there is a relation between failure to receive their gold award and failure to pay our financial claims. In order to do so, we propose a move in three successive steps: (1) reply of the Secretary General of the Tripartite Gold Commission (transmitted on December 16) to the Czechoslovak Delegate's letter of October 15 urging an early award of Czechoslovakia's share; (2) your reply, and separate but parallel replies of the UK and French Ambassadors, to the letters from the Ministry of Foreign Affairs on the same subject; and (3) our note to the Czechoslovak Government proposing discussion of economic issues, the text of which was suggested in the Department's referenced telegram. As indicated in the enclosure to the Department's CA-3335 of November 18, the Gold Commission's reply states that a decision has not been reached because of the complexities of the case. With reference to the second step you are now requested, as soon as this instruction is received, to concert with your UK and French colleagues replies to the letters of the Foreign Office merely referring to the Gold Commission's response. The last of the three steps should follow promptly thereafter through your delivery of our note on economic issues. It is hoped that the transmission of this note closely following the sending of the US note in step two will be adequate to convey to the Czechs that failure to pay US financial claims is related to the Czechoslovak gold award.

If the Czechs should respond favorably to our note we would hope that the discussions could begin with an exploration of the issues which might be brought within the terms of an agreement. The central component in such an agreement would in our view comprise a commitment to pay a satisfactory lump sum in compensation to American claimants. Since our previous discussion with the Czechs on the subject, we have made a further study of the total amount of claims involved and have again reached the conclusion that we should seek a lump sum settlement of $25 million. The payment of a lump sum might be executed by

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transfer to the US of the $9 million representing the steel mill proceeds and an appropriate amount, possibly $16 million, from the Czechoslovak gold pool share. If the Czechs would agree to such a transfer and also resumption of surplus property payments the US would in return no longer delay agreeing on and issuing the Czechoslovak award of monetary gold. However, in view of the necessity of British and French concurrence in any gold decision and in view of the judicial function involved in the work of the Gold Commission, the most that we could assure the Czechs, if and when the satisfaction of American claims appears to be dependent upon satisfaction of the gold claim, is that the US would do its best to expedite a decision. Also, because of these factors, the written terms of any ultimate settlement with respect to Czechoslovak payment of the $16 million from gold made available pursuant to award of the Gold Commission would need to be carefully phrased so that the US would not be appearing to have an interest in a favorable award to the Czechs. Further, in oral discussions it could be stated in a very general way only that on the basis of a 60% dividend it is probable, but of course not certain, that some amount, perhaps a few million dollars in excess of $16 million, would ultimately be available.

The plan outlined above would offer the Czechs at least about $2 to $4 million in gold (the balance of the Czechoslovak share of monetary gold), the removal of basic economic issues with the US and a better foundation for rebuilding its export trade with this country. The US cannot restore any MFN concessions to Czechoslovakia and no possibility is foreseen of any early return to a volume of exports approaching that which existed prior to the Oatis case. Nevertheless, Czechoslovakia should be able to develop a larger dollar balance in its export trade with the US than is now the case once the existing troublesome economic issues between the two countries are removed.

In the course of negotiations the impression may be conveyed to the Czechs of the desirability in the mutual interests of both countries of clearing away these economic issues outstanding between them; of the impetus, if and when the gold issue is injected by the Czechs, which such a settlement would give the US to work for expeditious final action on their gold claim; and of the possibility of a certain amount of gold accruing to the Czechs over and above the portion transferred to American claimants through an economic settlement. If necessary, we would be willing to study the possibility of working out an arrangement whereby a part of the lump sum payment could be met in annual installments from the dollar proceeds originating in the excess of Czechoslovak exports to the US over imports. An overall proposal might be made more acceptable to the Czechs by an arrangement which would enable them to increase their net return of monetary gold to $5 or $6 million and allow a compensation agreement more comparable to those signed by Czechoslovakia with other countries whose nationals have suffered losses from the nationalization program and other takings.

The above is outlined by way of giving some notion of our hopes and tactical plans in the endeavor to conduct negotiations with the Czechs. Should discussions begin and develop into an exploratory stage we would supply further comment.

DULLES

Attachment:
Memorandum.

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Prague, 12/23/54

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MEMORANDUM
on the
Czechoslovak Share in the Gold Pool
in Connection with the
Liquidation of the Tripartite Gold Commission

In implementation of Part III of the Paris Reparation Act, which provided for pooling recovered monetary gold for distribution on a pro rata basis among countries from which it was looted during the war, the US, UK, and French Governments established in 1946 a commission at Brussels known as the Tripartite Gold Commission for the Restitution of Monetary Gold. Eleven countries, among them Czechoslovakia, submitted claims totaling about 560 million dollars.

The Czechoslovak claim, like most of the claims of other countries, is composed of several portions which, in total, call for the restitution to Czechoslovakia of 45,000 kilograms of gold the equivalent of about fifty million dollars. After protracted study of all the claims submitted and after obtaining additional information, partly through questionnaires and partly through oral hearings with representatives of the claimant governments, the Commission is about to conclude its deliberations and in fact has submitted drafts of its decisions for review and approval to the three governments which make up the Commission. Among the most controversial and most complicated claims were the ones composing the Czechoslovak submission.

It should be noted at this point that if the awards are made as proposed at present by the Commission, a quota of over 60 percent on the claims approved can be expected by the claimants. The Czechoslovak share would amount to about 27 million dollars. On the occasion of a preliminary distribution in January, 1948, Czechoslovakia, at that time not in the Soviet Bloc, received an advance of about 6000 kilograms of gold (valued at about $7 million.) Consequently, the amount which would be due her under the proposed decision at the impending final distribution is about 20 million dollars worth of gold. However, the French Government, in reviewing the final texts has, through its representative of the Commission, suggested important changes in the Czechoslovak award, changes which would involve certain other cases before the Commission. These changes, expressed in dollars, concern about 10 million dollars' worth of gold. Since the suggested changes involve both credits and debits, they partly cancel each other moneywise. The net result, if all French changes were accepted by the US and UK members of the Commission, would be a reduction in the Czechoslovak share by about $2 million. The suggested changes are being studied both at the Commission and the government level.

For the past three years or so, it has been understood among the interested officers of the Department that any major Czechoslovak asset we could directly or indirectly control should be used as a lever to obtain settlement of our claims against Czechoslovakia. The only sizeable Czechoslovak asset left in

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the US is the proceeds of the steel rolling mill blocked by Treasury's special order and thus available to be used for the aforementioned purpose. The other even larger asset is the Czechoslovak share in the gold pool. With respect to the Czechoslovak share in the gold pool US policy was set out in the Department's memorandum of March 19, 1954, a copy of which was sent to the Embassy. As was stated in that memorandum, the Department considered that the "United States would be in a stronger legal and policy position if no Czechoslovak award were agreed on and issued, than if an award were agreed on and issued and the United States alone was restraining delivery." The United States policy was therefore to delay agreeing on and signing the Czechoslovak award and the Department was desirous, when the remaining awards were ready to be published, that it be stated in appropriate language that the Czechoslovak award had not yet been agreed upon because of its complicated nature.

Therefore, some months ago, when after the sale of the steel mill the time appeared to be appropriate to renew our endeavors for continuation of financial negotiations with the Czechs, the Department invited representatives of the British and French Embassies in Washington to discuss with them our views with respect to the Czechoslovak share in the pool as stated above. (April 28, 1954) We told them that we would prefer a procedure whereby all awards with the exception of Czechoslovakia would be issued simultaneously when they were finally ready and a statement would be issued at the same time by the Commission saying that the Czechoslovak award had not been agreed upon due to the complexities of the Czechoslovak claim. (In view of the French request for changes mentioned above, there is a possibility that what was originally a form of words will turn out to describe the factual situation.)

While the UK Government relatively quickly agreed to our plan, the French Government only a few days ago informed us that it "continues to believe that it would be very difficult for the three Powers not to make public the decision on the Czechoslovak claims at the same time as the other decisions. Although French-Czechoslovak relations are no longer carried on at the level of the traditional confidence and friendship between the two countries, the French Government considers that it would be advisable to avoid, in the technical matter of the distribution of monetary gold, taking any position that might appear discriminatory with respect to Czechoslovakia." Consequently, the French want us to consider some other formula which would avoid what they consider a "disadvantage."

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DEPARTMENT OF STATE

Memorandum of Conversation

DATE: November 16, 1954

SUBJECT: Liquidation of Tripartite Gold Commission and Czech award.

PARTICIPANTS: Mr. R. L. Sharp, First Secretary } British Embassy
Mr. R. Goldsmith, First Secretary }
Mr. Corbett, GFD
Mr. Fletcher, NE

COPIES TO: GFD - Mr. Corbett
- Mr. Robinson
NE - Mr. Young
EE - Mr. Vedeler
- Mr. Katz
L/E - Mr. Metzger
- Mr. Maurer
Amembassy Prague
Amembassy Brussels

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Messrs. Sharp and Goldsmith called to remind us of the UK desire to wind up the business of the Gold Commission. Mr. Sharp recalled the suggestions made in that respect by Mr. Corbett several months ago, and that the UK Government has agreed to the suggested procedure including the handling of the Czech award. The French, however, seem to have difficulties in accepting this procedure and have made statements to that effect although they have not transmitted a formal reply yet. Consequently the UK Government wonders whether we shouldn't present another alternative to the French, such as to agree on the issuance of all awards, including the Czech and the U.S. Government could then block delivery to the Czechs of their share.

Mr. Corbett expressed doubts whether the French would any faster agree to such alternative. But recent developments, namely, the very fact that the French have raised a number of questions as to the basic jurisprudence of the Commission in connection with the Czech claims and have consequently suggested quite substantial changes in the text of the Czech award seem to bear out the soundness of the U.S. suggested procedure. It also appears from the proposed reply to an inquiry of the Czech representative in Brussels, as drafted by the (British) Chairman and (British) Secretary General of the Commission, that it is the Czech claims which pose the most difficult problems. It should be not to difficult, in the light of all this, to convince the French that the best way to expedite the liquidation of the Commission would be to come out with all those awards on which we have agreed and then hammer out our differences with respect to the Czech claims.

Mr. Sharp said he didn't know of all those happenings and he would inform his Government of our views.

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discuss with Jackson

US claim

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Now is the time to give summary

Norman H. Jackson,
Secty Vac
26 Broadway NY

about any $ 14 minimum claim by Cyclo
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FROM AMEMBASSY, PRAGUE

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TO : THE DEPARTMENT OF STATE, WASHINGTON.
(LIMIT DISTRIBUTION)

October 13, 1954
DATE

REF : ---

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	REC'D 10/18	INFO OTHER CIA-7

SUBJECT: United States-Czechoslovak Economic Problems

New that the sale of the steel mill is an accomplished fact, I believe it important that the Embassy and Department carefully assess the numerous outstanding economic issues pending between the United States and Czechoslovakia with a view to determining whether some strategy can be devised that would hold some hope of breaking the present impasse which is operating to the marked disadvantage of the United States. This impasse finds origin not only in the usual difficulties of dealing with a Communist regime, but in the measures and counter measures of both Governments resulting from United States efforts to obtain a settlement for nationalized property in Czechoslovakia and to obtain the release of the U.S. correspondent, William OATIS, with the added complication of the Czech monetary reform of June 1953. The two Governments have at different times variously linked the questions to such a degree that it has become impossible to consider any one question without considering most if not all of the others. It appears to the Embassy that the following are the questions and issues which are involved in the present situation. If others occur to the Department, the Embassy would appreciate being informed.

A. U.S. Demands on Czechoslovakia.

1. Claims for U.S. private property nationalized by Czechoslovakia. This is the oldest and largest outstanding economic issue between the two Governments going back to the period prior to the Communist coup of 1948. It appears that both Governments long agreed that a lump sum government-to-government settlement was the only feasible solution and that the U.S. was at one time willing to accept $40,000,000 while the Czechs were conditionally prepared to offer up to $25,000,000. The Embassy is not clear what effect, if any, the Czech monetary conversion of 1953 will have on the total of U.S. claims. The Czechs have always insisted that payment could only be made as a percentage of exports to the United States along the lines of the compensation agreements they have made with other countries. At one time the Czechs offered to begin making such payments on the basis of eight percent of exports prior to agreement being reached on the total figure. While U.S. was at one time prepared to consider payments as a percentage of Czech exports (15 percent was the figure considered) to the U.S., it also insisted on a cash payment of $3,000,000. Because of its inability to obtain a settlement, the U.S. insisted on

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blocking of funds derived from the sale of the steel mill and has consistently linked the steel mill to claims for nationalized property. The Czechs have never accepted such linking and have linked their suspension of payments under the surplus property agreement to the U.S. action with respect to the steel mill.

It is not believed that the Czechs now have any substantial dollar holdings from which they could, even if they desired, make any substantial cash payment for nationalized property claims of the U.S. The present level of exports from Czechoslovakia to the U.S. is so low (about $2,000,000 a year) that payment of the usual Czech five percent or other similar figure from this source would bear an entirely unrealistic ratio to the amount of U.S. claims.

2. Suspended payments on Surplus Property Agreement. The Czechs suspended payments under this agreement in 1952. As of July 1, 1952 the total balance of principal still outstanding was $4,869,867.94; total payments due as of the same date were $313,672.66. The Czechs have linked the suspension of payments under this agreement not only to the steel mill question as mentioned above, but also to the refusal of the U.S. to recognize the Czech claim of immunity in the attachment of certain funds of the Czech State Bank by a New York State court in a suit by a private individual. To a lesser degree the Czechs also have linked the suspension of payments under this agreement to the suspension of U.S. Treasury payments to veterans, Social Security and other such U.S. beneficiaries residing in Czechoslovakia, as well as to alleged U.S. failure to supply surplus property up to the $50,000,000 provided in the agreement.

One of the most serious results of cessation of Czech payments under this agreement is that the U.S. Government is being forced to obtain local currency requirements by exchanging approximately $250,000 a year at a highly unfavorable rate of exchange. The Czechs correspondingly benefit. Not only are they saving the cost of payments under the agreement, but they are in addition receiving approximately $250,000 a year in unblocked dollar exchange.

3. Blocking of U.S. Army Crown Account. The dollar value of this account (established by an agreement of July 25, 1947) at the time of the 1953 currency conversion was $994,592.12. At a meeting of the Executive Board of the International Monetary Fund, the Czech representative gave assurance that the U.S. would not lose as a result of the conversion. However, no reply has yet been received to a note of March 9, 1954 from the Embassy asking that this assurance be implemented. It is not known what effect, if any, the recent expulsion of Czechoslovakia from the IMF will have on the Czech attitude concerning this account. Under the agreement of July 25, 1947 this crown account was "available for expenditure in Czechoslovakia by the U.S. Army and its affiliated entities..." However, efforts made since 1952 by the Army Attache to draw on this account for

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that purpose were first refused by the bank on the ground that it "represented old crowns blocked by the monetary reform" and subsequently by the statement that payments from this account can be made only with special approval of the Exchange Control Authorities which has not been forthcoming.

4. Defaulted dollar bonds. According to the Foreign Bondholders Protective Council, beginning in 1952 Czechoslovakia defaulted in payments on dollar bonds then having a principal amount outstanding of $2,767,200 under the debt adjustment plan of 1946. According to the Council, payments had been fully maintained between 1946 and 1952, and service is being maintained on sterling bonds. The Council states the fiscal agents have been unable to elicit a satisfactory explanation of the default. There has not yet been any official exchange between the U.S. and Czechoslovak Governments on this subject.

5. Film Account. As of January 1, 1954, the balance of this account was Kcs 887,729 (approximately $123,000). Full conversion of this account was made by the bank at the time of the monetary reform and interest is regularly being credited. Its use is limited to charitable and educational purposes and is not available for local U.S. Government expenditures. Details are contained in the Embassy's despatch No. 240, March 16, 1950.

6. IBM Machines. In the summer of 1952 the Czechoslovak Government also defaulted on an agreement with the International Business Machine Corporation under which that firm was receiving approximately $47,000 a month for the use of its machines by customers in Czechoslovakia. The Czechoslovak Government also refused to permit the machines to be shipped from Czechoslovakia in accordance with the terms of the agreement and placed the property of the Company under "national administration". The Czechs have inferred that this action was related to the steel mill and Statni Banka cases. From the information in Embassy files, it appears that the value of the machines is about $1,500,000 and that the arrears of dollar payments is now probably also about $1,500,000.

B. Probable Czech Demands on the U.S.

1. Steel Mill. In any discussion of economic issues, the Czechs can be expected at the minimum to demand reimbursement for the approximately $16,000,000 they paid U.S. manufacturers for the steel mill. They could also be expected to ask for a large sum for "damage to the Czech economy", etc. In any event, the action that the U.S. has taken with respect to the steel mill can be expected to continue to be the central factor in Czech attitudes towards economic negotiations. The subject is still frequently alluded to by the President, the Prime Minister and other officials in public speeches, as an example of U.S. "iniquity". The citing of the "Trading with the Enemy Act" in connection with the

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measures that were taken as exacerbated the reactions of Czech officials to the action.

The $9,000,000 derived from the sale of the mill is "deposited in banks in the United States for the account of the Czechoslovak owners of the property, but these amounts will remain blocked pending consideration of American claims against Czechoslovakia". The Embassy is not clear whether, in the absence of Czechoslovak agreement, those funds could be made available to private U.S. claimants against Czechoslovakia. Even if possible, such distribution of the funds without some agreement with Czechoslovakia would, of course, not move all of the other important U.S. claims any nearer settlement.

2. Attached Statni Banka Funds. From the Department's A-17 August 27, 1953, it appears that the amount involved in this attachment is probably somewhat less than $100,000. If the court finds in favor of the defendant, this would presumably resolve this question. However, if the court finds in favor of the plaintiff, the Embassy is not clear to what extent a precedent may be established for similar suits by private claimants against Czechoslovakia, what effect this might have on other Czechoslovak funds in the U.S. including the sum derived from the sale of the steel mill, and what the effects might be on the ability of the Executive to negotiate with Czechoslovakia on the subject of claims.

3. U.S. Treasury Payments to Beneficiaries in Czechoslovakia. This subject has frequently been mentioned by Czech officials as insulting to and discriminatory against Czechoslovakia. The subject not only involves the question of the beneficiaries' receiving the real value of the remittances and the Embassy's ability to carry out its responsibilities with regard thereto, but also the political effects of the U.S. discharging its obligations to persons scattered throughout Czechoslovakia and dollar assets available to Czechoslovakia. It is understood that at the time of cessation of payments they were totalling approximately $200,000 a year.

4. U.S. Trade Policy Toward Czechoslovakia. Although the special measures with regard to trade with Czechoslovakia taken at the time of the Oatis case have been rescinded, the complete interruption of trade channels which took place at that time, together with withdrawal of GATT concessions, has resulted in Czech exports to the U.S. resuming only a small proportion of their previous volume. As U.S. trade policy toward Czechoslovakia is now substantially the same as toward the remainder of the Soviet bloc, the Czechs could hardly expect to obtain any more favorable treatment from the United States. However, the Czechs could be expected to raise the subject, hoping to obtain concessions which would enable them to increase their exports to the U.S.

5. Czech Share of Gold Pool. This subject has never entered into U.S.-Czech exchanges. The Embassy is not clear what the present status of this question is, nor whether there is now any possibility of its use by the U.S. in negotiations with Czechoslovakia.

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From the foregoing it appears clear that in the absence of some new element or elements introduced into the situation, there is no hope of obtaining from Czechoslovakia any resolution satisfactory to the U.S. of outstanding economic questions. There is nothing in the present situation which would impel Czechoslovakia to settle even any one of the issues. It is also apparent that the questions of nationalized property and the steel mill are the keys to the settlement of the others. Various possibilities suggest themselves and are mentioned not in the sense of recommendations, but only in an attempt thoroughly to canvass all possible lines of action.

First, there is the possibility of offering trade concessions of such a nature as to permit the development of Czech export trade to the U.S. to the point that Czechoslovakia could make a realistic settlement for nationalized property. All or a major part of the $9,000,000 derived from the sale of the steel mill could be applied against such a settlement and the counter claim of Czechoslovakia for losses incurred with respect to the steel mill offset in the bargaining over the total amount claimed by the U.S. for nationalized property so that the net figure would still constitute an amount acceptable to the U.S.

This course of action does not appear practicable under present conditions. It would presumably require major concessions to Czechoslovakia as compared with the other countries in the Soviet bloc without any real basis for the major political implications that would inevitably flow therefrom, primarily for the benefit of the relatively few claimants for nationalized property. Also, it is very questionable whether, whatever the degree of concessions offered by the U.S., the present state of Czech economy and its orientation to the Soviet bloc would permit of any major expansion of the present level of exports to the U.S.

Secondly, there is the possibility of considering that the $9,000,000 received from the sale of the steel mill is all that the U.S. claimants can realistically expect to receive for their nationalized property in the foreseeable future.

Therefore, enter into an agreement with Czechoslovakia under which the U.S. claims for nationalized property would be offset against the Czechoslovak claims with respect to the steel mill, Czechoslovakia also to resume payments under the surplus property agreement and unblock U.S. Government funds in Czechoslovakia, resume service on the defaulted dollar bonds, etc. The objections and difficulties of this course of action are obvious. Among others, Czechoslovakia would liquidate claims for which the U.S. has asked $40,000,000 and Czechoslovakia had at one time conditionally offered $25,000,000 at a direct cost to itself of only $16,000,000 and the claimants would only realize $9,000,000. However, against this must be weighed the value to the claimants of receiving something immediately as against the very problematic possibility of receiving something

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more at some unknown time in the future, the resumption of service on dollar bonds, the savings accruing to the U.S. Government by again being able to finance its activities in Czechoslovakia from surplus property payments by the Czech Government and presently frozen funds. Of course, a variant of this plan would be to attempt to reach agreement on a higher figure for Czech reimbursement for nationalized property--the amount above $9,000,000 to be paid from a percentage of Czech exports to the U.S. While this might be a good bargaining position, it would yield the claimants very little and insistence on a large figure would probably involve boundless Czech counter claims on the steel mill and frustrate the reaching of any agreement. There is also the question of Czech ability to do this and at the same time resume service on the dollar bonds and other dollar obligations.

In this connection it is roughly estimated that apart from nationalized property claims, Czech arrears of dollar obligations listed in the first part of this despatch are probably in the magnitude of $3,000,000 (surplus property $1,000,000; dollar bonds $500,000; IBM contract $1,500,000), and annual obligations under these agreements in the order of $1,200,000 a year. This takes no account of any obligations under current trade transactions, and official Czech expenditures in the U.S. for its Embassy in Washington, U.N. Delegation, travel of trade representatives, etc. Against this is the current level of approximately $2,000,000 total exports to the U.S. and probable absence of any other substantial sources of dollar earnings. Thus there may be a real question of Czech ability to service without outside help even its dollar obligations other than claims for nationalized property, at the current level of exports to the U.S.

If it is concluded that there is no reasonable possibility of obtaining at the present time an overall settlement of economic issues including nationalization claims, we should thoroughly explore the possibilities of obtaining a more narrow settlement which would include Czech resumption of payments under the Surplus Property Agreement. However, the Embassy finds it difficult to evolve any formula which would offer any possibility of success.

The Czechs had already defaulted on the Surplus Property Agreement when we removed the special trade measures which had been introduced as a result of the Oatis case, and, in any event, the present level of trade is so low as to constitute a very feeble and probably ineffective weapon even if the decision were reached that it would be wise to use it.

If resumption of payments under the Surplus Property Agreement cannot be obtained we should examine other methods of reducing the present excessive dollar cost at which this Embassy must obtain local currency for its operations, and the consequent unearned dollar advantage to Czechoslovakia. We are now in the very anamolous position of substantially contributing to the dollar earnings of Czechoslovakia because Czechoslovakia refuses to fulfill an agreement with the U.S.

It is noted that in its telegram No. 307, December 17, 1952, the Embassy suggested that the Czech Embassy, Washington, be required to purchase all

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dollars for its operations at a rate designated by the U.S. The dollar being a free currency there would appear to be considerable difficulty in applying a measure of this kind against a single country, and to be of doubtful value unless a means could be worked out whereby the Czech currency thus obtained could be used by the U.S. Government in Czechoslovakia. The Department may have precedents with respect to other countries that might serve as a guide for measures that could be taken to meet the present situation. However, before adopting any measures in this regard, we should be reasonably convinced that they will accomplish their purpose and not just contribute to broadening and making more rigid the present impasse.

None of the foregoing takes into consideration the possible use, if any, that could be made of the Czech share of the gold pool with regard to which the Embassy does not have sufficient current information to reach any judgment.

This is presented not as any definitive final analysis but simply as preliminary thoughts with the hope that it may be of some usefulness to the Department in considering this complex subject. No attempt has been made to consider tactics which would have to be carefully planned after any course of action was determined upon. Perhaps the problems are insoluable for the time being and the best course of action for the present is for the U.S. to take no steps to break the impasse. However, I would be reluctant to reach that conclusion until all other courses of action have been fully considered.

U. Alexis Johnson

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Czech Report

AIR POUCH
PRIORITY

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FOREIGN SERVICE DESPATCH

FROM : AMEMBASSY, PRAGUE

DESP. NO.

TO : THE DEPARTMENT OF STATE, WASHINGTON.

February 8, 1954
DATE

REF : Embtel 301, February 5, 1954

For Dept. Use Only	ACTION	DEPT.
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	2-15	CIA-7

SUBJECT: Transmission of Text of Note from Czech Foreign Office Regarding Steel Mill and Other Outstanding Economic and Financial Questions

There is transmitted herewith as Enclosure No. 1 the text of Note No. 170.678/54-ABO of February 5, 1954 from the Czecho Ministry of Foreign Affairs which was handed to the Ambassador by the Foreign Minister on that date.

U. Alexis Johnson
Ambassador

Enclosure:

1. Text of Note No. 170.678/54-ABO of February 5, 1954

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UAJohnson:jcg
REPORTER

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Unofficial Translation

No. 170.678/54-ABO

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America and has the honour to advise the following:

The Government of the Czechoslovak Republic considers it necessary to revert once again to the question of the steel mill which was duly and regularly purchased by a Czechoslovak firm in 1947 and subsequently properly paid for in United States Dollars to the American producer, but which was not delivered to Czechoslovakia in consequence of the refusal to issue an export license and which was moreover blocked on January 17, 1952, through a blocking order of the Secretary of the United States Treasury under the war-time Trading with the Enemy Act.

The Czechoslovak firm "Investa a.s.", as the owner of the steel mill, by a contract of sale of November 16, 1953, transferred its property rights to the Argentine firm "Direccion General de Fabricaciones Militares", with the provision that the purchasing party would, within a fixed time-limit, acquire the agreement of the United States authorities for the sale and for the export of the mill to Argentina. The Government of the United States of America has evidently already been informed of this arrangement by the competent Argentine officials, who have entered into negotiations with the American authorities in the United States concerning the release of the steel mill for export to Argentina. Through the intermediary of the Czechoslovak Legation in Buenos Aires the competent Argentine officials have informed the Czechoslovak Government that the United States authorities have taken a negative attitude with respect to the sale of the steel mill by the Czechoslovak firm to the said Argentine purchaser, alleging that the steel mill equipment represents a guarantee covering certain financial claims of the United States of America against Czechoslovakia, in particular claims for American property nationalized in Czechoslovakia.

In this connection the Czechoslovak Government could not fail to take note also of the extensive campaign, launched in the American press and radio, setting forth various arguments in explanation of the negative position of the Government of the United States of America towards the sale of the Czechoslovak steel mill to Argentina. This press and radio campaign, inspired by official representatives of the United States and their various official as well as unofficial statements, is conducted frequently for purely propagandistic aims in the spirit of the discredited "cold war" policy. This fact is demonstrated by false and distorted data, by threats of a compulsory auction of the steel mill, by a distorted presentation of previous negotiations between the Government of the Czechoslovak Republic and the Government of the United States of America concerning the release of the steel mill as well as by slanders with respect to the contract of sale concluded between the Argentine firm and the Czechoslovak owner of the mill equipment. These propaganda maneuvers have manifested themselves most evidently - in the same way as has usually been the case at other occasions - in the broadcasts of the so-called "Free Europe" broadcasting station, which operates in the American Zone in Germany and which is under the control of the United States authorities. Thus on December 11, 1953 the

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Aid station announced that "the American authorities are considering putting up for public auction the equipment of a steel mill which the Czechoslovak Government had ordered in the United States a certain time ago under false pretenses, authorization for the export of the mill from America having been refused. As you may remember" - the report of the so-called "Free Europe" continues - "the Communist regime attempted to smuggle out this equipment for the production of weapons through various neutrals and through various intermediaries in the United States. All these tricks were seen through. Recently, Prague thought that it would get the better of America and transferred the mill equipment to Argentina, because, as is well known, dictators understand each other in such matters. Since there was just cause to suspect that the equipment would be shipped to Czechoslovakia from Argentina, the United States authorities did not give their approval to this commercial transaction. And what will happen now, will be that the steel equipment will most probably be sold in Washington at a public auction, of course only to such purchasers, who will offer guarantees that the equipment will not be exported to Czechoslovakia".

It would be undignified to enter into detail or refutation of the individual slanderous allegations. The Czechoslovak Government will restrict itself to stating that this campaign not only constitutes a completely ineffective means, inasfar as it is intended to bring pressure to bear on Czechoslovakia, but also a very inappropriate form of international intercourse, if it is intended as a substitute for a communication which is customarily made through diplomatic channels.

The Czechoslovak Government, however, considers it necessary to refute and to put into the proper light principally those arguments, according to which the Government of the United States of America cannot release the steel mill equipment to the Argentine purchaser because this equipment allegedly represents a guarantee for financial claims of the United States of America against Czechoslovakia. In this connection, the Government of the Czechoslovak Republic would in the first place reaffirm that it has never recognized the order of the Secretary of the United States Treasury of January 17, 1952 as a legal measure, but has always viewed it merely as a measure based on power, preventing the Czechoslovak owner from freely disposing with a property which is undoubtedly his. In its earlier Notes, the Government of the Czechoslovak Republic, in particular pointed to the startling fact that seven years after the end of the Second World War, the Government of the United States of America has invoked the war-time Trading with the Enemy Act for a measure directed against Czechoslovak property, notwithstanding the fact that it is maintaining normal diplomatic relations with the Czechoslovak Republic.

In response to the Czechoslovak Government's request for an official interpretation of the situation which has arisen as a result of the order of the Secretary of the United States Treasury of January 17, 1952, the Government of the United States of America replied by a Note of the American Embassy in Prague of March 4, 1952, in which it gave the following reason for the blocking of the steel mill: "The specific blocking action against the steel mill property was to establish effective control over this unutilized steel production capacity under United States jurisdiction as a means to ensure its best use in United States defence interests".

The Government of the Czechoslovak Republic, in its previous Notes, has repeatedly pointed out both the complete lack of foundation of this motivation, as

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well as the sharp contradiction between it and the procedure subsequently adopted by the United States Government. Notwithstanding the fact that the export of the steel mill to Czechoslovakia did not, nor could in any way, threaten the defence interests of the United States, the Government of the Czechoslovak Republic was moreover willing to accept in lieu of the delivery of the regularly bought and paid for equipment a refund of the advance payment and likewise agreed with the sale of the equipment, naturally in the absence of any discriminatory conditions with respect to the disposition of the proceeds of the sale and the purchaser. This position of the Government of the Czechoslovak Republic offered a reasonable basis for a solution which would enable the Government of the United States of America to utilize the steel mill for defence as well as production, commercial or any other purposes.

In its official interpretation the Government of the United States of America further stated that "Under the blocking order the Czech owner retains title to the mill and since the mill has not been requisitioned or vested, the Czech owner may now sell the mill subject to a license of the United States Treasury Department".

With respect to the question of the terms of sale which would be approved and of the disposition of the proceeds of the sale of the mill, the Government of the United States advised that this question "was incapable of decision in the abstract and was related on the one hand to commercial and defence considerations and on the other to United States claims for compensation for American property nationalized in Czechoslovakia". In the course of subsequent negotiations the Government of the United States successively stipulated various conditions and demands, in the first place that the purchaser should be acceptable to the United States, which is already at first sight an extremely loose concept, evidently depending on momentary tactical considerations of American diplomacy. Moreover, the question of the transfer of the proceeds of sale of the mill from the United States to Czechoslovakia was linked, unlawfully, to the question of the satisfaction of claims of the United States Government for American property nationalized in Czechoslovakia, and what is more, as follows from the proposal of the Government of the United States of July 1, 1952, the Government of the United States placed the agreement on releasing the steel mill and the settlement of compensation for nationalization in conjuction with the agreement on the release of William Oatis, within the framework of the exchange of detained persons and insisted on the simultaneous signature of both these agreements. Now the Government of the United States of America is apparently again linking the blocking of the steel mill with the question of its claims for American property nationalized in Czechoslovakia.

The unlawfulness of this arbitrary and unilateral procedure of linking the blocking of the steel mill with the question of compensation for nationalization primarily lies in the fact that the Government of the United States of America is asserting its financial claims against the Czechoslovak State, respectively against the Government of the Czechoslovak Republic, while the owner of the steel mill was the company "Investa a.s.", that is to say a different legal subject than the one against whom the said claims are being asserted. Besides this disparity in the identity of the two legal subjects, attention must likewise be drawn to the fundamental difference in the character of the claims. Through the regular purchase of and payment for the steel mill, the Czechoslovak company has acquired undisputable

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rights of ownership and an indubitable claim to the delivery of the equipment. This undisputable, precisely determined and recognized claim is being put in conjunction with unilateral, not as yet duly proved, nor agreed upon and highly exaggerated demands put forward by the Government of the United States, and that in fact not only with demands in respect of American property nationalized in Czechoslovakia, but also in respect of undoubtedly Czechoslovak property, inasfar as its pre-war owners later emigrated to the United States of America and acquired American citizenship by naturalization in the course of the Second World War. In contradiction with the existing valid provisions of the Naturalization Treaty between Czechoslovakia and the United States of America of 1928, which stipulates explicitly that the provisions on naturalization "shall not be applicable to a national of either country who obtains naturalization in the other while his country is at war", the Government of the United States of America has also asserted claims against the property of these persons, in spite of the fact that their compensation is a matter entering exclusively within the scope of Czechoslovak domestic jurisdiction. The linking of doubtful, undetermined and unrecognized claims against a certain subject, with undisputable, clearly determined and legally recognized claims of another subject and the attempt at unilateral, arbitrary compensation of these dissimilar claims is contrary to the most elementary concepts of both national as well as international law. The nationalization of the key branches of national economy - as effected also in the Czechoslovak Republic - is completely and exclusively the internal affair of any sovereign state; this being an undisputed principle of international law it cannot be recognized as a motive for bringing pressure to bear by means of power on the State which is carrying out nationalization and that not even in the event that this should affect the interests of another State or of its nationals.

Accordingly, the following fundamental contradiction follows from the development of the position of the United States in this matter: If the Czechoslovak steel mill was blocked by the order of the Secretary of the United States Treasury of January 17, 1952, "in order to ensure its best use in the defence interests of the United States" by virtue of the Trading with the Enemy Act, then even under the provisions of the said order any linking of the blocking of the steel mill to the matter of compensation for nationalized property is completely unlawful. If the steel mill was not blocked "in the interests of United States defence", but in order to enforce compensation for nationalization, then this but confirms the unlawfulness of the order itself, which under legal pretexts was the means for taking what was in fact an arbitrary measure of resorting to power, undertaken neither in the interest of law nor in the interest of "defence", but exclusively in that of the tactical requirements of diplomacy. The foregoing is confirmed by the following facts:

When on January 17, 1952 the Government of the United States of America blocked the Czechoslovak steel mill which was purchased by a Czechoslovak firm in the United States of America in 1947 and successively regularly paid for, it did not take this measure in connection with nationalization, which had been effected in Czechoslovakia in the years 1945 and 1948, but within the framework of its general policy of discrimination and in order to bring pressure to bear upon the Government of the Czechoslovak Republic, evidently in connection with the negotiations which were opened at the initiative of the Government of the United States between the United States of America and the Czechoslovak Republic at the end of 1951.

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The order of the Secretary of the United States Treasury of January 17, 1952, besides reference to the war-time Trading with the Enemy Act, contains no other motivation for this measure, and in its official interpretation of March 4, 1952, the Government of the United States of America motivates this step by the establishment of effective control over this unutilized steel production capacity "in the interest of United States defence".

The Government of the United States of America has refused to stipulate "abstract" terms for the authorisation of the sale of the steel mill and has linked the authorization of the sale on the one hand to commercial and defence considerations of the United States and on the other to United States claims for compensation for American property nationalized in Czechoslovakia.

The Government of the United States of America set discriminatory conditions for the authorisation of the sale of the mill, in particular "that the purchaser be acceptable to the United States", raising no fundamental objections to the sale of the mill to a West German concern and in August 1953 even giving its official support to an offer, entirely unacceptable for Czechoslovakia, made by an American firm.

The Government of the United States of America thus put a normal commercial transaction in conjunction with various financial and political issues, which have no connection whatsoever with the sale.

The blocking of the Czechoslovak steel mill and the linking of this question with that of compensation for nationalization is entirely inadmissible from a legal point of view. The blocking of the steel mill, moreover, was not and cannot be motivated by the position of the Czechoslovak Government in the matter of the said compensations. The Government of the United States of America is well aware that Czechoslovakia has concluded compensation agreements with a number of States and that it was willing to conclude a similar agreement also with the United States Government. It is not the Czechoslovak Government that is to be blamed for the fact that such an agreement has not as yet been concluded. Already at the beginning of 1946 the Czechoslovak Government expressed its willingness to compensate American nationals, whose property had been nationalized in Czechoslovakia, on an individual basis. In the Declaration on commercial policy and compensation for nationalized properties, confirmed by the exchange of Notes of November 14, 1946, in which both Governments reiterated their "desire to achieve the elimination of all forms of discriminatory treatment in international commerce and the reduction of tariffs and other trade barriers", the Government of the Czechoslovak Republic again reaffirmed its willingness to grant compensation to American nationals for nationalized property. It is again not the Government of the Czechoslovak Republic that may be blamed for the fact that the entire subsequent development of American trade policy was directed towards the intensification of discrimination in international commerce and towards the increase of customs as well as other trade barriers. This circumstance necessarily influenced the subsequent negotiations on compensation for nationalization, particularly after Czechoslovakia had been subjected to a policy of extreme discrimination on the part of the United States. In spite of this a Czechoslovak Government delegation was sent to the United States in 1949 in order to conclude a global compensation agreement. The Czechoslovak Government is not to be blamed for the fact that these negotiations were broken off as a

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sult of the unjustified and unlawful demands put forth by the Government of the United States for the compensation also of undoubtedly Czechoslovak property, i.e. the property of Czechoslovak citizens who had been naturalized in the United States of America in the course of the Second World War.

In 1952, the Czechoslovak Government, in connection with negotiations concerning certain outstanding issues between the Czechoslovak Republic and the United States of America, however, again proposed a solution to the United States Government of the question of compensation for nationalization within the framework of a general normalization of mutual trade relations, and that through the deduction of a certain percentage of Czechoslovak exports to the United States. In the opinion of the Czechoslovak Government to require the payment of compensation for nationalization on the one hand and simultaneously to refuse a normalization of mutual trade relations on the other, is not only unjust, but also extremely unrealistic. The Czechoslovak Government holds that a normal development of trade relations between Czechoslovakia and the United States, which the Czechoslovak Government is seeking in the spirit of its policy aimed at the strengthening of peace and international co-operation, would not only create a favourable atmosphere, but also the necessary material and financial basis for the settlement of outstanding financial issues. The unwillingness of the Government of the United States to agree to such a solution of outstanding financial issues, which would be based on the normalization of mutual trade relations, apparently is an expression of the lack of confidence of the United States Government in its own trade policy, which until now has been and still is a policy of discrimination and of trade barriers. A typical expression of this policy is the attitude of the Government of the United States of America towards the sale of the Czechoslovak steel mill to an Argentine purchaser. Also in the given case, the matter in question is a normal peaceful commercial transaction, the authorisation of which would not only be of benefit to the contracting parties but also to the United States of America, since this would create certain premises for a renewal of confidence in the possibility of normal trade relations with the United States. The insistence of the United States Government on the position of unlawfully blocking this regularly and properly paid for equipment not only renders impossible any normalization of trade relations between the United States of America and the Czechoslovak Republic, but discredits the Government of the United States also in the eyes of world public opinion and can only confirm the lack of confidence and doubts existing in business circles with respect to the attitude of the Government of the United States of America to the question of international trade.

The Czechoslovak Government therefore demands that the Government of the United States of America release the steel mill for export to Argentina, without putting any conditions either to the seller or the purchaser, nor towards the States concerned.

As to the outstanding economic and financial issues between the Czechoslovak Republic and the United States of America, the Government of the Czechoslovak Republic continues to be willing to proceed in negotiations with the Government of the United States of America through diplomatic channels.

The Ministry of Foreign Affairs avails itself of this opportunity to assure the Embassy of the United States of America of its consideration.

Prague, February 5, 1954.

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No further action is
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SECRET

TO: MN - Mr. McDiarmid

DEPARTMENT OF STATE

April 25, 1951

FROM: EE - Mr. Gleeck

SUBJECT: EE Position on Blocking Soviet Bloc Assets

1951 APR 26 AM 8 58
MESSAGE CENTER

Supplementing my informal memorandum of April 5, I should like again informally to set on the record the results of a discussion between Mr. Higgs, Mr. Truesdell, Mr. Vedeler and the writer on the subject indicated. All were agreed that however reluctant we are to see Soviet bloc assets escape from our control, (we do not wish to see Soviet bloc free dollar accounts grow and we should like to apply these assets against the satisfaction of nationalization and other claims against the bloc) that weighty political and economic consideration militate against general seizures at the present time.

First, there is the ever-present danger of reprisals against our legations in the Soviet bloc and the probable negative reaction of our Western European allies ("Blocking means U. S. plans war"). Second, EE feels it would jeopardize our surplus property agreements in certain Soviet bloc countries (outstanding balance in Poland $36,000,000, Hungary $14,000,000 and Czechoslovakia $5,300,000) as well as the Soviet annual interest payments on pipe line Lend Lease material ($3 - 5 million). Thus if we should seize assets amounting to, say $10 million from the Czechs to satisfy some $25 million worth of claims against Czechoslovakia, we might not only tempt the Czechs to default on their surplus property agreement but set off a chain reaction of defaults elsewhere in the Soviet bloc. This is the more likely as any broad move to seize any Soviet bloc assets in this country would (1) evoke claims from a multiplicity of other claimants against all these Governments and (2) probably lead to the immediate flight of Soviet bloc funds from this country.

EE would still favor NPA's requisitioning of the Czech steel mill and rubber machinery on the grounds set forth in the previous memorandum. If NPA objects on statutory grounds and the Treasury insists that there is no justification for moving against single assets of this kind, EE would be bound to oppose any general blocking order for the reasons stated above.

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ow file: Czech compensation claim

On being informed of the agreement on procedures, Spanish representatives submitted their loan program for US consideration. This proposal was, however, considered unacceptable because it constituted a government, rather than a private enterprise, program, involved the immediate utilization of the total $62.5 million, and was based on a commodity "shopping list" rather than on the requirements of specific projects. The Spaniards also requested that credits be extended at a 2.5% interest rate. It was, however, explained to them that, although the funds for loans to Spain were made available through ECA legislation, such loans will be Eximbank and not ECA loans. The loans would therefore not be directly comparable to the ECA loans which, while made through the Eximbank, are an integral part of the ERP program. Under these circumstances, the Eximbank's offer of a 3% rate represented generous treatment since the Bank's loans never carry a lower interest rate and the rates on comparable long-term loans are usually 4.5%. Although the Spaniards finally accepted the 3% rate and the Eximbank agreement to consider applications for cotton, fertilizer and tractors as a start, they may continue to press for credits along the lines of their original program.

* * *

PROPOSED ACTION FOR SETTLING CZECH NATIONALIZATION CLAIMS The Department has approved the proposed use of the President's requisitioning authority under the 1950 Defense Production Act to seize a Czech steel rolling mill in the US in order to secure a settlement of US nationalization claims against Czechoslovakia. The Department and the National Production Authority are now attempting to solve the remaining legal problems which would be involved in such action. If carried out, this would represent the first measure taken by the US to exert economic pressure on the satellite countries for the purpose of bringing about a claims settlement and the first use of the requisitioning authority against the property of a foreign government.

We have been attempting for several years without success to secure a settlement of US nationalization claims against Czechoslovakia. The most recent negotiations for this purpose were adjourned in May 1949 (See page 9, May 2, 1949 issue of Current Economic Developments.) and the Czechs have not seen fit to meet with us since that time. The US action now proposed

is

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is therefore felt to offer the only immediate possibility for securing any payment on these claims. Under this proposal, the National Production Authority would take over, in the interest of national defense, a Czech steel mill which has been denied an export license from the US, and would offer to compensate the Czechs contingent upon their settling US nationalization claims. If the Czechs refuse this offer, the compensation payment would be withheld on the basis of our counterclaim arising from the nationalization claims. In this way, the payment could be used as a lever to induce the Czechs to reach a settlement or as a partial offset to our claims. Although this action involves the risk of Czech retaliation, such a risk is probably inherent in any positive action we might take.

Since the recommendation was approved, there have been reports that the Czechs have already sold the mill and these are now being investigated.

* * *

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OUTGOING TELEGRAM

INDICATE: ☐ COURIER ☐ CHARGE TO

Department of State

1958 NOV 6 PM 5 39

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42 SENT TO: Amembassy LONDON PRIORITY 4532

NPI INFO: Amembassy PRAGUE 169
Amembassy BRUSSELS 876

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London's 2057 repeated Prague 10
Prague's 208 repeated London 13
London's 2013 repeated Prague 11
copies all three pouched Brussels for TGC Commissioner.

1. UK representatives Washington in recent discussions TGC matters have not requested Department's consent to public statement regarding Czech gold claim but sought Department's consent to proposed substantive reply by TGC to Czech protest memo August 15, to which Department did not agree. Proposed public statement mentioned only Wingate's retirement and suggested report to claimant Governments. (our G-92 to Brussels repeated Prague G-64, London G-357)

2. Department concurs Allison discussion with UK Foreign Office. Believe following points and background should be kept in mind:

(a) Several times in past British representatives Washington have indicated UK would have to reveal Czech gold matter in Parliament on own initiative or in reply inquiry. Department has viewed this as pressure

Drafted by: L:L/FA:Dimmering
Cleared: GFD:FWH:Carre'ron 11/6/58

Telegraphic transmission and classification approved by: John Parks Young

ME - Mr. Walsh BNA - Mr. Elrod EE - Mr. Sherer

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devise to obtain US change of position or secondarily hasten US completion negotiations with Czechs. We have heretofore replied that we would regret any such publicity but have indicated we could not press point if publicity politically necessary from UK standpoint. Impression left with us thatpublicity would be forthcoming.

(b) On prior occasions UK representatives have indicated interest in details US-Czech negotiations. We have avoided informing them more than that negotiations are in progress with some expression of possibilities of success. Our purpose has been to avoid giving British details, thus enabling them assume role of mediator or enabling them pressure US to reduce our claims and in general complicate US negotiating problems.

(c) Believe in British interest to avoid publicity if their real interest lies in having US-Czech gold matter settled which can be done only by US-Czech claims settlement, which publicity might prejudice.

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TELEGRAM

Department of State

MILNE

[redacted]

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Department anxious however allow all possible latitude in QTE personal unofficial and non-committal UNQTE talk which you propose with Hajek, and therefore in your discretion you may suggest that offer of settlement of $13 million with final $2 million based on percentage of exports with minimum annual payments of $500,000 would receive favorable recommendation from Embassy to Department if RPT if offer included concessions on other points raised in A-249.

4) With reference to first sentence, Department agreeable funding arrearage of $1,865,937.95 over 5-year period, payment to be made in dollars in semi-annual installments. It understood, of course, payments on arrearage will be in addition to current annual installments of principal and interest specified in the agreement. If necessary, you authorized agree to annual rather than semi-annual installments for liquidating arrearage. Refer A-249. As of June 30, 1958, interest and principal past due and unpaid totaled $1,865,937.95. On July 1, 1958, additional amount $310,454.08 comprising interest $115,659.36 and principal $194,794.72 became due and payable. Thus total arrearage as of July 9 is $2,176,392.03. Detailed statement of account being sent via pouch.

With reference to second sentence, Department opposes linking payment to eventualities or conditions which may or may not occur. Also, Czechoslovaks would hardly welcome further suggestions from United States on how dispose of gold pool assets.

5) No objection.

6) No objection to Czechs opening negotiations immediately with IBM and bondholders and your seeking $1 million payment to each. However, do not agree to

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[redacted] of telegram to [redacted] PRAGUE

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[redacted] tying [redacted] million payment to gold pool receipts for reasons stated above.

[redacted] million payment made to TNR bondholders, would agree to opening [redacted] office and issuing statement favoring trade. However, if Czechs [redacted] and bondholders but promise to negotiate, continued existence of New York [redacted] would be dependent on Czechs reaching settlement with bondholders [redacted] provision would have to be spelled out in agreement.

[redacted] should you mention possibility most-favored-nation treatment for Czechoslovakia. Section 5 of Trade Agreements Extension Act of 1951 required President [redacted] trade agreement concessions from Soviet-dominated nations [redacted] time explained use of word QTE suspend UNQTE [redacted] countries which appear to be throwing off yoke of Communism may be quickly restored to most-favored-nation status UNQTE. Pursuant this provision, United States in 1951 suspended its trade agreement benefits (including MFN) extended to Czechoslovakia under GATT. In light above background, obviously impossible for [redacted] Congress [redacted] most-favored-nation to Czechoslovakia. [redacted] Czechs appear finally to have understood our inability [redacted] concession on [redacted] most favored nation.

[redacted]

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DEPARTMENT OF STATE INSTRUCTION 2159

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F c file
Ec. Reg. Czechs.

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ORIGIN NOA- 249 June 24, 1958
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SUBJECT: Economic Negotiations

TO: The American Embassy, PRAGUE

Re Deptel 432 and Embtel 692.

This instruction is designed to provide additional background information on proposals given reftels.

LUMP SUM SETTLEMENT

It is impossible at this point to negotiate on any lump sum settlement under $15 million since a determination to negotiate at a lesser figure has not yet been made by the Under Secretary. Even if approval is granted, the Department does not believe it would be appropriate to accept the Czechoslovak figure as a basis for negotiation while so many subsidiary, but nonetheless important, points remain unclarified or unresolved. In effect, we are inviting the Czechoslovaks to revise their package in accordance with our proposals; if they agree to these changes, we will then be in a position to give their lump sum offer consideration. To agree at this point to negotiate on the basis of $11 million or anything under our previous minimum would be tactically unwise since the Czechoslovaks would scarcely accept our package as final and we would then be saddled with a lower lump sum figure in future negotiations.

GOLD POOL

The language suggested by the Czechoslovaks is totally unacceptable to us since Czechoslovakia will not receive an additional delivery of as much as "50 per cent of the registered Czechoslovak restitution claim." Further, we would not use any language of "advance payments" as proposed by the Czechoslovaks (see Embdespatch 385 of March 10, 1958), since this language might be subject to the interpretation that the Czechoslovaks want to be paid before the U. S. The acceptable formula from the U. S. standpoint is the following which has been altered slightly from that given in Deptel 432): Whatever figure is finally agreed upon above the $9 million should provide for payment of the agreed amount "at the same time Czechoslovakia receives, taking into account deliveries already made, an amount

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APPROVED BY: Albert W. Sherer, Jr.

CLEARANCES:
Cleared in draft:
FN-Mr. Carre
FN-Mr. Lobenstine
L/C-Mr. English
L/E-Mr. Metzger
LL-Mr. Murphy
[illegible]
L/EUR- Mr. Kearney
L/SFP- Mr. Keegan
EE - Mr. Colbert
EE - Mr. Katz
E - Mr. H. Robinson
Treasury - Mr. H.P. Nelson
Army - Mr. G.F. Nichols (Deputy Ass't Comptroller for Foreign [illegible])

amount of gold equal to one-half of the Czechoslovak claims recognized by the Tripartite Gold Commission." However, in connection with the mechanics of payment, if an overall agreement is reached, we would want some arrangement whereby the United States will receive the additional payment on the nationalization settlement out of the award made by the Gold Commission. We do not, therefore, plan to sign any delivery order in the Gold Commission unless we receive a simultaneous delivery order from the Czechoslovaks for the amount which may be agreed upon. The mechanics of the arrangement can be worked out after agreement is reached. Of course, other mechanics can be arranged of an equally satisfactory nature, for example, payment from any other source of gold Czechoslovakia may have in the Free World; the essential element of any arrangement is that the United States and Czechoslovakia simultaneously secure their entitlement.

BONDHOLDER AND IBM SETTLEMENT

The Department believes the Czechoslovak proposal to reimburse bondholders from a percentage of exports is totally unacceptable. Not only would this unnecessarily prolong and complicate the settlement of this obligation, but acceptance of the Czechoslovak proposal would place the United States Government in the position where it would be under pressure from the bondholders, as well as the Czechoslovak Government, to encourage exports to the United States in order to obtain payment of their bonds. The Department believes that the formula previously agreed upon of direct negotiations for six months, followed, if no agreement is reached in that time, by government-to-government negotiations, should be adhered to. However, the fact that the Czechoslovaks have reopened this issue upon which agreement had been reached has raised doubts as to whether there existed a serious intention to negotiate a reasonable settlement with the bondholders. Hence, we believe that it is necessary to withhold issuance of the statement favoring an expansion of trade and opening of the trade office until there appear to be reasonable prospects of settlement. The Czechoslovaks will undoubtedly claim that we are retreating from our earlier position, but the Embassy should point out that it was they, not we, who reopened this matter upon which tentative agreement had been reached.

IBM's position in the negotiations with respect to direct negotiations followed in six months by government-to-government negotiations is comparable to that of the bondholders. A copy of the Aide-Mémoire to be delivered at the next meeting is forwarded as Enclosure 1 to this instruction. The same reasoning applies to the reopening of the case since the Czechoslovak Aide-Mémoire of December 20, 1957, suggested the possibility that the assets of the company were being sequestered through the imposition of taxes and charges, and neither the American firm nor the United States Government had been advised of the nature and extent thereof.

The Department believes that it could be severely criticized for negotiating an agreement with a Soviet bloc country in which that country merely stated its

willingness

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~~Mr. Cavin~~ WF
Ec.Leg. with Czechs

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EE - Mr. Sonnenfeldt
L/TS - Mr. Meyer
FS - James G. Lowenstein

June 2, 1958

Subject: Gold from the Austrian Settlement, Tripartite Gold Commission - Czech Share in Gold Pool

Reference is made to DEPTEL 432 to Prague, May 16, 1958, and to the draft follow-up instruction.

After further analysis of the figures on the Czech claim before the Gold Commission, the draft award, and previous deliveries, I fear that the U.S. counter-proposal on language on the gold delivery may lead us into difficulties in future negotiations. As the following discussion shows, there are several possible interpretations that could be placed on "fifty per cent of the recognized claim, taking into account deliveries already made." The Czechs not being stupid, they will undoubtedly find the one interpretation that would put us in a bag, and being Communists, they will undoubtedly try to do so. Moreover, [illegible] deduction from the recognized claim of either calculation of "amounts already delivered." Furthermore, [illegible] whether, so long as we maintain the position that we can not sign the Czech award, alleging technical difficulties with the award itself, we can logically phrase our counter-proposal in terms of the "recognized claim," which we maintain we don't recognize. Further review of this position by L is suggested. If this position can be justified, FS would appreciate a copy of the legal justification for the record.

All figures cited below are in kilograms, to four decimal places. (One kilogram of gold is valued at $1,125.276 by the U.S. Treasury.)

The total Czech registered claim is (registered claim less delivery)	15,[illegible]
Of this, the draft award recognizes as valid (recognized claim less delivery recovery) x 50%	13,[illegible]
The maximum entitlement of any claimant government, at present, is 50.1318% of the recognized claim, or (recognized claim less TGC delivery	20,217.[illegible]
Czechoslovakia recovered directly	3,710.[illegible]
and received from the TGC in an earlier delivery	6,07[illegible].0077
making total Czech receipts to date ("deliveries already made") of	9,78[illegible].0025

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Deducting this from the maximum entitlement, logically, phrase our "the maximum that Czechoslovakia could claim," the question possibly receive in one or more future would be if, after further deliveries would be 18,439,4735. [illegible] Actually, the next consecutive delivery to all claimants has been rounded to the nearest 100 kilograms. If applied to Czechoslovakia, her next delivery would be 18,400,000 [illegible] The Czechs have demanded 50% of their registered claim, 22,504.1392 [illegible] 50% of their recognized claim would be 21,999.6819 [illegible]

As indicated above, "deliveries already made" could be interpreted to mean deliveries by the TGC, or, since the Commission has deducted the direct Czech recovery from the total receivable, TGC deliveries plus the direct recovery. A question also arises as to what figure the 50% is applied--i.e., should it be calculated before or after deduction from the recognized claim of either calculation of "amounts already delivered"? The varying results of these alternatives are as follows:

Registered claim x 50% less both TGC delivery & recovery	12,720.1167
Recognized claim x 50% less both TGC delivery & recovery	12,215.6594
Registered claim x 50% less TGC delivery alone	16,130.1315
Recognized claim x 50% less TGC delivery alone	15,925.6742
(Registered claim less delivery & recovery) x 50%	17,612.12795
(Recognized claim less delivery & recovery) x 50%	17,107.67075
(Registered claim less TGC delivery only) x 50%	19,167.11325
(Recognized claim less TGC delivery only) x 50%	18,962.67805

There is no appreciable difference between the results obtained, under either of the four formulas, considering registered vs. recognized claims. Officially, the Czechs know only what they presented to the TGC--i.e. the registered claim. It is therefore logical that they should have couched their demand in those terms.

FY - Mr. Young
FN - Mr. Carre
L/E - Mr. Metzger

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June 2, 1958

If L determines that we can, legally and logically, phrase our counter-proposal in terms of the "recognized claim," the question still arises what our negotiating posture would be if, after further long and arduous negotiations, we were able to reach full agreement with the Czechs on all questions, only to be confronted with a Czech demand for 18,963 kilograms of gold, more than half a ton more than the maximum she could receive.

We can assume that the British have told the Czechs that the TGC had disallowed the Czech claim, leaving valid claims of almost [illegible] tons. They may also have told them that the maximum entitlement, at present at least, is 61.1718% of the recognized claim. If they have not, or do so on the next approach, the Czechs can presumably find out from other recipients what the figure is. In either event, we must assume that the Czechs will have a pretty good idea of the 28.2 ton entitlement figure. What they would receive on the next distribution (19th tone) is about 65% of this figure. Interpretations that could be placed on "fifty per cent of the recognized claim, taking into account deliveries made." The Czechs not being stupid, they will undoubtedly find the one interpretation that would [illegible] our counter-proposal should either be made more precise, so as not to permit the Czechs to misconstrue it, or we should find new language. Several possibilities suggest themselves, the first predicated on the assumption that L can justify referring to recognized claims when we refuse to the TGC to recognize the Czech claim: difficulties with the award itself, we can logically phrase our counter-[illegible] as soon as Czechoslovakia receives an advance on its maintain an share of the Gold Pool, including amounts already L is suggesting received, amounting to at least 50% of recognized (or [illegible] a copy of registered) Czechoslovak claims." record.

2. "As soon as Czechoslovakia receives 60% of its doctoral placed. proportionate share in the Gold Pool." 125,276 by the U.S. Treasury.)

3. "As soon as Czechoslovakia receives an advance on its The [illegible]share of the Gold Pool, including amounts already received, of 75% of its proportionate share." (The Of this figure, counting only the direct TGC delivery, will be valid over 86%.) 13,999.3638

The "As soon as Czechoslovakia receives an advance on its [illegible]share of the Gold Pool, including the earlier delivery the by the Tripartite Gold Commission and the recovery made by Czechoslovakia in Switzerland, of 90% of its Czech proportionate share in the Pool." (The figure will be over 98%.)

and received from the TGC in an earlier delivery 6,474.0077

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making total Czech receipts to date [illegible] (FE - Mr. [illegible] already made?) of 9,781.0025

FE - Mr. Carre
L/E - Mr. Metzger

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DESP. NO.

FROM : American Embassy, LONDON

TO : THE DEPARTMENT OF STATE, WASHINGTON.

DATE December 31, 1959

REF :

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	EUR-5	RMLR-2 REP-1 IRC-8 E-8 ICA-11 U/CEA-1 SB-1
	REC'D 1-5	INFO OTHER CIA-15 USIA-10 OCB-1 TR-3 FRB-3 TAR-2

SUBJECT: Conversation with officer of Czech Embassy concerning Czech defaults on financial obligations and problem of Sixes and Sevens

COM-10 OSD-4 ARMY-4 NAVY-3 AIR-1

There is enclosed a memorandum of a conversation between Mr. Joseph A. Greenwald, Assistant Commercial Attache, and Mr. Pavel Dzunda, Third Secretary of the Czechoslovakian Embassy in London. The principal subjects discussed during the conversation were the recent Czech defaults on its financial obligations to the United Kingdom and the trade problems created by the creation of the Common Market and the European Free Trade Association.

For the Ambassador:

Ralph N. Clough

Ralph N. Clough
First Secretary of Embassy

Enclosure:

Memo of Conversation

Copy sent to:
Amembassy Prague

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MEMORANDUM OF CONVERSATION

DATE: December 28, 1959

SUBJECT: Conversation with officer of Czech Embassy concerning Czech defaults on financial obligations and problem of Sixes and Sevens

PARTICIPANTS: Mr. Pavel Dzunda - Third Secretary, Czechoslovakian Embassy
Mr. Joseph A. Greenwald

The lunch with Mr. Dzunda was more like a similar occasion with a member of one of the Western embassies (except for the frankness of our exchanges) than any other meeting I have had with members of the Soviet or satellite embassy staffs. He obviously considered it a "working lunch" and we spent very little time on idle chit-chat.

Mr. Dzunda has been fairly active in making Embassy contacts through his participation in the Association of Economic Representatives in London (see Embassy despatch No. 1090). Although Mr. Dzunda's wife is with him in London (I have never seen her), his six-year-old daughter is attending school in Prague. He said, however, that his wife would be going back to Prague around the first of the year and probably would bring the girl back to London. In response to a question as to what kind of school she would be placed in here, Mr. Dzunda said this was a real problem because of the language difficulty and that was the reason why most children of Soviet bloc staff members remain at home to go to school. Mr. Dzunda has been in London for two and one-half years and expects to stay on about six to nine months longer before being transferred.

I asked Mr. Dzunda whether he had taken part in the recent trade talks with the UK and he replied in the negative, but added that he had been involved in the financial discussions here. Following up on this opening, I inquired about the recent defaults by Czechoslovakia on its financial obligations. I said that everyone seemed baffled as to why Czechoslovakia had failed to make the payments on its various bonds and loans at this particular time. The response I received from Mr. Dzunda did not hang together completely, but he did attempt to explain the Czech position. Mr. Dzunda first listed the three major financial obligations of Czechoslovakia in the UK which, he said, added up to about £9 million. At the same time, according to Mr. Dzunda, Czechoslovakia has already paid in interest and principal over £18 million on these obligations. He further explained that this peculiar situation had come about because the Czech Government in exile during the war had no funds available, but wanted to continue payment on its obligations and had been forced to borrow additional money in Britain. Furthermore, Mr. Dzunda pointed out, one of the obligations related to the Skoda works which were completely destroyed during the war. Thus, in Mr. Dzunda's eyes, it was a simple question of Czechoslovakia "continuing to pay for nothing." Mr. Dzunda said that financial editors in London had asked why the Czech Government had not stopped the Skoda payments immediately after the war when the plant was destroyed. Mr. Dzunda's reply was that Czechoslovakia had

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wanted to maintain its good credit standing. But he could not explain why the Czech Government defaulted in 1959 rather than any earlier time, particularly in view of the fact that the obligations would have been paid off in a year or two. At this point I gave up the pursuit of a rational explanation of the Czech action and asked what the Czech Government proposed to do in the future. Mr. Dzunda replied that the current negotiations were devoted to getting a lower interest rate and he assumed that if this objective was achieved his government would resume the payments.

During the course of the lunch Mr. Dzunda also referred to other financial problems, in particular the question of Czech gold. Since I knew even less about this subject than I know about the Czech default on its UK obligations, we didn't get into it at all. Mr. Dzunda also asked whether I knew how the US-Czech discussions were proceeding, particularly on the issue of funds held by the US as the result of the sale of the Czech steel mill to Argentina. He said that Mr. Margolies had mentioned this to him some time ago and he wondered where matters stood. I replied that this is a subject on which we in London would not be informed; as far as I knew the negotiations were still in progress.

Most of the lunch was devoted to a discussion of Sixes and Sevens. Mr. Dzunda was particularly interested in the US position as well as the prospects for solving the European trade problem. He led off by giving a very pessimistic assessment of the situation. As he understood it, the US was opposing the EFTA and any wider European free trade association because it objected to "discrimination" against American goods. My response was devoted mainly to trying to make clear to Mr. Dzunda the various ways in which the word "discrimination" was used and misused. Mr. Dzunda felt that the French were strongly opposed to a European-wide free trade association and therefore no arrangement would be negotiated between the Six and the Seven in the foreseeable future. At the same time he saw the EFTA as a very weak grouping because of the substantial trade of Austria, Switzerland and Denmark with the Common Market (in this connection he cited some erroneous statistics about the proportion of the exports of these countries which go to the Six). With respect to US investment, Mr. Dzunda expressed the view that the Common Market would prove more attractive and American capital would be drawn away from the UK.

Since we had discussed problems of economic integration in Western Europe, I asked Mr. Dzunda whether CEMA had similar difficulties. I doubt that the ensuing comments from Mr. Dzunda revealed anything new. He said that the socialist countries were now embarked upon a program of "specialization" in contrast to the policy of "self-sufficiency" which prevailed up to 1955. The current CEMA meetings, he said, were attended by ministers of planning who attempted to integrate the development plans of each of the participating countries. In response to a question about investment, Mr. Dzunda said that there were no investments by one state in another similar to US investments in Europe. The closest thing in the socialist countries were long term credit arrangements, usually for the purchase of machinery, which were worked out in the framework of bilateral trade agreements.

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Note: Since dictating this memorandum of conversation, I have learned that the Czech Embassy approached a number of experts in London in an attempt to organize a panel on Sixes and Sevens. They apparently approached Mrs. Miriam Camps, Peter Thorneycroft, MP, and Allen Day of the London School of Economics, but at least two of these turned down the invitation. The purpose of the panel, as I understand it, was merely to brief Czech Embassy officers. They may have obtained the services of other experts since Dzunda seemed to be pretty well informed on the situation. In any event, the Czech Embassy seems to have been instructed to gather some current material on the problem of economic integration in Western Europe.

JAGreenwald/df

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FN - Mr. Carre

DEPARTMENT OF STATE
THE LEGAL ADVISER

November 6, 1959

TO: L/FE - Mr. Maurer

I've read your memorandum of November 3 on "Simultaneous Delivery in Czech Gold Matter" and think it presents a good method of handling the matter, taking account of the U.K. preoccupation. The risks are minimal, I think, and I would accede to the U.K. desire in this.

At the appropriate time, I would suggest a message go to Amb. Allison instructing him to raise it with the Czechs. It seems too early now, however.

STANLEY D. METZGER

cc: FN - Mr. Carre
EE - Mr. Sommerlatte

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FN - Mr. Carre

L/E - Mr. Metzger

November 3, 1959

L/FE - Ely Maurer

Simultaneous Delivery in Czech Gold Matter.

I

For our telephone conversation of some time ago I have been thinking over how we might follow the procedure suggested by the British in their letter of August 26 with respect to the gold delivery in the Czech settlement. You will recall that we had originally planned on a simultaneous delivery of documents in the office of the Secretary General of the TGC at the time the US signed the award and delivery orders. The British have objected to our use of the TGC and have suggested that we work out a procedure using the Federal Reserve Bank to assure that we get the 2 million we are seeking.

As I see it, the procedure we would use along the line of the British suggestion would be somewhat as follows:

Shortly after we sign the Czech settlement, we would indicate to the British and French our willingness to sign the Czech award. We would then sign the Czech award which would also be signed or would theretofore have been signed by the British and the French. The Secretary General would then follow the system that has been followed with respect to other claimants; namely, of sending the Czechs a covering letter enclosing a copy of the award and copies of the proposed delivery orders and a copy of the proposed receipt. The covering letter would request the Czech Government to designate the bank in whose favor the delivery orders should be made out and also to supply the Czech Ambassador or other representative with full powers for accepting the delivery orders and giving a receipt therefor. The Czechs would then study the award and, being satisfied with it or knowing that they would not prejudice their rights by accepting delivery, they would go ahead and designate a representative, give him full powers and also designate the bank in whose favor the delivery orders should be made out. Then they would arrange with the Secretary General of the Tripartite Gold Commission for a date on which they would be prepared to accept the delivery orders and give a receipt therefor. The Secretary General would then set up a date for the closing, at which time he would transmit the delivery orders and obtain a signed receipt from the designated Czech representative. A copy of the delivery orders would then be sent by the Secretary General to the Federal Reserve Bank of

New York

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New York and the Bank of England. These delivery orders would total 18,400 kilograms of gold.

At the time of the signing of the US-Czech agreement there would be obtained from the Czech Government a letter (perhaps the form of the letter could be set out in the annex of the agreement) which would be addressed to the Federal Reserve Bank of New York and which would state in effect that it was anticipated that in due course the Federal Reserve Bank would receive a delivery order from the Tripartite Gold Commission in favor of the Czech Government (or the Czech Central Bank). The Federal Reserve Bank would be authorized to hold the gold until it had received a cashier's check of a US bank for two million dollars (alternatively, a two million dollar check certified by a US bank; alternatively, a Swiss bank; alternatively, a delivery order for the equivalent of two million dollars in gold).

Accordingly, when the Federal Reserve Bank is notified by the Secretary General that the Czechs have received the delivery order, it will hold the gold until it has the two million dollar check made out in favor of the United States from the Czech Government. This procedure will assure that the Czech Government does not get the gold in New York save after having put the two million dollar check in favor of the United States in the hands of the Federal Reserve Bank of New York.

II

Such is the procedure I envisage along the lines of the British suggestion. I think it may be helpful to point out certain aspects of this procedure.

1. This procedure requires, of course, that we secure the prior agreement of the Federal Reserve Bank and they will doubtless wish to clear the documents which govern their acting as escrow agent. They may also wish to charge some fee for this.

2. The Czech Government may fear that the Federal Reserve Bank may act at the behest of the United States Government contrary to the arrangements worked out. The Czech Government may come to the conclusion that the only safe procedure is not to turn over the two million dollar check until the gold has, in fact, left the United States and is on the high seas. This was also a possibility under the old proposed arrangements. In the event the Czechs balk at this aspect, there may be no alternative other than to make a Swiss bank the escrow agent.

3. The above procedure envisages that we would sign the award before we are sure that we are getting our two million dollars. More particularly,

the

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the Czechs may get a copy of the award, may start to examine it and may not like certain features of it and may decide to appeal to the Tripartite Gold Commission for a revision of the award, in the meantime, like the Dutch, refusing and not wanting to take delivery. Like the Dutch they may possibly be unmoved by our argument that there is no prejudice to their position and their right to appeal if they take delivery. In this connection it might be pointed out that the Czech claim was for 45,000 kilograms, of which 1,008 kilograms was rejected and with respect to which a deduction of 3,700 kilograms was made for a recovery. The Czechs may not like the fact that their claim was recognized for only about 40,000 kilograms. However, on the other hand, they may be induced to take delivery in view of the fact they get 20 million while only giving up two million. Also, they may be motivated by the other advantages of the US-Czech agreement, which agreement would otherwise not go into effect unless they did take delivery.

4. Another possibility is that the Czechs would not object to the award, but once having secured our United States signature to the award they may consider that they are in a strong legal position; they may refuse to go forward with the delivery of a two million dollar check to the United States and instead may insist that the Tripartite Gold Commission make delivery to them regardless of what may be the conditions in the US-Czech agreement. If the Czechs take this position before the delivery orders have been signed, the US could refuse to sign the delivery orders. If the Czechs take this position after the delivery orders are signed, the Federal Reserve Bank will refuse delivery. However, we would have come to the position which we have been eager to avoid for several years, of having agreed to an award and merely holding back on the delivery. Of course, the situation is different from that in previous years in view of the fact that we would have a signed agreement, which the Czechs are failing to go through on, and in view of the fact that we would have embarked on this procedure only late in the game, when the probabilities of a slipup were remote. In connection with this situation, there is the possibility that the Czechs might institute a law suit in the World Court to force delivery, now that the United States had performed its judicial function and was merely holding up the delivery. The possibility of such a suit is remote, however, since taking such action would be contrary to the steadfast policy of the Soviet Bloc countries in refusing to sue or permit themselves to be sued in the World Court.

5. In the procedure described above, I have omitted connecting the gold in the Bank of England with the escrow arrangements. As I understand it, the gold in the Bank of England set aside for the Czech delivery totals about $11 million. It seems to me too cumbersome for us to work

up

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up a system by which the Czechs would give authorization to both the Federal Reserve Bank and the Bank of England to hold back on turning over the gold to the Czech Government until the two million dollars had been made available to the US. This is not impossible to work out; it would involve some further actions in which the Federal Reserve Bank would inform the Bank of England that it had received the two million dollar check, upon which the Bank of England would deliver its portion of the gold. However, the Bank of England would doubtless take the British official position that it did not wish to get involved. If the Bank of England is not involved, the situation will be one where after the signing of the delivery orders by the Tripartite Commissioner, the Czechoslovakian Government will obtain access to this $11 million in gold regardless of whether Czechoslovakia goes through with the two million dollar delivery. Of course, there will be the pressure on the Czech Government to hand over the two million dollars or else not have the remaining gold ($9 million) from the Federal Reserve and this may be sufficient pressure to keep them in the performance of their obligations.

III

If it is decided to go ahead with the procedure above, it may be desirable to set forth the shape of the Annex to the Czech agreement. It will be recalled that as our first alternative we would propose that the Czech settlement contain a provision merely for simultaneous delivery as may be mutually arranged. As a second alternative, we would propose that simultaneous delivery should be made as is agreed upon in the attached Annex. Probably the Czechs would insist on setting forth the simultaneous arrangement in the Annex of the agreement. This is roughly how I envisage such an Annex might read.

ANNEX

? After the United States Commissioner signs the Czech award, which will at the same time or will have theretofore been signed by the French and United Kingdom Commissioners, the Secretary General will transmit to the Czech Ambassador in Brussels a covering letter from the Tripartite × Gold Commission announcing a further distribution, in the typical form of such letters, and containing a copy of the signed Czech award, and draft delivery orders in the typical form of such orders, in the amount of _____ kilograms to the Federal Reserve Bank of New York, and _____ kilograms to the Bank of England, London. The covering letter will also request the Czech Government to designate the bank in whose name the delivery orders are to be made out and to provide the Czech Ambassador

with

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with full powers authorising him to accept the delivery orders and receipt for the gold. The covering letter will also contain a draft form of receipt in the typical form of such receipts.

Shortly after the receipt of such letter, the Czech Government will provide the Czech Ambassador in Brussels with the necessary full powers and will authorize the Czech Ambassador to advise the Secretary General of the designated bank in whose name the delivery orders should be made. The Czech Ambassador will then communicate with the Secretary General, providing him with a copy of the full powers and advising him of the designated bank. Thereafter, in accordance with the regular procedure of the Tripartite Gold Commission, the Secretary General will designate a date for the exchange of documents at the office of the Secretary General in Brussels. At this occasion the Secretary General will deliver the delivery orders described above, signed by the three Commissioners, against an original version of the full powers from the Czech Government and a receipt for the delivery of the gold signed by the Czech Ambassador.

The Secretary General will thereupon transmit copies of the delivery orders to the Federal Reserve Bank of New York and to the Bank of England, London. The Bank of England will, on receipt of the delivery orders made out on it, hold the gold for account and subject to the instructions of the designated bank. The Federal Reserve Bank of New York, on receipt of the delivery order made out to it, will await the presentation of a cashier's check of two million dollars of the New York bank (alternatively, Swiss bank; alternatively, certified check). On receipt of this two million dollar check, the Federal Reserve Bank of New York is authorized to hold the gold subject to the instructions of the designated bank. The Federal Reserve Bank is further authorized to transmit such check to the United States Government.

in favor of Treas of U.S.

In order that the Federal Reserve Bank of New York may be provided with proper authorization in the sense of the above, the Czechoslovakian Government will provide to the United States Government for transmission to the Federal Reserve Bank, a letter as follows at the time of the signing of the agreement to which this is an Annex:

_____day of_____, 195__

Federal Reserve Bank of New York,
New York City, New York.

Dear Sirs:

It is anticipated that in the near future you will receive

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receive from the Tripartite Gold Commission a delivery order for certain gold made out in favor of the (designated bank). The Czechoslovakian Government will at the same time or shortly thereafter, transmit to you a cashier's check made out by the (New York bank or alternative) in favor of the United States Government in the amount of two million dollars. You are authorized to hold the gold, which is the subject of the delivery order of the Tripartite Gold Commission, until you have received a check as described above. When the check is received you may transmit it to the United States Government and you shall thereafter execute any instructions with respect to the delivery of gold which may be given you by us.

Treas of U.S.

(Signed)

Foreign Minister
Government of Czechoslovakia

(Signed)

President
(designated bank)

cc: FN - Mr. Carre
EE - Mr. Sommerlatte

L:L/FN:EMaurer:dl
11-3-59

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Control: 7904
Rec'd: September 11, 1959
12:29 p.m.

FROM: Prague

TO: Secretary of State

NO: 138, September 11, 2 p.m. (SECTION ONE OF TWO)

PRIORITY

Two hour meeting with Hajek yesterday afternoon on economic negotiations gave both sides clearer picture each others position but revealed serious gaps still remaining. Discussion went into considerable detail on problems twelfth million, release Czech bank assets and amount gold Czech are to get from TGC. Other points which cause real problems for Czechs are Treasury CIGC 655 and paragraph 8 principles re release of vested assets. These latter are I believe susceptible solution if legal experts both sides could get together and thrash out exactly what various terms used mean in practice. Because length session and detail which subjects discussed will be impossible get complete report in this week's classified pouch. Following is outline principal points discussed.

Problem twelfth million has some characteristics chicken and egg problem Czechs say they cannot be certain exact amount be added to $11 million lump sum until they know just what Czech assets now tied up in court cases are be released. We claim we cannot give value assets be released until we have agreement completed, including twelfth million. Hajek made clear his original informal proposal assumed assets listed in his January 27 memo would be released and if so their total value of approximately $1 million would be added to lump sum. Later he suggested Statni assets might be added to sum if released. (Presumably this would bring total added lump sum more than $1 million although this not absolutely clear.) When it became evident during past summer only those assets could be released which Czechs declared state property actual amount be added lump sum became unclear. Czechs claim impossible for them declare all assets state property as certain state trading corporations have legal entity independent state, can be sued for

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-2-138, September 11, 2 p.m. (SECTION ONE OF TWO) from Prague.

sued for not fulfilling contracts and are taxed by state. Difference between our legal systems seriously complicate this problem. Hajek stated most earnestly Czechs not going back previous offer but honestly confused and uncertain as to what can be done. However he promised give serious consideration our position and try come up with acceptable solution. In connection our rejection Czech draft paragraph 2 (6)principles Hajek specifically asked re last paragraph Czech draft and inquired whether we accepted or rejected principle contained therein guarantee inviolability Statni assets. Said we did neither and preferred my statement at earlier meeting upon arrival our legal expert he would be able work out with Czech experts solution this problem.

ALLISON

HEK:MA/5

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FROM: Prague

TO: Secretary of State

NO: 138, September 11, 2 p.m. (SECTION TWO OF TWO)

PRIORITY

Czechs remain seriously concerned re exact amount gold come from TCC and as two of three members commission have told them what they are entitled to they believe only reasonable obtain from third members some assurance they will get their proper share. They do not insist on receiving full 18,433 KGS if, in fact, that in accord with treatment given other claimants, but they do not wish, by inference, renounce their claim full amount. I insisted our draft paragraph 2 (A) consituted no renunciation and while Hajek said he did not doubt my sincerity, his government would in view past experience this problem need some written assurance. I maintained this and other details regarding amounts be received et cetera not proper subject for agreement on principles but made purely personal suggestipn problem might be solved by exchange of letters at time signing agreement. Czech letter to State in agreeing paragraph 2 A it in no way renounced its rights to additional amounts gold which might be found due and our reply stating we understood this position or some such phrase. Hajek said this constructive proposal and would be considered. I cautioned him I had no authority make such suggestion and it might not be agreed to by my government.

In discussing bondholder problem I gave substance Department's A-29 and also handed Hajek clipping from NEW YORK TIMES August 15 recounting details bondholders settlement with Yugoslavia. Hajek said matter would be given further study.

In connection our revision subparagraph (A) paragraph 5, Czechs pointed out that phrase about recipients being allowed "hold" checks would contravene Czech foreign exhange regulations and make possible use checks on black market. They claimed check recipients would have same rights as others

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-2-138, September 11, 2 p.m., (SECTION TWO OF TWO), from Prague

under foreign exchange regulations to apply for permission send checks abroad in payment debts or to cash locally at whatever lost favorable current rate of exchange which at present would be 14.34. Hajek promised to study whole matter again. Our revision paragraph 8 of principles unsatisfactory to them because failed take account Czech law of succession. It was agreed that if our legal experts could get together matter could probably be worked out.

In concluding meeting I expressed opinion if we could concentrate on getting agreement on main points of twelfth million, release Czech bank assets and gold problem, other matters could probably be solved to our mutual satisfaction with less difficulty. I then said almost exactly four years had elapsed since beginning negotiation that United States side had made many concessions to Czech viewpoint, but I seriously doubted whether any further substantial concession could be expected. We would of course carefully consider any Czech suggestions but I urged final effort be made to bring our positions together. Hajek pointed out Czechs also had made many concessions but agreed we should now consider ourselves in final stages of negotiations and make all possible efforts reach early agreement which he was sure both sides earnestly desired.

ALLISON

HEK:JLF/5

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A-37 September 4, 1959

SUBJECT: Economic Negotiations: Tripartite Gold -- Paragraphs 2(a) and 3

TO: American Embassy PRAGUE

The Department is unable to accept the revision of paragraph 2(a) suggested by the Czechoslovaks and transmitted in paragraph 2(a) for the following reasons:

1. The Tripartite Gold Commission has not yet fixed the amount of gold to which Czechoslovakia is entitled. In addition, with particular reference to the fourth paragraph in Embassy despatch No. 112 of August 31, 1959, the language used by the Czechs could not have been interpreted from a legal standpoint to give us leeway to make a delivery of 18,400 kgs. Consequently the Czechoslovak Government might be in a position to state that the agreement does not go into effect save with an 18,433 delivery and correspondingly might then refuse to turn over the additional $2 million on the lump sum settlement.

2. The statement respecting the delivery in advance deals with mechanics which should not be dealt with in the Statement of Principles.

With respect to paragraph 3, the Department has made the revisions in the Czechoslovak revision of paragraph 3 transmitted in Embassy despatch No. 65 for the following reasons:

1. The first paragraph needs clarification of the reciprocal obligations to pay the lump sum and to advance the gold as conditions to the effectiveness of the Agreement.

2. The second paragraph of the Czech revisions (to be struck) is subject to the main objection that it places solely upon the U.S. an essentially tripartite responsibility.

DILLON, ACTING

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DRAFTED BY:	EUR:EE:HPomerleau:ss 9-3-59 L/E:DDurvall	APPROVED BY: Albert W. Sherer, Jr.
CLEARANCES:	Cleared in draft L/E - Mr. Metzger L/TE - Mr. Maurer	

See Desp. 65 - 8/10/59 from Prague
See Deptel 100 - 9/3/59 to Prague

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Control: 15937
Rec'd: August 24, 1959
7:23 p.m.

FROM: Prague

TO: Secretary of State

NO: 101, August 24, 4 p.m.

SENT DEPARTMENT 101, REPEATED INFORMATION BRUSSELS 2, LONDON 10, PARIS 8

Re Department's 204 to Brussels, 82 to Prague.

I believe Department has misunderstood Czech statement re being informed about amount of gold due them from gold pool. Czechs did not state they informed specifically by TGC re amount but by French and British members of TGC. While British Ambassador here has authority from London to inform Czechs, if they inquire, that amount mentioned in British note was in error, he has not been instructed to give Czechs information absence of inquiry by them.

ALLISON

MGG:FKG/11

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Rec'd: AUGUST 10, 1959
12:50 P.M.

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FROM: PRAGUE

TO: Secretary of State

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NO: 72, AUGUST 10, NOON (SECTION 1 OF 2)

RMR
Arauer

EMBTEL 71.

CZECH REVISIONS OF PARAS 2A)-3 OF "PRINCIPLES" BASED ON THEIR DESIRE BE CERTAIN NO SLIP-UP IN RECEIPT BY THEM OF ADDITIONAL 33 KG GOLD FROM TGC. CZECH SAY THEY INFORMED BY COMMISSION THEY ENTITLED 18,433.4735 KG AND HAVE RECEIVED NO INFO OTHER THAN FROM US THIS ERROR. THEY DO NOT INTEND REQUEST CONFIRMATION OUR STATEMENTS ON THIS POINT. HOWEVER IF PRACTICE OF COMMISSION IS IN FACT TO ROUND DOWN AMOUNTS IN QUASI-FINAL PAYMENTS CZECHS WILLING BE TREATED SAME AS OTHER COUNTRIES AND THEIR REVISION PARA 2C) PROVIDES FOR THIS WHILE PARA 3 REVISION DESIGNED TO ENSURE CZECHS GET ANY FURTHER PAYMENTS TO WHICH THEY MAY BE ENTITLED. SIMULTANEOUS PAYMENT STILL REQUIRED. WHILE LANGUAGE OF REVISIONS SOMEWHAT AWKWARD BELIEVE IN SUBSTANCE NO OBJECTION. REVISIONS FOLLOW:

2A) "THE SUM OF TWO MILLION DOLLARS TO BE PAID AS SOON AS CZECH RECEIVES AND ADVANCE IN RESPECT OF ITS SHARE OF THE GOLD IN THE CUSTODY OF THE TRIPARTITE COMMISSION WHICH THIS COMMISSION FIXED TO THE AMOUNT OF 18.433,4735 KG; AT THE DELIVERY OF THIS ADVANCE TO CZECHOSLOVAKIA THE SAME PRINCIPLES SHALL BE OBSERVED WHICH GOVERNED THE PROCEDURE IN RESPECT OF DELIVERIES OF GOLD BY THE TRIPARTITE COMMISSION TO THE OTHER ENTITLED COUNTRIES"

3 "BOTH GOVTS AGREE THAT THE AGREEMENT SHALL BECOME EFFECTIVE ONLY ON THE ASSUMPTION THAT CZECHS SHALL RECEIVE AT LEAST THE ADVANCE IN RESPECT OF ITS SHARE OF THE GOLD IN THE CUSTODY OF THE TRIPARTITE COMMISSION AS REFERRED TO IN PARA 2A) ABOVE.

"THE UNITED STATES GOVT SHALL SEE TO IT THAT THE DELIVERY OF

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-2- 72, AUGUST 10, NOON (SECTION 1 OF 2) FROM PRAGUE

THIS ADVANCE TAKES PLACE AS SOON AS POSSIBLE AND GIVE ITS CONSENT THAT ADDITIONAL ALLOCATIONS OF GOLD WHICH MAY BE ASSIGNED BY THE TRIPARTITE COMMISSION TO CZECHS, BE DELIVERED TO CZECH.

"THE AGREEMENT SHALL CONTAIN A PROVISION, AS AN INTEGRAL PART THERE OF, FOR SIMULTANEOUS PAYMENT REFERRED TO IN PARA 2A) AND THE ADVANCE OF GOLD TO CZECH FROM THE GOLD IN THE CUSTODY OF THE TRIPARITITE COMMISSION ALSO MENTIONED IN PARA 2A)."

REVISED PARA 2C) IS DESIGNED TO ELIMINATE DETAILED ANNEX A AND ALSO TO INCORPORATE PARA ON INVIOLABILITY PROPERTY STATNI BANK. THIS REQUIRED DETAILED CONSIDERATION WASHINGTON AND I EXPRESSED NO OPINION TO HAJEK ON MATTER. IN DISCUSSING PAYMENTS OVER AND ABOVE THE $11 MILLION LUMP SUM HAJEK REVERTED TO CZECH DESIRE TO MAKE SUCH PAYMENTS OUT OF EXPORT PROCEEDS AND CLAIMED SUCH PROVISION BESIDES BEING PRACTICAL AND IN ACCORD WITH CZECH AGREEMENTS OTHER COUNTRIES WOULD BE INCENTIVE BOTH SIDES TO INCREASE NORMAL TRADE RELATIONS. FOR REASONS PREVIOUSLY GIVEN I DOUBTED OUR ABILITY TO ACCEPT THIS.

REVISION FOLLOWS:

ALLISON

JR

208953